

Version
as at 1 January 2023



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

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry for the Environment.

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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 5(1) of the Customs and Excise Act 2018

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

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

opt-in obligation 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 (and who therefore meets the threshold specified in regulation 6A)

removed for home consumption has the same meaning as in clause 3 of Schedule 3 of the Customs and Excise Act 2018

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

tCO₂e 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) **Excise and Excise-equivalent Duties Table**: amended, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

Regulation 3(1) **jet fuel**: inserted, on 12 December 2013, by regulation 4(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 3(1) **obligation jet fuel**: revoked, on 12 December 2013, by regulation 4(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 3(1) **obligation jet fuel participant**: revoked, on 12 December 2013, by regulation 4(3) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 3(1) **opt-in obligation fuel participant**: inserted, on 12 December 2013, by regulation 4(4) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 3(1) **removed for home consumption**: amended, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

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 consumption in accordance with the Customs and Excise Act 2018 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) the volume of the obligation fuel sold to each opt-in obligation fuel participant where the sale is not zero-rated under the Goods and Services Tax 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 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

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(1)(d): replaced, on 12 December 2013, by regulation 5 of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

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(1)(a) for the year

B is the net volume of the obligation fuel referred to in regulation 5(1)(b) for the year

- C is the net volume of the obligation fuel referred to in regulation 5(1)(c) for the year
- D is the net volume of the obligation fuel referred to in regulation 5(1)(d) for the year
- E is the net volume of the obligation fuel referred in regulation 5(1)(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(2) formula item A: amended, on 12 December 2013, by regulation 6(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 6(2) formula item B: amended, on 12 December 2013, by regulation 6(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 6(2) formula item C: amended, on 12 December 2013, by regulation 6(3) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 6(2) formula item D: replaced, on 12 December 2013, by regulation 6(4) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 6(2) formula item E: amended, on 12 December 2013, by regulation 6(5) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

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).

6A Threshold for activity of purchasing obligation fuel

The threshold for the activity of purchasing obligation fuel, as described in Part 3 of Schedule 4 of the Act, is the purchase in any year of more than—

- (a) 10 million litres of jet fuel; or
- (b) 35 million litres of obligation fuel.

Regulation 6A: inserted, on 13 September 2013, by regulation 7 of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

7 Collection of information by opt-in obligation fuel participants for purpose of calculating emissions

An opt-in obligation fuel participant must record the following information in relation to each class of obligation fuel:

- (a) the volume of the obligation 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:
- (b) the volume of the obligation fuel on-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:
- (c) 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.

Regulation 7: replaced, on 29 December 2015 (applying for the year commencing on 1 January 2015 and for each subsequent year), by regulation 5 of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2015 (LI 2015/216).

8 Method of calculating emissions by opt-in obligation fuel participants

- (1) An opt-in obligation fuel participant must calculate the emissions from each class of obligation 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 fuel in tonnes

L is the total net kilolitres of the obligation fuel determined under subclause (1AA)

E is,—

- (a) in relation to any 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 any class of obligation fuel for which a unique emissions factor is in force, the unique emissions factor.

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

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

where—

A is the net volume of the obligation fuel referred to in regulation 7(a) for the year

- B is the net volume of the obligation fuel referred to in regulation 7(b) for the year
- C is the net volume of the obligation fuel referred to in regulation 7(c) for the year.
- (1A) An annual emissions return submitted by an opt-in obligation 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 fuel calculated under subclause (1).
- (2) If an opt-in obligation 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 heading: replaced, on 12 December 2013, by regulation 9(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 8(1): amended, on 12 December 2013, by regulation 9(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 8(1): amended, on 12 December 2013, by regulation 9(3) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

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 T: amended, on 12 December 2013, by regulation 9(3) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 8(1) formula item L: replaced, on 29 December 2015 (applying for the year commencing on 1 January 2015 and for each subsequent year), by regulation 6(1) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2015 (LI 2015/216).

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(1) formula item E paragraph (a): amended, on 12 December 2013, by regulation 9(3) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 8(1) formula item E paragraph (b): amended, on 12 December 2013, by regulation 9(3) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 8(1AA): inserted, on 29 December 2015 (applying for the year commencing on 1 January 2015 and for each subsequent year), by regulation 6(2) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2015 (LI 2015/216).

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).

Regulation 8(1A): amended, on 12 December 2013, by regulation 9(4) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 8(1A): amended, on 12 December 2013, by regulation 9(5) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

Regulation 8(2): amended, on 12 December 2013, by regulation 9(6) of the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380).

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

rr 6(1), 8(1)

Obligation fuel	Emissions factor in tCO₂e/kl
Regular petrol, as per regulation 4(1)(a)	2.313
Premium petrol, as per regulation 4(1)(b)	2.369
Automotive and marine diesel, as per regulation 4(1)(c) and (d)	2.664
Aviation spirit, as per regulation 4(1)(e)	2.198
Jet fuel, as per regulation 4(1)(f)	2.522
Light fuel oil, as per regulation 4(1)(g)	2.928
Heavy fuel oil, as per regulation 4(1)(h)	3.013
Any other fuel, as per regulation 4(1)(i)	3.299

Schedule table: replaced, on 1 January 2023, by regulation 33 of the Climate Change (Emissions Trading Scheme and Synthetic Greenhouse Gas Levies) Amendment Regulations 2022 (SL 2022/267).

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 2 October 2008.

Notes

1 *General*

This is a consolidation of the Climate Change (Liquid Fossil Fuels) Regulations 2008 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Climate Change (Emissions Trading Scheme and Synthetic Greenhouse Gas Levies) Amendment Regulations 2022 (SL 2022/267): Part 6

Customs and Excise Act 2018 (2018 No 4): section 443(4)

Climate Change (Liquid Fossil Fuels) Amendment Regulations 2015 (LI 2015/216)

Climate Change (Liquid Fossil Fuels) Amendment Regulations 2013 (SR 2013/380)

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)