



Office of Hon Paula Bennett ✓

MP for Upper Harbour

Minister for Climate Change Issues

Minister for Social Housing

Minister of State Services

Associate Minister of Finance

Associate Minister of Tourism

16-O-01103

Simon Johnson

Dear Mr Johnson,

Thank you for your email of 17 August requesting the following information under the Official Information Act 1982 (OIA):

- “1. Cabinet Growth and Infrastructure committee decision [EGI Min (12)27/9] dated 3/12/2012;*
- 2. Cabinet Growth and Infrastructure committee decision [EGI Min (15)3/4] dated 2/03/2015;*
- 3. The respective cabinet papers and the Ministry for the Environment’s advice to the Minister for these two regulations:*
 - 3(a) The Climate Change (Eligible Industrial Activities) Amendment Regulations 2013 (LI 2013/45), dated 25 March 2013,*
 - 3(b) The Climate Change (Eligible Industrial Activities) Amendment Regulations 2014 (LI 2014/124), dated 14 April 2014.”*

The attached table lists the seven documents falling within the scope of your request and notes any OIA provisions that have been applied. Withholdings have been made under the following sections of the Official Information Act 1982:

Section 9(2)(a) – to protect the privacy of natural persons

Section 9(2)(h) – to maintain legal professional privilege

Section 9(2)(b)(ii) – protect information ...likely unreasonably to prejudice the commercial position of the person ... who is the subject of the information

Section 9(2)(f)(iv) – maintain the constitutional conventions for the time being which protect...the confidentiality of advice tendered by Ministers of the Crown and officials.

The Ministry for the Environment’s response [16-D-00601 dated 16 June] to your earlier related request outlines the process for making unit allocations to NZAS under the NZ ETS. This involves updating the relevant regulations every year. The process protects the Crown from over-allocating units.

Cabinet previously approved for the Minister for Climate Change Issues to submit regulation proposals direct to Cabinet each year to update the NZAS allocative baseline.

Annual regulation updates are needed to reflect NZAS’s unique arrangements for electricity supply. This means that NZAS generally receives a lower allocation than it would if its electricity purchases were recognised using the standard electricity factor in 6(a) of the Climate Change

(Eligible Industrial Activities) Regulations 2010. Documents iii, iv, vi and vii of this request relate to this annual process of updating these regulations.

NZAS renegotiated its electricity supply contract in 2013 and a new method of calculating its allocation was required, to reflect the NZ ETS cost passed through under the electricity contract. Ministry for the Environment agreed with NZAS that an interim methodology was required for that year, and that it was only to be used until a final methodology could be established. An interim methodology was used in 2014 to make sure NZAS was able to apply for its allocation for that year by the statutory deadline.

A final methodology for the renegotiated contract was approved by Cabinet and used in 2015 to finalise the 2014 and subsequent allocations. Documents v and vi refer to the interim methodology, and ii refers to the final methodology.

The Ministry for the Environment will be pleased to assist you further should you require additional elaboration of technical matters or procedures concerning NZAS's annual baseline updates.

Under section 28(3) of the OIA, you have the right to ask the Ombudsman to review my response to your request.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Paula Bennett', with a long horizontal stroke extending to the right.

Hon Paula Bennett
Minister for Climate Change Issues

Documents falling within the scope of your request

No.	Date	Content	Decision	OIA Section/s applied
(i)	28 November 2012	EGI Minute (12) 27/9 for the decision to approve a methodology to set the NZAS baseline in EIA regulations for the new electricity contract applying from 2013	Release in part	S9(2)(b)(ii) Likely unreasonably to prejudice the commercial position of the person ... who is the subject of the information
(ii)	25 February 2015	EGI Minute (12) 27/9 for the decision to approve a methodology to set the NZAS baseline in EIA regulations for the first renegotiation of the 2013 electricity contract applying from 2013	Release in part	S9(2)(b)(ii) Likely unreasonably to prejudice the commercial position of the person ... who is the subject of the information
(iii)	12 March 2013	Briefing note 13-B-00445 accompanying the 2013 NZAS regulation update LEG paper	Release in part	S9(2)(a) To protect the privacy of natural persons S9(2)(b)(ii) Likely unreasonably to prejudice the commercial position of the person ... who is the subject of the information
(iv)	21 March 2013	The 2013 NZAS regulation update LEG paper	Release in part	S9(2)(b)(ii) Likely unreasonably to prejudice the commercial position of the person ... who is the subject of the information
(v)	10 March 2014	Briefing note 14-B-00165 that seeks approval for an interim methodology to apply for finalising the 2013 allocative baseline	Release in part	S9(2)(a) To protect the privacy of natural persons S9(2)(b)(ii) Likely unreasonably to prejudice the commercial position of the person ... who is the subject of the information S9(2)(h) Maintain legal professional privilege S9(2)(f)(iv) Confidentiality of advice tendered by Ministers of the Crown and officials
(vi)	28 March 2014	Briefing note 14-B-00449 accompanying the 2014 NZAS regulation update LEG paper	Release in part	S9(2)(a) To protect the privacy of natural persons S9(2)(h) Maintain legal professional privilege S9(2)(b)(ii) Likely unreasonably to prejudice the commercial position of the person ... who is the subject of the information S9(2)(f)(iv) Confidentiality of advice tendered by Ministers of the Crown and officials
(vii)	9 April 2014	The 2014 NZAS regulation update LEG paper	Release in part	S9(2)(b)(ii) Likely unreasonably to prejudice the commercial position of the person ... who is the subject of the information