



## COVERSHEET

<b>Minister</b>	Hon Dr Megan Woods	<b>Portfolio</b>	Energy and Resources
<b>Title of Cabinet paper</b>	Further Decisions on the design and Implementation of a minimum fuel stockholding obligation	<b>Date to be published</b>	27 June 2023

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
May 2023	Further Decisions on the design and Implementation of a minimum fuel stockholding obligation	<i>Office of Hon Dr Megan Woods</i>
3 May 2023	<i>Cabinet Economic Development Committee: Minimum Fuel Stockholding DEV-23-MIN-0061</i>	<i>Cabinet Office</i>
May 2023	<i>Regulatory Impact Statement – Minimum Fuel Stockholding Obligation</i>	<i>MBIE</i>

### **Information redacted**

**YES / NO** (please select)

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 in order to protect the confidentiality of advice tendered by Ministers of the Crown and officials.



# Cabinet Economic Development 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.*

---

### Minimum Fuel Stockholding Obligation: Further Decisions on Design and Implementation

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

On 3 May 2023, the Cabinet Economic Development Committee (DEV):

#### Background

- 1        **noted** that on 19 October 2022, DEV agreed to establish a minimum fuel stockholding obligation (MSO) on fuel importers/wholesalers, set initially at the estimated national average fuel stockholding levels following the closure of the Marsden Point oil refinery, in terms of days of consumption [DEV-22-MIN-0243];
- 2        **noted** that DEV also agreed to the high-level design of the MSO [DEV-22-MIN-0243], namely that the required stockholding consumption cover for fuel importers/wholesalers will initially be set at:
  - 2.1      28 days of consumption for petrol;
  - 2.2      24 days of consumption for jet fuel;
  - 2.3      21 days of consumption for diesel;

#### Obligated parties

- 3        **agreed** that the definition of the MSO obligated parties be refined to fuel importers with the right to draw fuel from a bulk storage facility in New Zealand;
- 4        **agreed** that the Fuel Industry (Improving Fuel Resilience) Amendment Bill (the Bill) will provide for a regulation-making power to specify further MSO obligated parties in case there are significant changes to fuel supply chains;

#### Regulation-making power to introduce further fuel stockholding requirements

- 5        **agreed** that the Bill will provide for a regulation-making power to specify further obligation fuels and introduce further fuel stockholding requirements in the future, and that these requirements may supersede or supplement the stockholding requirements for the initial period as set out in the Bill;
- 6        **agreed** that regulations relating to the MSO be made by the Governor-General on the recommendation of the Minister of Energy and Resources, who must consult with fuel industry participants beforehand;

- 7 **noted** that further advice will be provided to Ministers on the development of location-specific MSOs following the introduction of the Bill;

### Calculation methodology

- 8 **agreed** the formula for translating minimum days of cover to the required minimum stockholding volume for an obligated party be as follows:

$$A = B \times C \quad \text{Where:}$$

A is the obligated party's minimum average stockholding level for each month (the compliance period) for the fuel type (measured in thousands of litres);

B is the required stockholding consumption cover that all obligated parties must have for the fuel type (as noted in paragraph 2 above);

C is the daily consumption of the fuel type concerned in New Zealand. This will be measured as the obligated party's offtake from bulk storage facilities in thousands of litres per day. This will be measured on a rolling 12-month basis ending at the end of the month before compliance period A;

### Measurement or estimation of average daily stocks and quality assurance

- 9 **agreed** that obligated parties will report the following information on fuel stocks and storage capacity within three weeks of the end of a compliance period:
- 9.1 an obligated party's monthly average fuel stocks for diesel, petrol, and jet fuel at each of the bulk storage facilities in New Zealand and at the national level;
  - 9.2 monthly data on the volumes of diesel, petrol, and jet fuel that an obligated party draws from each bulk storage facility in New Zealand;
  - 9.3 minimum and maximum stocks during the month for diesel, petrol, and jet fuel;
  - 9.4 estimates of the volume of fuel stocks on tankers within the Exclusive Economic Zone;
  - 9.5 sources of fuel stocks (volume and where they are purchased or transferred from);
  - 9.6 average utilisation of storage tanks each month, by location, expressed as a percentage;
  - 9.7 information on operational capacity at the end of the month, by bulk storage facility;
- 10 **agreed** that obligated parties will also report annually on contingency plans for fuel supplies, and on any plans to withdraw from the New Zealand fuel market or significantly reduce market presence in particular regions in New Zealand in the coming year;
- 11 **agreed** that obligated parties will be required to provide independent assurance once a year, or when specified by the regulator, that the method used to measure or estimate average daily stock is fit for purpose;
- 12 **agreed** that the regulator can undertake spot audits on information provided in paragraph 9 above, and that this could include on-location measurement of stocks in bulk storage facilities;

## What fuel stocks can be counted towards the MSO

- 13 **agreed** that only fuel stocks in bulk storage facilities and scheduled fuel cargoes within New Zealand's Exclusive Economic Zone, which are bound for a New Zealand port, will count towards the MSO;

## When and how exemptions or suspensions may be granted

- 14 **noted** that in the event of a fuel supply disruption or disaster, it may not be reasonable or beneficial to expect regulated parties to comply with the MSO;
- 15 **agreed** that the Minister of Energy and Resources or the Chief Executive of the regulator, as appropriate, may grant a class exemption or an individual exemption from the MSO to obligated parties on a case-by-case basis, or suspend the MSO for all obligated parties in exceptional circumstances;
- 16 **noted** that officials will have further discussions with the Parliamentary Counsel Office on whether it would be appropriate for the Chief Executive of the regulator to have authority in the Bill to grant individual exemptions from the MSO;
- 17 **agreed** that the following criteria would be used to determine whether an exemption or suspension is warranted:
- 17.1 the impact of an event on fuel imports and fuel storage capacity;
  - 17.2 the duration of the event;
  - 17.3 the level of control of the fuel importer over the event;
  - 17.4 the time required to achieve compliance with the obligation;
  - 17.5 the impact on fuel resilience in regions;

## Enforceable undertakings

- 18 **agreed** that the Chief Executive of the regulator may accept a written undertaking from obligated parties in connection with any matter relating to the enforcement of the MSO;
- 19 **noted** that written undertakings can include enforceable terms that enable obligated parties to avoid, remedy or mitigate any likely adverse effects arising from non-compliance with the MSO;
- 20 **noted** that written undertakings may take the form of payment to the regulator for reimbursement of legal costs associated with MSO breaches, and terms and conditions agreed by the parties (such as commitments to changing fuel stockholding practices or making infrastructure investments);
- 21 **noted** that enforceable undertakings may be accepted for use in resolving investigations into potential breaches of the MSO, thereby avoiding lengthy enforcement proceedings seeking a punitive sanction;

## Commencement date of the MSO

- 22 **agreed** that the MSO commence by Order in Council, subject to further advice from the Parliamentary Counsel Office;

**Information sharing with other agencies**

- 23 **agreed** that the regulator may share information collected under the MSO regime with other public service agencies or statutory entities, such as the Commerce Commission, subject to the requirements under the Privacy Act 2020;
- 24 **agreed** that the Commerce Commission, may share information with the regulator, subject to the requirements under the Privacy Act 2020;
- 25 **noted** that the Commerce Commission collects some information from fuel industry participants, which could be useful for cross-checking information collected by the regulator under the MSO regime;
- 26 **noted** that the information collected by the regulator under the MSO regime, such as fuel stocks, storage capacity and contingency plans, may be of interest to other agencies involved in emergency management, such as the National Emergency Management Agency and the Ministry of Transport;

**Legislative implications**

- 27 **authorised** the Minister of Energy and Resources to further clarify and develop policy matters relating to the above proposals in a manner not inconsistent with the policy intent of the paper under DEV-23-SUB-0061;
- 28 **invited** the Minister of Energy and Resources to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs.

Janine Harvey  
Committee Secretary

---

**Present:**

Hon Dr Megan Woods (Chair)  
Hon Michael Wood  
Hon Dr Ayesha Verrall  
Hon Damien O'Connor  
Hon David Parker  
Hon Peeni Henare  
Hon Ginny Andersen  
Hon Barbara Edmonds  
Hon Dr Duncan Webb  
Hon Dr Deborah Russell  
Hon Rachel Brooking  
Jo Luxton, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV