



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Fuel Industry Amendment Regulations 2021	Date to be published	23 February 2022

List of documents that have been proactively released		
Date	Title	Author
December 2021	<i>Fuel Industry Amendment Regulations 2021</i>	<i>Office of the Minister of Energy and Resources</i>
16 December 2021	<i>Fuel Industry Amendment Regulations 2021</i> <i>DEV-21-MIN-0270</i>	<i>Cabinet Office</i>

Information redacted

NO

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Cabinet Economic Development Committee

Minute of Decision

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Fuel Industry Amendment Regulations 2021

Portfolio **Energy and Resources**

On 15 December 2021, the Cabinet Economic Development Committee:

Background

- 1 **noted** that on 25 August 2021, the Cabinet Business Committee agreed to the development of information disclosure regulations under the Fuel Industry Act 2020 [CBC-21-MIN-0073];
- 2 **noted** that the Fuel Industry Amendment Regulations 2021 will give effect to the decision referred to in paragraph 1 above;

Proposed changes

- 3 **agreed** that the information must be recorded and retained by fuel industry participants to which the regulations apply, for a period of seven years after the date that the information is disclosed to the Commerce Commission, or if a fixed wholesale contract has not been disclosed, seven years after the termination or expiry;
- 4 **noted** that Cabinet has previously agreed that all fixed wholesale contracts in force on 1 September 2022, must be disclosed by fuel importers on 1 September 2022 [CBC-21-MIN-0073, paragraph 12.1];
- 5 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 4 above, to the extent that it relates to when fixed wholesale contracts in force on 1 September 2022 must be disclosed by fuel importers; and instead
- 6 **agreed** that all fixed wholesale contracts that are in in force on 11 August 2022 must be disclosed by fuel importers no later than 1 September 2022;
- 7 **noted** that that Cabinet has previously agreed that the obligation for fuel importers to retain all fixed wholesale contracts and disclose these to the Commerce Commission upon request, comes into effect at the time the fixed wholesale provisions in the Act come into force [CBC-21-MIN-0073, paragraph 12.4];
- 8 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 7 above, to the extent that it relates to when the obligation for fuel importers to retain fixed wholesale contracts and disclose those to the Commerce Commission comes into effect; and instead

- 9 **agreed** that the obligation for fuel importers to retain all fixed wholesale contracts and disclose these to the Commerce Commission upon request, comes into effect on 1 April 2022;
- 10 **noted** that Cabinet has previously agreed that fuel importers, wholesale suppliers and distributors must disclose financial statements that have been prepared in accordance with other applicable statutory obligations [CBC-21-MIN-0073, paragraph 13.1];
- 11 **agreed** that these financial statements should be prepared in accordance with the Companies Act 1993;
- 12 **agreed** that fuel importers, wholesale suppliers and distributors are exempt from the obligation to disclose financial statements if they do not prepare financial statements in accordance with the Companies Act 1993;
- 13 **noted** that Cabinet has previously agreed that fuel importers must disclose daily revenue, volume and volume weighted price for each fuel type sold at each bulk storage facility, with associated information [CBC-21-MIN-0073];
- 14 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 13 above, to the extent that it relates to requiring fuel importers to disclose daily revenue, volume and volume weighted price for each fuel type sold at each bulk storage facility, with associated information; and instead
- 15 **agreed** that fuel importers must disclose each individual sale of each engine fuel type from a bulk storage facility, including the date of the sale, the purchaser of the engine fuel, what contractual arrangement the fuel was purchased under, the volume of fuel sold, the revenue from that sale and the price (with taxes and other charges identified separately), the bulk storage facility from which the engine fuel was sold, and whether the purchaser is registered under the emissions trading scheme;
- 16 **noted** that Cabinet has previously agreed that fuel importers must disclose all costs of importing crude oil, all refinery costs and the costs of additives used in the blending process [CBC-21-MIN-0073];
- 17 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 16 above, to the extent that it relates to disclosing the costs of importing crude oil, all refinery costs and the costs of additives used in the blending process;
- 18 **noted** that that Cabinet has previously agreed that fuel importers must disclose the methodology used to estimate domestic shipping costs and total importer costs incurred [CBC-21-MIN-0073];
- 19 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 18 above, to the extent that it relates to the disclosing of the methodology used to estimate domestic shipping costs and total importer costs incurred; and instead
- 20 **agreed** to require fuel importers to disclose actual domestic shipping costs and an explanation of what is included in the disclosure of domestic shipping costs and total importer costs incurred;
- 21 **noted** that Cabinet has previously agreed that fuel importers must disclose discounts offered each day for each fuel at each retail fuel site [CBC-21-MIN-0073];
- 22 **agreed** to explicitly exclude the discounts disclosed under the disclosure of discounting and loyalty programmes, from the regulation outlined in paragraph 21 above;

- 23 **noted** that Cabinet has previously agreed that fuel importers must disclose an explanation of its two largest discount practices, two loyalty programmes that have the highest uptake and discounting partnerships with third parties [CBC-21-MIN-0073];
- 24 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 23 above, to the extent that it relates to the disclosure of an explanation of a fuel importers two largest discount practices, two loyalty programmes that have the highest uptake and discounting partnerships with third parties; and instead
- 25 **agreed** that fuel importers must disclose an explanation of the two discounting and loyalty programmes that account for the most fuel sales revenue associated with such programmes (excluding commercial fuel cards);
- 26 **noted** that Cabinet has previously agreed [CBC-21-MIN-0073] that fuel importers must disclose the monthly fuel supply to each terminal and identify whether the fuel was supplied as part of an infrastructure sharing agreement, whether the fuel was imported as refined fuel, and whether the fuel had been refined in New Zealand;
- 27 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 26 above, to the extent that it relates to the disclosure monthly fuel supply to each terminal and identification of whether the fuel was supplied as part of an infrastructure sharing agreement, whether the fuel was imported as refined fuel, and whether the fuel had been refined in New Zealand; and instead
- 28 **agreed** to require fuel importers to disclose monthly fuel supply to each terminal, that must identify whether the fuel was supplied to the terminal directly from outside New Zealand, or from elsewhere in New Zealand;
- 29 **noted** that Cabinet has previously agreed that fuel importers must disclose the monthly fuel withdrawn from each terminal for each fuel [CBC-21-MIN-0073];
- 30 **agreed** that alongside the requirement for fuel importers to disclose the monthly fuel withdrawn from each terminal for each fuel, fuel importers must also identify whether the volume drawn is to supply retail sites owned and operated by the fuel importer, is under an infrastructure sharing agreement, or does not fall under any of the preceding categories;
- 31 **noted** that Cabinet has previously agreed that fuel importers must disclose forecast monthly demand [CBC-21-MIN-0073, paragraph 16.4];
- 32 **agreed** that the requirement for fuel importers to disclose forecast monthly demand is per engine fuel type;
- 33 **agreed** that fuel importers must annually disclose the associated volumes when disclosing the costs of importing fuel;
- 34 **noted** that Cabinet has previously agreed that fuel industry participants that are subject to the information disclosure requirements must have the disclosure certified by a Director of the participant [CBC-21-MIN-0073, paragraph 18];
- 35 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 34 above;
- 36 **noted** that Cabinet has previously agreed that fuel importers, wholesale suppliers and distributors must disclose addresses of retail fuel sites supplied on a quarterly basis [CBC-21-MIN-0073, paragraph 17.1];

- 37 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 36 above, to the extent that it relates to requiring wholesale suppliers and distributors to disclose addresses of retail fuel sites supplied on a quarterly basis; and instead
- 38 **agreed** to require the wholesale suppliers and distributors to disclose addresses of retail fuel sites supplied from on an annual basis;
- 39 **noted** that Cabinet has previously agreed that fuel importers, wholesale suppliers and distributors must disclose the total annual volume of each fuel type supplied [CBC-21-MIN-0073, paragraph 17.2];
- 40 **agreed to recommend** that Cabinet rescind the decision referred to in paragraph 39 above, to the extent that it relates to fuel importers;

Legislative implications

- 41 **authorised** the submission to the Executive Council of the Fuel Industry Amendment Regulations 2021 [PCO 24012/5.0];
- 42 **noted** that the Fuel Industry Amendment Regulations 2021 will come into force on 11 February 2022, with the substantive retention and disclosure obligations to come into force on 1 April 2022;
- 43 **noted** that for regulations to be made under Part 2 Subpart 4 (Disclosure of information) of the Act, section 27(3) requires that the Minister must:
- 43.1 have consulted with any fuel industry participants that they consider likely to be significantly affected by the proposed regulations; and
- 43.2 be satisfied that the regulations are necessary or desirable after having regard to the purpose of the Act and associated Subpart;
- 44 **noted** the advice of the Minister of Energy and Resources that these requirements have been met.

Janine Harvey
Committee Secretary

Present:

Hon Dr Megan Woods (Chair)
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Damien O'Connor
Hon Kris Faafoi
Hon Peeni Henare
Hon Willie Jackson
Hon Michael Wood
Hon Dr David Clark
Hon Meka Whaitiri
Rino Tirikatene, MP
Dr Deborah Russell, MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV