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Ministry of Business, Innovation and Employment
By email: ResourcesGasFuel@mbie.govt.nz

Submission on the Fuel Industry (Fuel Resilience) Amendment Regulations 2024

Introduction

1. Energy Resources Aotearoa is New Zealand's peak energy advocacy organisation. Our purpose is to enable collaboration across the energy sector through and beyond New Zealand's transition to net zero carbon emissions in 2050.
2. This document constitutes our submission on the Fuel Industry (Fuel Resilience) Amendment Regulations 2024 (the Regulations), which will be inserted into the Fuel Industry Regulations 2021 and create new requirements for obligated fuel importers to comply with the Minimum Stockholding Obligation, which comes into effect on 1 July 2024.

Background

3. In June 2023, we submitted to the Economic Development, Science and Innovation (EDSI) Committee on the Fuel Industry (Improving Fuel Resilience) Amendment Bill, recommending that the Bill not proceed.¹
4. We made that recommendation on the basis of New Zealand not having a proven fuel security problem beyond what the fuel industry can already respond to effectively; and that the Bill would impose unnecessary costs and introduce investment uncertainties.
5. We also recommended several ways to improve the Bill, should it succeed, which it since has. We are pleased that some of the suggested improvements were taken forward into the final.

¹ Our submission presented to Select Committee is available here: [Submission - Fuel Industry \(Improving Fuel Resilience\) Amendment Bill \(energyresources.org.nz\)](https://energyresources.org.nz)

6. In that same spirit, this submission makes some suggestions to improve the draft regulations and achieve a more workable, pragmatic, and efficient monitoring system to support the Mandatory Stockholding Obligation regime.

A note on process

7. With such important consultations, interested parties need adequate opportunities to engage with the detail and process and prepare meaningful submissions. It is disappointing that:
 - a. again, a consultation that affects the fuel industry has taken place over the Christmas and new year period when many people are unavailable;
 - b. such a narrow lens was applied to who should be consulted. It is not unreasonable that peak bodies might expect to be included in consultations that directly affect their members; and
 - c. having received the consultation documents so late, we have not been given the courtesy of a fair and reasonable timeframe in which to develop and put forward our thoughts on this consultation.
8. We do appreciate that timing pressures are largely due to Ministerial prerogatives and the delays in the formation of the new Government. We intend to continue in collaboration with you and the sector to develop an effective set of regulations.

Recommendations

9. On substantive matters, we recommend:
 - a. you seek to immediately extend the timeframes for implementation to give fuel importers sufficient time to make the necessary investments;
 - b. a staged approach to implementation, to allow more time for preparations;
 - c. removal of the requirements for granular monthly reporting and independent audits, which only duplicate effort and show a lack of trust when there is already a high level of rigour applied to the data; and
 - d. a complete review of all the reporting requirements through regulations that the fuel industry must comply with. The Fuel Industry Act and its amendments have been introduced individually over the last three years and the requirements are now unclear and cannot be accessed in one place. This makes them difficult and costly to comply with.

10. On technical provisions, at a high-level we recommend:
 - a) requiring only critical information disclosures;
 - b) monitoring of medium to longer term trends;
 - c) making available easy-to-use templates and online forms;
 - d) removing any requirement that leads to double auditing;
 - e) requiring only aggregated national level stock data; and
 - f) providing clarity about third party stocks.
11. On these matters we refer you to the expert and technical advice you have and will continue to receive from the interested parties consulted.

Submission

Excessive compliance burden could undermine the policy intent

12. These regulations constitute monitoring and compliance requirements for the MSO. While important, by nature they will incur additional expenses for systems and IT, human labour, storage, legal and contract fees, audit fees, and taxpayer-funded support for the monitoring and compliance within MBIE. These costs are not minor. It is essential that requirements are kept to a minimum and are made easy to comply with.
13. Feedback from fuel industry parties we have spoken with strongly suggests the current draft of the regulations goes too far in requiring excessive detail with reporting that is too frequent. Moreover, the feedback suggests that such onerous requirements not only add to the burden of the substantial investments already required to provide additional stock storage for the MSO, but could further undermine the policy intent of improving fuel resilience.
14. Potential consequences could lead participants to rationalise their businesses, making fuel less economic to supply to remote parts of the country and leaving smaller markets with less access to fuel. It could also reduce competition, if participants find the regime and its compliance measures too costly and withdraw from the market. Any of these would leave consumers worse off.

Conclusion

15. Thank you for the opportunity to provide feedback on these regulations. We are concerned the condensed timeframes do not allow for adequate consultation and preparation. We welcome further collaboration on these matters.