

Version
as at 1 January 2025



Fuel Industry Regulations 2021

(LI 2021/174)

Patsy Reddy, Governor-General

Order in Council

At Wellington this 5th day of July 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 13, 20, 24, and 47 of the Fuel Industry Act 2020—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Energy and Resources made in accordance with sections 13(2), 20(2), 24(3), and 47(2) of that Act.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title

These regulations are the Fuel Industry Regulations 2021.

2 Commencement

- (1) These regulations, apart from Part 3, come into force on 11 August 2021.
- (2) Part 3 comes into force on 11 February 2022.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Fuel Industry Act 2020

ambient temperature basis, in relation to engine fuel, means the condition of the fuel at the temperature at the time of transfer to the purchaser

biofuel has the same meaning as in regulation 5(1) of the Engine Fuel Specifications Regulations 2011

co-ordination event means the rationing of engine fuel withdrawals, by 2 or more fuel importers and of 1 or more engine fuel types, at a bulk storage facility or a port because engine fuel stocks are forecast to be below 3 days' stock as at the time the next supply ship is due to arrive

diesel has the same meaning as in regulation 5(1) of the Engine Fuel Specifications Regulations 2011

discounting or loyalty programme means a recurring or ongoing programme that provides retail customers with discounts off the standard retail price, or non-fuel related benefits provided by the fuel importer or another entity, or both

financial quarter means the following periods:

- (a) the period that begins on 1 April of a year and ends on the following 30 June:
- (b) the period that begins on 1 July of a year and ends on the following 30 September:
- (c) the period that begins on 1 October of a year and ends on the following 31 December:
- (d) the period that begins on 1 January of a year and ends on the following 31 March

financial year means the period beginning on 1 April of each year and ending on 31 March of the following year

fuel importer means a fuel industry participant that imports fuel into New Zealand

heavy motor vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998

infrastructure sharing agreement means an agreement between 2 or more fuel importers under which a fuel importer has the right to draw engine fuel from a bulk storage facility owned or operated by another fuel importer

petrol has the same meaning as in regulation 5(1) of the Engine Fuel Specifications Regulations 2011

premium grade petrol has the same meaning as in regulation 5(1) of the Engine Fuel Specifications Regulations 2011

price board means a board, sign, or notice at a retail fuel site that displays the prices of types of engine fuel for retail sale at the site

regular grade petrol has the same meaning as in regulation 5(1) of the Engine Fuel Specifications Regulations 2011

standard retail price, in relation to an engine fuel, means the price per litre that is available to all retail customers at a retail fuel site, before the application of any discounts available only to customers meeting specified eligibility criteria

truck stop means a retail fuel site—

- (a) that is designed to predominantly refuel heavy motor vehicles; and
- (b) at which the majority of fuel sold is invoiced to the purchaser for later payment, rather than paid for at the time the fuel is collected.

Regulation 3 **co-ordination event**: inserted, on 11 February 2022, by regulation 4 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Regulation 3 **discounting or loyalty programme**: inserted, on 11 February 2022, by regulation 4 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Regulation 3 **financial quarter**: inserted, on 11 February 2022, by regulation 4 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Regulation 3 **financial year**: inserted, on 11 February 2022, by regulation 4 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Regulation 3 **fuel importer**: inserted, on 11 February 2022, by regulation 4 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Regulation 3 **infrastructure sharing agreement**: inserted, on 11 February 2022, by regulation 4 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Regulation 3A: inserted, on 11 February 2022, by regulation 5 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Part 1

Terminal gate pricing

4 Exclusion of certain fuels from terminal gate pricing requirements

For the purpose of subpart 1 of Part 2 of the Act, the following fuels are excluded from the definition of specified engine fuel:

- (a) any premium grade petrol with a research octane number of 98.0 or higher;
- (b) any diesel that contains more than 1% biofuel by volume;
- (c) any petrol that contains more than 1% biofuel by volume.

5 Form and publication of terminal gate prices

- (1) For the purpose of section 9(1) of the Act, a wholesale supplier must, when posting the terminal gate price of a specified engine fuel that it has the right to draw at a bulk storage facility as the owner or a co-owner of the fuel,—

- (a) express the price in cents per litre, on an ambient temperature basis,—
 - (i) inclusive of taxes and all other costs to be paid by the buyer for the supply of the fuel at the bulk storage facility; and
 - (ii) exclusive of any charges for services supplied in addition to the supply of the fuel; and

- (b) specify the time and date that the terminal gate price was posted and the bulk storage facility at which the terminal gate price applies.
- (2) The wholesale supplier must publicly post, on an Internet site that is maintained by, or on behalf of, the wholesale supplier,—
 - (a) the information required by subclause (1); and
 - (b) the contact details of the wholesale supplier, including a phone number, for making a request for supply of a specified engine fuel at the terminal gate price.

6 Form and timing of request for same-day supply

- (1) For the purpose of section 10 of the Act, a reseller may request same-day supply of a specified engine fuel from a wholesale supplier using the contact details of the wholesale supplier published under regulation 5(2)(b).
- (2) The request must be made between 9 am and 5 pm on any day of the week for supply during hours in which the bulk storage facility is operating.
- (3) The reseller must include the following information in the request:
 - (a) the bulk storage facility from which the reseller requests supply:
 - (b) the specified engine fuel for which the reseller requests supply:
 - (c) the volume of specified engine fuel of which the reseller requests supply:
 - (d) the proposed means of payment.
- (4) In addition, if requested by the wholesale supplier, the reseller must provide the following information to the wholesale supplier:
 - (a) whether the driver of the vehicle that will be used to collect the engine fuel meets any relevant site access requirements for the bulk storage facility and legislative requirements to transport engine fuel:
 - (b) whether the vehicle that will be used to collect the engine fuel complies with all relevant legislation.

7 Wholesale suppliers must prepare and publish pre-certification procedure

- (1) This regulation applies to a wholesale supplier that has the right to draw specified engine fuel at a bulk storage facility as the owner or a co-owner of the fuel.
- (2) The wholesale supplier must prepare a procedure for pre-certification that sets out the evidence required to enable the wholesale supplier to assess a reseller's ability to—
 - (a) pay for the supply of engine fuel; and
 - (b) comply with health and safety requirements at 1 or more of the bulk storage facilities at which the wholesale supplier has a right to draw fuel as an owner or a co-owner of that fuel.

- (3) The wholesale supplier may, as part of its pre-certification procedure, request the following:
- (a) the names of the workers who transport fuel for the reseller, and evidence that they meet all legislative requirements to transport engine fuel:
 - (b) information about the vehicle or vehicles that transport fuel for the reseller, and evidence that the vehicle or vehicles meet all legislative requirements to transport engine fuel:
 - (c) any other information that may be necessary to determine the ability of the reseller to pay or to comply with health and safety requirements at the bulk storage facility or facilities at which the reseller is likely to make a request for supply for specified engine fuel.
- (4) The wholesale supplier must publish, on an Internet site that is maintained by, or on behalf of, the wholesale supplier,—
- (a) its procedure for pre-certification; and
 - (b) information about any actions or things that would not meet health and safety requirements at a bulk storage facility that the wholesale supplier has the right to draw fuel from as the owner or a co-owner of the fuel, such as the materials that are prohibited from being brought onto the bulk storage facility.

8 Minimum purchase amount

For the purpose of section 12(1)(a) of the Act, the minimum purchase amount for each type of specified engine fuel is 5,000 litres.

9 Period for which fuel demand is forecast

For the purposes of section 12(1)(e)(ii) and 12(2) of the Act, the period is 28 days from the date of the request by the reseller.

10 Minimum supply amount

- (1) For the purpose of section 12(2) of the Act, the minimum supply amount in a time period for a wholesale supplier at each location listed in subclause (2) at which it has the right to draw from 1 or more bulk storage facilities as the owner or a co-owner of the fuel is—
- (a) 30,000 litres per week for diesel; and
 - (b) 30,000 litres per week for regular grade petrol; and
 - (c) 30,000 litres per month for premium grade petrol.
- (2) The locations are—
- (a) Auckland (including Wiri):
 - (b) Bluff:
 - (c) Dunedin:

- (d) Christchurch (including Lyttleton and Woolston):
 - (e) Marsden Point:
 - (f) Mount Maunganui:
 - (g) Napier:
 - (h) Nelson:
 - (i) New Plymouth:
 - (j) Timaru:
 - (k) Wellington.
- (3) For the purposes of subclause (1)(a) and (b), a week starts at 12.00 am on a Monday and ends at 11.59 pm on a Sunday.
- (4) For the purposes of subclause (1)(c), a month starts at 12.00 am on the first day of a calendar month and ends at 11.59 pm on the last day of the calendar month.

11 Notice of refusal to supply

A wholesale supplier that has relied on section 12(1)(e)(i) or (ii) of the Act to refuse supply must,—

- (a) on the request of the reseller, provide, within 5 working days of the request, written notice to the reseller of the grounds for refusal to supply; and
- (b) within 10 working days of the refusal to supply, provide to the Commerce Commission a written notice stating—
 - (i) the identity of the reseller who made the request; and
 - (ii) the date and time of the request; and
 - (iii) the date of the refusal to supply; and
 - (iv) the relevant specified engine fuel and bulk storage facility; and
 - (v) the amount of specified engine fuel that was requested; and
 - (vi) the grounds for refusal to supply; and
 - (vii) any evidence to support a belief that the requested specified engine fuel was needed to meet the matters specified in section 12(1)(e)(i) or (ii) of the Act; and
 - (viii) whether the wholesale supplier has provided the minimum supply amount for that fuel at that location in the relevant period as set out in regulation 10(1).

Part 2

Fixed wholesale contractual terms

12 Transparent pricing under fixed wholesale contracts

- (1) For the purpose of section 16(1) of the Act, a wholesale supplier must ensure that its fixed wholesale contracts—
- (a) specify the elements of the pricing method by which the price of any engine fuel supplied under those contracts is to be calculated, which may, without limitation, include any of the following:
 - (i) a terminal gate price;
 - (ii) an international reference port price assessment;
 - (iii) taxes; and
 - (b) explain how the elements of the pricing method interact with each other to produce a price for engine fuel.
- (2) If the pricing method of a fixed wholesale contract is a formula, the wholesale supplier must set out that formula in the wholesale contract.

13 Variations of pricing methods

For the purpose of section 16(2) of the Act, a pricing method in a fixed wholesale contract may be varied only if—

- (a) the party seeking to vary the pricing method gives the other party 1 month's notice of the proposed variation; and
- (b) both parties to the contract agree in writing to the variation.

14 Distributor may terminate fixed wholesale contract after 5 years

For the purpose of section 17 of the Act, the maximum duration is 5 years.

15 Maximum percentage of annual requirement for engine fuel that may be subject to exclusivity is 80%

For the purpose of section 18 of the Act, the maximum percentage is 80%.

Part 3

Consumer information requirements

16 Where, and to which engine fuels, customer information requirements apply

For the purpose of section 22 of the Act, this Part applies—

- (a) at retail fuel sites that are neither truck stops nor sites that are designed to predominantly refuel marine vehicles; and
- (b) to the following engine fuels:

- (i) regular grade petrol:
- (ii) diesel:
- (iii) each grade of premium grade petrol.

17 Information that must be displayed

- (1) A person described in section 22 of the Act must, in respect of a retail fuel site to which this Part applies, display on a price board the standard retail price of each engine fuel listed in regulation 16(b) and sold at that site.
- (2) Subclause (1) applies at any time that the retail fuel site is open for business.
- (3) The information required to be displayed on a price board under subclause (1) must be visible to a person in a motor vehicle at, or passing by, the site, unless any other legislation that restricts the location or size of signage at that site would make compliance with this requirement unlawful.

Part 3A

Disclosure of information to Commission

Part 3A: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Part 3A heading: amended, on 1 April 2022, by regulation 4 of the Fuel Industry Amendment Regulations 2022 (SL 2022/86).

17A Which fuels information disclosure requirements in this Part apply to

For the purpose of section 27(2)(a) of the Act, this Part applies to the following engine fuels:

- (a) regular grade petrol:
- (b) diesel:
- (c) premium grade petrol with a research octane number of 95:
- (d) premium grade petrol with a research octane number of 98.

Regulation 17A: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Regulation 17A heading: amended, on 1 April 2022, by regulation 5 of the Fuel Industry Amendment Regulations 2022 (SL 2022/86).

17B Meaning of own

In this Part, **own** includes holding a beneficial or legal interest or entitlement and includes having any share in ownership.

Regulation 17B: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17C Obligation to record and retain copies of fixed wholesale contracts

- (1) A fuel importer must record and retain a copy of all fixed wholesale contracts that are in force on 1 April 2022 or that come into force after that date, including a copy of any material changes to the provisions of the contract.
- (2) The fuel importer must disclose a copy of a fixed wholesale contract to the Commission upon the Commission's request.
- (3) The fuel importer must continue to retain a copy of a fixed wholesale contract for a period of 7 years after it has expired or been terminated.
- (4) A fuel importer must record and retain a copy of any offers or bids made by the fuel importer in relation to a fixed wholesale contract that did not result in a new fixed wholesale contract.
- (5) The fuel importer must continue to retain a copy of an offer or bid described in subclause (4) for a period of 7 years after the date on which the offer or bid was disclosed to the Commission under regulation 17D.

Regulation 17C: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17D Annual disclosure of fixed wholesale contracts

A fuel importer must, by no later than 1 September of each year, provide or disclose the following to the Commission in relation to the previous financial year:

- (a) a copy of any new fixed wholesale contracts entered into by the fuel importer:
- (b) a copy of any offers or bids made by the fuel importer in relation to a fixed wholesale contract that did not result in a new fixed wholesale contract:
- (c) a copy of any material changes to provisions of a fixed wholesale contract, including in relation to any of the following:
 - (i) the parties to the contract, the commencement date of the contract, or the term of the contract:
 - (ii) the pricing methodology used in the contract:
 - (iii) any prescribed minimum volumes:
 - (iv) termination periods, rights of renewal, rights of first refusal, restraints on trade, liquidated damages, or exclusive territories:
- (d) any expiry or termination of fixed wholesale contracts.

Regulation 17D: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17E Annual disclosure of certain financial statements

- (1) A wholesale supplier or distributor must, by no later than the date each year that is 5 months after the wholesale supplier or distributor's balance date, disclose the following to the Commission:
 - (a) if the wholesale supplier or distributor has no subsidiaries, their financial statements (as defined in section 6 of the Financial Reporting Act 2013):
 - (b) if the wholesale supplier or distributor has 1 or more subsidiaries, their group financial statements (as defined in section 7 of the Financial Reporting Act 2013).
- (2) However, the following persons are exempt from subclause (1):
 - (a) a wholesale supplier or distributor that is a subsidiary of a wholesale supplier or distributor required to disclose group financial statements under subclause (1)(b):
 - (b) a wholesale supplier or distributor that does not prepare financial statements under the Companies Act 1993.

Regulation 17E: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17F Annual disclosure of certain formulas and volumes

- (1) A fuel importer must record and retain the following information in respect of engine fuel that it imports:
 - (a) if the fuel importer uses an import parity formula, that formula:
 - (b) its domestic shipping costs:
 - (c) the total importer costs incurred, including each of the following (where relevant), and an explanation of what is included in each cost:
 - (i) all costs of importing refined product; and
 - (ii) all international shipping costs; and
 - (iii) all costs of insurance and losses:
 - (d) the volume of imported refined product.
- (2) The fuel importer must disclose all information recorded and retained under subclause (1) to the Commission by no later than 1 September of each year in respect of the previous financial year.
- (3) The fuel importer must retain the information disclosed to the Commission under subclause (2) for a period of 7 years after the date of the disclosure.

Regulation 17F: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17G Annual disclosure of certain travel distances

- (1) A fuel importer must record and retain the information required by subclause (2) in respect of—

- (a) each retail fuel site owned or operated by the fuel importer;
 - (b) each retail fuel site that is not owned or operated by the fuel importer and for which the fuel importer supplies the fuel and sets the standard retail price.
- (2) The fuel importer must record and retain the distance in kilometres between each bulk storage facility and each retail fuel site for which that bulk storage facility is the largest supplier.
 - (3) The fuel importer must disclose all information recorded and retained under subclause (2) to the Commission by no later than 1 September of each year in respect of the previous financial year.
 - (4) The fuel importer must retain the information disclosed to the Commission under subclause (3) for a period of 7 years after the date of the disclosure.

Regulation 17G: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17H Annual disclosure of certain discounting or loyalty programmes

- (1) A fuel importer must record and retain the information required by subclause (2) in respect of the 2 discounting or loyalty programmes offered by the fuel importer that account for the most revenue from engine fuel sales associated with that programme for that fuel importer.
- (2) The fuel importer must record and retain—
 - (a) the name of each discounting or loyalty programme; and
 - (b) any conditions that apply to a consumer when claiming one of the discount or loyalty benefits; and
 - (c) the date that each programme became available; and
 - (d) how any discounts under each programme are calculated; and
 - (e) the type of any other benefits received by a consumer under each programme; and
 - (f) any partnerships with third parties in respect of each programme, including incentives received by the fuel importer for honouring the programme.
- (3) The fuel importer must record and retain the date that any programme disclosed to the Commission in the previous year ceased to be offered.
- (4) The fuel importer must disclose all information recorded and retained under subclauses (2) and (3) to the Commission by no later than 1 September of each year in respect of the previous financial year.
- (5) The fuel importer must retain the information disclosed to the Commission under subclause (4) for a period of 7 years after the date of the disclosure.

Regulation 17H: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17I Annual disclosure of storage capacity

- (1) A fuel importer must record and retain the following information in respect of each bulk storage facility it operates:
 - (a) the total storage capacity for each engine fuel type; and
 - (b) if there have been any changes in the storage capacity for any engine fuel type at a bulk storage facility, the reasons for that change.
- (2) The fuel importer must disclose all information recorded and retained under subclause (1) to the Commission by no later than 1 September of each year in respect of the previous financial year.
- (3) The fuel importer must retain the information disclosed under subclause (2) for a period of 7 years after the date of the disclosure.

Regulation 17I: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17J Annual disclosure of retail supply

- (1) A wholesale supplier or distributor (other than a fuel importer) must record and retain the total annual volume of each engine fuel type sold from retail fuel sites owned or operated by the wholesale supplier or distributor in respect of a financial year.
- (2) The wholesale supplier must record and retain the following information in respect of each retail fuel site for which the wholesale supplier supplies the fuel:
 - (a) the addresses of all retail fuel sites that the wholesale supplier currently supplies:
 - (b) the addresses of all new retail fuel sites that the wholesale supplier has begun supplying in the year:
 - (c) the addresses of all retail fuel sites that the wholesale supplier has ceased to supply in the year.
- (3) A distributor must record and retain the following information in respect of each retail fuel site owned and operated by the distributor:
 - (a) the address of each retail fuel site:
 - (b) the address of each new retail fuel site that the distributor began operating in the year:
 - (c) the address of each retail fuel site that the distributor has ceased to operate during the year.
- (4) The wholesale supplier or distributor must disclose the information recorded and retained under subclause (1), (2), or (3) to the Commission by no later than 1 September of each year in respect of the previous financial year.

- (5) The wholesale supplier or distributor must retain the information disclosed to the Commission under subclause (4) for a period of 7 years after the date of the disclosure.

Regulation 17J: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17K Quarterly disclosures relating to fuel supply

- (1) A fuel importer must record and retain the following information:
- (a) in respect of each bulk storage facility to which the fuel importer supplies fuel, the volume of each engine fuel type that has been supplied to each bulk storage facility per month by the fuel importer, and whether the fuel was supplied to the bulk storage facility—
 - (i) directly from outside New Zealand; or
 - (ii) from elsewhere in New Zealand:
 - (b) in respect of each bulk storage facility at which the fuel importer has the right to draw fuel, the volume of each engine fuel type drawn from each bulk storage facility per month by the fuel importer, as follows:
 - (i) the volume drawn to supply retail fuel sites owned or operated by the fuel importer:
 - (ii) the volume drawn by the fuel importer under an infrastructure sharing agreement:
 - (iii) the volume of all other engine fuel drawn:
 - (c) in respect of each bulk storage facility that the fuel importer operates, the volume of each engine fuel type at each bulk storage facility on the last day of each month.
- (2) A fuel importer must record and retain the following information:
- (a) if a co-ordination event occurs during the quarter,—
 - (i) whether individual bulk storage facilities or whole ports were involved in the co-ordination event; and
 - (ii) the date the co-ordination event began; and
 - (iii) the date the co-ordination event ended; and
 - (iv) which engine fuel type the co-ordination event applied to; and
 - (v) how the reduction of supply of engine fuel was rationed amongst fuel industry participants; and
 - (vi) why the co-ordination event occurred:
 - (b) the forecast monthly demand for each engine fuel type in the quarter after the quarter to which the disclosure relates:
 - (c) information about each individual sale of each engine fuel type from a bulk storage facility, including the following:

- (i) the date of the sale:
 - (ii) the purchaser of the engine fuel:
 - (iii) whether the fuel was purchased under—
 - (A) the terminal gate price provisions of subpart 1 of Part 2 of the Act; or
 - (B) a fixed wholesale contract; or
 - (C) any other contract:
 - (iv) the volume of engine fuel sold, on an ambient temperature basis:
 - (v) the revenue from that sale, with any taxes and other charges (such as delivery costs) identified separately:
 - (vi) the price, on a cents per litre basis, charged for that engine fuel, with any taxes and other charges (such as delivery costs) identified separately:
 - (vii) the bulk storage facility from which the engine fuel was sold:
 - (viii) whether the purchaser is registered under the emissions trading scheme:
- (d) the throughput fees (exclusive of GST), if any, at each bulk storage facility at which the fuel importer has the right to draw engine fuel, on a cents per litre basis for each engine fuel type, and, where relevant, to whom the fees were charged and the associated fuel volumes:
- (e) each terminal gate price posted for each engine fuel type subject to the terminal gate price provisions of subpart 1 of Part 2 of the Act, and the date and time that each price was posted:
- (f) each request for supply under the terminal gate price provisions of subpart 1 of Part 2 of the Act that was refused by the fuel importer, including—
- (i) the identity of the reseller that made the request; and
 - (ii) the date and time of the request; and
 - (iii) the date of the refusal to supply; and
 - (iv) the relevant specified engine fuel and bulk storage facility; and
 - (v) the amount of specified engine fuel that was requested; and
 - (vi) the grounds for refusal to supply:
- (g) the terminal to Auckland pipeline costs each month and an explanation of the methodology used to estimate those costs.
- (3) The fuel importer must disclose all information recorded and retained under subclause (1) or (2) to the Commission by no later than the date that is 30 days of the end of each financial quarter.

- (4) The fuel importer must retain the information disclosed to the Commission under subclause (3) for a period of 7 years after the date of the disclosure.

Regulation 17K: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

17L Quarterly disclosures relating to retail fuel sites

- (1) A fuel importer must record and retain information about the volume of each type of engine fuel supplied in each quarter to each retail fuel site owned or operated by the fuel importer.
- (2) A fuel importer must record and retain the following information:
- (a) the addresses of all retail sites that the fuel importer currently supplies:
 - (b) the addresses of all new retail fuel sites that the fuel importer has begun supplying in the quarter:
 - (c) the addresses of all retail fuel sites that the fuel importer has ceased to supply in the quarter.
- (3) A fuel importer must record and retain the information required by subclause (4) in respect of—
- (a) each retail fuel site owned or operated by the fuel importer:
 - (b) each retail fuel site that is not owned or operated by the fuel importer but for which the fuel importer supplies the fuel and sets the standard retail price.
- (4) The fuel importer must record and retain the following information:
- (a) the last standard retail price of each day for each engine fuel type at each retail fuel site:
 - (b) the discounts (other than a discounting or loyalty programme to which regulation 17H applies or a commercial vehicle discount) offered by the fuel importer each day on a cents per litre basis for each engine fuel type at each retail fuel site:
 - (c) the daily volume of each engine fuel type sold at each retail fuel site:
 - (d) the quarterly revenue from sales of each engine fuel type, aggregated across retail fuel sites.
- (5) The fuel importer must disclose all information recorded and retained under subclause (1), (2), or (4) to the Commission by no later than the date that is 30 days after the end of each financial quarter.
- (6) The fuel importer must retain the information disclosed to the Commission under subclause (5) for a period of 7 years after the date of the disclosure.

Regulation 17L: inserted, on 1 April 2022, by regulation 6 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Part 3B

Daily and weekly disclosure of information to chief executive

[Revoked]

Part 3B: revoked, on the close of 29 July 2023, by regulation 17Q.

17M Which engine fuels information disclosure requirements in this Part apply to

[Revoked]

Regulation 17M: revoked, on the close of 29 July 2023, by regulation 17Q.

17N Interpretation

[Revoked]

Regulation 17N: revoked, on the close of 29 July 2023, by regulation 17Q.

17O Daily disclosures relating to engine fuel prices

[Revoked]

Regulation 17O: revoked, on the close of 29 July 2023, by regulation 17Q.

17P Weekly disclosures relating to engine fuel prices

[Revoked]

Regulation 17P: revoked, on the close of 29 July 2023, by regulation 17Q.

17Q Revocation of Part

[Revoked]

Regulation 17Q: revoked, on the close of 29 July 2023, by regulation 17Q.

Part 4 Mediation

Initiation of mediation

18 How mediation is initiated

- (1) A party to a dispute to which section 46 of the Act applies may, at any time, make a written request for mediation to the other party or parties to the dispute.
- (2) A party must reply to a mediation request within 10 working days after receiving the request.
- (3) The reply must—
 - (a) be in writing; and
 - (b) state whether the party agrees to participate in mediation; and
 - (c) if the party does not agree to participate in mediation, state the reasons for declining the request.

- (4) The party that makes a written request for mediation may, at any time, withdraw that request

Mediation process

19 Appointment of mediator

- (1) Mediation under section 46 of the Act must be carried out by a mediator who is accredited as a mediator by—
- (a) the Arbitrators and Mediators Institute of New Zealand; or
 - (b) the Resolution Institute.
- (2) The party who makes a written request for mediation and the party who replies to the mediation request may choose a mediator within 10 working days of the reply under regulation 18(2).
- (3) If the parties cannot agree on a mediator within the time period specified in subclause (2),—
- (a) the party who was served the mediation request under regulation 18(1) must nominate one of the following:
 - (i) the Arbitrators and Mediators Institute of New Zealand; or
 - (ii) the Resolution Institute; or
 - (iii) the Māori Allied Dispute Resolution Organisation; and
 - (b) the person nominated under paragraph (a) must, within 10 working days of being nominated, appoint a mediator after having regard to—
 - (i) any information submitted by the parties as to their ability to pay; and
 - (ii) what experience and training would be relevant to the dispute.

20 Procedure agreement

- (1) Once a mediator is agreed upon by the parties or appointed under regulation 19(3), the parties and the mediator must enter into an agreement relating to the procedure for the mediation.
- (2) The procedure agreement may include 1 or more of the following matters:
- (a) who has authority to represent and bind the parties;
 - (b) who may attend the mediation, including any interested parties, legal counsel, and experts;
 - (c) requirements as to confidentiality and privilege in respect of the mediator, the parties, and any other persons attending the mediation, including who may be informed about any confidential matter;
 - (d) whether the mediator may engage an expert adviser for a stated or any other purpose;
 - (e) whether any liability of the mediator is excluded;

- (f) withdrawals from mediation or other termination of mediation:
 - (g) how the procedure agreement may be varied or terminated:
 - (h) any other matter that the mediator and the parties agree is appropriate to best meet the needs and interests of the parties, having regard to the nature of the issues between the parties.
- (3) A procedure agreement is binding on the parties in accordance with its provisions.

21 When mediation must begin and be completed

- (1) Mediation must begin—
- (a) as soon as practicable after the parties have agreed upon a mediator and entered into a procedure agreement, but not more than 20 working days after the date on which a party has agreed to participate in mediation under regulation 18(3); or
 - (b) if the parties cannot agree upon a mediator, as soon as practicable after a mediator has been appointed under regulation 19(3)(b) and the parties have entered into a procedure agreement, but not more than 30 working days after the date on which a party has agreed to participate in mediation under regulation 18(3).
- (2) The parties to the dispute must, within 60 working days after the date on which a party has agreed to participate in mediation under regulation 18(3),—
- (a) reach a settlement agreement; or
 - (b) if a settlement agreement cannot be reached, cease mediation.

22 Settlement agreement

- (1) Any agreement reached between the parties in the course of a mediation must be recorded in a written settlement agreement.
- (2) The settlement agreement may cover the whole of the dispute, or part of it.

23 When parties unable to resolve dispute at mediation

For the purposes of section 46(4) of the Act, the parties are **unable to resolve the dispute at mediation** if—

- (a) a party has failed to reply to a mediation request within the time specified in regulation 18(2); or
- (b) a party has declined to participate in mediation under regulation 18(3); or
- (c) the parties have failed to begin a mediation within the time frames set in regulation 21(1)(a) and (b); or
- (d) a party has withdrawn from the mediation process; or

- (e) the parties have failed to reach a settlement agreement over the whole or part of the dispute within 60 working days after the date on which a party has agreed to participate in mediation under regulation 18(3).

24 Division of mediation costs

Each party to a dispute must—

- (a) pay their own costs and expenses in relation to the mediation; and
- (b) pay on an equally shared basis the fees and expenses of the mediation.

Part 5

Promotion of resilience of engine fuel supplies in New Zealand

Part 5: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Subpart 1—Preliminary provisions

Subpart 1: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

25 Overview

- (1) This Part is for the purpose of Part 4 of the Act (which relates to the promotion of resilience of engine fuel supplies in New Zealand).
- (2) This subpart ends the initial period for all fuel types.

Guidance note

The rules relating to the stockholding obligation for the initial period are set out in the Act. Those rules are largely overtaken, once the initial period ends, by the rules in this Part that apply to the subsequent period.

- (3) Subpart 2 of this Part relates generally to the stockholding obligation after the initial period in respect of all types of obligation fuel. The purpose of this stockholding obligation is to promote the resilience of engine fuel supplies by requiring certain fuel industry participants to hold a certain level of engine fuel stocks in New Zealand to mitigate the risk of fuel supply disruptions.
- (4) Subpart 3 of this Part relates to obligations to disclose information to the chief executive after the initial period ends.

Guidance note

There are no rules relating to obligations to disclose information to the chief executive for the initial period.

Regulation 25: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

26 Interpretation

In this Part, unless the context otherwise requires,—

blendstock has the meaning given in regulation 37(1)

compliance period means a calendar month

daily stock, of a fuel, means the gross volume of the fuel measured in litres at a temperature of 15°C and calculated in accordance with regulation 41(2)

disclosure fuel has the meaning given in regulation 40(1)

drawn, in respect of an obliged person that has withdrawn fuel from a storage facility,—

- (a) means drawn and offered to a wholesale supplier or direct to an end user, or drawn for an obliged person's own network (for example, for retail service stations and truck stops); and
- (b) does not include any volume that was transferred to another MSO storage facility (by pipeline or otherwise),—

and **drawings** has a corresponding meaning

fuel importer means a fuel industry participant that imports (within the meanings of importation and importer in section 5(1) of the Customs and Excise Act 2018) fuel into New Zealand

minimum level of cover means the level of engine fuel stock that represents the minimum number of days for which the fuel stock must last in order to meet the daily fuel demand or consumption, where the minimum number of days is set in regulation 33

MSO storage facility means any of the following:

- (a) a bulk storage facility in New Zealand;
- (b) the Ruakaka to Auckland pipeline and any facilities at Wiri Terminal for the storage of obligation fuel;
- (c) a facility in New Zealand for the storage of 1 million litres or more of aviation turbine fuel

obligation fuel means an engine fuel that is an obligation fuel under regulation 30

obliged person has the meaning given in regulation 29

senior manager, in relation to a person (A), means a person who is not a director but occupies a position that allows that person to exercise significant influence over the management or administration of A (for example, a chief executive or a chief financial officer)

shared MSO storage facility means an MSO storage facility at which more than 1 person has the right to draw fuel

stockholding obligation or **obligation** means the obligation imposed by sub-part 2 of Part 4 of the Act and this Part of these regulations.

Regulation 26: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

27 End of initial period

For the purposes of paragraph (a) of the definition of initial period in section 51 of the Act, the initial period, in respect of all fuels, ends at 12.01 am on 1 January 2025.

Guidance note

The end of the initial period means that the new requirements for the stockholding obligation as set out in this Part are in place of those applying in respect of the initial period under Part 4 of the Act.

Regulation 27: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Subpart 2—Stockholding obligation after initial period ends

Subpart 2: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

28 Stockholding obligation after initial period ends

- (1) This subpart sets rules relating to the stockholding obligation in respect of all fuels for the period beginning on 1 January 2025 immediately after the initial period ends.
- (2) The stockholding obligation applies as provided by subpart 2 of Part 4 of the Act except as otherwise provided by this subpart.

Regulation 28: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

29 Persons to which obligation applies

For the purpose of section 53(2) of the Act, the stockholding obligation applies to every fuel industry participant (an **obliged person**) that, during a compliance period,—

- (a) is a fuel importer of a type of obligation fuel; and
- (b) owns or operates a bulk storage facility for that type of obligation fuel or has the right to draw that type of obligation fuel at a bulk storage facility.

Regulation 29: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

30 Fuel on which obligation is based

For the purpose of section 54(b) of the Act, the types of engine fuel to which the stockholding obligation applies (**obligation fuel**) are—

- (a) diesel (within the meaning of regulation 5(1) of the Engine Fuel Specifications Regulations 2011) but only if it has properties that conform to the limits specified in Schedule 2 of those regulations when tested by the methods specified in that schedule:
- (b) petrol (within the meaning of regulation 5(1) of the Engine Fuel Specifications Regulations 2011):

- (c) aviation turbine fuel (being fuel that meets ASTM D1655 (Standard specification for aviation turbine fuels) or ASTM D7566 (Standard specification for aviation turbine fuel containing synthesized hydrocarbons)).

Regulation 30: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

31 Disregarded fuels

The following are disregarded for the purpose of this Part:

- (a) fuel held under an agreement with the Crown for the purpose of compliance by the Crown with New Zealand's obligation, under Article 2 of the International Energy Agreement (within the meaning given in section 2 of the International Energy Agreement Act 1976), to maintain the emergency reserve commitment set out in that Article:
- (b) fuel imported for consumption by the Crown (for example, by the New Zealand Defence Force).

Guidance note

See section 55 of the Act which provides for these fuels to be disregarded.

Regulation 31: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

32 Imposition of obligation

Regulations 33 to 37 set out the requirements relating to the minimum level of cover that each obliged person must sustain by holding minimum stock, of each type of obligation fuel in respect of which it is an obliged person, in accordance with section 56 of the Act.

Guidance note

See section 56 of the Act which provides that each obliged person must hold minimum stock, of each type of obligation fuel in respect of which it is an obliged person, at a level that is sufficient to sustain the minimum level of cover required by Part 4 of the Act and the regulations.

Regulation 32: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

33 Required number of days of demand or consumption

The required number of days of demand or consumption, for the purpose of determining the minimum level of cover (as referred to in paragraph (b) of the definition of minimum level of cover in section 51 of the Act), is—

- (a) 21 for diesel:
- (b) 28 for petrol:
- (c) 24 for aviation turbine fuel.

Regulation 33: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

34 Formula for translating minimum level of cover to required minimum stockholding volume

The formula for translating minimum level of cover to the required minimum stockholding volume for each obliged person and each fuel type is—

$$a = b \times c$$

where—

- a is the obliged person's stockholding obligation (that is, the minimum stock of the fuel type (measured in thousands of litres) that the person must hold, on an average basis, during the compliance period to sustain the minimum level of cover required by this Part), where **average** means an average of daily stock levels (measured or estimated) over the compliance period
- b is the required number of days that is referred to in regulation 33 for the fuel type for the purpose of the minimum level of cover
- c is the obliged person's average daily demand or consumption (that is, the obliged person's average daily drawings from MSO storage facilities at which the obliged person has the right to draw fuel, during the 12-month period that ends 4 months before the compliance period begins, of the fuel type (measured in thousands of litres per day)).

Guidance note

This formula is used for determining the minimum volume of each obligation fuel that an obliged person must hold in order to meet the minimum level of cover required by Part 4 of the Act and these regulations.

Regulation 34: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

35 How stockholding obligation is calculated

Each obliged person's stockholding obligation must be calculated using gross amounts (that is, including stock at the bottom of tanks that is not normally disturbed).

Regulation 35: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

36 What counts as minimum stock

- (1) Obligation fuel counts as minimum stock for the purpose of the stockholding obligation if the stock is—
 - (a) in an MSO storage facility; or
 - (b) fuel cargo in a vessel within New Zealand's exclusive economic zone that is scheduled for delivery to a New Zealand port.
- (2) Obligation fuel that is held for the purpose of retail sale to the Crown counts as minimum stock if it complies with subclause (1), despite regulation 31.

Regulation 36: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

37 Requirements for blendstock to count as minimum stock

- (1) This regulation applies to any type of compound that petrol or diesel may contain under the definition of petrol or diesel (as the case may be) that is set out in regulation 5(1) of the Engine Fuel Specifications Regulations 2011 (**blendstock**).
- (2) Each person that has a stockholding obligation in respect of a type of fuel may count as minimum stock, for the purpose of the stockholding obligation, any blendstock—
 - (a) that they hold for the purpose of blending with that type of fuel during the month; and
 - (b) that is commensurate with the maximum percentage by volume requirement for that type of fuel in those regulations.

Example

Company A has a stockholding obligation in respect of petrol that requires it to hold minimum stock of 100,000 litres of petrol, on an average basis, during the month.

The Engine Fuel Specifications Regulations 2011 enable petrol sold by retail sale to contain up to 10% ethanol by volume. Company A holds 50,000 litres of ethanol, which it intends to blend with petrol that it holds, or will hold, for retail sale. The effect of this regulation is that company A can count 10,000 litres of that ethanol as minimum stock towards its petrol stockholding obligation.

Company A does not have a minimum stockholding obligation in respect of diesel, and cannot count biodiesel towards its stockholding obligation in respect of petrol.

Regulation 37: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

38 Entitlement agreements

- (1) This regulation sets requirements related to entitlement agreements and their use for the purpose of section 60 of the Act (which applies if an obliged person enters into an agreement with another person that records who may count an amount of fuel stock for the purpose of complying with a stockholding obligation).
- (2) An entitlement agreement—
 - (a) must be in writing and be legally enforceable; and
 - (b) must include the information specified in subclause (3).
- (3) The specified information is—
 - (a) the type and volume of each obligation fuel or blendstock to which the agreement applies (the **transferred fuel**); and

- (b) the period for which the transfer of the transferred fuel applies (the **transfer period**); and
- (c) the name and contact details of the transferor and the transferee; and
- (d) that the transferee is treated as the person that has the right to count the transferred fuel for the purpose of the stockholding obligation during the transfer period; and
- (e) the physical address of each MSO storage facility in which the transferred fuel is or may be stored; and
- (f) in the case of transferred fuel that is stored in a shared MSO storage facility,—
 - (i) how the agreement allocates the stock between the obliged persons who have the right to count stock in the facility for the purpose of complying with their stockholding obligation; and
 - (ii) the period for which each of those allocations apply.

Regulation 38: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Subpart 3—Disclosure of information to chief executive for purpose of improving fuel resilience

Subpart 3: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Preliminary provisions

Heading: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

39 Purpose of this subpart

This subpart applies for the purpose of subpart 3 of Part 4 of the Act and, in particular, for the purpose of section 63 of the Act (which sets out the information disclosure requirements that may be prescribed).

Regulation 39: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

40 Application of information disclosure requirements in this subpart

- (1) This subpart applies, after the initial period ends, to an obliged person in respect of all of the following fuel (**disclosure fuel**):
 - (a) obligation fuel in respect of which the obliged person has a minimum stockholding obligation:
 - (b) blendstock of a type that the obliged person counts as minimum stock (*see* regulation 37).
- (2) Blendstock that is not yet blended is treated as a different type of disclosure fuel under this subpart (that is, treated as different from the fuel with which it could later be blended).

- (3) This subpart does not apply to the things excluded by section 3A of the Act (which relates to certain reserve fuel).

Regulation 40: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Monthly disclosures

Heading: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

41 Monthly records of fuel stocks for purpose of stockholding obligation

- (1) An obliged person must record and retain all of the following information for each month, in respect of each type of disclosure fuel held by the obliged person:
- (a) in respect of each MSO storage facility at which the obliged person has the right to draw disclosure fuel,—
 - (i) the physical address of the facility and the type of fuel stored:
 - (ii) the daily stock held by the obliged person at the facility each day:
 - (iii) the average daily stock held by the obliged person at the facility (that is, the sum of the amounts of daily stock referred to in subparagraph (ii) divided by the number of days in the month):
 - (iv) the maximum and minimum daily stock held by the obliged person at the facility and the date of that maximum and minimum daily stock:
 - (v) the volume of daily stock held by the obliged person at the facility on the last day of the month:
 - (vi) the volume drawn by the obliged person from the MSO storage facility during the month:
 - (b) in respect of all MSO storage facilities at which the obliged person has the right to draw disclosure fuel,—
 - (i) the total daily stock held by the obliged person across all the facilities each day:
 - (ii) the total average daily stock held by the obliged person across all the facilities (that is, the sum of the amounts of total daily stock referred to in subparagraph (i) divided by the number of days in the month):
 - (iii) the total maximum and minimum daily stock held by the obliged person across all the facilities and the date of that maximum and minimum daily stock:
 - (iv) the total volume of daily stock held by the obliged person across all the facilities on the last day of the month:

- (v) the obliged person's average daily demand or consumption (that is, the total average daily drawings from all the facilities during the month):
 - (vi) the total volume drawn by the obliged person from all the facilities during the month:
 - (c) in respect of all vessels in which the obliged person holds fuel cargo within New Zealand's exclusive economic zone that is scheduled for delivery to a New Zealand port,—
 - (i) the name of each vessel, the port outside New Zealand at which the disclosure fuel was loaded, the date on which the vessel first entered into New Zealand's exclusive economic zone during the month and, if the vessel exited from New Zealand's exclusive economic zone without unloading all of its disclosure fuel, the date of exit and the volume of each type of disclosure fuel that is still cargo in the vessel:
 - (ii) the total volume of daily stock of each type of disclosure fuel held by the obliged person as cargo across all the vessels on each day that the vessel was within New Zealand's exclusive economic zone:
 - (iii) the total average daily volume of each type of disclosure fuel held by the obliged person as cargo across all the vessels:
 - (iv) in relation to each New Zealand port at which disclosure fuel was unloaded, the date, volume, and type of fuel unloaded:
 - (v) the total volume of daily stock held by the obliged person across all the vessels within New Zealand's exclusive economic zone on the last day of the month:
 - (d) in respect of each source of imports, the volume of each type of fuel and its port of loading.
- (2) Each obliged person must—
 - (a) calculate their daily stock of each type of fuel, by recording or making a reasonable estimate, at the same time every day in each month; and
 - (b) record and retain a description of each method used for each calculation under this regulation.
- (3) An obliged person must retain the information recorded under subclause (1) for a period of 7 years after the end of the month to which it relates.

Regulation 41: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

42 Monthly disclosure of fuel stocks for purpose of stockholding obligation

An obliged person must disclose the following information for each month to the chief executive, by no later than the 21st day of the following month:

- (a) all information recorded and retained under regulation 41, except the information referred to in regulation 41(1)(a)(ii), (b)(i), and (c)(ii) (which relates to the daily stock held by the obliged person):
- (b) the obliged person's average daily demand or consumption of the fuel type (measured in thousands of litres per day) (that is, the obliged person's average daily drawings from MSO storage facilities at which the obliged person has the right to draw fuel, during the 12-month period that ends 4 months before the month begins):
- (c) the average number of days of cover during the month that is provided by the daily stock of the fuel type held by the obliged person, calculated in accordance with the following formula:

$$A = (B + C) \div D$$

where—

- A is the average number of days of cover during the month
- B is the total average daily stock held by the obliged person across all MSO storage facilities
- C is the total average daily stock held by the obliged person as cargo across all the vessels in which the obliged person holds fuel cargo within New Zealand's exclusive economic zone that is scheduled for delivery to a New Zealand port
- D is the obliged person's average daily demand or consumption set out in paragraph (b).

Regulation 42: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

43 Monthly disclosure about compliance with stockholding obligation

- (1) An obliged person must prepare for each month a statement, signed by a director or senior manager of the obliged person, that states—
 - (a) whether the obliged person has complied with their stockholding obligation for the month; and
 - (b) if not, the reasons for the non-compliance and an explanation of actions taken or planned to be taken to ensure future compliance.
- (2) The obliged person must disclose that statement to the chief executive by no later than the 21st day of the following month.
- (3) An obliged person must retain, for a period of 7 years after the date of the disclosure,—
 - (a) the statement; and
 - (b) evidence of how the information was gathered and calculated (that is, the working documents that resulted in the information disclosed).

Regulation 43: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

44 Annual disclosure of storage capacity

- (1) An obliged person must record and retain for each month the following information for each fuel type:
- (a) a list of all MSO storage facilities used by the obliged person to hold disclosure fuel, including the physical address and the owner of each facility:
 - (b) a description of each of those MSO storage facilities, including—
 - (i) the number of storage tanks in the facility and the type of fuel stored:
 - (ii) the average operational capacity of each storage tank during the month (that is, the average volume of disclosure fuel that can be held in each tank when it is operating and full):
 - (iii) the average total operational capacity of the facility as a whole during the month (that is, the total volume of each type of disclosure fuel that can be held at the facility when all the tanks are operating and full):
 - (iv) information as to whether each of those MSO storage facilities is used exclusively by the obliged person or is a shared facility and, if the latter, the share of the capacity that the obliged person has a right to draw:
 - (c) the average proportion of the storage capacity that is filled with fuel stocks at each MSO storage facility at which the obliged person has a right to draw fuel (that is, how full the storage tanks at each MSO storage facility are on average during the month), calculated in accordance with the following formula:

$$A = B \div C$$

where—

- A is the average proportion of the storage capacity that is filled with stocks of each fuel type at the MSO storage facility
 - B is the average daily stock level for the MSO storage facility for the month, for each fuel type (for shared MSO storage facilities, the stocks of all fuel importers sharing the facility are counted)
 - C is the average total operational capacity of the MSO storage facility as a whole during the month, for each fuel type.
- (2) An obliged person must disclose to the chief executive, by no later than 1 September of each year in respect of the previous financial year, all information recorded and retained under subclause (1), except the information referred to in subclause (1)(b)(ii).
- (3) An obliged person must retain the information disclosed under subclause (2) for a period of 7 years after the date of the disclosure.

Regulation 44: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Other disclosures

Heading: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

45 Annual disclosure about assurance from board of directors

- (1) An obliged person must disclose to the chief executive, by no later than 1 September of each year in respect of the previous financial year, a certificate of assurance that all information disclosed under regulation 44(2)—
 - (a) has been reviewed by the board of directors; and
 - (b) is, to the best of their knowledge, correct.
- (2) The certificate must be signed by at least 1 of the obliged person's directors.

Regulation 45: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

46 Audits

- (1) The chief executive may require the contents of information disclosed to the chief executive to be independently assessed for accuracy and certified by an auditor who is approved by the chief executive.
- (2) If so required by the chief executive, an obliged person must—
 - (a) procure an audit report, prepared by that auditor, in respect of each of their monthly disclosures that were made under this subpart in respect of the previous financial year; and
 - (b) disclose that audit report, signed by that auditor (either in their own name or that of their firm), to the chief executive no later than 1 September in each year in respect of the previous financial year.
- (3) The audit report must—
 - (a) be addressed to the directors of the obliged person, as the intended users of the audit report; and
 - (b) state that it has been prepared in accordance with the International Standard on Assurance Engagements (New Zealand) 3000 (ISAE (NZ) 3000); and
 - (c) state the work done by the independent auditor (including, where relevant, a statement of assurance about the estimation method used for determining the daily stock); and
 - (d) state the scope and any limitations of the audit report; and
 - (e) state the existence of any relationship (other than that of auditor) that the independent auditor has with, or any interests that the independent auditor has in, the obliged person or any of its subsidiaries; and

- (f) state whether the independent auditor has obtained the sufficient recorded evidence and the explanations that they required to complete the report and, if not, state the information and explanations not obtained; and
- (g) state whether (and if not, the respects in which not), in the independent auditor's opinion, as far as appears from their examination,—
 - (i) the obliged person has complied, in all material respects, with their minimum stockholding obligation and the requirements of this subpart relating to monthly disclosures; and
 - (ii) the information in the monthly disclosures under this subpart has been sourced from the obliged person's financial and non-financial systems and calculated by an accounting method that is of an acceptable standard; and
 - (iii) the information used in the preparation of the audit report has been properly extracted from the monthly disclosures under this subpart and other records.
- (4) For the purpose of this regulation, an **independent auditor** is a person who—
 - (a) is qualified for appointment as an auditor under the Companies Act 1993; and
 - (b) has no relationship with, or interest in, the obliged person being audited that is likely to involve the independent auditor in a conflict of interest (actual or perceived); and
 - (c) has not assisted with the preparation of monthly disclosures relating to disclosure fuel under this subpart or provided advice or opinions (other than in relation to audit reports) on the methodologies or processes used in preparing those monthly disclosures; and
 - (d) is not associated with, nor directed by, any person who has provided any such assistance, advice, or opinion in relation to the preparation of those monthly disclosures; and
 - (e) has the necessary expertise to properly prepare an audit report required by this regulation.
- (5) An obliged person must retain the audit report disclosed under subclause (2) for a period of 7 years after the date of its disclosure.

Regulation 46: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

47 Disclosure of entitlement agreements

An obliged person who is a party to an entitlement agreement must—

- (a) keep records of every entitlement agreement to which they are a party and of any material change to the provisions of any such agreement; and

- (b) disclose to the chief executive a copy of the entitlement agreement, and of any such material change, when requested by the chief executive; and
- (c) retain a copy of the entitlement agreement and material changes for a period of 7 years after the agreement has expired or has been terminated.

Regulation 47: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

48 Notice of intention to cease importing obligation fuel

- (1) An obliged person must give the chief executive at least 2 months' notice of their intention to cease, permanently or indefinitely, being a fuel importer of a type of obligation fuel.
- (2) That notice must—
 - (a) specify the relevant type of obligation fuel; and
 - (b) confirm whether the obliged person will also cease—
 - (i) to own or operate a MSO storage facility for that type of fuel;
 - (ii) to have the right to draw that type of fuel at a MSO storage facility; and
 - (c) explain the person's reasons for ceasing to be an importer of that type of fuel, to the extent that the reasons are necessary for monitoring fuel resilience or for planning and implementing the stockholding obligation; and
 - (d) provide the time frame in which the person will cease to be an importer of that type of fuel; and
 - (e) provide the details of any entity that is likely to become a fuel importer, or to take over the importation in place of the person, of the relevant type of obligation fuel.

Regulation 48: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

49 Application of this subpart to Timaru storage facility

- (1) This regulation applies, for the purpose only of the requirements in this subpart,—
 - (a) to the bulk storage facility at Fraser Street, PrimePort, Timaru that, as at the commencement of these regulations, holds fuel for Timaru Oil Services Limited (the **Timaru facility**); and
 - (b) to Timaru Oil Services Limited (or to any other fuel industry participant that becomes the owner or operator of the Timaru facility as a successor to, or a member of the same group of companies as, Timaru Oil Services Limited) (**TOSL**).
- (2) TOSL must comply with the provisions listed in subclause (3) in respect of all of the fuel held in the Timaru facility—

- (a) regardless of whether TOSL is the obliged person in respect of all of that fuel; and
 - (b) as if all of the fuel in the Timaru facility were TOSL's obligation fuel and TOSL's disclosure fuel.
- (3) The provisions are as follows:
- (a) regulation 41(1)(a), (2), and (3) (monthly records of fuel stocks for purpose of stockholding obligation):
 - (b) regulation 42(a) (monthly disclosure of fuel stocks for purpose of stockholding obligation), but only in relation to information recorded and retained under regulation 41(1)(a)(i), (1)(a)(iii) to (vi), and (2):
 - (c) regulation 42(b), but only in relation to drawings from the Timaru facility:
 - (d) regulation 44 (annual disclosure of storage capacity):
 - (e) regulation 45 (annual disclosure about assurance from board of directors):
 - (f) regulation 46 (audits), but not regulation 46(3)(g)(i).
- (4) This regulation does not limit the extent to which—
- (a) TOSL must comply with this subpart to the extent that it is an obliged person; or
 - (b) any other person must comply with this subpart to the extent that they are an obliged person in respect of fuel held in the Timaru facility; or
 - (c) TOSL or any other person must comply with this subpart in respect of other fuel or facilities.

Regulation 49: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Subpart 4—Enforceable undertakings

Subpart 4: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

50 Compliance plans included in undertakings

- (1) An obliged person that has given an enforceable undertaking under section 66 of the Act must provide to the chief executive a compliance plan related to that undertaking when requested to do so by the chief executive.
- (2) The compliance plan must be signed by at least 1 of the obliged person's directors.
- (3) The compliance plan may include the following:
 - (a) the steps and strategies the obliged person will take to achieve compliance with the stockholding obligation by the end of the period to which an enforceable undertaking applies (for example, by building more stor-

age, increasing import frequency, or adapting current business practices);
and

- (b) a description of record-keeping, reporting, and quality assurance processes during the period to which the enforceable undertaking applies.

Regulation 50: inserted, on 1 January 2025, by regulation 4 of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Schedule 1

Transitional, savings, and related provisions

r 3A

Schedule 1: inserted, on 11 February 2022, by regulation 7 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Part 1

Provision relating to Fuel Industry Amendment Regulations 2021

Schedule 1 Part 1: inserted, on 11 February 2022, by regulation 7 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

1 First disclosure of fixed wholesale contracts

By no later than 1 September 2022, a fuel importer must disclose to the Commission a copy of all fixed wholesale contracts that were in force on 11 August 2022.

Schedule 1 clause 1: inserted, on 11 February 2022, by regulation 7 of the Fuel Industry Amendment Regulations 2021 (SL 2021/432).

Part 2

Provisions relating to Fuel Industry Amendment Regulations 2022

Schedule 1 Part 2: inserted, on 1 April 2022, by regulation 7 of the Fuel Industry Amendment Regulations 2022 (SL 2022/86).

2 Information that must be disclosed in respect of first week

For the purposes of regulation 17P, **week** includes the period beginning at 12.00 am on 1 April 2022 and ending at 11.59 pm on the following Sunday.

Schedule 1 clause 2: inserted, on 1 April 2022, by regulation 7 of the Fuel Industry Amendment Regulations 2022 (SL 2022/86).

3 Information that must be disclosed in respect of transitional period

- (1) In this clause, unless the context otherwise requires,—

commencement means the commencement of the Fuel Industry Amendment Regulations 2022

transitional period means the period beginning at 12.00 am on 15 December 2021 and ending at 11.59 pm on 31 March 2022

week has the same meaning as in regulation 17N, and includes—

- (a) the period beginning at 12.00 am on 15 December 2021 and ending at 11.59 pm on 19 December 2021; and
 - (b) the period beginning at 12.00 am on 28 March 2022 and ending at 11.59 pm on 31 March 2022.
- (2) A fuel importer to whom regulation 17O(1) or (2) applies as at commencement must disclose the information referred to in regulation 17O(1)(a) to (d) and

(2)(a) to (d) in respect of each day during the transitional period, and each engine fuel to which Part 3B applies, on an indicative basis to the chief executive no later than 5 April 2022.

- (3) A wholesale supplier or distributor to whom regulation 17P(1) or (2) applies as at commencement must disclose the information referred to in regulation 17P(1)(a) to (d) and (2)(a) to (d) in respect of each week during the transitional period, and each engine fuel to which Part 3B applies, on an indicative basis to the chief executive no later than 5 April 2022.
- (4) The fuel importer, wholesale supplier, or distributor, as the case may be, must provide any corrections to the information disclosed under subclause (2) or (3) to the extent necessary to ensure that, no later than 21 April 2022, full and correct information has been disclosed to the chief executive in respect of all the matters referred to in regulations 17O(1)(a) to (d) and (2)(a) to (d) and 17P(1)(a) to (d) and (2)(a) to (d).
- (5) The fuel importer, wholesale supplier, or distributor, as the case may be, must retain the information disclosed to the chief executive under this clause for a period of 7 years after the date of the disclosure.

Schedule 1 clause 3: inserted, on 1 April 2022, by regulation 7 of the Fuel Industry Amendment Regulations 2022 (SL 2022/86).

4 Ongoing obligation to retain information disclosed under regulations 17O and 17P

- (1) This clause applies on and from the revocation of Part 3B of the Fuel Industry Regulations 2021 (as inserted by the Fuel Industry Amendment Regulations 2022).
- (2) A fuel importer, wholesale supplier, or distributor must continue to retain the information disclosed to the chief executive under regulations 17O and 17P (as so inserted) for a period of 7 years after the date of the disclosure.

Schedule 1 clause 4: inserted, on 1 April 2022, by regulation 7 of the Fuel Industry Amendment Regulations 2022 (SL 2022/86).

Part 3

Provisions relating to Fuel Industry (Fuel Resilience) Amendment Regulations 2024

Schedule 1 Part 3: inserted, on 1 January 2025, by regulation 5(a) of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

5 Transitional provision about first annual disclosures

The first annual disclosure obligation in regulations 44(2) (annual disclosure of storage capacity) and 45(1) (assurance) is due by 1 September 2025 in respect of the period commencing on 1 January 2025 and ending with 31 March 2025.

Schedule 1 clause 5: inserted, on 1 January 2025, by regulation 5(a) of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

6 Transitional provision about end of initial period

- (1) This clause applies to a fuel industry participant that is an obliged person in respect of obligation fuel on 1 January 2025.
- (2) The obliged person has no information disclosure obligation in respect of the initial period.

Schedule 1 clause 6: inserted, on 1 January 2025, by regulation 5(a) of the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212).

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 8 July 2021.

Notes

1 *General*

This is a consolidation of the Fuel Industry Regulations 2021 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (SL 2024/212)

Fuel Industry Amendment Regulations 2022 (SL 2022/86)

Fuel Industry Amendment Regulations 2021 (SL 2021/432)

Fuel Industry Regulations 2021 (LI 2021/174): regulation 17Q