



## COVERSHEET

<b>Minister</b>	Hon Dr Megan Woods	<b>Portfolio</b>	Energy and Resources
<b>Title of Cabinet paper</b>	<b>Taking Action on Fuel Prices: monitoring of reductions in petrol excise duty</b>	<b>Date to be published</b>	5 May 2022

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
March 2022	Taking Action on Fuel Prices: monitoring of reductions in petrol excise duty	Office of the Minister of Energy and Resources
21 March 2022	Taking Action on Fuel Prices: monitoring of reductions in petrol excise duty CBC-22-MIN-0023	Cabinet Office
March 2022	Appendix One: Regulatory impacts of additional disclosure requirements	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.

## In Confidence

Office of the Minister of Energy and Resources

Cabinet Business Committee

## Taking action on fuel prices: monitoring of reductions in petrol excise duty

### Proposal

- 1 This paper seeks agreement to develop regulations under the Fuel Industry Act 2020 (the Act) that will require fuel companies to disclose information on their margins as part of monitoring fuel market performance in relation to the pass through to consumers of reductions to petrol excise duty agreed by Cabinet [CAB-22-MIN-0073 refers]. Public scrutiny of market performance will help promote competition in fuel markets.

### Relation to government priorities

- 2 The Government is committed to improving the well-being of New Zealanders, including by improving economic security. This includes managing the impacts of adverse external events on households and businesses. This is particularly important while New Zealand continues to respond to and recover from the COVID-19 pandemic, which is also impacting households and businesses.

### Executive Summary

- 3 On 14 March 2022, Cabinet agreed to reduce the rates of petrol excise<sup>1</sup> duty by 25 cents per litre (cpl) and to make an equivalent reduction to road user charges for a period of three months. I have written to fuel companies setting out my expectation that the full amount of the tax reduction would be passed on to consumers at the pump, and seeking for them to provide information to the Ministry of Business, Innovation and Employment (MBIE) on this issue as soon as possible.
- 4 To formalise my request for information and ensure consistency of reporting, I propose to make changes to the Fuel Industry Regulations 2021 to require fuel industry participants to disclose specific information on their wholesale and retail fuel margins to MBIE. I propose to seek this information for 91 octane, 95 octane, 98 octane and diesel fuels.
- 5 While I note that in December 2021, Cabinet agreed [CAB-21-MIN-0547.01 refers] to the making of the Fuel Industry Amendment Regulations 2021 to collect information from fuel sector participants, I consider that information needs to be collected on a more frequent basis in the short term in order to monitor the performance of the market in relation to the continued pass through of the tax reduction agreed by Cabinet to consumers during the period that petrol excise duty is reduced.

---

<sup>1</sup> Excise duty includes excise and excise-equivalent duty.

- 6 I am satisfied that the regulations are desirable to monitor whether the reduction to petrol excise duty as well as any consequent GST reduction is passed through to consumers in a manner that is expected in a competitive market, in order to promote competition in engine fuel markets for the long-term benefit of end users of engine fuel products. I consider passing regulations now is important, in order to understand whether limitations in competition could reduce the effectiveness of the government's intervention.
- 7 Following your agreement to the proposals in this paper, I will issue drafting instructions to the Parliamentary Counsel Office to give effect to the recommendations. I intend to recommend to Cabinet next Monday to authorise submission of proposed regulations to Executive Council so they are promulgated from 29 March 2022.

## Background

### *Cabinet has agreed to reduce petrol excise duty by 25 cents per litre for three months*

- 8 Petrol and diesel prices have recently increased due to international factors, specifically Russia's invasion of Ukraine (a modest oil producer) and subsequent sanctions and boycotts of Russia (a significant oil producer). Most refined oil in New Zealand comes from Asia (specifically Korea and Singapore). Nevertheless, global fuel prices have been impacted, which in turn has impacted the price of fuels in New Zealand.
- 9 To address the impacts on households and businesses from increases in the price of petrol and diesel across the world, on 14 March 2022 Cabinet considered the paper *Taking action on fuel prices: reducing petrol excise duty and road user charges for three months and supporting the uptake of public transport* and agreed to reduce the rates of petrol excise duty by 25 cpl and to make an equivalent reduction to road user charges for a period of three months [CAB-22-MIN-0073 refers].
- 10 Cabinet agreed that the rate reductions should come into effect as soon as possible for petrol excise duty and on 14 March an Order in Council was passed to reduce the rates of petrol excise duty by 25cpl from 15 March 2022.

### *I have written to fuel companies noting an expectation that the full amount of the excise reduction be passed on*

- 11 The Cabinet paper noted that I would write to fuel companies to set out a clear expectation that the full amount of excise reduction as well as any Goods and Services Tax (GST) on the reduction would be passed on to consumers at the pump.
- 12 On 14 March 2022, I wrote to fuel companies noting this expectation, and asking fuel companies to provide:
- 12.1 Information by 5pm on Wednesday 16 March setting out how companies will pass savings through to consumers

- 12.2 Rolling seven-day average fuel margin information to officials at the MBIE as soon as possible.
- 13 MBIE's currently weekly monitoring of margins is undertaken at an aggregate level. Having this information from fuel companies would provide us with data to enable us to determine what is happening at a company level in relation to pass through of the reduction in taxes to consumers.

*Regulations made under the Fuel Industry Act will enable monitoring of fuel companies' margins*

- 14 The Act gives the Minister of Energy and Resources the power to recommend regulations in relation to various matters relating to the fuel industry.
- 15 In December 2021, Cabinet agreed [CAB-21-MIN-0547.01 refers] to the making of the Fuel Industry Amendment Regulations 2021 (**the amendment regulations**), which amend the Fuel Industry Regulations 2021 (**the principal regulations**) made under the Act. The amendment regulations are scheduled to come into force on 1 April 2022 and will collect information from fuel sector participants on, among other things:
- 15.1 Wholesale contract arrangements
  - 15.2 Profitability
  - 15.3 Gross margins and terminal gate pricing
  - 15.4 Discounting and loyalty programmes
  - 15.5 Fuel supply.

**Analysis**

- 16 In my letter of 14 March to fuel companies, I also noted a proposal to make further changes to the principal regulations to require fuel companies to provide daily rolling seven-day average disclosure of fuel margin information to formalise the request for information above and ensure consistency of reporting.
- 17 The major fuel companies have provided assurances to me that the full reduction in duty has been passed on in full, and information available on retail fuel prices confirm that this is the case.
- 18 However, there is a risk that limited competition in the sector will mean that the reduction in petrol excise duty will be subsequently absorbed through increased margins. The Commerce Commission identified significant limitations in competition in fuel markets in its 2019 market study into the retail fuel sector<sup>2</sup>. The Act was passed in 2020 to address these issues, but the full impact of the new regime will be felt over the medium term. While the excise reduction is only in force for a relatively brief period, it will be important to have public scrutiny of the performance of the market to give consumers confidence in its operation.

---

<sup>2</sup> Market Study into the Retail Fuel Sector, Final Report, Commerce Commission, 5 December 2019

- 19 I note that there is significant overlap between what is required under the amendment regulations that are soon to come into force and the proposals outlined in this paper to collect information on fuel margins.
- 20 However, I consider that information collected on a more frequent basis than is proposed in the amendment regulations is required in the short term in order to monitor the performance of the market in relation to the continued pass through of the tax reduction agreed by Cabinet to consumers during the period that petrol excise duty is reduced.

*Proposed information requirements*

- 21 To enable the monitoring of fuel margin information to show whether the full amount of excise reduction as well as any consequent GST reduction is passed on to consumers, I propose to require fuel industry participants to provide information to MBIE as outlined below.
- 22 I propose that fuel importers (currently BP, Mobil, Z Energy, Gull and TasmanFuels) be required to provide the following information:
- 22.1 Daily information on wholesale transactions:
- 22.1.1 Total volume of fuel sold to resellers
  - 22.1.2 Total revenue earned from fuel sold to resellers
  - 22.1.3 Cost of goods sold on a replacement basis
  - 22.1.4 All taxes and levies incurred including petrol excise duty, New Zealand Emissions Trading Scheme (NZ ETS) costs, GST, ACC petrol levy, Local Authorities Fuel Tax, Petroleum or Engine Fuel Monitoring Levy (PEFML) and Regional fuel tax.
- 22.2 Daily retail market information at an aggregate level for retail fuel sites owned by the fuel importer:
- 22.2.1 Total volume of fuel sold from retail fuel sites
  - 22.2.2 Total revenue earned on fuel sales at retail fuel sites
  - 22.2.3 Cost of goods sold on a replacement basis
  - 22.2.4 All taxes and levies incurred including petrol excise duty, NZ ETS costs, GST, ACC petrol levy, Local Authorities Fuel Tax PEFML and Regional fuel tax.
- 23 I propose that fuel importers be required to provide this information on the following timeframes:
- 23.1 by 5 April 2022, to disclose to MBIE the information outlined above for each day in the period that is three months prior to 15 March 2022.

- 23.2 information for the period from 29 March 2022 until four weeks after the Order in Council reducing the rate of excise expires or is revoked. I propose that this information is disclosed daily on an indicative basis for each day (including weekends and public holidays) by 12pm the following working day with the first disclosure to MBIE on 30 March 2022. Following this disclosure of indicative information, fuel importers must also, where relevant, subsequently provide corrected data, as required by the regulations.
- 24 The disclosure of information under paragraph 22 would provide both a recent benchmark of each fuel importer's margins and daily data for a period before the excise duty came into effect to allow for comparison against the margins and daily data after the excise duty was reduced. This benchmark data is critical to ensure a meaningful comparison of importer's margins before and after the excise duty was reduced. The same is applicable to data from wholesale supplier and distributors under paragraph 26, however the data will be requested on a weekly basis instead.
- 25 Monitoring this information will help to show whether competition is effective in ensuring the reduction in excise duty is being passed through to consumers. Requiring fuel importers to disclose information on their wholesale margins as outlined above will help to show whether changes to excise duty are being passed through to resellers and other fuel retailers who are not importers.
- 26 I also propose to require wholesale suppliers and distributors (who are not importers but buy from importers and supply at retail and wholesale) to provide information to show the level of reductions passed through to consumers. I propose to require these fuel market participants to disclose the following information:
- 26.1 The following components of an indicative wholesale margin:
- 26.1.1 Total volume of fuel sold to resellers.
  - 26.1.2 Total revenue earned from fuel sold to resellers
  - 26.1.3 Actual price paid for goods sold
  - 26.1.4 All taxes and levies incurred including petrol excise duty, NZ ETS costs, GST, ACC petrol levy, Local Authorities Fuel Tax, PEFML and Regional fuel tax.
- 26.2 The following components of an indicative retail margin at an aggregate level for retail fuel sites owned by the fuel industry participant:
- 26.2.1 Total volume of fuel sold from retail fuel sites.
  - 26.2.2 Total revenue earned on fuel sales at retail sites.
  - 26.2.3 Actual price paid for goods sold.
  - 26.2.4 All taxes and levies incurred including petrol excise duty, NZ ETS costs, GST, ACC petrol levy, Local Authorities Fuel Tax PEFML and Regional fuel tax.

- 27 I propose that wholesale suppliers and distributors be required to provide this information on the following timeframes:
- 27.1 By 5 April 2022, to disclose to MBIE the information outlined above for each week (from Monday to Sunday) in the period that is three months prior to 15 March.
  - 27.2 Information from the weeks ending from 3 April 2022 onwards until four weeks after the Order in Council reducing the rate of excise duty expires or is revoked. I propose that this information will be disclosed on an indicative basis by 12pm on the first working day after each weekly period with the first disclosure to MBIE on 4 April 2022. Following this disclosure of indicative information, wholesale suppliers and distributors must also, where relevant, subsequently provide corrected data, as required by the regulations.
- 28 I propose to require data from the wholesale suppliers and distributors referred to in paragraph 26 to be provided on a weekly basis to lower the compliance costs associated with disclosures. These businesses tend to be smaller than fuel importers and may not have systems in place to enable daily data collection.
- 29 I do not propose to require fuel industry participants to provide information on fuel discounts, as I understand that firms vary significantly in their capacity to collect this information. However, some fuel industry participants may choose to include this information in their disclosures. If fuel industry participants provide this information, it may be taken into account in analysis of margins if it is provided on a consistent basis during the period of monitoring.
- 30 I propose to seek this information for 91 octane, 95 octane, 98 octane and diesel fuels. While the petrol excise duty does not apply to diesel fuel, it will be important for public confidence in the performance of the market to monitor whether diesel margins are being used to push up overall fuel margins. It will also enable comparison of margins for regular and premium fuel with a control fuel not impacted by changes to excise duty.
- 31 I consider that the requirements outlined above are consistent with the purposes of information disclosure in the Act, to enable monitoring of the performance of engine fuel markets and to ensure that sufficient information is readily available to determine whether the purpose of the Act is being met. The purpose of the Act is to promote competition in engine fuel markets for the long-term benefit of end users of engine fuel products.
- 32 I consider these requirements will promote competition in engine fuel markets for the long-term benefit of end users of engine fuel products for the following reasons:
- 32.1 Firstly, on the demand side these requirements will enable end users to be much better informed of whether or not a particular fuel company has passed through all of the tax reduction and can make a more informed choice as a result.
  - 32.2 Secondly, I am of the view that the proposed disclosure of information to MBIE will test the effectiveness of competition in the fuels market by

allowing MBIE to monitor whether the reduction to petrol excise duty as well as any GST reduction is passed through to consumers in a manner that is expected in a competitive market (and should encourage competition on the supply side to avoid additional regulation).

32.3 Thirdly, the disclosed information will contribute to the promotion of competition by identifying the extent to which a major change in market conditions (the reduction in petrol excise duty) is impacting the performance of that market for the benefit of consumers. The degree of pass through of the reduction in excise will provide an indication of the state of competition in engine fuel markets, including in the diesel fuel market where monitoring will indicate whether diesel margins were being used to push up overall fuel margins. While the pass through issue is expected to be of limited duration, it will be important to have public scrutiny of market performance during this period, and to assess whether the purpose of the Act is being met during the three month period of the fuel excise duty reduction.

33 It is therefore desirable that these regulations are promulgated swiftly to monitor whether the full measure of the reduction in petrol excise duty is benefitting consumers at the pump, or whether limitations in competition could reduce the effectiveness of the government's intervention.

34 Summary and analysis of information disclosed will be undertaken and made publicly available by MBIE to show the performance of the market in relation to the pass through of excise reduction as well as any GST reduction to consumers.

#### *Process for development of regulations*

35 The Act provides that before regulations can be made, I as the Minister of Energy and Resources must consult with fuel industry participants that I consider are likely to be significantly affected by the proposed regulations.

36 On Friday 17 March 2022, I wrote to fuel industry participants in the two groups outlined in paragraphs 22 and 26, seeking their feedback by 8am, Monday 21 March on the proposed information requirements outlined above. This feedback is summarised in the consultation section below.

37 This feedback will be drawn on to inform the development of the proposed regulations. I also propose to continue to consult with fuel industry participants I consider likely to be significantly affected by the proposed regulations in this coming week, including undertaking targeted consultation on an exposure draft of the regulations with these fuel industry participants. If there are any significant changes to the proposed information requirements above as a result of the feedback processes outlined above, I will seek further policy approvals alongside seeking authorisation for the submission of the final regulations to the Executive Council.

38 Following agreement to the proposals in this paper and development and consultation on draft regulations, I will return to Cabinet next Monday to seek authorisation to submit regulations to Executive Council. This will enable regulations to be in place from 29 March 2022.



## Financial Implications

39 There are no financial implications from the proposals in this paper

## Legislative Implications

40 Regulations will need to be developed to give effect to the proposals in this paper.

41 Regulations will be drafted by PCO this week and I will return to Cabinet next Monday to seek authorisation to submit regulations to Executive Council

## Impact Analysis

### Regulatory Impact Statement

42 The Treasury's Regulatory Impact Analysis team has determined that the proposal to introduce changes to the Fuel Industry Regulations requiring fuel companies to provide daily disclosures on their fuel margins is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that relevant issues on information disclosure have been addressed by existing impact analysis (*Regulatory Impact Statement on Fuel Industry Act 2020 – Information disclosure regulations*; CAB-21-MIN-0547.01 refers), and the marginal effect of this temporary change has only minor impacts on businesses, individuals and not-for-profit entities.

43 This exemption is granted on the condition that marginal impacts of additional disclosure requirements are outlined in the Appendix One of the Cabinet paper, and any extension of this disclosure requirement beyond the initial four months is accompanied by an update to the existing Regulatory Impact Statement.

### Climate Implications of Policy Assessment

44 The Climate Implications of Policy Assessment (CIPA) team has been consulted and notes that the CIPA requirements do not apply to the proposals in this Cabinet paper as the potential emissions impact is indirect and unable to be accurately quantified.

45 However, these proposals intend to directly support the decision by Cabinet to reduce the Petrol Excise Duty by 25 cents per litre for three months and Road User Charges by the equivalent amount. It is likely that a price change 25 cents per litre combined with an equivalent reduction to road user charges will have a significant negative emissions impact as it is likely to result in an increase in fuel consumption relative to if no price change occurred.

## Population Implications

46 There are no significant population-specific implications from the proposals in this paper.

## Human Rights

47 The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

## Consultation

- 48 The Treasury, Ministry of Transport, New Zealand Customs Service and Commerce Commission (staff) were consulted on the proposals in this Cabinet paper. The Department of Prime Minister and Cabinet has been informed.
- 49 I have consulted with fuel industry participants that are affected by the development of these regulations (including fuel importers and wholesale suppliers and distributors) between Friday 18 March and 8am, Monday 21 March. Recognising this is a short period of time, I also propose to consult with fuel industry participants I consider likely to be significantly affected on a draft of the regulations in this coming week
- 50 Officials will continue to work with relevant fuel industry participants during development of regulations to implement the proposals outlined in this paper.

## Communications

- 51 I have consulted with fuel industry participants as outlined above. Following regulations being put in place, I will communicate with fuel industry participants who are subject to requirements under the regulations.
- 52 MBIE will make summary and analysis of information disclosed publicly available.

## Proactive Release

- 53 I intend to proactively release this paper subject to any appropriate redactions under the Official Information Act 1982 within 30 business days of decisions being confirmed by Cabinet.

## Recommendations

The Minister of Energy and Resources recommends that the Committee:

- 1 **note** that on 14 March 2022, Cabinet agreed to reduce the rates of petrol excise duty by 25 cents per litre and to make an equivalent reduction to road user charges for a period of three months [CAB-22-MIN-0073 refers]
- 2 **note** that on 14 March 2022, an Order in Council was made to implement the Cabinet decision noted in recommendation 1 in relation to petrol excise duty
- 3 **note** that on 14 March 2022, I wrote to fuel companies noting an expectation that the full amount of tax reduction would be passed on to consumers at the pump and asking them to provide rolling seven-day average fuel margin information to officials at the Ministry of Business, Innovation and Employment (MBIE) as soon as possible on a voluntary basis
- 4 **note** that to formalise the request for information and ensure consistency of reporting, I propose to make changes to the Fuel Industry Regulations 2021 to require companies to disclose information on fuel margins

- 5 **agree** that fuel importers (currently BP, Mobil, Z Energy, Gull and TasmanFuels) must be required to disclose the following information to MBIE for each day (including weekends and public holidays) on an indicative basis by 12pm the following working day until four weeks after the Order in Council referred to in recommendation 2 expires or is revoked:
- 5.1 Daily information on wholesale transactions:
- 5.1.1 Total volume of fuel sold to resellers
  - 5.1.2 Total revenue earned from fuel sold to resellers
  - 5.1.3 Cost of goods sold on a replacement basis
  - 5.1.4 All taxes and levies incurred including petrol excise duty, New Zealand Emissions Trading Scheme (NZ ETS) costs, GST, ACC petrol levy, Local Authorities Fuel Tax, Petroleum or Engine Fuel Monitoring Levy (PEFML) and Regional fuel tax.
- 5.2 Daily retail market information at an aggregate level for retail fuel sites owned by the fuel importer:
- 5.2.1 Total volume of fuel sold from retail fuel sites
  - 5.2.2 Total revenue earned on fuel sales at retail fuel sites
  - 5.2.3 Cost of goods sold on a replacement basis
  - 5.2.4 All taxes and levies incurred including petrol excise duty, NZ ETS costs, GST, ACC petrol levy, Local Authorities Fuel Tax, PEFML and Regional fuel tax.
- 6 **agree** that following this disclosure of indicative information, that fuel importers must also, where relevant, subsequently provide corrected data, as required by the regulations
- 7 **agree** that fuel importers must be required to disclose, by 5 April 2022 the information outlined in recommendation 5 above on a daily basis for each day in the period that is three months prior to 15 March 2022
- 8 **agree** that wholesale suppliers and distributors (who are not importers) must be required to disclose the following information on an indicative basis weekly (from Monday to Sunday) until four weeks after the Order in Council referred to in recommendation 2 expires or is revoked:
- 8.1 The following components of an indicative wholesale margin:
- 8.1.1 Total volume of fuel sold to resellers.
  - 8.1.2 Total revenue earned from fuel sold to resellers
  - 8.1.3 Actual price paid for goods sold

**I N C O N F I D E N C E**

- 8.1.4 All taxes and levies incurred including petrol excise duty, NZ ETS costs, GST, ACC petrol levy, Local Authorities Fuel Tax, PEFML and Regional fuel tax.
- 8.2 The following components of an indicative retail margin at an aggregate level for retail fuel sites owned by the fuel industry participant:
  - 8.2.1 Total volume of fuel sold from retail fuel sites.
  - 8.2.2 Total revenue earned on fuel sales at retail sites.
  - 8.2.3 Actual price paid for goods sold.
  - 8.2.4 All taxes and levies incurred including petrol excise duty, NZ ETS costs, GST, ACC petrol levy, Local Authorities Fuel Tax, PEFML and Regional fuel tax.
- 9 **agree** that following this disclosure of indicative information, that wholesale suppliers and distributors must also, where relevant, subsequently provide corrected data, as required by the regulations
- 10 **agree** that wholesale suppliers and distributors must be required to disclose, by 5 April 2022, the information outlined in recommendation 8 on a weekly basis (from Monday to Sunday) for each day in the period that is three months prior to 15 March 2022
- 11 **agree** that 91 octane, 95 octane, 98 octane and diesel are the kinds of fuels that the information disclosure requirements outlined in recommendations 5 to 10 above apply to
- 54 **agree** that the information that is required to be disclosed as outlined in recommendations 5 to 11 above will be disclosed to the chief executive of MBIE
- 55 **note** summary and analysis of information disclosed will be undertaken and made publicly available by MBIE to show the performance of the market in relation to the pass through of excise reduction as well as any GST reduction to consumers
- 12 **note** the Fuel Industry Act provides that before regulations can be made, I as the Minister of Energy and Resources must:
  - 12.1 consult with fuel industry participants that are likely to be significantly affected by the proposed regulations
  - 12.2 be satisfied that the regulations are necessary or desirable after having regard to the purpose of the Fuel Industry Act 2020 and subpart 4 of that Act
- 13 **note** that I am satisfied that the regulations are desirable to monitor whether the reduction to petrol excise duty as well as any GST reduction is passed through to consumers in a manner that is expected in a competitive market in order to promote competition in engine fuel markets for the long-term benefit of end users of engine fuel products

**IN CONFIDENCE**

- 14 **note** that on Friday 17 March 2022, I wrote to fuel industry participants who will be affected, seeking their feedback on information requirements outlined in recommendations 5 to 11 above
- 15 **note** I have received initial feedback from fuel companies, and that this feedback has been incorporated into this paper and will be further incorporated during development of regulations
- 16 **invite** the Minister of Energy and Resources to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above recommendations
- 17 **authorise** the Minister of Energy and Resources to make decisions, consistent with the policy intent of this Cabinet paper, on any issues that arise during the drafting process
- 18 **authorise** the Minister of Energy and Resources to make decisions on minor and technical matters that may arise during the drafting process.
- 19 **agree** to release an exposure draft of the regulations for the purposes of targeted consultation with fuel industry participants that I, as the Minister of Energy and Resources, consider are likely to be significantly affected by the proposed regulations.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Energy and Resources

## Appendix One: Regulatory impacts of additional disclosure requirements

A regulatory impact analysis has been prepared for the Fuel Industry Act Amendment Regulations relating to information disclosure regulations under the Fuel Industry Act.<sup>3</sup> We consider that the regulatory impacts of the proposals in this paper for a temporary change to monitoring requirements are broadly consistent with those outlined in that regulatory impact analysis and relevant issues on information disclosure have been addressed by this existing impact analysis.

The proposals in this paper are proposed ahead of the Fuel Industry Amendment Regulations coming into force, to enable monitoring of the performance of the fuel market in relation to the continued pass through to consumers of changes to excise duty agreed by Cabinet. This will be done through monitoring of fuel industry participants' wholesale and retail margins against recent performance using data from:

- the three month period prior to the introduction of changes to excise duty
- the three month period of changes to excise duty, and
- the four week period after the removal of changes to excise duty.

In addition to the impacts noted in the earlier regulatory impact analysis, we have identified the following marginal effects from the temporary change in requirements:

- For importers of fuel, the proposed information disclosure requirements in this paper are similar to requirements in the Fuel Industry Amendment regulations. The information required to be collected is less comprehensive than what will be required under the full information disclosures, but a higher frequency of collection is required – information will be required to be disclosed daily rather than on the timeframes outlined in the amendment regulations. We do not consider that the greater frequency of disclosure will increase compliance costs significantly as importers are able to collect the information requested on a daily basis already.
- The proposed information disclosure requirements in this paper for wholesale suppliers and distributors are also similar to requirements in the Fuel Industry Amendment regulations. The information required to be collected is also similar but less comprehensive than what will be required under full information disclosure. The paper proposes that this information is required from these participants on a weekly basis acknowledging that these businesses tend to be smaller and may not have systems in place to enable daily data collection.

In relation to the information being sought for the period three months before the introduction of the tax reduction, we note that the obligation to disclose the information does not commence until after regulations are made, and companies will be provided with sufficient time to provide this information. Additionally, we expect that companies are already recording this information, and Government has already sought disclosure of this information on a voluntary basis from fuel importers ahead of the regulations being made, with information already provided from 2 fuel companies – Z Energy and Mobil.

---

<sup>3</sup> Regulatory Impact Statement: Fuel Industry Act 2020 - Information disclosure regulations - 19 August 2021 - Regulatory Impact Assessment - Ministry of Business, Innovation and Employment (treasury.govt.nz)

This will enable MBIE to monitor each individual fuel industry participant's margins against a benchmark of the three month period prior to the introduction of the tax reduction. In a competitive market, other things being equal, fuel industry participants' margins should remain relatively constant as the full impact of the tax reduction including the GST (around 29 cpl in total) will be passed to consumers.

Information is also being sought for four weeks after the removal of changes to excise duty to monitor market performance to show whether companies are or are not raising margins alongside removal of changes to excise duty.

Summary and analysis of information disclosed will be undertaken and made publicly available to show the performance of the market in relation to the pass through of excise reduction as well as any GST reduction to consumers. Such summary and analysis, while focusing on this specific issue, would not be inconsistent with proposals to provide summary and analysis of broader fuel market information when it is disclosed in future.

We note that an exemption to regulatory impact analysis requirements is granted on the condition that any extension of this disclosure requirement beyond the initial four months is accompanied by an update to the existing Regulatory Impact Statement. If changes to fuel excise duty are prolonged past this timeframe, additional regulatory impact analysis would be prepared.