

Impact Summary: NZ ETS regulation updates 2019 – synthetic greenhouse gases and refrigerated shipping containers

Section 1: General information

Purpose
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.
Key Limitations or Constraints on Analysis
There are no limitations or constraints on the analysis in this summary.
Responsible Manager
Mark Storey Manager, Climate Change Policy Ministry for the Environment

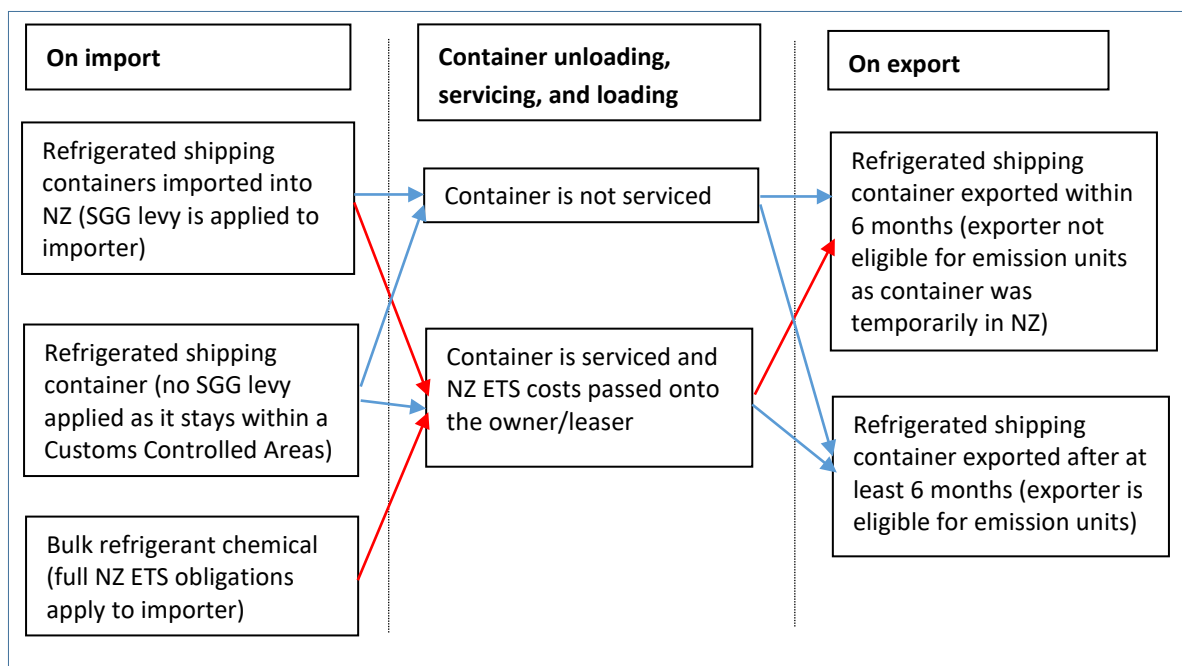
Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?
<p>Refrigerated shipping containers containing synthetic greenhouse gases (SGGs) are imported and exported.</p> <p>Exporters of refrigerated shipping containers that contain SGGs are unable to reclaim NZ ETS costs when the containers are imported or serviced in New Zealand. This is not the intended outcome of NZ ETS policy.</p> <p>Since 2013, importers of goods containing synthetic greenhouse gases (SGG), such as fridges, have faced emissions pricing through the SGG levy. The levy ensures all imported SGGs have emissions costs equivalent to NZ ETS costs, so to minimise competitiveness impacts on local manufacturers of goods who use imported bulk SGGs. The levy has considerably lower compliance and administrative costs for importers compared to NZ ETS obligations, as they can use the NZ Customs Service systems to pay the levy instead of reporting activities and surrendering emission units annually to the EPA. Many of the goods imported contain small amounts of SGGs and NZ ETS compliance costs would outweigh any benefits gained from NZ ETS participation.</p> <p>The levy is applied on an imported good in one of two ways:</p> <ol style="list-style-type: none">1. A cost per kilogramme of the type of SGG contained in the good – where there is a wide range of sizes of particular goods and variation in the SGG charge (eg, large industrial air conditioning units).2. A cost per good – where the goods are similar in application, have little to no variation

in the amount of SGGs they contain, and where the numbers imported are often large (eg, domestic fridges and air conditioning units).

The red arrows in figure 1 below show how the policy settings combine to create the main problem. Emissions costs occur from importing the refrigerated shipping container and then servicing it, but the exporter is unable to recover those costs on export, despite the eventual emissions not occurring in New Zealand.

Figure 1: Arrangement of policies for synthetic greenhouse gases and refrigerated shipping containers



2.2 Who is affected and how?

The problem affects:

- Importers of bulk synthetic greenhouse gases
- People who purchase synthetic greenhouse gases and service refrigerated shipping containers
- Owners, importers and exporters of refrigerated shipping containers

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?

Two options were considered. The first option is to remove SGG imported and then re-exported in serviced refrigerated shipping containers from the scope of the NZ ETS. The second option is to allow all exports of refrigerated shipping containers to be eligible removal activities.

Option 1

Removing SGG imported and then re-exported in serviced refrigerated shipping containers from the scope of the NZ ETS entails:

- removing them from the SGG levy on import by amending the Climate Change (Synthetic Greenhouse Gas Levy) Regulations 2013;
- excluding the export of them as an eligible removal activity by amending the Climate Change (Other Removal Activities) Regulations 2009; and
- exempting the import of SGG used to service export refrigerated shipping containers from NZ ETS obligations by amending the Climate Change (General Exemptions) Order 2009.

Following consultation, three methods for applying the exemption from NZ ETS obligations were established. Each method amends the Climate Change (General Exemptions) Order 2009 to exempt importers of bulk SGGs from NZ ETS obligations for the SGG sold to service exportable refrigerated shipping containers. The methods differ in how the exemption applies.

The first method (option 1A) is to amend the Climate Change (General Exemptions) Order 2009 to exempt importers of bulk SGGs from NZ ETS obligations for the SGG sold to service exportable refrigerated shipping containers. All SGG sold in New Zealand for servicing refrigerated shipping containers is labelled and trackable. This will reduce the risk of importers misusing the proposed exemption by providing a means for compliance checking and audit.

The Climate Change (Synthetic Greenhouse Gas Levies) Regulations 2013 will be amended to remove refrigerated shipping containers from the schedule of goods subject to the SGG levy.

The Climate Change (Other Removal Activities) Regulations 2009 will also be amended to add refrigerated shipping containers to the list of excluded goods so that exporters will no longer be able to receive emission units for their export.

The second method (option 1B) would limit the exemption to bulk SGG imported and then shown to have been re-exported in a year. This option would have timing issues for SGG importers, as a portion of SGG imported in a year and supplied to service agents will remain un-exported at the end of the year. This option also has the highest administration and compliance costs.

The Climate Change (Synthetic Greenhouse Gas Levies) Regulations 2013 will be amended to remove refrigerated shipping containers from the schedule of goods subject to the SGG

levy.

The Climate Change (Other Removal Activities) Regulations 2009 will also be amended to add refrigerated shipping containers to the list of excluded goods so that exporters will no longer be able to receive emission units for their export.

The third method (option 1C) would exempt all bulk SGG imported for the purpose of supplying service agents. This would be administratively simpler and carry lower compliance costs. However, this option would undermine the NZ ETS, as importers will be incentivised to import SGG for one purpose, then sell into the domestic market without NZ ETS costs after a change of business decision.

The Climate Change (Synthetic Greenhouse Gas Levies) Regulations 2013 will be amended to remove refrigerated shipping containers from the schedule of goods subject to the SGG levy.

The Climate Change (Other Removal Activities) Regulations 2009 will also be amended to add refrigerated shipping containers to the list of excluded goods so that exporters will no longer be able to receive emission units for their export.

Option 2

A problem with the current policy settings is the inability of almost all refrigerated shipping container exporters to recover emissions costs other than by passing those costs onto customers. These exports are not usually eligible for emission units because the exported containers were in New Zealand 'temporarily' (ie, less than 180 days). This puts the exporter, and the container servicing firms, at a commercial disadvantage compared to exporters who have their containers serviced overseas.

Option 2 would amend the 'temporarily' exclusion for refrigerated shipping containers. If the exclusion timespan was shortened or completely removed, then exporters could recover SGG emissions costs passed onto them by applying for and receiving emission units.

However, this would also have other consequences. For instance, not all SGG in refrigerated shipping containers have an emissions price applied on import. Most containers are not subject to the SGG levy as they remain in Customs Controlled Areas. If emission units are claimed for all exported SGG in refrigerated shipping containers, then many of those emission units will be windfall gains instead of compensation for emission costs.

Additionally, for accuracy, each eligible container export would need detailed information on the type and quantity of SGG installed in its refrigeration system. Each exporter would add up that information for their emission unit application. This represents new administrative costs, although likely this would be outweighed by the value of the emission units received. It also requires more administration from the Environmental Protection Authority in processing applications and ensuring compliance.

3.2 Which of these options is the proposed approach?

We propose option 1A.

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 bulk SGGs People who purchase SGGs and service refrigerated shipping containers Owners, importers and exporters of refrigerated shipping containers	<p>Importers previously avoiding the SGG levy</p> <p>Fiscal impacts will occur as a result of bulk SGG importers not surrendering some emission units. The quantity of SGG imported and used to service refrigerated shipping containers each year is estimated to be 70,000 tonnes of carbon dioxide equivalent, therefore will be a fiscal cost of approximately \$1.75 million per year. The changes to the SGG levies and Removals Regulations will not have any notable fiscal impacts because these have not provided material fiscal revenue or expenses in the past.</p> <p>The environmental impacts will occur as the removal of emissions pricing could reduce interest in avoiding leakage. However, SGG used to service refrigerated shipping containers that stay in New Zealand will continue to be 'priced' by the NZ ETS. Additionally, the Kigali Amendment to the Montreal Protocol will phase down the international use of SGG in refrigerated shipping containers. Container manufacturers are already responding by using new generation refrigerant chemicals and technologies.</p>	Low
Regulators		Nil
Wider government		Nil
Other parties		Nil
Total Monetised Cost		Low
Non-monetised costs		Nil

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	<p>Improved competitiveness between importers.</p> <p>There is expected to be a positive business impact because New Zealand firms that service refrigerated shipping containers will no longer compete against firms in countries without SGG emissions pricing. Container owners will not be incentivised to have servicing timed for when the container is outside New Zealand simply because of the emissions cost component.</p> <p>Additionally, importers of refrigerated shipping containers will not be subject to the SGG levy.</p>	Low
Regulators		Nil
Wider government	Decreased SGG levy revenue	Low
Other parties		Nil
Total Monetised Benefit		Low
Non-monetised benefits		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.

Three submissions were received that supported the intent of the proposal, but suggested a slightly different way of achieving it.

The submissions were received from: an importer/distributor of SGGs and two refrigerated shipping container service agents.

These submissions preferred to allow the container service agent to apply for a removal activity in the NZ ETS instead of excluding imports of bulk SGGs sold for servicing containers. This would more accurately match the timing of SGGs used with emissions reporting periods in the NZ ETS. However, we have discounted this approach as the service agent cannot receive emissions units in the NZ ETS because they are not an exporter of SGG.¹

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 (General Exemptions) Order 2009
- Climate Change (Synthetic Greenhouse Gas Levies) Regulations 2013 and changes to the Working Tariff Document
- Climate Change (Other Removal Activities) Regulations 2009

All 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?

We expect to be able to monitor the effectiveness of regulatory arrangements for synthetic greenhouse gases in refrigerated shipping containers through an already established NZ ETS co-ordinators group. This is an inter-agency group with representation from the Environmental Protection Authority, Ministry for Primary Industries, and Ministry for the Environment.

¹ Schedule 4, Climate Change Response Act 2002.

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.

We will need to review the regulatory arrangements should export of SGGs in refrigerated shipping containers continue to face NZ ETS costs. This can be informed by the Environmental Protection Agency who run the operation of the NZ ETS and work closely with NZ ETS participants to help them comply with their obligations.