

## **In Confidence**

### **Office of the Minister for Climate Change**

#### **Chair, Cabinet Business Committee**

### **Climate Change (Synthetic Greenhouse Gas Levies) Amendment Regulations 2020**

#### **Proposal**

- 1 I propose the Cabinet Business Committee authorises the submission of the Climate Change (Synthetic Greenhouse Gas Levies) Amendment Regulations 2020 to the Executive Council.

#### **Executive Summary**

- 2 This paper seeks Cabinet approval to amend regulations prescribing the levy rates that apply to imports of goods and motor vehicles containing synthetic greenhouse gases (SGGs). These regulations are made under sections 233, 245 and 246 of the Climate Change Response Act 2002 (the Act).
- 3 Amendments are required to update the carbon price in the Climate Change (Synthetic Greenhouse Gas Levies) Regulations 2013 (SGG Levy Regulations) and the levy rates for imported goods and motor vehicles that contain SGGs.
- 4 Importers of goods, and people registering motor vehicles, that contain SGGs are required to pay a levy through Customs New Zealand or the NZ Transport Agency. Levy rates are adjusted to match emissions unit price changes over the previous year so that emissions of those gases have a similar cost as other greenhouse gas emissions.
- 5 The SGG Levy Regulations will also be amended to correct two existing typographic errors, and to remove certain classes of goods with no applicable levy.

#### **Policy**

- 6 Synthetic greenhouse gases are contained in air conditioning units, refrigerators and motor vehicle air conditioning units. These gases have high global warming potentials and are released into the atmosphere as the product is used, serviced and disposed.
- 7 Importers of bulk SGGs are mandatory participants in the NZ ETS. Importers of goods, and those who register vehicles, containing SGGs do not participate in the NZ ETS. Instead they pay a levy linked to the quantity of gas in the goods imported or vehicle registered. The levy imposes an emission cost on

these importers which is intended to be equivalent to the costs faced by mandatory participants in the NZ ETS. The levy avoids the administrative and compliance costs of the NZ ETS for the smaller-scale importers of these goods and vehicles.

8 The carbon price and levy rates prescribed in the SGG Levy Regulations are updated each year using the methodology specified in the Act. As these amendments are routine and require no new policy decisions, I authorised drafting of regulations to amend the carbon price and levy rates for the 2020 calendar year. This is in accordance with paragraph 7.91(d) of the *Cabinet Manual 2017*.

9 The levy rates for 2021 will increase as a result of the increase in the carbon price to \$25.60 per tonne of carbon dioxide equivalent (CO<sub>2</sub>e). This carbon price was calculated using a weekly average of the price of emissions units in the NZ ETS for year of 1 July 2019 to 30 June 2020.

10 The carbon prices used to set the levy rates since 2013 are shown in table one below:

**Table 1: Carbon prices (NZ\$)**

	2013	2014	2015	2016	2017	2018	2019	2020	2021
Price (\$)	8.22	1.65	0.64	0.30	9.25	17.67	19.88	24.54	25.60

11 The levy rates for the different classes of imported goods and vehicles, along with their tariff item codes, are specified in Schedules 1 and 2 of the SGG Levy Regulations. They will be updated along with the carbon price for 2021 by the Climate Change (Synthetic Greenhouse Gas Levies) Amendment Regulations 2020.

12 Typographical errors in the SGG content of two classes of leviable goods (tariff items 8415.10.11 40G and 8415.81.00 42H) will be corrected for 2021. Certain items in the classes of leviable goods relating to air-conditioning units will be removed from Schedule 2, as there is no applicable levy.

#### **Timing and 28-day rule**

13 Section 245(4) of the Act specifies that regulations made for the purpose of prescribing the rate of the levy come into force 3 months after the date of their notification in the *Gazette*, or on any later date specified in the regulations.

14 Your approval of these amendments on 24 August 2020 will allow the regulations to come into force on 1 January 2021. I do not seek a waiver of the 28-day rule.

## Compliance

- 15 The proposed amendments described in this paper are consistent with:
- 15.1 the principles of the Treaty of Waitangi;
  - 15.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 15.3 the principles and guidelines set out in the Privacy Act 1993;
  - 15.4 relevant international standards and obligations; and
  - 15.5 the LDAC Guidelines on the Process and Content of Legislation.
- 16 Section 233(6) of the Act requires me to take into account the following matters before making a recommendation to update the carbon price:
- 16.1 The price of units used to calculate revenue from the greenhouse gas emissions trading scheme in the Crown annual financial statements over the preceding 12 months; and
  - 16.2 The price of New Zealand units sold by auction over the preceding 12 months; and
  - 16.3 Any changes to the operation of the greenhouse gas emissions trading scheme that have affected the price of units surrendered under that scheme, or that may do so before the end of the next levy year.

### *Price of units in Crown annual financial statements*

- 17 In relation to the first requirement, the SGG carbon price is not materially different to the Crown Accounts carbon price used to reflect revenue for 2020/21.

### *Price of NZUs sold by auction*

- 18 The second requirement is not currently relevant as no auctions have been held to date.

### *Changes affecting the price of units*

- 19 Changes to the operation of the NZ ETS made by the Climate Change Response (Emissions Trading Reform) Amendment Act 2020, NZ ETS provisional emissions budget, price controls and rules for auctioning will affect the price of units.
- 20 Changes to the price of units are accounted for with the existing carbon price methodology as it uses NZU market prices. Therefore changes to the operation of the NZ ETS that have or will affect the price of surrendered units are taken into account.

21 Section 246(3) sets out consultation requirements in accordance with sections 3A and 3B of the Act when specifying leviable goods and the amount of specified synthetic greenhouse gas that the item contains. The proposed amendments to remove items from the list of leviable goods and make corrections to the amount of gas contained in two goods do not require consultation in accordance with these provisions as:

21.1 regarding section 3A, no iwi or Māori appear to the chief executive likely to have an interest in the regulations; and

21.2 regarding section 3B, there are no persons or representatives of those persons that appear to the chief executive likely to be substantially affected by the regulations.

### **Regulations Review Committee**

22 I do not consider that there are grounds for the Regulations Review Committee to draw the regulations described in this paper to the attention of the House under Standing Order 319.

### **Certification by Parliamentary Counsel**

23 The amendment regulations have been certified by Parliamentary Counsel as being in order for submission to Cabinet.

### **Impact Analysis**

24 No new policy decisions are required and the impact analysis requirements do not apply. The levy rate changes in these amendment regulations use the methodology already defined in regulations and the changes are routine, minor and technical.

### **Financial implications**

25 Estimated revenue to the Crown from levy payments in the 2020/21 financial year is subject to significant uncertainty. Disruptions to economic activity from the COVID-19 pandemic are likely to reduce imports of goods and motor vehicles containing SGGs. Activity for 2020/21 has been estimated using observed imports from January through June 2020, as this period spans more normal activity in earlier months, and the most substantial restrictions during COVID-19 alert levels 3 and 4.

26 On this basis, estimated levy revenue for 2020/21 at the proposed 2021 carbon price is around \$11.8 million. By comparison, estimated revenue using the current 2020 carbon price would be \$11.5 million. The fiscal impact of the proposed 2021 carbon price is therefore an increase in revenue to the Crown of approximately \$0.25 million.

### **Publicity**

27 The amendment regulations will be available on the New Zealand Legislation website following their notification in the New Zealand Gazette.

- 28 The Ministry for the Environment will also work with the New Zealand Customs Service and the New Zealand Transport Agency to ensure the levy rate changes are implemented. The New Zealand Customs Service will advise customs brokers and existing levy payers about the new levy rate and update its website.

### **Proactive release**

- 29 I intend to proactively release this paper on the Ministry for the Environment's website subject to redactions as appropriate equivalent to those under the Official Information Act 1982.

### **Consultation**

- 30 This paper was prepared by the Ministry for the Environment. The Environmental Protection Authority, the Ministry of Foreign Affairs and Trade, the Treasury, the Ministry for Business, Innovation and Employment, the New Zealand Customs Service, and the New Zealand Transport Agency were consulted. The Department of the Prime Minister and Cabinet and Te Puni Kōkiri were also informed. Where feedback was received it is reflected in this paper.

Proactively released

## Recommendations

I recommend that the Cabinet Business Committee:

- 1 **Note** that the Climate Change (Synthetic Greenhouse Gas Levies) Regulations 2013 need to be amended to:
  - 1.1 specify the price of carbon for the 2021 levy year;
  - 1.2 specify the levy rates for levied goods and motor vehicles using the updated carbon price for 2021;
  - 1.3 correct two typographical errors; and
  - 1.4 remove certain items in the classes of leviable goods relating to air-conditioning units that are no longer required.
- 2 **Note** the advice of the Minister for Climate Change that all the statutory prerequisites required in recommending regulation be made under sections 233(6), 245(4) and 246(1) of the Climate Change Response Act 2002 have been met;
- 3 **Note** that the price of carbon for the 2021 levy (calendar) year using the prescribed methodology is \$25.60 per tonne of CO<sub>2</sub> equivalent;
- 4 **Note** estimated levy revenue to the Crown from the proposed 2021 carbon price over the 2020/21 financial year is approximately \$11.8 million;
- 5 **Note** that the Climate Change (Synthetic Greenhouse Gas Levies) Amendment Regulations 2020 will come into force on 1 January 2021;
- 6 **Authorise** submission to the Executive Council of the Climate Change (Synthetic Greenhouse Gas Levies) Amendment Regulations 2020.

Authorised for lodgement

Hon James Shaw

**Minister for Climate Change**