



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Fuel Industry Act 2020 – Information Disclosure Regulations	Date to be published	11 October 2021

List of documents that have been proactively released

Date	Title	Author
August 2021	Fuel Industry Act 2020 – Information Disclosure Regulations	Office of the Minister of Energy and Resources
25 August 2021	Fuel Industry Act 2020: Information Disclosure Regulations CBC-21-MIN-0073	Cabinet Office
August 2021	Regulatory Impact Statement: Fuel Industry Act 2020 – Information disclosure regulations	MBIE

Information redacted

YES / NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Confidentiality and Constitutional conventions.



Cabinet Business Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Fuel Industry Act 2020: Information Disclosure Regulations

Portfolio **Energy and Resources**

On 25 August 2021, the Cabinet Business Committee:

Background

- 1 **noted** that the Fuel Industry Act 2020 (the Act) received Royal Assent on 11 August 2020;
- 2 **noted** that the Act gives the Minister of Energy and Resources the power to recommend regulations in relation to various matters related to the fuel industry;
- 3 **noted** that the Minister of Energy and Resources considers it important that the supporting regulations are developed before the relevant sections of the Act come into force;
- 4 **noted** that the disclosure of information provisions under the Act come into force on 11 February 2022 (unless brought into force earlier by the Governor-General by Order in Council);

Due diligence on regulations

- 5 **noted** that the Act provides that the Minister of Energy and Resources must have consulted with fuel industry participants that are likely to be significantly affected by the proposed regulations before regulations can be made;
- 6 **noted** that in April 2021, the Minister of Energy and Resources released a targeted consultation paper on the proposals in the paper under CBC-21-SUB-0073 to the fuel industry participants that the Minister of Energy and Resources considers likely to be significantly affected by the proposed regulations;
- 7 **noted** that the Act provides that, before regulations can be made, the Minister of Energy and Resources must be satisfied that the regulations are necessary or desirable after having regard to the purpose of the Act, and the relevant subpart;
- 8 **noted** that the Minister of Energy and Resources is satisfied that the proposals for regulations in the paper under CBC-21-SUB-0073 are necessary or desirable after having regard to the purpose of this Act, and the associated subpart;
- 9 **noted** that regulations for the other Parts of the Act were approved by Cabinet [CAB-21-MIN-0259] and came into force on 11 August 2021 in relation to terminal gate pricing, fixed wholesale contract terms and dispute resolution, and that the consumer information requirements will come into force on 11 February 2022;

The kinds of fuels that the regulations apply to

- 10 **agreed** that the information disclosure regulations will apply to the following kinds of fuels: 91 octane, 95 octane, 98 octane and diesel, despite 98 octane not being subject to the terminal gate pricing regime;
- 11 **agreed** that all information required to be disclosed under the Act would be disclosed to the Commerce Commission as the primary regulator under the Act;

Fixed wholesale contracts, switching and multi-sourcing

- 12 **agreed** that, as specified in Annex A attached to the submission under CBC-21-SUB-0073, fuel importers (currently BP, Mobil, Z Energy, Gull and TasmanFuels) must be required to:
- 12.1 disclose on 1 September 2022 all fixed wholesale contracts in force;
 - 12.2 annually disclose fixed wholesale contracts entered into after those disclosed in 12.1;
 - 12.3 annually disclose changes to key provisions in the above fixed wholesale contracts;
 - 12.4 retain and disclose any fixed wholesale contract on request by the Commerce Commission;
 - 12.5 annually disclose offers and bids made by the fuel importer to supply fuel by way of fixed wholesale contract;
 - 12.6 annually disclose instances of expired or terminated fixed wholesale contracts;

Profitability

- 13 **agreed** that, as specified in Annex A, fuel importers, wholesale suppliers and distributors must be required to annually:
- 13.1 disclose financial statements that applicable financial reporting standards require the entity to prepare; or
 - 13.2 where the relevant fuel industry participant has one or more subsidiaries, or is a subsidiary, disclose group financial statements;

Gross margins and terminal gate pricing

- 14 **agreed** that, as specified in Annex A, Fuel importers must be required to disclose:

Transactions at fuel storage terminal

- 14.1 daily revenue, volume, and volume weighted price for each fuel type sold at each terminal;
- 14.2 terminal gate price offered for the fuel types subject to the terminal gate pricing regime;
- 14.3 requests refused for supply under the terminal gate pricing regime;
- 14.4 fees charged by terminal owners for use of terminals by participants in terminal storage sharing schemes (throughput fees) for each fuel type;

Cost data

- 14.5 annual costs of importing fuel (for example, crude costs and refinery costs etc.);
- 14.6 costs of using the pipeline between the refinery and Auckland per month;
- 14.7 annual domestic shipping costs;

Retail fuel site data

- 14.8 volumes of fuel supplied by the fuel industry participants to their own retail fuel sites, by each fuel type;
- 14.9 the standard retail price for each fuel at each retail fuel site (the last price posted each day);
- 14.10 the discounts offered by the supplier each day for each fuel and at each retail fuel site;
- 14.11 daily volume of each fuel sold from each retail fuel site;
- 14.12 quarterly revenue per fuel sold; and
- 14.13 distance between each terminal and the retail fuel sites they predominately supply;

Discounting and loyalty programmes

- 15 **agreed** that, as specified in Annex A, fuel importers must be required to disclose annually an:
 - 15.1 explanation of its two largest discount practices;
 - 15.2 explanation of its two loyalty programmes that have the highest uptake; and
 - 15.3 explanation of discounting partnerships with third parties (unless previously provided);

Fuel supply

- 16 **agreed** that, as specified in Annex A, fuel importers must be required to disclose:
 - 16.1 monthly fuel supply to each terminal for each fuel;
 - 16.2 monthly fuel withdrawn from each terminal for each fuel;
 - 16.3 total storage capacity at each terminal and nationally for each fuel;
 - 16.4 forecast monthly demand; and
 - 16.5 rationing event information;
- 17 **agreed** that, as specified in Annex A, fuel importers, wholesale suppliers and distributors (where they supply at retail) must be required to disclose:
 - 17.1 retail fuel site addresses supplied by the fuel importer, wholesale supplier or distributor; and
 - 17.2 total annual volume of each fuel type supplied;

Quality assurance

- 18 **agreed** that, as specified in Annex A, annually, fuel industry participants that are subject to information disclosure requirements must have the disclosure certified by a Director of the participant;

Other recommendations

- 19 **invited** the Minister of Energy and Resources to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;
- 20 **authorised** the Minister of Energy and Resources to take further decisions consistent with those made under CBC-21-MIN-0073 on any issues that arise during the drafting process;
- 21 **authorised** the Minister of Energy and Resources to make further decisions on minor and technical matters that may arise during the drafting process;
- 22 **agreed** to release an exposure draft of the regulations for the purposes of targeted consultation with the fuel industry participants that the Minister of Energy and Resources considers likely to be significantly affected by the proposed regulations.

Jenny Vickers
Committee Secretary

Present:

Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Damien O'Connor
Hon Stuart Nash
Hon Kris Faafoi
Hon Peeni Henare
Hon Michael Wood
Hon Dr David Clark
Hon Aupito William Sio

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet