



## COVERSHEET

<b>Minister</b>	Hon Dr Megan Woods	<b>Portfolio</b>	Energy and Resources
<b>Title of Cabinet paper</b>	<b>Fuel Industry Amendment Regulations 2022</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	Fuel Industry Amendment Regulations 2022	Office of the Minister of Energy and Resources
30 March 2022	Fuel Industry Amendment Regulations 2022 DEV-22-MIN-0064	Cabinet Office

### **Information redacted**

**YES / NO**

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# Cabinet Economic Development Committee

## Minute of Decision

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### Fuel Industry Amendment Regulations 2022

**Portfolio**                      **Energy and Resources**

On 30 March 2022, the Cabinet Economic Development Committee, having been authorised by Cabinet to have Power to Act [CAB-22-MIN-0069]:

- 1        **noted** that on 21 March 2022, the Cabinet Business Committee agreed to require fuel industry participants to disclose specific information to the Ministry of Business, Innovation and Employment on their wholesale and retail fuel margins for a range of engine fuels, as part of monitoring fuel market performance in relation to the pass through to consumers of reductions to petrol excise duty, as would be expected in a competitive market [CBC-22-MIN-0023];
- 2        **agreed** that fuel importers be required to disclose, by 5 April 2022, information as specified in the regulations, for each day in the period from 15 December 2021 until 31 March 2022;
- 3        **agreed** that wholesale suppliers and distributors be required to disclose, by 5 April 2022, information as specified in the regulations, for each week in the period from 15 December 2021 until 31 March 2022;
- 4        **agreed** that information disclosed after the regulations come into force must be recorded and retained by fuel industry participants to which the regulations apply, for a period of seven years after the date that information is disclosed to the Ministry of Business, Innovation and Employment;
- 5        **noted** that on 21 March 2022, Cabinet Business Committee [CBC-22-MIN-0023] agreed that fuel importers be required to disclose the following information for each day (including weekends and public holidays) on an indicative basis by 12pm the following working day until four weeks after the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 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 **rescinded** the decision referred to in paragraph 5 above; and instead
- 7 **agreed** that fuel importers be required to disclose the following information for each day (including weekends and public holidays) on an indicative basis by 5pm on the second working day after the week (from Monday to Sunday) to which disclosures relate, until four weeks after the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 expires or is revoked, including:
  - 7.1 daily information on wholesale transactions:
    - 7.1.1 total volume of fuel sold to resellers;
    - 7.1.2 total revenue earned from fuel sold to resellers;
    - 7.1.3 cost of goods sold on a replacement basis including international shipping and wharfage costs;
    - 7.1.4 New Zealand Emissions Trading Scheme (NZ ETS) costs accrued and all taxes and levies accrued including petrol excise duty, GST, ACC petrol levy, Local Authorities Fuel Tax, Petroleum or Engine Fuel Monitoring Levy (PEFML) and Regional fuel tax;
  - 7.2 daily retail market information at an aggregate level for retail fuel sites owned by the fuel importer:
    - 7.2.1 total volume of fuel sold from retail fuel sites;
    - 7.2.2 total revenue earned on fuel sales at retail fuel sites;
    - 7.2.3 cost of goods sold on a replacement basis including international shipping and wharfage costs;
    - 7.2.4 NZ ETS costs accrued and all taxes and levies accrued including petrol excise duty, GST, ACC petrol levy, Local Authorities Fuel Tax, PEFML and Regional fuel tax;

8 **noted** that on 21 March 2022, Cabinet Business Committee [CBC-22-MIN-0023] agreed 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 Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 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;
- 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 **rescinded** the decision referred to in paragraph 8 above; and instead

10 **agreed** that that wholesale suppliers and distributors (who are not importers) must be required to disclose the following information for each week (from Monday to Sunday) on an indicative basis by 5pm on the second working day after the week to which disclosures relate, until four weeks after the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 expires or is revoked, including:

10.1 the following components of an indicative wholesale margin:

- 10.1.1 total volume of fuel sold to resellers;
- 10.1.2 total revenue earned from fuel sold to resellers;
- 10.1.3 actual price paid for goods sold;
- 10.1.4 NZ ETS costs accrued and all taxes and levies accrued including petrol excise duty, GST, ACC petrol levy, Local Authorities Fuel Tax, PEFML and Regional fuel tax;

10.2 the following components of an indicative retail margin at an aggregate level for retail fuel sites owned by the fuel industry participant:

- 10.2.1 total volume of fuel sold from retail fuel sites;
- 10.2.2 total revenue earned on fuel sales at retail sites;

10.2.3 actual price paid for goods sold;

10.2.4 NZ ETS costs accrued and all taxes and levies accrued including petrol excise duty, GST, ACC petrol levy, Local Authorities Fuel Tax, PEFML and Regional fuel tax;

11 **noted** that fuel industry participants will be required to disclose the information specified in the regulations in the form and manner specified by the chief executive of the Ministry of Business, Innovation and Employment;

### Legislative implications

12 **noted** that the Fuel Industry Amendment Regulations 2022 will give effect to paragraphs 1 to 10 above;

13 **authorised** the submission to the Executive Council of the Fuel Industry Amendment Regulations 2022 [PCO 24669/2.0];

14 **noted** that a waiver of the 28-day rule is sought:

14.1 so that the regulations can come into force on 1 April 2022;

14.2 on the grounds that early commencement is necessary to avoid the defeat of the purpose of the regulations, and that the Fuel Industry Amendment Regulations 2022 will have little or no effect on the public;

15 **agreed** to waive the 28-day rule so that the Regulations can come into force on 1 April 2022;

16 **noted** that section 27 of the Fuel Industry Act 2020 (the Act) provides that before regulations are made, the Minister of Energy and Resources (the Minister) must be satisfied that the regulations are necessary or desirable after having regard to the purposes of the Act and subpart 4 of the Act;

17 **noted** that the Minister considers this requirement has been met, as 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 [CBC-22-MIN-0023];

18 **noted** that section 27 of the Act also provides that before regulations can be made, the Minister must consult with fuel industry participants that the Minister considers are likely to be significantly affected by the proposed regulation;

19 **noted** that during the development of these regulations, fuel industry participants that the Minister considers are likely to be significantly affected were consulted on draft requirements between 18 March and 21 March 2022, and subsequently consulted on an exposure draft of the regulations and a draft disclosure template;

20 **noted** that while the consultation period for development of the regulations has been short:

20.1 the regulations have been made in order to be in place as soon as possible after the change to the rate of petrol excise duty to enable effective monitoring of the fuel market in relation to this change;

- 20.2 the regulations are to only be in place for the period of time until four weeks after the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 expires or is revoked;
- 21 **noted** that on the basis outlined in paragraphs 19 and 20 above, the Minister considers that the requirement outlined in paragraph 18 above has been met.

Janine Harvey  
Committee Secretary

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**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Megan Woods  
Hon David Parker  
Hon Poto Williams  
Hon Damien O'Connor  
Hon Stuart Nash  
Hon Michael Wood  
Hon Dr David Clark  
Hon Dr Ayesha Verrall  
Hon Meka Whaitiri  
Hon Phil Twyford  
Rino Tirikatene, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV