

# Impact Summary: NZ ETS regulation updates 2019 – ETS obligations for import of coal-based products

## Section 1: General information

<b>Purpose</b>
The Ministry for the Environment is solely responsible for the analysis and advice set out in this Regulatory Impact Statement. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.
<b>Key Limitations or Constraints on Analysis</b>
There are no limitations or constraints on the analysis in this summary.
<b>Responsible Manager</b>
Mark Storey Manager, Climate Change Policy Ministry for the Environment

## Section 2: Problem definition and objectives

<b>2.1 What is the policy problem or opportunity?</b>
<p>Coal based filter media products are imported to treat air and water. Their use includes municipal water treatment plants and environmental remediation projects.</p> <p>There is a risk an importer of these coal-based products will exceed the threshold of 2000 tonnes of coal in a year, which would trigger mandatory NZ ETS participation, even though this coal is not imported for energy generation.</p> <p>Disposal options for these products, once depleted and considered a waste product, include landfilling or combusting for energy, at which point emissions obligations arise from combusting waste. Carbon dioxide (CO<sub>2</sub>) emissions from this combustion are counted as waste combustion emissions in the NZ ETS.</p> <p>The threshold of 2000 tonnes of coal per year applies to NZ ETS obligations for imported coal. Exceeding the 2000 tonne import threshold carries a risk that emissions from combusted coal-based filter media would be priced twice in the NZ ETS – carrying an obligation to surrender New Zealand Units on import, and then again on disposal.</p> <p>There is a possibility that the threshold may be exceeded if large quantities of these coal-based products are imported prior to use. If the threshold is exceeded, an importer would be liable for NZ ETS obligations even though the coal is not intended for combustion.</p> <p>The annual updates to NZ ETS regulations is an opportunity to rectify this situation.</p>

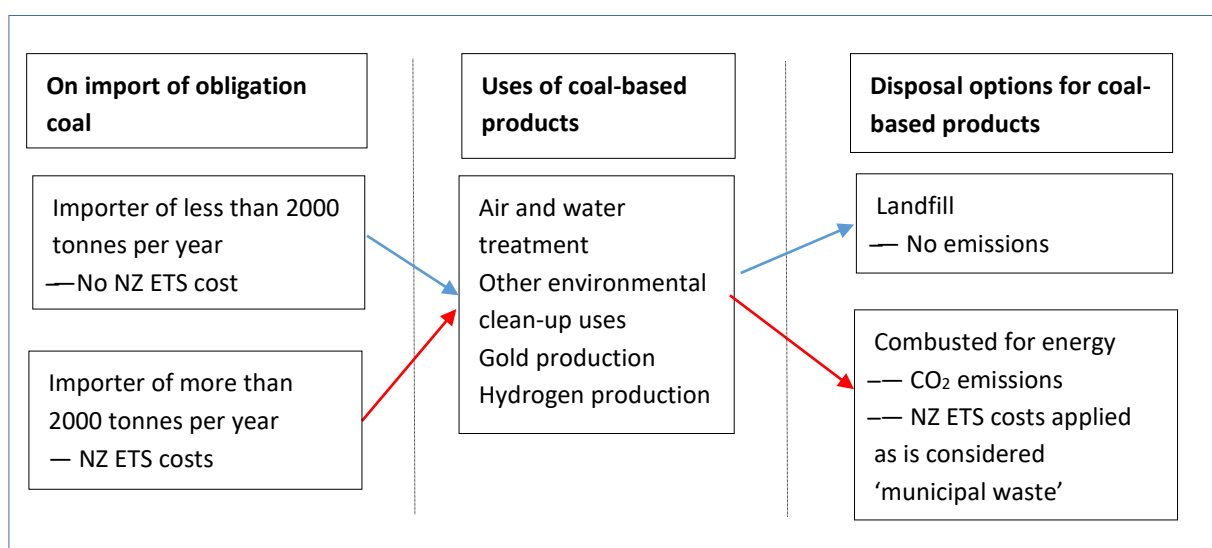
## 2.2 Who is affected and how?

The problem affects importers of coal-based products for water treatment and air filtration.

If an importer of these coal-based products exceeds the threshold of 2000 tonnes of coal in a year, this would trigger mandatory NZ ETS participation, even though this coal is not imported for energy generation. The importer would then have an obligation in the NZ ETS to report emissions and surrender units at import. An NZ ETS obligation would occur again on disposal of the spent product.

If this scenario were to incur, it would incur unintended costs to the importer or the user if the costs are passed on. There is a risk that with increasing interest in water quality, the 2000 tonnes per year threshold will be reached by an importer in the near future. Importers can bring in large quantities for replacement or capital investment and such investments are likely to occur as water treatment plants are upgraded.

The red arrows in the diagram below illustrate the problem.



A secondary problem is the potential distortion of the price of these coal-based products, where those imported in large enough quantities to breach the 2000 tonne threshold will carry a higher price compared to quantities imported under the threshold due to NZ ETS obligations.

In summary, the current situation could create the following problems:

1. Double-counting emissions if another NZ ETS obligation arises on disposal through combustion.
2. Distorting the pricing of such products, where those imported in large quantities are more expensive due to the NZ ETS being imposed on importers, compared to those imported under the threshold.
3. Pricing emissions that will not occur if the products are disposed to landfill.
4. Pricing emissions on import even though the Inventory will not record them as emissions until the product is combusted for disposal after many years of use.

### 2.3 Are there any constraints on the scope for decision making?

There are no constraints on the scope for decision making, or interdependencies or connections.

## Section 3: Options identification

### 3.1 What options have been considered?

There are two options to address this problem.

#### Option 1

Option 1 is to amend regulations to avoid placing NZ ETS obligations on imports of coal-based products not intended to be combusted for energy, so that the NZ ETS only records and prices the emissions that occur from combusting the waste products for energy. This would resolve all of the identified problems. It also aligns with the policy intent for coal's inclusion in the NZ ETS, where it is categorised alongside other fuel sources for stationary energy and industrial processes.

It would be implemented by amending the definition of obligation coal in the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009.

Importers would be positively affected by the change as NZ ETS obligations will not be triggered if the threshold is exceeded. We consider the cost impact is expected to be small relative to the purchase price of the coal-based product.

#### Option 2

Option 2 is to not require counting emissions from combusting waste coal-based products. This will prevent double counting but it will not address the other problems. In particular, products eventually disposed to landfill could incur emissions costs when first imported, even though the use and disposal of those products will not create emissions. Also, the problem of pricing distortions for importers will remain. However option 2 will reduce NZ ETS compliance costs for those firms that combust the waste products as they will no longer need to record quantities consumed and report emissions.

There are no non-regulatory options.

### 3.2 Which of these options is the proposed approach?

Option 1 is the proposed approach.

## Section 4: Impact Analysis (Proposed approach)

### 4.1 Summary table of costs and benefits

Affected parties	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
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#### Additional costs of proposed approach, compared to taking no action

Regulated parties: Importers of coal-based products for water treatment and air filtration		Nil
Regulators		Nil
Wider government		Nil
Other parties		Nil
<b>Total Monetised Cost</b>		Nil
<b>Non-monetised costs</b>		Nil

#### Expected benefits of proposed approach, compared to taking no action

Regulated parties: Importers of coal-based products for water treatment and air filtration	Avoidance of unintended costs of NZ ETS obligations.	Low
Regulators	NZ ETS regulations contribute to the objectives of the NZ ETS and must be accurate, efficient and clear. Accuracy requires ensuring the methodologies and emissions factors used in the regulations are as close as practically possible to those used in the Inventory, otherwise participants or the Government will incur costs for emissions that are either not occurring or are not covered by New Zealand's international obligations. The proposal improves the accuracy of the NZ ETS by ensuring costs for emissions are faced only when they occur. This makes a positive contribution to the objectives of the NZ ETS.	Nil

Wider government		Nil
Other parties		Nil
<b>Total Monetised Benefit</b>		Low
<b>Non-monetised benefits</b>		Low

#### 4.2 What other impacts is this approach likely to have?

No other impacts

## Section 5: Stakeholder views

#### 5.1 What do stakeholders think about the problem and the proposed solution?

Consultation on the issue and proposal was performed over May to June 2019. One supportive submission was received. This submission noted that in a typical year the 2000 tonnes of coal threshold is unlikely to be crossed, however should major projects coincide the threshold may be breached.

## Section 6: Implementation and operation

#### 6.1 How will the new arrangements be given effect?

The proposal will be given effect through amendment of the Climate Change (Stationary Energy and Industrial Processes) Regulations 2008 to come into force from 1 January 2020.

## Section 7: Monitoring, evaluation and review

#### 7.1 How will the impact of the new arrangements be monitored?

This proposal was informed through a stakeholder relationship and we expect that relationship will also inform if the new arrangement is successful or otherwise.

#### 7.2 When and how will the new arrangements be reviewed?

We update regulations each year to keep variables accurate and improve the operation of the NZ ETS. The updates are important to ensure confidence in the operation of the NZ ETS is maintained and costs to participants are accurate.

Regulatory stewardship over the NZ ETS is the responsibility of MfE. Implementation agencies (including the EPA) contribute data and evidence to support assessments of the effectiveness of NZ ETS legislation. We will need to review the regulatory arrangements should importers of coal-based products not intended for combustion face NZ ETS obligations on import.