

**Reprint  
as at 5 December 2011**



**Climate Change (Liquid Fossil  
Fuels) Regulations 2008**  
(SR 2008/356)

Anand Satyanand, Governor-General

**Order in Council**

At Wellington this 29th day of September 2008

Present:  
His Excellency the Governor-General in Council

Pursuant to section 163 of the Climate Change Response Act 2002, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**These regulations are administered by the Ministry of Economic Development.**

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## Regulations

- 1 Title**  
 These regulations are the Climate Change (Liquid Fossil Fuels) Regulations 2008.
- 2 Commencement**  
 These regulations come into force on 1 January 2009.
- 3 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—
- Act** means the Climate Change Response Act 2002
- biofuel** has the same meaning as in section 1B of the Energy (Fuels, Levies, and References) Act 1989
- blend**, in relation to a fuel specified in regulation 4(1), means a blend of that fuel that contains at least 1% of a biofuel
- class**, in relation to obligation fuel, means,—
- (a) if there is no unique emissions factor in force in relation to the obligation fuel, a class of obligation fuel listed in paragraphs (a) to (i) of regulation 4(1):
- (b) if a unique emissions factor is in force in relation to the obligation fuel, the class of obligation fuel that the unique emissions factor relates to

**Excise and Excise-equivalent Duties Table** has the same meaning as in section 76A of the Customs and Excise Act 1996

**kl** means kilolitre

**obligation fuel** means an obligation fuel specified in regulation 4(1) or a blend of that fuel

**obligation fuel participant** means a person who is a participant under section 54(1)(a) of the Act in respect of an activity listed in Part 2 of Schedule 3 of the Act

**obligation jet fuel** means the jet fuel specified in regulation 4(1)(f) or a blend of that fuel

**obligation jet fuel participant** means a person who is a participant under section 54(1)(b) of the Act in respect of an activity listed in Part 3 of Schedule 4 of the Act

**removed for home consumption** has the same meaning as in section 72 of the Customs and Excise Act 1996

**Tariff** has the same meaning as in section 2(1) of the Tariff Act 1988

**tCO<sub>2</sub>e** means tonnes of carbon dioxide equivalent greenhouse gas

**unique emissions factor** means a unique emissions factor that the EPA has, under section 91 of the Act, approved a participant to use for the purpose of calculating emissions in accordance with these regulations

**volume**, in relation to an obligation fuel or a biofuel, means,—

- (a) at the point of import or removal from a refinery, the quantity of that fuel or biofuel expressed in kilolitres at a temperature of 15°C; and
- (b) at all other times, the quantity of that fuel or biofuel expressed in kilolitres at the ambient temperature.

(2) A unique emissions factor is in force in relation to a class of obligation fuel if—

- (a) its use to calculate emissions in relation to the class of obligation fuel has been approved by the EPA under section 91(1) of the Act; and
- (b) the approval has not expired or ceased to have effect under section 91(2) of the Act.

Regulation 3(1) **class**: inserted, on 1 January 2010, by regulation 4(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 3(1) **Excise and Excise-equivalent Duties Table**: inserted, on 1 January 2010, by section 11(4) of the Customs and Excise Amendment Act 2009 (2009 No 61).

Regulation 3(1) **unique emissions factor**: inserted, on 1 January 2010, by regulation 4(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 3(1) **unique emissions factor**: amended, on 5 December 2011, by section 53(2) of the Environmental Protection Authority Act 2011 (2011 No 14).

Regulation 3(2): added, on 1 January 2010, by regulation 4(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 3(2)(a): amended, on 5 December 2011, by section 53(2) of the Environmental Protection Authority Act 2011 (2011 No 14).

#### 4 **Obligation fuels**

- (1) The following fuels are obligation fuels for the purposes of an activity listed in Part 2 of Schedule 3 of the Act:
- (a) motor spirit with a research octane number of less than 95 referred to in—
    - (i) excise item number 99.75.15C or 99.75.18H of Part A of the Excise and Excise-equivalent Duties Table; or
    - (ii) item number 2710.19.11 or 2710.19.29 in chapter 27 of the Tariff (regular petrol):
  - (b) motor spirit with a research octane number of 95 or greater referred to in—
    - (i) excise item number 99.75.18H of Part A of the Excise and Excise-equivalent Duties Table; or
    - (ii) item number 2710.19.11 or 2710.19.29 in chapter 27 of the Tariff (premium petrol):
  - (c) automotive diesel referred to in—
    - (i) excise item number 99.75.35H of Part A of the Excise and Excise-equivalent Duties Table; or
    - (ii) item number 2710.19.63 00L in chapter 27 of the Tariff (automotive diesel):
  - (d) marine diesel referred to in item number 2710.19.65 00C in chapter 27 of the Tariff (marine diesel):
  - (e) aviation spirit referred to in item number 2710.19.09 00F in chapter 27 of the Tariff (aviation spirit):

- (f) jet fuel, kerosene type, referred to in item number 2710.19.45 11H in chapter 27 of the Tariff (jet fuel):
  - (g) light residual fuel oil referred to in item number 2710.19.71 00C or 2710.19.73 00F in chapter 27 of the Tariff and that has a kinematic viscosity of less than 85 centistokes at 50°C (light fuel oil):
  - (h) heavy residual fuel oil referred to in item number 2710.19.71 00C or 2710.19.73 00F in chapter 27 of the Tariff and that has a kinematic viscosity of 85 centistokes or greater at 50°C (heavy fuel oil):
  - (i) any other liquid fossil fuel not listed in paragraphs (a) to (h) that is directly combusted when used.
- (2) To avoid doubt, the following substances are not obligation fuels:
- (a) liquefied petroleum gas referred to in—
    - (i) excise item number 99.75.60J of Part A of the Excise and Excise-equivalent Duties Table; or
    - (ii) item number 2711.12.00, 2711.13.00, or 2711.14.01 in chapter 27 of the Tariff:
  - (b) lighting kerosene referred to in item number 2710.19.47 or 2710.19.55 in chapter 27 of the Tariff:
  - (c) solvents:
  - (d) chemicals:
  - (e) lubricants referred to in item number 2710.19.79 or 2710.19.81 in chapter 27 of the Tariff.

Regulation 4(1)(a)(i): substituted, on 1 January 2010, by section 11(4) of the Customs and Excise Amendment Act 2009 (2009 No 61).

Regulation 4(1)(b)(i): substituted, on 1 January 2010, by section 11(4) of the Customs and Excise Amendment Act 2009 (2009 No 61).

Regulation 4(1)(c)(i): substituted, on 1 January 2010, by section 11(4) of the Customs and Excise Amendment Act 2009 (2009 No 61).

Regulation 4(2)(a)(i): substituted, on 1 January 2010, by section 11(4) of the Customs and Excise Amendment Act 2009 (2009 No 61).

## **5 Collection of information by obligation fuel participants for purpose of calculating emissions**

- (1) An obligation fuel participant must collect the following information in relation to each class of obligation fuel owned by the participant at the time the fuel is removed for home consump-

tion in accordance with the Customs and Excise Act 1996 or otherwise removed from a refinery during a year:

- (a) the volume of the obligation fuel removed for home consumption less the volume of biofuels in that fuel:
- (b) the volume of the obligation fuel removed from a refinery other than for home consumption less the volume of biofuels in that fuel:
- (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:
- (d) if the obligation fuel is obligation jet fuel, the volume of the obligation jet fuel sold to each obligation jet fuel participant where the sale is not zero-rated under the Goods and Services Act 1985 less the volume of biofuels in that fuel:
- (e) the volume of the obligation fuel exported where the related sale is zero-rated under the Goods and Services Tax Act 1985 less the volume of biofuels in that fuel—
  - (i) whether or not the fuel was previously removed for home consumption; and
  - (ii) other than in the circumstances set out in paragraph (c).

(2) In this regulation, **third party**—

- (a) means a person who purchased the obligation fuel from—
  - (i) the person required to comply with this regulation and regulation 6; or
  - (ii) a person who purchased the obligation fuel from the person referred to in subparagraph (i); but
- (b) does not include an opt-in fuel participant.

Regulation 5(1): amended, on 1 January 2010, by regulation 5 of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 5(1)(c): amended, on 1 October 2010, by regulation 4(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2010 (SR 2010/334).

Regulation 5(2): added, on 1 October 2010, by regulation 4(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2010 (SR 2010/334).

**6 Method of calculating emissions by obligation fuel participants**

- (1) An obligation fuel participant must calculate the emissions for each class of obligation fuel in respect of which the participant carries out an activity listed in Part 2 of Schedule 3 of the Act in a year in accordance with the following formula:

$$T = L \times E$$

where—

- T is the total emissions for the obligation fuel in tonnes  
L is the kilolitres of the obligation fuel in respect of which emissions are required to be calculated  
E is,—  
(a) in relation to a class of obligation fuel for which no unique emissions factor is in force, the emissions factor for the obligation fuel specified in the table set out in the Schedule; or  
(b) in relation to a class of obligation fuel for which a unique emissions factor is in force, the unique emissions factor.

- (2) For the purposes of subclause (1), L must be calculated as follows:

$$L = (A + B) - (C + D + E)$$

where—

- A is the net volume of the obligation fuel referred to in regulation 5(a) for the year  
B is the net volume of the obligation fuel referred to in regulation 5(b) for the year  
C is the net volume of the obligation fuel referred to in regulation 5(c) for the year  
D is—  
(a) the net volume of the obligation fuel referred to in regulation 5(d) for the year if the obligation fuel is obligation jet fuel; or  
(b) zero if the obligation fuel is not obligation jet fuel  
E is the net volume of the obligation fuel referred in regulation 5(e) for the year.

- (3) An annual emissions return submitted by an obligation fuel participant must record the participant's total emissions from an activity listed in Part 2 of Schedule 3 of the Act in the relevant year, calculated by adding together the emissions for each class of obligation fuel calculated under subclause (1).
- (4) If an obligation fuel participant is required to submit an emissions return for a period other than a year, this regulation applies with any necessary modifications.
- (5) For the purposes of this regulation, a fraction of a kilolitre must be rounded up to the next whole kilolitre if the fraction is 50% or more of a kilolitre; otherwise the fraction of a kilolitre must be rounded down to the previous whole kilolitre.

Regulation 6(1): amended, on 1 January 2010, by regulation 6(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 6(1) formula item E: substituted, on 1 January 2010, by regulation 6(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 6(3): amended, on 1 January 2010, by regulation 6(3) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

## **7 Collection of information by obligation jet fuel participants for purpose of calculating emissions**

An obligation jet fuel participant must record the volume of each class of obligation jet fuel purchased by that participant from each obligation fuel participant in a year where the sale is not zero-rated under the Goods and Services Tax Act 1985 less the volume of biofuels in that fuel.

Regulation 7: amended, on 1 January 2010, by regulation 7 of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

## **8 Method of calculating emissions by obligation jet fuel participants**

- (1) An obligation jet fuel participant must calculate the emissions from each class of obligation jet fuel purchased by that participant from obligation fuel participants in a year in accordance with the following formula:

$$T = L \times E$$

where—

T is the total emissions for the obligation jet fuel in tonnes



- L is the total net kilolitres of the obligation jet fuel recorded under regulation 7
- E is,—
- (a) in relation to any class of obligation jet fuel for which no unique emissions factor is in force, the emissions factor for the obligation jet fuel specified in the table set out in the Schedule; or
  - (b) in relation to any class of obligation jet fuel for which a unique emissions factor is in force, the unique emissions factor.
- (1A) An annual emissions return submitted by an obligation jet fuel participant must record the participant's total emissions from an activity listed in Part 3 of Schedule 4 of the Act in the relevant year, calculated by adding together the emissions for each class of obligation jet fuel calculated under subclause (1).
- (2) If an obligation jet fuel participant is required to submit an emissions return for a period other than a year, this regulation applies with any necessary modifications.
- (3) For the purposes of this regulation, a fraction of a kilolitre must be rounded up to the next whole kilolitre if the fraction is 50% or more of a kilolitre; otherwise the fraction of a kilolitre must be rounded down to the previous whole kilolitre.

Regulation 8(1): amended, on 1 January 2010, by regulation 8(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 8(1) formula item L: substituted, on 1 January 2010, by regulation 8(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 8(1) formula item E: substituted, on 1 January 2010, by regulation 8(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Regulation 8(1A): inserted, on 1 January 2010, by regulation 8(3) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

**Schedule**  
**Emissions factors for tonnes of carbon  
dioxide equivalent greenhouse gases per  
kilolitre**

rr 6(1), 8(1)

<b>Obligation fuel</b>	<b>Emissions factor in tCO<sub>2</sub>e/kl</b>
Regular petrol, as per regulation 4(1)(a)	2.310
Premium petrol, as per regulation 4(1)(b)	2.367
Automotive and marine diesel, as per regulation 4(1)(c) and (d)	2.670
Aviation spirit, as per regulation 4(1)(e)	2.201
Jet fuel, as per regulation 4(1)(f)	2.525
Light fuel oil, as per regulation 4(1)(g)	2.929
Heavy fuel oil, as per regulation 4(1)(h)	3.015
Any other fuel referred to in regulation 4(1)(i)	3.299

Schedule: amended, on 1 January 2010, by regulation 9(a) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Schedule: amended, on 1 January 2010, by regulation 9(b) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283).

Rebecca Kitteridge,  
Clerk of the Executive Council.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 2 October 2008.

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  - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
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## **Notes**

### **1 *General***

This is a reprint of the Climate Change (Liquid Fossil Fuels) Regulations 2008. The reprint incorporates all the amendments to the regulations as at 5 December 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint  
(most recent first)***

Environmental Protection Authority Act 2011 (2011 No 14): section 53(2)  
Climate Change (Liquid Fossil Fuels) Amendment Regulations 2010 (SR 2010/334)  
Customs and Excise Amendment Act 2009 (2009 No 61): section 11(4)  
Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (SR 2009/283)

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