

Version
as at 30 July 2023



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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Schedule 1

Transitional, savings, and related provisions

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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.

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).

Michael Webster,
Clerk of the Executive Council.

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 Amendment Regulations 2022 (SL 2022/86)

Fuel Industry Amendment Regulations 2021 (SL 2021/432)

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