



Emissions Trading Group
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Dear Emission Trading Group

RE: Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009

Shell New Zealand (Shell) appreciates the opportunity to make submissions to the Emissions Trading Group on the draft Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009.

As previously submitted, Shell recognises climate change as a critical global issue. The societal imperative to limit greenhouse gas in the atmosphere needs strict management of carbon dioxide emissions from both the production of energy and its use by customers. Shell supports and strongly recommends cap and trade schemes as the best policy approach to reduce greenhouse gas emissions for most sectors.

One aspect Shell considers to be crucial in developing a successful emissions trading scheme (NZETS) is reducing the amount of political and regulatory uncertainty. Certainty is required to enable market participants to have confidence operating in the developing carbon markets. We therefore urge that policy and regulatory settings for the NZ ETS be completed as soon as possible, to provide sector participants with sufficient time to prepare for the start of the NZ ETS.

The amendment to the Climate Change (Liquid Fossil Fuels) Amendment Regulations 2009 (the regulations) primarily concerns changes in the draft regulations to enable unique emissions factors to be used where appropriate, and omit "type" and replace it with "class". Shell supports the technical changes that are proposed in the draft amendment regulations.

Calculating emissions from the terminal transfer point

As the current regulations are drafted, the customs and excise point is the only data that participants can use to calculate their liquid fossil fuel emissions. Shell has long argued for the regulations to be amended to enable participants to calculate their emissions based on data generated from the fiscal meter at the terminal transport point.

Shell's view is that the current customs and excise point approach does not fit with the government's objective of "...apply[ing] the [Climate Change Response] Act [2002] in a way that minimises compliance and administrative costs..." and desire to "...minimise transactional costs for participants and the government...".



Shell considers that the fiscal meter at the terminal transfer point to be the most efficient “fit for purpose” calculation point. This approach would allow robust data to be produced at least cost for participants.

Shell also notes that the draft Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 enable gas participants to use point of sale meters (based on the fiscal meters) to calculate the emissions data from gas that is sold. The point of sale used in the Stationary Energy and Industrial Processes draft regulations is at a very similar point in the gas supply chain to the terminal transfer point that Shell has proposed. Thus, there is a precedent to use existing fiscal meters within different points in the supply chain for the purpose of calculating emissions.

Relying on third party data

Shell is concerned that under the current liquid fossil fuel regulations, obligated participants are required to rely on third party data sources for a significant proportion of their liquid fossil fuel emissions data. Currently, the New Zealand Refining Company collects and provides customs and excise data to the oil companies that use the refinery. This is the same data that Shell would be using to calculate its liquid fuel emissions for reporting purposes.

Relying on a third party to supply accurate emissions data to participants is of concern as the current Climate Change Response Act 2002 (the Act) does not contain a legal defence for when an obligated participant receives and submits emissions data based upon erroneous third party data. Under the legislation, the participant is responsible for the accuracy of their emission report, not the third party that may have supplied data for the report. Because the New Zealand Refining Company will supply a significant proportion of information to at least four obligated liquid fuel participants, we question the suitability of using customs and excise data exclusively without an alternative such as the terminal transfer point.

To fix the issues associated with participants relying on third party data, we recommend that the government amend the regulations to enable participants to use the terminal transfer point as well as, or instead of, the customs and excise point. Making this amendment will ensure that participants will not be relying on third party data for their emission reporting.

Advantages of calculating emissions from the terminal

As Shell has previously submitted on 28 March 2008, and on 19 August 2008, we consider there are numerous advantages in using the fiscal meter at the terminal transfer point to calculate liquid fossil fuel emissions, including:

- data measured from the terminal transfer point is fit for purpose in calculating emissions as different fuel products and major customers can be easily identified, enabling any GST and opt-in exemptions to be less complex;
- the data is the nearest measurable and auditable point to where LFF emissions are released upon combustion, but still sufficiently upstream in the fuel supply chain to avoid unnecessary administration costs;
- the terminal data is already used for financial and tax purposes and is already subject to stringent third party assurance, therefore verification can be provided very easily;
- obligated participants will not have to rely on the accuracy of third party data, as is currently the case for all fuel being released from the refinery customs and excise point;
- reduced financial exposure to the carbon market as the terminal is nearer the end of the supply chain, and in turn reducing pass through costs as unnecessary financial exposure costs will not be included in the carbon pass through cost;



- the terminal transfer point enables more transparency between carbon price indices and the carbon prices that apply at the forecourt, as the terminal gate is near the end of the supply chain; and
- calculating emissions from the terminal transfer point is simpler and less prone to error, and not as costly as calculating emissions from the current customs and excise point.

Further, most of the problematic issues that have been raised by officials about using the fiscal meter at the terminal exit point relate to the Biofuel Sales Obligation. As the legislation enabling the Biofuel Sales Obligation has been repealed, we consider it prudent to reconsider using the fiscal metering at the terminal transfer point.

Attached is a suggested drafting amending the regulations to incorporate the terminal transfer point, which includes a suggested legal definition for the terminal transfer point that could be considered for use in the regulations.

If you would like to discuss any aspect of our submission, please contact Ben Peacey at +64 4 463 4082 or email to ben.peacey@shell.com.

Yours sincerely
Shell New Zealand Limited

A handwritten signature in black ink, appearing to read 'Mark', is located below the typed name.

Mark Forsyth
Retail General Manager



29.08.08

Draft Climate Change (Liquid Fossil Fuels) Regulations 2008

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

An obligation fuel participant must collect the following information in relation to each type of obligation fuel lifted or transferred by or on behalf of the participant at the Terminal Transfer Point during a year:

- (a) the volume of the obligation fuel less the volume of biofuels in that fuel:
- (b) the volume of the obligation fuel sold to any person for use on an international aviation or marine 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) if the obligation fuel is obligation jet fuel sold for use on a domestic trip, the volume of the obligation jet fuel sold to each obligation jet fuel participant less the volume of biofuels in that fuel:
- (d) 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 has passed the Terminal Transfer Point;; and
 - (ii) other than in the circumstances set out in paragraph (b),

provided however that nothing in this regulation 5 shall apply to the transfer of obligation fuel or biofuel between Terminals.”

“Terminal” means *[insert list of all relevant facilities, including NZRC]*.

“Terminal Transfer Point” means:



- (a) the point at which obligation fuel passes the flange or coupler connecting a Terminal gantry loading arm (hose) to a tank attached to a vehicle;
- (b) the point at which obligation fuel exits a metering unit that is connected to a Terminal bunker line and a marine vessel;
- (c) in the case of a marine vessel that is refuelling at the refinery at Marsden Point, Whangarei, New Zealand, the point at which obligation fuel exits a storage tank and enters the pipeline to the marine vessel;
- (d) in the case of obligation fuel that has been lifted by a bunker barge from the refinery at Marsden Point, Whangarei, New Zealand, the point at which obligation fuel passes the flange or coupler connecting a line or hose from the bunker barge to a marine vessel to which obligation fuel is transferred;
- (e) the point at which obligation fuel exits a metering unit that is connected within a Terminal to a hydrant (pipeline) and an aircraft,

for the purpose or having the effect of removing the obligation fuel from a Terminal.”

“**volume**”, in relation to an obligation fuel or biofuel, means the quantity of that fuel or biofuel expressed in kilolitres at the ambient temperature.

[Drafting Note: This is to replace the current definition in regulation 3]