

Response ID ANON-8CF8-5JAG-Z

Submitted to Core fuel sector resilience: provision of information at specified intervals
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About you

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Company Name or Organisation (if applicable)

Company or organisation name:
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Please tick one box from the list below that best describes you / your company or organisation.

Trade Association

Other (please describe)::

If you are responding on behalf of an organisation or interest group how many members do you have and how did you obtain the views of your members

Please respond here :

We have 8 full member companies and 8 associate member companies all of whom were asked to input on the content of this response.

Responses and personal details will be treated in accordance with the appropriate legislation (including but not limited to the Freedom of Information Act, the Data Protection Act and the Environmental Information Regulations). If you have any specific requests/concerns about this please state below giving your reasons:

Please respond here :

How did you hear about this consultation?

How did you hear about this consultation?:
Email from this department

Other (please specify):

Reporting of production, supply and infrastructure capacity

1 What is your view on the proposed annual reporting process for this information?

Please respond here:

As a trade association, we do not believe that Fuels Industry UK will be captured by the regulations requiring provision of information at specified intervals.

The Fuels Industry UK member companies are likely to take a number of different approaches to ensuring that data is collected and provided on a timely basis, reflecting the multiple different sizes and business models of company which will affect how much data is to be compiled, and need for internal corporate compliance signoff for some businesses.

The proposed regulations have the potential to significantly increase the reporting burden for affected companies, while the benefits of the regulation – ultimately in being able to reduce the duration of disruptions – are at best speculative and difficult to prove, and in turn call into question whether the additional reporting will have any tangible impact.

In order to ensure consistency of application of the reporting requirements, it would be helpful for DESNZ to make available a line of communication ('hotline' or equivalent) to companies who are required to share information to ask questions on submission to ensure consistency of data shared. We understand that previously, officials may have visited sites as part of the collection of data to deliver such consistency, but this appears not to be the means of delivery for the proposed regulation.

2 What is your view on the proposed information to be collected?

Please respond here :

Overall, we view that the reporting requirements could be improved in terms of their clarity for obligated operators. It would be useful to understand the exact form and level of detail the proposed information will need to be collected in to ensure common interpretation e.g. is it overall tank capacity or of individual tanks to be collected?

Assuming that the data to be compiled is overall, as we understand was the case during previous (non-regulatory) data collections, then the information generally appears appropriate, although some areas may need special consideration:

- i) Potential for duplication of data in terms of the sharing scheduled maintenance work annually, as this is already reporting – where significant - with the existing incident reporting obligation.
- ii) Annual reporting of stock may be irrelevant as stock varies significantly over short time periods.
- iii) Further consideration of how pipeline capacities are reported may be needed given that capacity can be complicated to define on multi-route, multi-product pipelines where for example one route/grade can have significantly different potential flow rates to another.
- iv) In terms of specific data highlighted, what is meant by "onward supply capability?"
- v) With reference to details of scheduled maintenance work- will this include within day operational maintenance or only where this impacts continuity of supply and how far ahead will this cover - the next 12 months only? It should be noted that while planning of such events in advance is meticulous that plans will change both up to and in some cases during such maintenance activities, so it is important that changes do not constitute new enforcement risks if the reported information ends up not being 100% correct.

There are also considerations around whether this overlaps with maintenance reporting already covered by the incident reporting requirements (already in place) and effort should be taken to avoid duplication of such reporting

- vi) Will storage capacity data be finished products only or would this include a terminal or refinery's ability to hold components for product blending?

In essence, further clarification is necessary to understand specifically how the regulations will address who is required to provide information, the information to be provided (scope and specifics) and the manner in which the information is to be provided (format etc.)

3 Do you see any issues with annual reporting in terms of cost, accuracy, or granularity of providing data?

Yes

Please respond here:

As noted in Q2, in order to properly assess this it will be necessary to see a precise proposal on the format and scope the data needs to be provided in. Without such proposals it is difficult to tell whether there will be consistent application of the regulation in terms of cost, accuracy and granularity of the data from companies.

In terms of granularity of data by grade this can change significantly for a refinery depending on how the refinery model influences production planning.

It will be important to note, even once the format and scope of the data is clarified, that there may still be some ambiguity about whether reporting is required in some instances where a company/site has a unique arrangement or asset that is not clearly specified in the guidance – given the breadth of the sector captured under these reporting requirements and the many unique business models that are operated in the sector, there should be a proportionate approach taken by DESNZ in working with companies to provide data where there is uncertainty.

4 How easy is it to collect this information and how long do you estimate it will take to gather the information?

Please respond here:

On an annual basis it will probably take at least 3-5 days work, collecting / reviewing and presenting the data , however this may depend upon the scope and format of data provision so further clarification is necessary to meaningfully assess this as noted above.

The consultation document states that information will be required from "refineries, terminals, importers, pipelines, renewable transport fuel producers and airport tank farms". Our members would welcome clarification as to whether in the case of a JV terminal operating company owned by e.g. refinery shareholders, does this mean that the JV company will itself have an obligation to provide this information in relation to its activities in addition to the shareholders

5 Are there any specific data elements that you believe are crucial to include in the reporting of production, supply, and infrastructure capacity?

Yes

Please respond here :

There are no further elements that appear to have been missed, although it is noted that some of the data for reporting appears already to be captured in existing DESNZ held reports such as the Downstream Oil Reporting System (DORS) and Compulsory Stockholding of Oil (CSO) e.g. on stocks held at refineries and terminals, which should be avoided where possible.

Wetstock management data and forecourts

6 What are the reasons that forecourts do or do not subscribe to wetstock management companies?

Please respond here :

Cost considerations will likely be the main reason as it requires investment in infrastructure (gauges, wet stock monitoring system potentially a subscription for services.) Single forecourt operators on smaller forecourts might not see the benefits of such systems as large as multi-forecourt operators.

7 For independent forecourts over the 1,000 tonne threshold in s276, which lack wetstock management facilities, what feasible reporting alternatives can be developed that provide relevant insights without imposing excessive costs and administrative burdens?

Please respond here:

Those forecourts would either need to do:

- manual dipping of their tanks and submit the readings manually
- manually calculate their stock levels based upon sold, delivered and in stock volumes and submit manually
- manually measure tank levels and calculate stock levels and submit readings manually

All of the above are manual alternatives can, we believe be executed without much cost or administrative burden if they are one offs or requested sporadically. For constant regular submission of data a wet stock management system is necessary. However each operator should by default have a good understanding of his stock levels and hence be able to provide requested levels within a reasonable timeframe.

Haulier information

8 What are your views on the proposed categories of information?

Please respond here :

Not applicable to Fuels Industry UK or its members.

9 Is there any additional information, beyond the categories outlined above, that would improve the completeness of the data you provide and give a better overall picture of your operation?

No

Please respond here :

Not applicable to Fuels Industry UK or its members.

10 Is the current annual data collection timeframe in August and return deadline in September suitable for the industry's operational dynamics?

No

Please respond here :

Not applicable to Fuels Industry UK or its members.

11 Are there any challenges with this timeline?

No

Please respond here :

Not applicable to Fuels Industry UK or its members.

Failure to provide information at specified intervals

12 Do you have any views on the proposed details of offences for failure to comply with requirements under the Regulations to provide information at specified intervals?

Yes

Please respond here :

We do not agree that a criminal sanction (imprisonment) is appropriate for this type of administrative legislation. We believe a financial sanction to the company would be much more appropriate and aligned to that in other regulations in the energy industry.

The lack of a statutory limit on the maximum fine is an unreasonable risk on businesses in England and Wales and should be limited at a level in line with the limited benefits of the measures being considered i.e. the impact assessment shows that the maximum benefit to society is small, so the potential for an unlimited fine is disproportionate. As a minimum, the threshold should not be higher than the maximum in Scotland and Northern Ireland.

We note that the provisions for prison terms are intended to be consistent with other offences of a similar nature, however, as noted at previous stages of consultation, the application of the Core Fuels measures on persons who are not part of senior corporate governance e.g. 'managers' is not consistent with other legislation and represents a high level of risk on individuals who may not have suitable power or influence over their business to fairly be held accountable.

13 Do you have any other comments on the proposals set out in this document?

Yes

Please respond here :

Impact Assessment:

We would note that the impact assessment is built on somewhat speculative assumptions making the link between information provision to HMG and the impact of supply incidents being reduced. It is for example unclear, how the resilience studies and impact assessments that the consultation notes could be produced with this new information will reduce supply shortfalls - despite the conclusion that the use of this power "could reduce the duration of a Consumer Disruption Event....by up to one day, with a corresponding economic benefit of between £5-21million" [now updated to £24.4million in the revised IA]. Given that the information reported will not be shared with companies due to its commercially sensitive nature, the reduction in duration of the event must be due to changes / improvements in government's decision making that derive from the additional information they will hold, which again is not clearly set out. Given the weakness of the assessment, it underlines the importance of a proportionate use of the powers by HMG.

Ensuring the proposals are understood and correctly applied:

Given the challenges of producing a single piece of guidance for the sector which itself can be - and is in the above - broken down into a number of subsectors, Fuels Industry is happy to help facilitate a session(s) to help ensure common understanding and consistency of reporting once the finalised guidance is issued.