



The New Zealand Emissions Trading Scheme

Proposed updates and technical amendments

- Climate Change (Stationary Energy and Industrial Processes) Regulations 2009
- Climate Change (Liquid Fossil Fuels) Regulations 2008

In this document

This document contains proposed updates and technical amendments to Regulations under the NZ Emissions Trading Scheme. These changes are relevant to several participating groups.

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Executive Summary

This document sets out proposed amendments to the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 (the SEIP Regulations) and the Climate Change (Liquid Fossil Fuels) Regulations 2008 (the LFF Regulations).

These amendments are intended to:

- implement an annual update to default emission factors for natural gas. Note that a similar update for liquid fossil fuels is not required this year, but is expected to occur in future years.
- implement amendments identified as necessary in order to improve alignment between the Regulations and the Act and to cover matters that are not currently provided for in the Regulations.
- fix technical errors in the current Regulations.

The following matters are proposed for the 2010 amendments to the SEIP Regulations:

- 1. Waste combustion – calculation of DEFs**
Amend default emissions factors (DEFs) for waste combustion to correct a technical error in the original calculation.
- 2. Waste combustion – definition of “t”**
Correct the definition of a variable involved in the estimation of waste combustion emissions using the continuous monitoring option.
- 3. Geothermal steam – classes associated with Wairakei field**
Amalgamate the DEFs for two existing classes of steam as distinction is unnecessary.
- 4. Natural gas – updating DEFs**
Update natural gas DEFs based on 2009 data.
- 5. Gas purchasing – gas storage facilities**
Amend natural gas purchasing Regulations and insert a new schedule to achieve a number of changes.
- 6. Gas importing – gas storage facilities**
Amend gas importing Regulations to provide consistency of treatment.
- 7. Gas mining – definition of “point of sale” where no fiscal meter exists**
Clarify the point of measurement.
- 8. Coal mining – exports undertaken by third parties**
Amend Regulations to allow the subtraction of emission obligations for coal mined then sold to a third party for export.
- 9. Coal purchasing – stockpile adjustment**
Change definition of coal stockpile and accounting for stored coal.

The following matter is proposed for the 2010 amendments to the LFF Regulations:

- 10. Liquid fossil fuels – sold by a third party for international use**
Amend Regulations so that fuel sold for use on an international trip can be excluded from the participant’s emissions calculation.

Waste combustion participants

1. SEIP waste combustion Regulations – DEFs in Schedule 2 Table 7

The proposal is to correct a technical error in the waste combustion default emission factors (DEFs) that would have resulted in participants' liability being about 11 per cent overstated.

Energy-based IPCC emission factors for waste combustion are expressed in net calorific value terms. Energy-based emission factors in the SEIP Regulations are generally expressed in gross calorific value terms. The waste combustion DEFs in Schedule 2 Table 7 were calculated by scaling up (net CV) IPCC DEFs by dividing by 0.95, based on an assumption that $NCV = 0.95 \times GCV$. Using division is a technical error; the correct scaling factor would have been to multiply the IPCC DEF by 0.95.

The proposed change is to replace the existing Table 7:

Class	Emissions factor	Unit
Used or waste oil	78.35	tCO ₂ e/TJ
Used tyres	150.99	tCO ₂ e/TJ
Municipal waste – biomass	1.969	tCO ₂ e/TJ
Municipal waste – non-biomass	97.53	tCO ₂ e/TJ

With:


Class	Emissions factor	Unit
Used or waste oil	70.71	tCO ₂ e/TJ
Used tyres	136.27	tCO ₂ e/TJ
Municipal waste – biomass	1.78	tCO ₂ e/TJ
Municipal waste – non-biomass	88.02	tCO ₂ e/TJ

2. SEIP waste combustion Regulations – definition of 't' in 24(1)(e)

The proposal is to correct a definition error in a variable in the equation in Regulation 24(1)(e), necessary for the calculated annual emission to be correct.

Regulation 24(1)(c) enables a participant who combusts used oil, waste oil, used tyres, or waste to estimate their emissions rate in tonnes per second based on continuous emissions monitoring. Regulation 24(1)(d) requires the participant to convert the per second emission rate from 24(1)(c) into a representative rate per hour. Regulation 24(1)(e) includes a formula ($E_{\text{gastypeyear}} = \sum(mr_{\text{gastypeyear}} \times t)$) to add the representative hourly average emissions from each gas type over the year.

In the emission equation in Regulation 24(1)(e), the term 't' is defined as '3600, the number of seconds in an hour'. This is technically incorrect, and 't' should be defined as 'the number of hours that the equipment operated in the year'.



The proposal is to change Regulation 24(1)(e) by replacing:

t is 3600, the number of seconds in an hour

With:

t is the number of hours that the equipment has operated in the year

Feedback:

- Are the proposed changes in 1 and 2 above clear and correct?
- Are there any other technical errors in the waste combustion Regulations?

Geothermal sector participants

3. SEIP Regulations, Schedule 2, Table 6 Part A – amalgamation of the DEFs for ‘Wairakei A and B’ with ‘Wairakei G14’

The proposal is to amalgamate the default emissions factors (DEFs) for two existing classes of geothermal steam associated with the Wairakei field in the SEIP Regulations, Schedule 2, Table 6, Part A, into a single class. The change is desirable because the affected participant has indicated that the distinction is unnecessary. A separate DEF for Wairakei G-14 serves no purpose as the emission properties are the same as the rest of the steam used at the station.

The proposal is to change Schedule 2, Table 6, Part A by replacing:

Class Geothermal fluid used by	Emissions factor	Unit
Wairakei G14	0.0050	tCO ₂ e/t steam
Wairakei A and B	0.0050	tCO ₂ e/t steam
Any other plant or process using geothermal steam to produce electricity or industrial heat	0.0300	tCO ₂ e/t steam

With:

Class Geothermal fluid used by	Emissions factor	Unit
Wairakei A and B and G14	0.0050	tCO ₂ e/t steam
Any other plant or process using geothermal steam to produce electricity or industrial heat	0.0300	tCO ₂ e/t steam

Natural gas sector participants

4. SEIP Regulations, Schedule 2, Table 10 – annual updates of the natural gas field specific and national default emission factors (DEF)

The proposal is to replace the natural gas field specific and national average DEFs in Schedule 2, Table 10 with estimates from the Ministry of Economic Development (MED) based on the latest available information. It is proposed these updates will be implemented with effect from 1 January 2010.

Natural gas purchasing participants have the choice of (1) reporting their emissions using the same methodology as used by gas miners or (2) by using field-specific DEFs from Table 10 of Schedule 2. Gas purchasing participants also use the national average DEF for reporting if using gas storage adjustment provisions.

Because field-specific gas emission properties vary with time, the intention was to update the natural gas DEFs each year based on data routinely collected by the MED. Data for the previous calendar year is available in April or early May, thus the DEFs for 2010 will be based on 2009 data, and so on for future years. This process was foreshadowed during consultation on the SEIP Regulations in 2009. It will ensure that DEFs are always based on the most recent available data.

This approach, discussed and supported by participants during consultation in 2009 on the original Regulations, is intended to ensure reporting of emissions by these participants under the NZ ETS is closely aligned to New Zealand inventory reporting, and to ensure obligations are closely aligned to actual emissions.

The proposal is to change the Schedule 2, Table 10 natural gas DEFs (based on 2008 data) by replacing:

Class	Emissions factor	Unit
Kaimiro	55.14	tCO ₂ e/TJ
Kapuni	53.09	tCO ₂ e/TJ
Kapuni LTS	84.15	tCO ₂ e/TJ
Mangahewa	57.45	tCO ₂ e/TJ
Maui	52.42	tCO ₂ e/TJ
McKee	54.35	tCO ₂ e/TJ
Ngatoro	53.12	tCO ₂ e/TJ
Pohokura	54.28	tCO ₂ e/TJ
Rimu/Kauri	51.91	tCO ₂ e/TJ
TAWN	54.91	tCO ₂ e/TJ
Turangi	54.72	tCO ₂ e/TJ
National average (2008 calendar year data)	53.64	tCO₂e/TJ

With:

Class	Emissions factor	Unit
Kaimiro	55.95	tCO ₂ e/TJ
Kapuni	53.01	tCO ₂ e/TJ
Kapuni LTS	84.15	tCO ₂ e/TJ
Mangahewa	54.11	tCO ₂ e/TJ
Maui	52.85	tCO ₂ e/TJ
McKee	52.66	tCO ₂ e/TJ
Ngatoro	55.72	tCO ₂ e/TJ
Pohokura	54.03	tCO ₂ e/TJ
Rimu/Kauri	51.96	tCO ₂ e/TJ

TAWN	52.78	tCO ₂ e/TJ
Turangi	54.17	tCO ₂ e/TJ
National average (2009 calendar year data)	53.48	tCO₂e/TJ

5. SEIP Regulations 49(3) and 50(7) – natural gas purchasers

a) Gas storage adjustment mandatory

It is proposed that the Regulations should no longer provide for a gas purchasing participant to choose whether or not they include a gas storage adjustment – rather this will become a requirement of the calculations set out in Regulation 50. This will facilitate the operator or owner of a storage facility to keep continuous records based on the data used in emissions returns, and to identify any quantities of virgin (not stored) gas that may subsequently be recovered from the underground facility.

A purchasing participant who makes no use of a storage facility in a particular year will simply report zero for the storage adjustment, except in the final year where the calculations will provide a ‘true-up’ of any previously stored gas that remains in the facility.

b) Final gas storage adjustment on ceasing to be a participant

This ensures emissions accurately reflect the usage of any gas storage adjustment over time when a person ceases to be a participant with regard to the activity of purchasing natural gas. This would require a final storage figure to be calculated to reflect all opt-in gas that remains in the storage facility at the date that the person ceases to be an opt-in participant.

Regulation 50 will be amended to include a requirement that, despite anything else in regulations, a participant must submit a final storage adjustment calculation in their final emissions return, prior to removal from the register as a participant under sections 58 or 59 of the Climate Change Response Act 2002. This will also require the inclusion in the new Schedule 3 of a definition of ‘S’ to be used for the purposes of the final emissions return.

c) Definitions of G and H – injection of natural gas to, and extraction of natural gas from, a gas storage facility

The proposal is to amend the SEIP Natural Gas Purchasing Regulations 49(3) and 50(7) to cover the situation where there is third party operation of a gas storage facility which stores gas owned by a gas purchasing participant. This is necessary to enable use of a gas storage adjustment in cases where the participant injects and then extracts its gas from a facility operated by a (specialist) third party. The facility may also be made available to other gas purchasing participants.

A gas purchasing participant who expects to use the gas storage adjustment has indicated that the facility they own may be operated by another party, even though the participant will own and be responsible for the gas injected to and extracted from the facility. They also indicated that in the future other participants may seek to use the same gas storage facility.

Officials understand that a gas storage facility will ultimately be used to balance supply and demand for gas across seasons and enhance operational efficiency of gas and electricity markets. The intent of including a gas storage adjustment, similar to the coal stockpile adjustment, was to enable large users of gas to align their emission responsibilities more closely with their use of gas (ie. actual emissions).

The proposed change is intended to facilitate the use of the gas storage provision in the SEIP Regulations, in the light of the practical operation of such facilities, and make it available to any participant using a storage facility in the future.

d) SEIP Regulation 50(7) and a new Schedule 3 – accounting for pre-obligation gas (base gas) and including a definition of ‘base gas’ and ‘base date’

The proposal is to develop a gas storage adjustment methodology that recognises pre-obligation fuel when it is removed from a gas storage facility. This is done by shifting the calculation of S, the gas storage adjustment from SEIP Regulation 50(7), into a new Schedule 3. This is analogous to the recognition of base coal in the coal stockpile adjustment as outlined in Schedule 1 (as amended in accordance with the proposals at point 9(b) of this document).

This is necessary because a significant amount of natural gas was injected into a gas storage facility before obligations commenced on 1 July 2010. In addition, the intention is to facilitate any future gas-purchasing participant being able to exclude gas purchased and placed into storage while they were not a participant (as this gas will have been purchased at a cost taking into account the gas miner’s obligations). An example of where this may be relevant is for gas purchasing participants who opt in after 1 July 2010 or who cease to be a participant and subsequently opt in again at a later date.

The following amendments are therefore proposed:

Regulation 49(3)

Amend Regulation 49(3) by replacing:

- (3) In addition, if the person elects to include a storage adjustment under Regulation 50(7), then the person must also collect and record the following information:
 - (a) the total number of terajoules of opt-in natural gas injected in the year into a gas storage facility by the person; and
 - (b) the total number of terajoules of opt-in natural gas extracted in the year from a gas storage facility by the person.

With:

- (3) In addition, for the purposes of the gas storage adjustment under regulation 50(7), the person must also collect and record the following information:
 - (a) the total number of terajoules of opt-in natural gas injected in the year into a gas storage facility by or on behalf of the person; and
 - (b) the total number of terajoules of opt-in natural gas extracted in the year from a gas storage facility by or on behalf of the person.

Regulation 50(7)

Amend Regulation 50(7) by replacing

$$TE = \sum(EP) - \sum(EE) - S$$

With:

$$TE = \sum(EP) - \sum(EE) - S \times EF_{\text{avge}}$$

and adding the emission factor definition

EF_{avge} is the national average emission factor for natural gas from Table 10 of Schedule 2

and replacing the current definition of ‘S’ with:

S is the figure determined in accordance with Schedule 3

New Schedule 3

And add in a new Schedule 3 as follows:

Schedule 3 Storage adjustments for activities of purchasing natural gas

1 Interpretation

Base date – include a definition of ‘base date’ to allow this date to be 1 July 2010 or the date from which the participant’s current registration as a participant in respect of the activity of purchasing natural gas took effect under section 57 of the Act, whichever is the later.

Base gas – include a definition of ‘base gas’ to mean ‘natural gas (net of any extractions) injected into the facility, by or on behalf of the person, before the **base date**’

2. Calculating S

- (a) In a year when cumulative extractions from the gas storage facility are less than or equal to base gas (ie, $\sum H \leq B$), then:

$$S = G$$

- (b) In the year that the cumulative extractions are greater than base gas (ie, $\sum H > B$) then:

$$S = G - (\sum H - B)$$

- (c) In any subsequent year, after the year in which (b) applies, then

$$S = G - H$$

- (d) In the final emissions return prior to removal from the register under sections 58 or 59 of the Act:

$$S = -1 \times \sum (SY)$$

Where-

G is the total number of terajoules of opt-in natural gas injected in the year by or on behalf of the person in the year into the into a gas storage facility as collected under Regulation 49(3)(a)

H is the total number of terajoules of opt-in natural gas extracted in the year from a gas storage facility by or on behalf of the person, as recorded under Regulation 49(3)(b)

B is the total number of terajoules of base gas

$\sum H$ is the sum of H from the base date

SY is the figure for S used to claim a storage adjustment for each year since the base date

6. SEIP Regulations 13 and 14 – injection of LNG to, and extraction of LNG from, a gas storage facility

The proposal is to repeat the changes made in 5 above for gas purchasing participants, into the SEIP Gas Importing Regulations 13(3) and 14(4). This is desirable to provide consistency of treatment across natural gas importing and purchasing participants.

The proposal includes making changes to Regulation 13(3) by replacing:

- (3) If the person wishes to include a storage adjustment in relation to LNG under Regulation 14(4), then the following information must be collected and recorded:
 - (a) the total number of terajoules of LNG injected into a gas storage facility by the person in the year; and
 - (b) the total number of terajoules of LNG extracted from a gas storage adjustment by the person in a year.

With:

- (3) If the person wishes to include a storage adjustment in relation to LNG under Regulation 14(4), then the following information must be collected and recorded:
 - (a) the total number of terajoules of LNG injected into a gas storage facility by or on behalf of the person in the year; and
 - (b) the total number of terajoules of LNG extracted from a gas storage adjustment by or on behalf of the person in a year.

And in addition, change Regulation 14(4) by replacing:

- (4) where –
 - F is the total number of terajoules of LNG injected by the person into a gas storage facility in the year, as recorded under Regulation 13(3)(a)
 - G is the total number of terajoules of LNG extracted by the person from a gas storage facility in the year, as recorded under Regulation 13(3)(b)

With:

- (4) where –
 - F is the total number of terajoules of LNG injected by or on behalf of the person into a gas storage facility in the year, as recorded under Regulation 13(3)(a)
 - G is the total number of terajoules of LNG extracted by or on behalf of the person from a gas storage facility in the year, as recorded under Regulation 13(3)(b)

These Regulations for gas importers will also be amended to repeat other relevant changes made for gas purchasing participants in relation to their possible use of a storage facility (in sections 5(a), 5(b) and 5(d)). This will ensure that any future participants who may use a storage facility to store imported gas (LNG) would report their emissions on the same basis as a comparable purchasing participant.



7. Amend SEIP Regulations 16 and 17 to clarify the point of measurement for gas miners not connected to a sales network

The proposal here is to amend Regulations 15–17 to clarify the point of measurement for natural gas miners who are not connected to a sales network. This is necessary to provide certainty for participants in this situation.

In part 1, section 4 of the Climate Change Response Act 2002, the definition of natural gas includes:

“(a) all gaseous hydrocarbons produced from wells, including wet gas and residual gas remaining after the extraction of condensate from wet gas; and...”

When gas associated with the production of condensate was included in the definition of natural gas in the Act, it was to ensure the miner was responsible for the emissions arising from the natural gas associated with mining condensate (ie, they were NZ ETS natural gas mining participants). This includes the situation where the miner is not connected to the natural gas distribution system and hence does not have a fiscal meter. The emissions associated with the natural gas, in this situation, arise from their own use, flaring and venting of gas, those activities that are typically upstream of the sales meter measuring point in normal gas processing and sale.

SEIP Regulations specify measurement points for the participant so that all emissions are reported consistently between gas miners, and to ensure alignment of obligations between gas mining and gas purchasing participants. The present wording which applies to emissions from own use, flaring and venting emissions uses the phrase “...before the point of sale in the year...” where the “point of sale” is defined as “the first fiscal meter downstream of gas processing”. It was brought to the attention of officials that this wording created uncertainty for those not connected to the natural gas distribution network.

Feedback:

- What meters and information-gathering points exist for participants who are not connected to a sales network?
- How would a definition need to work to ensure that the intent of the Regulations is met?

Coal sector participants

8. SEIP Regulations 10 and 11 – coal mined then sold for subsequent export

The proposal is to change SEIP Regulations 10 and 11 to facilitate the subtraction of the emission obligation for coal mined and then sold for export.

Officials understand that it is not uncommon for miners to sell coal to other parties who blend that coal into an export shipment as a means of meeting an export specification. Under the Regulations as presently specified there are broadly three situations:

1. Miner A sells coal to miner B who is an opt-in participant, B takes responsibility for the emissions and subtracts the emissions under the coal export term in their emission equation for this coal. Miner A is not liable for the emissions in relation to this coal under the NZ ETS.
2. Miner A exports the coal under his own name and subtracts the emission from their obligation under the export term in their emission equation. Party B is not involved.
3. Miner A sells coal to party B, who adds the coal to an export shipment but hasn't or can't opt in (eg, does not meet the 250 kt/yr threshold). In this situation, miner A is liable for the emission responsibility (and may increase the price of their coal accordingly).

Situation 3 above results in the emissions associated with the coal miner A sold to party B incurring an obligation under the NZ ETS, even though the emissions occur overseas.

In developing the gas Regulations, officials were made aware of the possibility of quite wide exporting and importing of LPG as the supply and demand balance changed. The gas Regulations, eg, Regulations 16(1)(b), 16(2)(a), 16(6), 17(1)(b), and 17(4), therefore enabled a gas mining participant to account for exports 'by the person or a third party in the year' rather than by the person only. This proposal will mean that coal miners may account for exported coal in the same way.

The proposal, in Regulations 10(1)(c) and 11(1)B is to replace:

“...by the person in the year...”

With:

“..by the person or a third party in the year...”

And adding in a new 10(4) analogous to 16(6) in the gas Regulations defining the third party responsibilities:

- (4) In this Regulation,-
 - (a) **third party** means a person, other than an opt-in coal participant, who purchased the mined coal from the person required to comply with this Regulation and Regulation 11; and
 - (b) the information required to be collected under sub-clause (1) (c) and (d) in relation to the quantity of mined coal of a class exported by the person or a third party in a year must be collected at the point of sale.

This proposal is to enable a miner to report coal sold to a third party for export in their emission return, similar to the provision in natural gas.

Feedback:

- Do coal miners and exporters support the proposed additional flexibility for reporting emissions with coal sold for third party export?
- Are there any other consequences of the proposed changes that participants would like to bring to the attention of officials?

9. Coal importing and purchasing participants – definition and use of stockpiles

(a) Definition of “stockpile”

The proposal is to add a definition of “stockpile” to the SEIP Regulations, Schedule 1, Clause 1 and the addition of a new sub-clause 3(4) to Schedule 1 outlining how coal added and removed from the stockpile is to be recorded. There are two minor consequential amendments to the definitions of “base stockpile” and “first stockpile adjustment year” in the interpretation section of Schedule 1.

A coal purchasing participant has requested that a definition of “stockpile” be added to Schedule 1 to enable the participant to use the coal stockpile adjustment provision of the Climate Change Response Act 2002 based upon their existing reporting systems and processes. In effect it means that the stockpile is all the coal owned by the person rather than just coal added to and removed from a particular storage area. The rationale behind the proposal is to remove uncertainty that the broader stockpile concept is acceptable without having to show it has been physically added to or removed from a particular storage area.

Without the change, additional monitoring and reporting costs may be incurred by the participant, when existing business systems are sufficient to report additions to and takings from their stocks of coal to meet the information needs of using a coal stockpile adjustment. The complication of base coal (pre-obligation coal held by the participant before 1 July 2010 or before the date on which they opted in as a participant) could also linger longer if this change is not made. The proposed change effectively ensures that all coal used from 1 July 2010 (or from the opt-in date if applicable) is base coal until that quantity of pre-obligation coal is consumed, hastening the transition from an amalgamated to a mixed stockpile regime.

The proposal is to add the following definition to SEIP Regulations, Schedule 1, Clause 1 – Interpretation:

***Stockpile** means an amount of coal owned by the person determined by the person’s accounting and business records or physical measurement.*

And adding a new subclause 3(4) to Schedule 1:

(4) For the purposes of these Regulations, a person may determine the amount of coal added to or removed from a stockpile using the person’s accounting and business records or physical measurement.

And change the definition of base stockpile from:

Base stockpile means a stockpile of coal owned by the person at the base date.

To:

Base stockpile means a stockpile owned by the person at the base date.

And change the definition of first stockpile adjustment year (a) from:

- (a) the first year in respect of which a stockpile adjustment is claimed in relation to a stockpile of coal; or

To:

- (a) the first year in respect of which a stockpile adjustment is claimed in relation to a stockpile; or

The last two changes are consequential amendments since the new stockpile definition means an amount of coal.

Feedback:

- For participants considering using a coal stockpile adjustment, do you support the proposed changes?
- Is it also necessary to account for the possibility that a participant opts out (ceases to be a purchasing participant) and then opts in again at a later date?
- Are there any other issues raised by the proposed changes that you would like officials to consider?

(b) SEIP Regulations, Schedule 1, clarification of ‘base date’ in Section 1 – interpretation


The proposal is to remove a potential ambiguity and improve alignment with the intentions of the Act in a key definition for potential users of the coal stockpile adjustment available to coal importing and purchasing participants.

Schedule 1 of the SEIP Regulations outlines the methodology to enable coal importers and purchasers to report on stockpile adjustments when reporting their emission responsibilities. The modifications to the Act meant that a SEIP participant has two obligations in 2010, firstly to report emissions for the whole year and secondly to report and take responsibility for emissions from July to December. Web-based reporting tools will have separate parts of the reporting form to facilitate this initial year complication.

To avoid the need for a complex re-writing of the Regulations to accommodate the initial year, the Act was amended in Section 219(4) to mean that references to a ‘year’ in the LFF and SEIP Regulations were be read to include the July to December 2010 period as a notional year. In Schedule 1, Section 1 Interpretation, the ‘base date’ for the coal stockpile was given as 1 January in the first stockpile adjustment year.

Legal advice was that there was some legal uncertainty about whether the explicit base date definition was superseded by Section 219(4) as amended in the Act. This potentially could create uncertainty about whether coal purchased between January and June 2010 and added to the coal stockpile would be treated as obligation coal.

The intention of the Act is that coal purchased before 1 July 2010 (and part of the base stockpile on 1 July 2010) is not obligation coal. This requires that the meaning of *base date* for a coal purchaser/importer, who wishes to use a stockpile adjustment from when obligations first arise, needs to be 1 July 2010.



The definition should also cover the situation where a coal purchasing participant opts out and subsequently opts back in again at a later date. Any coal purchased and stored during the period that the person is not a participant will have been purchased at a higher price and should therefore not be treated as obligation coal.

The proposal is to change the Schedule 1 definition of **base date** by replacing:

***base date** means 1 January in the first stockpile adjustment year*

With words to the effect that

***base date** means 1 July 2010 or the date from which the person's registration as a participant took effect in accordance with section 57(8) of the Act, whichever is the later*

(c) Add a requirement to account for coal in a stockpile in a final emissions return

Provide for the calculation of the emissions, including the treatment of the stockpile adjustment where a person ceases to be a participant with regard to the activities of importing or purchasing coal. This would require a final storage figure to be calculated to reflect all obligation coal that remains in the storage facility at the date that the person ceases to be a participant.

The proposal is to amend Regulations 8, 47 and Schedule 1 to include a requirement that despite anything else in the Regulations a participant must submit a final stockpile adjustment calculation in the person's final emissions return prior to removal from the register under sections 58 or 59 of the Act.

Schedule 1 will also need amendment to provide for the calculation of S in the final emissions return using the same calculation as is currently provided for in clause 6(2) of Schedule 1, ie,

$$S = -1 \times \sum(SY)$$

Where –

SY is the figure for S used to claim a stockpile adjustment for the class of coal for each year since the base date.

Liquid fossil fuels participants

10. Allow liquid fossil fuel sold for international use to be excluded from a return

The proposal is to amend Regulation 5(c) of the Climate Change (Liquid Fossil Fuels) Regulations 2008 to provide for the situation where an obligation fuel participant (supplier A) sells obligation fuel to a non-participant (supplier B), and that fuel is on-sold for use on an international aviation or maritime trip (other than a fishing trip).

Under the current provisions, that fuel cannot be subtracted from the emissions calculation for supplier A. This disadvantages supplier B as the fuel they sell cannot be exempted from emissions liability under the ETS (and therefore supplier B will need to pass on the costs of emissions liability to the purchaser). Whereas fuel sold by supplier A directly for use on an international trip can be exempted (and therefore does not need to include cost of emission liability).

To allow obligation fuel sold by a participant to a third party to be on-sold for use on an international aviation or maritime trip to be subtracted from the emissions calculation, the following amendment is proposed.

Replace:

(c) the volume of the obligation fuel sold to any person for use on an international aviation or maritime trip (other than a fishing trip) where the sale is zero-rated under the Goods and Services Tax Act 1985 less the volume of biofuels in that fuel:

With:

(c) the volume of the obligation fuel sold by the participant or a third party for use on an international aviation or maritime trip (other than a fishing trip) where the sale is zero-rated under the Goods and Services Tax Act 1985 less the volume of biofuels in that fuel:

And add:

5(2) In this Regulation **third party** means a person, other than an opt-in obligation fuel participant, who purchased the obligation fuel from the person required to comply with this Regulation and Regulation 6.

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