



Department for
Business, Energy
& Industrial Strategy

DOWNSTREAM OIL SUPPLY RESILIENCE

Proposals to strengthen the resilience of
fuel supply to UK consumers



October 2017

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The Consultation Document and Impact Assessment can be found on the BEIS section of GOV.UK: <https://www.gov.uk/government/consultations/downstream-oil-supply-resilience>

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Any enquiries regarding this publication should be sent to us at downstreamoilteam@beis.gov.uk

Ministerial foreword

The Government are committed to ensuring a secure and reliable energy supply. While decarbonisation of our transport system is moving forward, oil-based fuels are currently the UK's main source of energy, and supplied over 40% of the UK's final energy demand in 2016. Ensuring fuel continues to flow is therefore an essential part of our work.



The downstream oil sector manages the import, refining, storage, distribution and retail of petrol, diesel, aviation, heating fuels and other petroleum products, and ensures that fuel supplies are always available for use across the UK. The sector is efficient, flexible and generally effective in ensuring continuity of fuel supply. However, it is also responding to global market factors and, as it changes, the ability of the UK supply system to protect the continuity of fuel supplies and be resilient to disruptions needs to be maintained.

The Government is consulting on proposals that would support improvements to fuel security through what is hoped to be a light-touch but effective package of measures appropriate to this energy sector. Our proposals include closer monitoring by the Department for Business, Energy and Industrial Strategy of the fuel supply chain, and support for the industry to work collaboratively to provide alternative supply routes during an unexpected disruption.

I would welcome your views on whether the proposals included in this consultation document will best help us to deliver worthwhile improvements towards our aim of secure and reliable energy supplies, while maintaining a competitive downstream oil supply market, and your ideas as to how these proposals can be improved.

A handwritten signature in black ink that reads "Richard Harrington". The signature is written in a cursive style.

RICHARD HARRINGTON
MINISTER FOR ENERGY AND INDUSTRY

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General information

Purpose of this consultation

The purpose of this consultation is to gain a formal view from industry and other interested parties on the Government's proposals for improving the petroleum fuel supply resilience in the United Kingdom (UK).

As part of this consultation, you should not share commercially sensitive information (including, but not limited to pricing information). This consultation will not require any action that any party considers to be in contravention of any applicable law. Participants should be mindful of commercial, political and any other relevant sensitivity.

Issued: 17 October 2017

Respond by: 12 December 2017

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Territorial extent:

Measures are proposed for the UK. Note that the proposed initial industry-wide measure (see [Section 3.1](#)) would be a reserve tanker fleet which would be for Great Britain only.

How to respond

Your response will be most useful as a direct response to the questions posed, though further comments and evidence are also welcome. Please respond to this consultation by following the link below.

Web link: <https://beisgovuk.citizenspace.com/civil-nuclear-resilience/downstream-oil-resilience>

All consultation questions are consistently formatted throughout the consultation document as shown here. Question numbering presented in this document is that same as those listed on the Citizen Space site.

Additional copies:

You may make copies of this document without seeking permission. An electronic version can be found at <https://www.gov.uk/government/consultations/downstream-oil-supply-resilience>.

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on the [GOV.UK website](#). This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the [Government's Consultation Principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

enquiries@beis.gov.uk

Executive Summary

BEIS is consulting on possible new measures to maintain the security of fuel supply to consumers. The proposed measures would apply to companies operating in the downstream oil sector and form part of a wider package of proposed reforms to Government's approach to the protection of critical infrastructure.

These proposals are consistent with the Department's objective of ensuring that the UK has secure and reliable energy supplies and our ongoing work with the sector on fuel supply resilience.

This consultation seeks views on proposals to improve fuel supply resilience in the following areas:

- **Monitor:** to enable BEIS to collect information from the downstream oil sector to better understand the impact of potential disruptive events, and to use the information to support industry in improving fuel resilience.
- **Protect:** to align this sector with protections that apply in other critical service sectors, by enabling Government to ensure that new owners of critical fuel infrastructure are financially sound and operationally capable; and to take a Government spending power to enable Government to support supply resilience improvements and schemes.
- **Insure:** to enable industry to create and operate collective, sector-wide industry-led schemes to maintain fuel supply in case normal supply arrangements are seriously disrupted; and a power to direct individual companies to participate in such schemes and take other action that may be necessary to ensure resilience.

Introduction

Background

Our Objective

BEIS is consulting on possible new measures to maintain the security of fuel supply to consumers. The proposed measures would apply to companies operating in the downstream oil sector and form part of a wider package of proposed reforms to Government's approach to the protection of critical infrastructure.

These proposals are consistent with the Department's objective of ensuring that the UK has secure and reliable energy supplies and our ongoing work with the sector on fuel supply resilience.

- **The downstream oil sector** refers to any persons involved in any part of the: import, supply, storage, distribution and or retail of petroleum and or petroleum products, into or within the United Kingdom.
- **Fuel supply resilience** is defined for the purposes of this consultation as: the ability of the downstream oil sector to protect against, react to, and recover from any fuel supply disruptions; in order to ensure the reliable and continuous supply of fuel across the UK.¹

The sector is subject to a robust regulatory regime for safety and environmental protection but, unlike other energy sectors, there are few regulatory requirements regarding the economic operations of the critical infrastructure and processes that supply fuel. Nevertheless, transport and heating fuels are essential to the functioning of our economy and our daily life. BEIS proposes to work within the existing free-market structure of the industry to improve fuel supply resilience in three main areas:

- **Monitor:** to enable BEIS to collect information from the downstream oil sector to better understand the impact of potential disruptive events, and to use the information to support industry in improving fuel resilience.

¹ In the event of an emergency or threat of an emergency that would cause fuel supply disruption, BEIS' civil contingency planning process aims to ensure that an appropriate response will be taken by all necessary parties.

- **Protect:** to align this sector with protections that apply in other critical service sectors, by enabling Government to ensure that new owners of critical fuel infrastructure are financially sound and operationally capable; and to take a Government spending power to enable Government to support supply resilience improvements and schemes by the sector.
- **Insure:** to enable industry to create and operate collective, sector-wide industry-led schemes to maintain fuel supply in case normal supply arrangements are seriously disrupted; and a power to direct individual companies to participate in such schemes and take other action that may be necessary to ensure resilience.

Sector context

The downstream oil sector comprises over 200 companies involved in the refining, importing, distribution and marketing of petroleum products. The sector plays a key role in our energy security, supplying products that are vital to our economy and way of life². In particular petroleum-based fuels provide 98% of the energy for the transport sector³. Furthermore, the sector estimates it supports the employment of over 150,000 people and contributes to around 7% of the Exchequer's total receipts⁴.

The UK market for petroleum products is a mature market facing a long-term **reduction in demand⁵, changing patterns of demand⁶ and high levels of global competition**. The consequence has been:

- fragmenting supply chains with major oil companies, which used to run vertically integrated well-to-pump operations, divesting themselves of categories of assets or outsourcing some operations;

² The main source of fuels consumed in the UK being petroleum products (45%), followed by natural gas (31%) and electricity (19%) (Table 1D).

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/633776/DUKES_2017.pdf

³ Department for Transport statistics, Table TSGB0302 (ENV0102)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/567896/env0102.ods

⁴ UKPIA Statistical Review 2016 <http://www.ukpia.com/docs/default-source/default-document-library/statistical-review-2016.pdf?sfvrsn=0>

⁵ UK annual consumption down 14.8% from 2005 (78217 thousand tonnes of oil equivalent) to 2015 (66651 thousand tonnes of oil equivalent) – Digest of United Kingdom Energy Statistics 2016, Table 1.1.2.

<https://www.gov.uk/government/statistics/digest-of-united-kingdom-energy-statistics-dukes-2016-main-chapters-and-annexes>

⁶ Total output of UK refineries is 60 Mt, but we export 24 Mt on a product basis (Table 3.5) i.e. UK imports diesel and aviation fuel and exports petrol. This in part is due to the increased proportion of diesel cars purchased and rising demand for air travel.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/633776/DUKES_2017.pdf

- relatively high utilisation rates and closures of capacity in the available infrastructure. For example, currently there are six UK oil refineries, down from a high of 19 in 1975, and the number of filling stations has declined from around 18,000 sites in 1990 to nearly 8,500 now; and,
- the market expectation is that the continued improvements in vehicle fleet efficiency and the development of electric vehicles will continue to produce a long-term reduction in demand for transport fuels and change in the product mix. Global expansion of refining capacity also affects the UK and European fuel sector by reducing margins in the domestic and export markets.

Previous work with the sector

BEIS works collaboratively with the industry on issues relating to UK fuel supply resilience. There have been a number of joint activities, events and consultations with the sector in recent years.

The **IHS Purvin and Gertz study in 2013**⁷ describes how there are certain regions and vital product categories where risk factors are characterised as high with the potential for business and supply disruption.

In 2014, a Midstream Oil Sector Government and Industry Taskforce was set up following an extensive Government review of the sector in the wake of the insolvency and closure of the Coryton refinery in 2012. The Taskforce's work had three themes: (1) a partnership approach with industry, (2) addressing market distortions and (3) consideration of the regulatory burden the sector carries.

As one of its conclusions the Taskforce identified the need for a greater understanding of the resilience of the country's fuel supply chain and the risk that rationalisation of infrastructure could erode our downstream oil resilience over time. It recognised this risk could result in short term disruptions to fuel supplies if key domestic infrastructure were unexpectedly threatened. Government undertook to continue to consider measures to support fuel supply.

⁷ IHS Purvin and Gertz, 2013, The role and future of the UK refining sector in the supply of petroleum products and its value to the UK economy. <http://www.ukpia.com/docs/default-source/publication-files/therolefutureoftheukrefiningsector.pdf>

Conclusions of the Midstream Oil Sector Government and Industry Taskforce

“infrastructure is stretched and has become increasingly vulnerable... further closures would put increased strain on an already stretched infrastructure.”

Government “now has the tools to assess resilience, understand where the pinch points are and evaluate options to address them.”

As part of these discussions, the Department of Energy and Climate Change (DECC - now BEIS) initiated two studies: an independently delivered study of international oil market shocks and an internal resilience study (discussed further in the box below - [Evidence base on resilience](#)), which were completed in 2015.

Industrial strategy

Government aims to upgrade infrastructure to ensure that services are resilient. Resilient infrastructure, fit for our long-term needs is vital to economic growth. Proposals to improve resilience will support the wider industrial strategy and Government’s approach for critical infrastructure.

Action underway to upgrade infrastructure include:

- a commitment to spending £2.5 billion by 2021 on improving flood defence and resilience. The 2016 National Flood Resilience Review sets out our expectations of key infrastructure providers to ensure assets are flood resilient, minimising the impact on immediate and wider communities and business;
- a £1.9 billion investment to transform the UK’s cyber security. The 2016 National Cyber Security Strategy set out how we will work to assess the level of cyber security across our critical national infrastructure and have measures in place to intervene where necessary to drive improvements that are in the national interest;
- the Infrastructure and Projects Authority will lead a new review to identify ways the Government, working with industry, can improve the quality, cost and performance of our infrastructure.

Evidence base on resilience

DECC (now BEIS) undertook an internal research project in 2014-15, which examined evidence of UK fuel supply system resilience. The research findings took account of information supplied by many fuel companies

Findings of the Government's infrastructure review

- There are a number of major GB infrastructure sites which are critical to regional fuel supply because other local infrastructure is too small to step up to replace them if they cease supply.
- Supply chains are very dynamic and can adjust to disruption at these sites over weeks but not immediately.
- The key constraint is the limited logistics capability within the country to supply end users – not a national lack of access to fuel from refineries or imports.
- A sudden failure at such a site could not be compensated for immediately and fuel shortages could occur within days.
- There is a market failure in that while individual suppliers invest strongly in the resilience of their own supply chain, there is no mechanism for them to share the costs of system resilience as a whole.

Following this work, BEIS has since procured a reserve capability of 80 road tankers to provide additional logistics resource in the event of an emergency (detail in [Government contingency arrangements](#)).

BEIS continues to work closely on this agenda with all the UK's downstream fuel trade associations, relevant Government Departments and regulators. Separate groups meet to discuss the potential impacts of new policies, cyber security and resilience. BEIS also engages regularly with companies obligated to hold emergency oil stocks.

Disruption / loss of resilience case studies

There are a number of inherent risks to fuel infrastructure, including accidents, severe weather, malicious threats, industrial action, and financial failure. As in other important sectors like this, Government works with fuel suppliers to mitigate such risks. However, not all risk can be prevented. Below, we set out indicative examples of the costs of various lengths of disruption affecting two major types of infrastructure, and outline some examples of previous supply disruptions that resulted in a shortage of fuel to consumers.

Potential Economic Impact of Supply Disruptions (£M in 2015 prices, using Oil Intensity Ratio in 2019) ⁸

(£M)	3 day disruption	6 day disruption	10 day disruption
Refinery or large terminal	100-500	200-950	350-1600
Smaller Terminal or Jetty	50-200	100-450	150-750

Coryton insolvency - This refinery, situated on the Thames Estuary in Essex, was purchased by Petroplus from BP in 2007. In January 2012 Petroplus announced that it had filed for bankruptcy. PWC were appointed as administrators and operated the site until February 2013 when it was sold for conversion to an import terminal. The closure has resulted in a reduction in storage and logistics capacity, which is spread across fewer assets in the South East. Fuel (diesel only) supply to the UK retail market has recently restarted following a four year interruption.

⁸Further information on BEIS' approach to estimating disruption impacts can be found in the Impact Assessment here: <https://www.gov.uk/government/consultations/downstream-oil-supply-resilience>.

Buncefield Explosion

In December 2005, a number of explosions occurred at Buncefield oil storage depot (Hemel Hempstead, Hertfordshire), causing a fire that destroyed most of the site. In terms of fuel supply, the immediate impact was the rationing of aviation fuels, achieved through NOTAM⁹ on airlines using Heathrow, with severe implications for long-distance carriers. Fuel suppliers increased their supply by other routes and airlines carried extra supplies on inbound flights but systematic rationing continued for some time. The cost to the aviation industry was estimated at around £250 million¹⁰.

For road fuels, the response to this disruption highlighted the downstream oil sector's flexibility. After the initial supply shock, suppliers moved quickly to put alternative routes in place and this prevented long-term impact to fuel supplies. The risk of a similar type of disruption today has been much reduced by the introduction of the COMAH Regulations on containment and safety^{11, 12}.



⁹ Notices to Airmen (NOTAM) cover short duration or temporary changes or short notice permanent changes. They contain information concerning the establishment, condition or change in any aeronautical facility, service, procedure or hazard, the timely knowledge of which is essential to personnel concerned with flight operations.

¹⁰ <http://www.hse.gov.uk/comah/buncefield/miib-final-volume1.pdf>

¹¹ <http://www.hse.gov.uk/comah/guidance.htm>

¹² Image source: Robert Stainforth, Sunday 11 December 2005, Buncefield Oil Fire Explosion. Smoke from the blast, visible from Hemel Hempstead.

Industrial action

In June 2008, a dispute involving 650 tanker drivers delivering to a fuel company's retail sites led to a strike which lasted 4 days. As well as affecting the delivery of 10-12% of GB road fuel demand, pickets at 14 terminals impacted third party operations as well, resulting in fuel shortages in some areas.

In Spring 2012 around 2,000 petrol tanker drivers working for five major fuel distributors voted in favour of strike action. After talks at ACAS, the dispute was settled but not before queues of motorists concerned at the risk of a fuel shortage had formed outside petrol stations.¹³



Supply disruptions – questions to consider

1. Consultees are invited to provide further information on the expected cost of fuel supply disruptions. BEIS' analysis of potential economic impacts is discussed further on Page 15 of the Impact Assessment.
2. Consultees are invited to provide comment and evidence on the likelihood for loss of operations or financial failure resulting in loss of supply. BEIS' analysis of risk is discussed on Page 11 and 12 of the Impact Assessment.

¹³ Image source: Hywel Williams, September 2000, Ham Hill filling station

Cyber security

Cyber security is one of Government's top national security priorities. BEIS continues to work with government departments and agencies, as well as with industry partners, to ensure that the risks to the energy sector are understood and that appropriate mitigations are implemented. In the National Cyber Security Strategy¹⁴, Government committed to ensuring that the right regulatory framework for cyber security is in place, one that:

- ensures industry acts to protect itself from the threat;
- is outcome-focused and sufficiently flexible that it will not fall behind the threat, or lead to minimum compliance rather than sound risk management;
- is agile enough to foster growth and innovation, rather than lead it;
- is harmonised with regimes in other jurisdictions so that UK companies do not suffer from a fragmented and burdensome approach; and
- delivers, when combined with effective support from the Government, a competitive advantage for the UK.

Government assesses that the limited regulatory framework currently in place for the downstream oil sector (see [current legislation and controls](#)) may not be sufficient to ensure that industry will take appropriate and proportionate action to protect itself against the cyber threat to fuel supplies. Transposition of the Security of Network and Information Systems Directive (“the NIS Directive”) will introduce new requirements for operators in the sector. The Department for Digital, Culture, Media and Sport (DCMS) have published a consultation¹⁵ on the Government’s proposed approach to the implementation of the NIS Directive, which will come into effect from May 2018, and will introduce a number of security and incident reporting requirements on essential service operators across the energy sector.

Given cyber security is a rapidly evolving domain, any framework put in place to manage cyber risks must be flexible enough to allow for the modification and adaptation of guidance in response to an evolving technological and threat

¹⁴ See the full National Cyber Security Strategy here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/567242/national_cyber_security_strategy_2016.pdf

¹⁵ Consultation on the Security of Network and Information Systems Directive

<https://www.gov.uk/government/consultations/consultation-on-the-security-of-network-and-information-systems-directive>

environment. The resilience legislation covering cyber security will therefore need to allow for appropriate guidance and advice to be provided and to evolve with time.

It is BEIS' intention that the measures proposed in this consultation will, where possible, meet both the regulatory framework principles set out in the National Cyber Security Strategy, and our obligations under the NIS Directive.

The market failure

As already noted, **the UK fuel supply sector is flexible and efficient in dealing with most disruptions to their normal supply chain**. Suppliers take resilience very seriously and respond well to day-to-day incidents. However, major and sudden problems, including some of the examples above ([disruption case studies](#)), may be beyond the capacity of an individual supplier to fix, and fuel shortages can occur before alternative supply routes can be implemented.

A number of features of the market and wholesale fuel supply contracts make it difficult for individual suppliers to take action on risks which are outside their control:

- fixed-term supply contracts have a formulaic approach to pricing, set with reference to a traded international wholesale price plus a fixed margin. This means suppliers and wholesalers are unable to increase prices if the logistical costs of maintaining supply exceed their expected margin;
- when their ability to supply is constrained, it is normal practice for suppliers to put their customers “on allocation”, that is to make available only a proportion of the headline volume specified in the contract. In general this approach will prioritise long-term, specified-volume contracts over spot purchases, which will not be available. This works to produce a fair distribution of reduced volumes among existing contracts but may not address a fundamental shortfall in supply;
- in extreme circumstances where suppliers are unable to meet their customer demand they can invoke *force majeure* clauses to terminate the contracts, usually without financial penalty. The disincentive to declaring *force majeure* is significant, e.g. the loss of customer service and reputation, but if all other wholesalers lifting from a failed terminal are in a similar position this cost may be minimal;
- there is no mechanism for suppliers to share the costs of action on common risks or system resilience as a whole.

Industry's management of risk

There is no central authority or mechanism in the downstream oil supply system by which supply capacity can be assessed. Instead, supply capacity is determined by individual enterprises, and capacity investment and rationalisation is driven by competition. In a competitive market place, participants may not know the supply capability of their competitors or, consequently, the system as a whole. From discussions BEIS has held with industry, there were several features of the companies' approach to managing risk that give us cause for concern when we consider resilience to lower probability but high impact risks.

To maximise return on their investments, companies must strive to maximise utilisation of their assets as no revenue is generated by maintaining excess supply capability that is not utilised. Spare capacity results from historical investments and infrastructure upgrades, which at the time may have been commercial but are now no longer fully utilised due to changing market conditions. It is this spare capacity that acts as system resilience, or a buffer, to fuel supply disruption – therefore rationalisation and efficiency measures to minimise redundancy result in reduced system resilience.

In a prolonged disruption the supply chain will reorganise and supply fuels from more distant locations, but this will necessarily take time in terms of contractual renegotiation and procurement of logistics capacity such as additional road tankers or capital investment. This can leave a transitional period in which wholesalers are unable to fulfil their contractual obligations to supply and the impact of a shortage of supply would be borne by the consumer and the wider economy.

In terms of cyber security, industry currently manage this risk as they would any other risk, however not all industry participants view the cyber threat in the same way, nor have best practices in place to mitigate the risk. We have been working with industry to improve their resilience to the cyber threat and will continue to do so, with the implementation of the NIS Directive providing an additional framework within which cyber concerns can be addressed.

Current legislation and controls

Government's powers to monitor sector risks, support industry in improving fuel supply resilience and protect fuel supply are currently limited in scope (for example, under the Offshore Safety Act 1992) or, more often, are only available for use during an emergency or crisis situation. In many cases, powers to direct do not allow Government to act in advance to prevent a problem occurring. Existing powers are outlined below:

- **Energy Act 1976:** Government has wide powers to regulate or prohibit the production, supply, acquisition or use of petroleum products, fuel or electricity where: “there exists or is imminent...an actual or threatened emergency affecting fuel or electricity supplies”.
- **Offshore Safety Act 1992:** powers that allow directions to be given: “for preserving security of petroleum and petroleum products”. The power of direction is limited to security purposes, and can only be used in relation to refineries, or terminals that receive crude oil directly or indirectly from a UK offshore installation.
- **Civil Contingencies Act 2004:** powers for government to make emergency regulations to deal with actual or threatened emergencies where, for example, there is a serious threat to human welfare arising from disruption to the supply of money, food, water, energy or fuel, or a threat to communication or transport systems.
- **Enterprise Act 2002:** power for Government to intervene in relevant mergers on national security (which can include security of supply), financial stability or media plurality grounds. In order to be able to intervene, turnover or share of supply tests must be met.

Fuel supply resilience solutions and overall proposed approach

In response to threatened fuel supply disruptions in recent years, Government has developed contingency arrangements to ensure continued fuel supply in the event of a disruption, the costs of which fall on taxpayers.

The National Emergency Plan for Fuel is part of Government’s suite of contingency planning for critical services. It sets out the Government’s overall approach to maintaining continuity of supplies of fuel, and crisis measures to protect emergency services and other priority users if supply cannot be maintained. Measures that Government can take to support supply include:

- relaxing competition rules to enable suppliers to agree collective action, in order to support the development of alternative supply routes;
- making the case to relax limitations on fuel tanker drivers’ hours, in order to increase the capacity of the distribution system;
- authorising the use of reserve road tankers, to provide extra capacity to the market and enable longer supply routes;

- ordering the release of compulsory oil stocks during an international shortage of fuel; and
- as a last resort, deploying military tanker drivers, to maintain fuel deliveries, including to enable use of the reserve tanker fleet if necessary.

While these measures cannot prevent problems occurring, they provide substantial protection against the impact of major and sudden supply disruptions. Some, such as compulsory oil stocks, are managed by major fuel suppliers. Others schemes, such the reserve road tanker fleet capability which Government procured in 2016 would be more efficiently and more appropriately managed by the industry.

In considering how best to manage the risks identified above, a number of options have been considered by Government.

Status Quo

Doing nothing exposes the UK market to real, though low probability, risks with large economic and social consequences if they were to materialise, as set out above ([disruption case studies](#)). The impacts of these risks ultimately fall upon the economy and individual consumers to bear. The government does not feel that this is an equitable distribution of risk in an economy and society which has to work for all.

Voluntary approach

We have had a number of discussions with trade associations and individual companies about our analysis of downstream oil resilience and the possible future policy responses. In these meetings major suppliers expressed the view that statutory backing would be needed to deliver any further industry-wide approach to resilience.

Fully regulated sector

Another option that has been considered is regulation of the sector to create a licensing regime and a new regulatory body to enforce standards and mandate resilience solutions. As outlined above, this is the model which applies to gas and electricity, telecoms and water sectors among others. Unlike these networked sectors, however, there is no natural monopoly in the downstream oil

sector and therefore the rationale for an economic regulator of this type is missing. Indeed the evidence is that the sector is highly competitive across most of the national market¹⁶. The UK has some of the lowest pre-tax fuel prices in the EU¹⁷ and we want consumers to continue to benefit from this. **Government therefore has no intention to introduce economic regulation in the sector.**

The proposed approach

Our proposed approach is to put in place a **small number of light-touch measures** which provide Government with the tools to identify fuel supply risk and support industry in insuring fuel supply resilience, with further back-stop powers to protect fuel supply resilience when required. These measures are designed to work with the structure of the fuel supply market and are set out in the following sections.

Sanctions

In order to ensure full compliance, the proposed measures described in the following sections will require sanctions for non-compliance. BEIS would only pursue sanctions as a last resort following engagement with the relevant persons. Options for enforcement provisions will be dependent on the severity of the breach, and may attract civil financial penalties and / or in exceptional circumstances, a criminal offence that may lead to the prosecution of an individual (e.g. a director, manager, secretary or other of the company). For example, knowingly providing fraudulent or misleading information may result in criminal prosecution.

¹⁶ UK petrol and diesel sector: An OFT Call for Information, 2013
<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.of.gov.uk/OFTwork/markets-work/othermarketswork/road-fuel-CFI/>

¹⁷ <https://ec.europa.eu/energy/en/data-analysis/weekly-oil-bulletin>

Proposals for new measures to improve UK fuel resilience

The following sections describe proposed measures to improve UK fuel resilience. BEIS's objective is to allow Government to:

- **Monitor:** to enable BEIS to collect information from the downstream oil sector to better understand the impact of potential disruptive events, and to use the information to support industry in improving fuel resilience.
- **Protect:** to align this sector with protections that apply in other critical service sectors, by enabling Government to ensure that new owners of critical fuel infrastructure are financially sound and operationally capable; and to take a Government spending power to enable Government to support supply resilience improvements and schemes.
- **Insure:** to enable industry to create and operate collective, sector-wide industry-led schemes to maintain fuel supply in case normal supply arrangements are seriously disrupted; and a power to direct individual companies to participate in such schemes and take other action that may be necessary to ensure resilience.

General approach to protecting fuel supply resilience – questions to consider

3. General approach: Do you agree that a package of light-touch measures is the best approach to improving UK fuel supply resilience? If not, please state which approach you consider to be most appropriate, and why. Please provide evidence for any alternative measures and on the scope for voluntary action or full regulation of the sector (as discussed on Pages 7 to 8 of the Impact Assessment).
4. General approach - wider impacts: Please provide further evidence on the costs to small and micro businesses. Wider impacts are discussed further on Pages 34 to 36 of the Impact Assessment.
5. General approach - wider impacts: Please provide further evidence on the distribution of impacts, discussed on Page 36 of the Impact Assessment.
6. General approach - wider impacts: Please provide further evidence on the impact of proposals on competition. This is described on Page 36 of the Impact Assessment.

1. Monitoring fuel supply resilience

BEIS is seeking to ensure it has the full range of necessary powers to ensure it can collect information from the downstream oil sector to better understand risks to fuel supply, and to use the information to support industry in improving fuel resilience. The intended scope of this regime is set out below.

Rationale for an information reporting measure

BEIS is the only body that has an overarching view of the entire downstream oil supply system. As already noted, individual companies and operators understand their own infrastructure and supply chains but, due to commercial sensitivity and competition law constraints, companies are unable to disclose information to each other on supply capabilities or contingency planning.

BEIS monitors the downstream oil supply chain through regular dialogue with industry, through information submitted to us on a voluntary basis, and through compulsory statistical submissions. This information is used to identify pinch points which may give rise to disruptions, to develop contingency plans and to support decision-making during an emergency. In order to understand the ability of infrastructure assets to increase or maintain supply in the event of a disruption event, BEIS needs to be able to look at the aggregated supply requirements across all companies. Without a complete, accurate and holistic view of the downstream oil system, there is a risk that Government cannot support industry in responding to a disruption in an effective and timely manner - leading to disruption that could have been avoided if better managed. There is also a risk that Government will overestimate the scale of a potential disruption and require industry to take disproportionate mitigating actions.

Existing Powers

Currently, there is no overarching legal requirement for downstream oil sector companies to supply regular data or information to Government for the purposes of fuel supply resilience. There are several acts which Government can call upon for some of this information to be submitted under certain scenarios, these include the Statistics of Trade Act 1947¹⁸ and directions to companies given under the Energy Act 1976. However, there is currently no obligation on companies to supply regular information to Government specifically for fuel resilience purposes.

¹⁸ Statistics of Trade Act, 1947, Section 1 <http://www.legislation.gov.uk/ukpga/Geo6/1011/39/section/1>

Companies are already required to supply to Government some of the information we seek under existing UK and EU legislation for tax, Compulsory Stocking Obligation and official statistical purposes. All UK refiners and importers with a supply in excess of 50,000 tonnes over a twelve month period are required to submit information via the Downstream Oil Reporting System or the Oil Stocking System. The UK is required to report on stockholdings to the European Union¹⁹ under Directive 2009/119/EC and to the International Energy Agency. It also has to comply with the requirement to collect energy statistics under EC Regulation No 1099/2008²⁰.

Voluntary approach

The Department has attempted to monitor downstream oil resilience through voluntary information reporting; however this has had limited success. For example, DECC requested information from the sector on the supply, demand and resilience of the UK supply system as part of the Downstream Oil Resilience Study in 2014/15 discussed above. The response from industry and trade associations was mainly positive and we are grateful for industry's co-operation with the work. However, we did not receive a consistent response, and in the absence of a statutory requirement some companies chose not to supply information. This left a number of gaps in the Department's understanding of the downstream oil system, which had to be inferred and introduces risk of error in contingency planning.

The proposed regime

Description

BEIS is seeking to introduce a regime to collect information from the downstream oil sector for the purposes of fuel supply resilience. The information sought is limited to what is necessary for the protection of fuel supply resilience, without breaching commercial protections. The purpose of this measure is to ensure specified and sufficient data-reporting from the downstream oil sector to BEIS for the purposes of fuel supply resilience.

¹⁹ On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

²⁰ As amended by EU Regulation 431/2014
<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32014R0431>

Scope

We envisage two elements to this regime, a regular reporting of technical data and event-based reporting of incidents or risks of disruption to fuel supplies.

Annex A outlines the areas for which information-reporting is being proposed. BEIS will ensure the scope of the information-reporting requirements is proportionate to the risk that the country currently faces. This regime is intended to only **apply to companies that meet specific thresholds as set out in Annex B**. These thresholds have been selected to capture all major companies within the downstream oil sector. Where appropriate, thresholds have been designed to align with existing reporting regimes, and are designed to fit in with any new requirements being introduced as part of the implementation of the NIS Directive.

Regular reporting templates

Draft reporting templates for the regular reporting of technical data can be found here: <https://www.gov.uk/government/consultations/downstream-oil-supply-resilience>. Example templates have been provided for the following main areas:

- Template 1 - Additional tables to be included in the monthly DORS reporting forms on imports and supply and disposal of petroleum products in the UK from each reporting company asset.
- Template 2 - Quarterly survey template on the supply and disposal of LPG products in the UK.
- Template 3 - Annual survey template on the consumption of commercial fuels by industrial sector and the volumes of marine fuels sold in the UK.
- Template 4 - Annual survey template for owners and operators of all downstream oil terminals and depots.
- Template 5 - Annual survey template key haulage companies operating in the UK

There is no set event-based reporting template. In the event of an actual or threatened fuel disruption, the requirement would be for the companies involved to report any information requested and considered relevant to support Government in its functions. Information reporting will be required to be submitted for the duration of the disruption or for the reasonable likelihood of the disruption, providing regular updates where required.

BEIS would work with industry to develop an efficient and low-cost process for reporting. For example, the proposed measure would enable BEIS to establish

legal gateways to access data submitted to other Government departments by the downstream oil sector as part of other regulatory requirements - using existing datasets wherever possible will reduce any additional reporting requirements. The proposed measure would **not** replace any of the existing reporting requirements required on a monthly basis in relation to the legal requirement on the UK under the Oil Stocking Directive or Energy Statistics Regulation.

Data protection and sharing

Under the proposed regime, BEIS would be the sole data custodians of the entire downstream oil supply evidence base. BEIS takes its responsibility for data security very seriously, and the secure handling of commercially sensitive data is fundamental to the way in which BEIS operates.

BEIS would welcome the opportunity to minimise reporting burdens on industry wherever possible. There are instances where this could potentially be achieved by BEIS sharing information with other Government departments (or devolved administrations) or vice versa. As such, BEIS would welcome comment on which information could be shared across Government, what should be held in confidence, and any information already submitted to other government departments that could meet any of the above regime requirements.

Impact

An assessment of benefits and costs resulting from the proposals described in this consultation document are available in the Impact Assessment available at <https://www.gov.uk/government/consultations/downstream-oil-supply-resilience>.

Information reporting questions

7. Information-reporting – scope: Based on BEIS’ rationale, and the areas for reporting proposed in Annex A, please suggest any additional areas where you believe information-reporting would be beneficial to Government’s oversight of the downstream oil system and therefore to improve resilience.
8. Information-reporting – scope: BEIS proposes specific reporting thresholds for each part of the regime as set out in Annex B, where appropriate these are consistent with existing reporting regimes. If you do not consider these to be appropriate, please suggest alternative reporting thresholds and a rationale for the selected level.
9. Information reporting – templates: BEIS would welcome comments on the scope and detail of the attached templates. Please reference the template name(s) when providing comment.
10. Information reporting – sharing: Please indicate which (if any) attributes should not be shared with other government departments and if so explain why. Also indicate any information already submitted to other government departments that could meet any of the proposed reporting requirements to help us reduce the burden on business.
11. Information reporting – impact: BEIS welcomes comments and feedback on the impact on business resulting from the information reporting proposals; and on the approach and assumptions used to quantify benefits. This is discussed further on Page 16 of the Impact Assessment.
12. Information reporting – impact: BEIS analysis of cost impacts due to reporting has been based on cross-sector estimates. Consultees are invited to offer evidence on the below:
 - a) wage rates to verify the estimates on Table 5, Page 17 of the Impact Assessment;
 - b) analysis of company costs, and how they may differ from the estimates in Table 6, Page 18 of the Impact Assessment;
 - c) the costs of providing wet stock management data described on Page 19 of the Impact Assessment;
 - d) analysis of benefits, Page 21 of the Impact Assessment.

2. Protecting fuel supply resilience

BEIS is proposing to introduce two new measures:

(2.1) An ownership test to enable Government to intervene for the protection of fuel supply, where operators or owners of critical downstream oil infrastructure do not meet satisfactory levels of financial soundness or operator competence.

(2.2) Government spending power to enable Government to support supply resilience improvements and schemes.

Industry as a whole is strongly committed to the resilience of its operations. But the threats to the sector as a result of market fragmentation are growing. An ownership test will act to protect sector resilience, and ensure that the sector continues to take appropriate actions to protect fuel supply resilience. A spending power will enable Government to support industry-led efforts to improve resilience.

2.1. *Ownership test*

The rationale for an ownership test

Government aims to protect the UK's most critical assets and services, whilst ensuring our economy remains open for investment. There are currently no powers that enable Government to intervene for the purposes of ensuring downstream oil resilience in the event that commercial activity (for example, change in ownership) is deemed to be against UK fuel supply resilience interests.

Licensing regimes exist in other similar sectors (for example, upstream oil and gas) which allow for the financial soundness and level of operator competence to be assessed before any sector activity is carried out. Based on the risk posed and potential burden on industry, as outlined above, **Government has no intention to regulate the downstream oil sector in this way.**

There is potential to intervene in some cases through the controls on mergers set out in the Enterprise Act 2002. However, these powers can only be exercised in: (a) a merger situation, where two or more enterprises cease to be distinct, but it also applies to full joint ventures; (b) where merger thresholds are met. If the Secretary of State wanted to intervene on public interest grounds there would need to be a risk to national security (which can include security of supply), financial stability and media plurality. In any public interest intervention, the Secretary of State must have reasonable grounds for intervening, based on evidence.

The test under the Enterprise Act does not cover all risks to fuel resilience. Financial failure and owner / operator insolvency was seen in the case of Petroplus and is a continuing risk in the downstream oil sector. The proposed ownership test therefore seeks to protect against supply disruption caused by this risk, while maintaining an environment which allows new companies to enter the UK market and drive innovation for the benefit of consumers. Proposals for updating the Enterprise Act are also being considered in parallel, and your views are welcomed on the recent Green Paper described in the box below.

BEIS proposes to introduce an ownership test specifically for the purposes of downstream oil resilience, to mitigate risks specific to this unregulated but critical sector. Any intervention through the ownership test would be limited for the purposes of protection of UK fuel supply, and only where there is a real and material risk to fuel supplies.

National Security and Infrastructure Investment Review – The UK review of the national security implications of foreign ownership or control, and the mergers regime.

The approval of the Hinkley Point C project drew attention to our existing arrangements around how we ensure that our national security is not undermined by ownership or control of critical businesses and infrastructure. The vast majority of investment into the UK's economy raises no national security concerns. But we need to be alert to the possibility of hostile actors having the potential to use or exploit this to increase their ability to undertake espionage, sabotage or exert inappropriate leverage. This is an issue already recognised by our international partners in their equivalent regimes.

The Green Paper, published on 17 October 2017, sets out potential options for how the Government might update the UK's framework of laws and policies on protecting national security in relation to investments and mergers. It seeks respondents' views on potential reforms which may include an expanded version of the 'call-in' power within the current Enterprise Act and / or a mandatory notification regime for foreign investment into the provision 'essential functions' in key parts of the economy, including parts of the oil and gas sector. The Green Paper can be found here:

[\[https://www.gov.uk/government/consultations/national-security-and-infrastructure-investment-review\]](https://www.gov.uk/government/consultations/national-security-and-infrastructure-investment-review). Responses to the consultation are welcomed by 9 January 2018. Responses can be submitted via Citizen Space (<https://beisgovuk.citizenspace.com/ccp/nsiireview/>) or can be sent to nsiireview@beis.gov.uk

The ownership test

Description

An ownership test would be used to ensure that new owners of downstream oil system components are financially sound, and therefore do not pose a financial failure or insolvency risk; and are operationally competent or can demonstrate competence of an assigned operator. A measure would be composed of three parts: (1) an obligation on industry to report change of ownership or control; (2) a power for Government to request information in relation to a qualifying transaction; (3) a power for Government to intervene in qualifying transactions.

Scope

It is intended that the downstream oil ownership test will reflect the process of the National Security and Infrastructure Investment Review. It is proposed that the scope is limited to companies in the downstream oil sector **that handle more than 500,000 tonnes per year of petroleum or petroleum products**. Where the sector includes any person(s) who in the course of carrying on an undertaking imports, supplies, stores, distributes or sells petroleum and or petroleum products, into or within the UK.

Is it proposed that the ownership test will capture the following categories of transaction:

- the acquisition (directly or indirectly) of a significant proportion of the shares or voting rights - threshold at **25% or more of shares or voting rights**.
- any other transaction that gives (directly or indirectly) control, significant influence over, or significant access to, that company or over its assets / businesses.

Reporting

Those caught within the final scope will be required to notify BEIS of any qualifying transaction, and to provide relevant information in relation to that transaction. Reporting requirements will be proportionate to risk, but must be sufficient to assure Government of the new owner's financial soundness and operator competence. It is proposed that investors would need to secure Government's approval before the transaction could take legal effect. Companies would be required to provide information on the transaction according to an agreed timeframe. Early engagement by companies once a transaction is probable will be key to ensuring that Government consideration does not delay or impact on any transaction unnecessarily. **BEIS will consult on the detail of the reporting requirements and timings fully as part of separate engagement.**

Government action

Following its assessment of a transaction, the Government proposes that the regime mirrors the powers available to the Secretary of State under the existing public interest regime, as set out in Schedule 8 to the Enterprise Act 2002 - namely the ability to impose legally binding conditions on the deal or, in extremis, to block it altogether. Any Government action would be reasonable and proportionate to the risk to fuel supply resilience.

Impact

The intention is that this measure would only be used in extremis, where there is a significant risk to UK fuel supply as a result of change of control or ownership. This measure would not have an immediate impact on normal downstream oil sector business activities. An assessment of benefits and costs resulting from the proposals described in this consultation document are available in the Impact Assessment available at

[https://www.gov.uk/government/consultations/downstream-oil-supply-resilience.](https://www.gov.uk/government/consultations/downstream-oil-supply-resilience)

Ownership test questions

13. Ownership test – scope: BEIS proposes that all downstream oil companies handling at least 500,000 tonnes per year would be captured in the scope of the ownership test. If you do not consider this appropriate, please suggest an alternative threshold and the rationale for the selected level.
14. Ownership test – scope: BEIS proposes that a change threshold of 25% or more of shares or voting rights for a transaction to be captured by the ownership test. If you do not consider this appropriate, please suggest an alternative reporting threshold and the rationale for the selected level.
15. Ownership test – impact: Please provide evidence on the potential costs and benefits of the ownership test. This is discussed further on Pages 27 and 28 of the Impact Assessment.

2.2. Government spending

The rationale

BEIS can foresee situations where commercial drivers end up with socially or economically important services dependent on a single point of supply. The Government has no powers to offer financial support to maintain resilience even where direct intervention may be the best value for money means of preserving resilience.

To note, and for further reassurance, Government is live to, and would **fully evaluate and avoid significant market distortion or competition impacts as part of any spend.**

Impact

We do not intend to take any new revenue raising powers to fund this. The intention is to enable Government to have a spending power on the face of legislation which would enable it to support and facilitate resilience improvements in the downstream oil sector.

Government spending - questions to consider

16. Government spending – impact: Please provide evidence on the costs or benefits of the government spending measure. The analysis conducted by BEIS is discussed on Pages 28 to 30 of the Impact Assessment.

3. Insuring against fuel supply disruption

BEIS is proposing to introduce two new measures:

(3.1) Powers to enable industry-wide measures to be put in place, owned and managed by the fuel supply industry, to maintain fuel supply during a disruption.

(3.2) A resilience direction to ensure members of the downstream oil sector take appropriate action to maintain and improve fuel supply resilience.

3.1. Enabling industry-wide measures

The rationale

As discussed above, Government is uniquely placed to identify the need for cross-industry resilience measures which might act as 'insurance policies' in case of disruption. However, the implementation of such measures is most effectively and appropriately managed by the industry sectors with the relevant operational skills and experience. BEIS is therefore proposing a measure to support industry in establishing and managing schemes to improve resilience in the downstream oil sector. It is proposed that this measure would enable the Secretary of State to set out the detail of collaborative schemes through secondary legislation. There will be further consultation on the detailed options for achieving each scheme individually.

At present BEIS is considering one scheme, a reserve tanker fleet similar to that currently managed by BEIS (this scheme may be extended in future - for example, if necessary for the provision of additional driver capability to ensure the reserve tanker fleet can deliver a sustainable industry led solution).

Reserve tanker fleet

BEIS analysis has shown that a reserve road tanker fleet of 80 vehicles would provide sufficient additional logistical capacity to mitigate disruption impacts from a significant point failure in GB infrastructure. BEIS has procured access to a rental fleet for this purpose but believes that it would be more efficient for industry to own and operate the fleet. The fleet acts to mitigate all supply risks, including disruptions to fuel transport by pipeline (e.g. tankers could be used to transport jet fuel by road in the case of disruption to pipeline supply).

The BEIS reserve tanker fleet is currently made up of 80 tractor and trailer combinations that can be rented to industry in the event of a severe fuel supply disruption. The fleet would only be made available for rental in a situation where

the Secretary of State for BEIS decides there is a clear need to do so to maintain fuel supplies.

An enabling power would allow BEIS to set-out the detail for an industry-wide scheme in secondary legislation. It is envisaged that the scheme would be organised and managed by an industry body which is funded and controlled by industry members under pre-agreed protocols that deliver its aims and objectives. BEIS would welcome your views, and has set out some considerations and questions in the following sections. To note, there will be further opportunity to comment and BEIS intends to develop the scheme in collaboration with industry.



Industry requirements

BEIS considers that the scheme should be of minimum burden to the sector, and be easy to operate and utilise in the event of a potential or actual fuel disruption scenario. The department welcomes comments on how the scheme can be designed in a way that allows an industry body to be organised most effectively, offers the minimum cost or resource impact, or can provide commercial benefits to contributors – noting that the scheme will have to always meet the primary resilience objective of making available **additional** supply capacity without distorting competition.

Government requirements

Government proposes to maintain oversight of any scheme to ensure the initial resilience rationale is satisfied. This would include ensuring that any industry body operates in an appropriate manner. A formal agreement will be required, and would need to set out the extent of Government involvement, for example:

for Government to agree the scheme at the outset and in allowing changes to ensure the scheme continues to deliver its resilience objectives; in requiring proof the fleet is ready for use at all times; and, to ensure access to tankers is fair and meets the objective of sustaining fuel supplies.

Structure

It is BEIS' view that industry would be best placed to propose the most appropriate form of corporate structure for the industry body. It is envisaged that members of the scheme would contribute to the governance of the scheme, for example, through a board with Government representation. The industry body might take the form of an industry cooperative or company limited by guarantee or by share.

Membership and funding

Control and costs must be equitably distributed so they do not distort competition. If a cooperative model is adopted, members would need to: have homogeneity of interests; ensure sufficient organisation operational competence; ensure input from industry specialists and interested parties are incorporated.

We have considered which organisations or “sector group” (as described in [Annex C](#)) should bear the obligation to provide this fleet. We recognise that there are a variety of business and contractual models in the market, and would welcome your view on this.

BEIS proposes that the industry-led body would be designed in such a way that ensures the costs of the body are distributed equitably and across the great majority of the sector (while not imposing disproportionate burdens on small businesses), so that there is no material distortion of competition in the market.

Contributions could be determined based on the contributing organisation's market share at a given point across the supply chain (for example, the number of operating distribution vehicles, volumes qualifying for the Compulsory Stocking Obligation or the Renewable Transport Fuel Obligation). The body would determine the commercial arrangements, including whether to charge an additional fee to members and / or non-members for use of vehicles from the fleet. Regardless of the sector group that is ultimately selected to fund the scheme, costs would be allocated equitably across the entire group of companies operating at that point in the supply chain. A potential option for cost allocation is to use the Fuel Duty point: a companies' funding obligation would be proportionate to the volume of product owned by that company as it passes through the duty point. This option would ensure equitable sharing of costs applied to all obligated product volumes.

Impacts

The impact of this measure is calculated at less than 0.01 pence per litre on diesel and petrol at forecourts (and jet at airports). The table below summarises cost impacts of the fleet to different groups. BEIS' assessment of benefits and costs resulting from the proposals described in this consultation document described in further detail in the Impact Assessment available at <https://www.gov.uk/government/consultations/downstream-oil-supply-resilience>.

	Fleet Costs
Fleet cost	£ 2,700,000
Fleet cost at forecourt for road fuels (pence/litre)²¹	<0.01

Group	Cost/group/year ^{22,18}
Light vans	£0.11
HGV	£0.90
Buses	£0.55
Vehicle owning household ²³	£0.09

²¹ Pass through costs of the fleet, calculated based on vehicle fuel consumption, source: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575404/energy-and-environment-notes.pdf

²² Costs calculated based on vehicle number, source: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/516429/vehicle-licensing-statistics-2015.pdf

²³ Household costs based on number of vehicle owning households, source: <https://www.gov.uk/government/statistical-data-sets/annual-domestic-energy-price-statistics>

Enabling industry-wide measures – questions to consider

17. Industry-led measures – approach: Please set out how you think an industry-led reserve tanker fleet scheme could be best delivered including on the structure of the scheme (e.g. collaborative, company limited by shares).
18. Industry-led measures – members: Which part of the downstream oil sector do you consider best placed to manage the reserve tanker fleet: Hauliers, Wholesalers or some other category of undertaking? (Sector group definitions used for the purpose of this consultation are provided at [Annex C](#)). Based on the sector group chosen, how best could membership contributions be determined (for example, by using the Duty Point as described above)?
19. Industry-led measures – support: Are there other considerations that should be introduced to support or facilitate the creation of an industry body, or to protect industry interests?
20. Industry-led measures – reserve tanker fleet drivers: In the event of requiring use of the reserve tanker fleet, how many of the reserve tanker fleet rigs could be manned by your company or agency drivers (i.e. how many drivers could be made available to operate reserve tanker fleet vehicles)?
21. Industry-led measures – impact: Please provide evidence on the cost of running the industry-led fuel supply and distribution resilience scheme. This is discussed further on Page 22 of the Impact Assessment.
22. Industry-led measures – impact: Please provide evidence on the cost of procuring a fleet reserve fleet. This is discussed further on Page 23 of the Impact Assessment.
23. Industry-led measures – impact: Please provide further evidence on the benefits of the industry led resilience improvement scheme. This is discussed further on Page 24 of the Impact Assessment.

3.2. Resilience direction

The rationale for a resilience direction

BEIS is seeking powers to give directions to industry where necessary for resilience purposes. The power to give directions would be used only as a back-stop or last resort, where government considers industry had not taken proportionate measures to mitigate resilience risks.

As outlined above ([Background](#) – Sector Context), the downstream oil sector faces an increasing level of challenge. As the sector adapts and reorganises to deal with these challenges, maintaining and securing the continuity of fuel supply is likely to become more difficult. The limited powers currently available ([Current legislation and controls](#)) do not provide Government, on behalf of fuel consumers, with the ability to ensure appropriate measures are put in place by industry to protect UK fuel supply.

Depending on the implementation of the contingency schemes to ‘insure’ the sector discussed above, a direction power could also be used to compel industry-wide participation in a resilience scheme. The measure would be used solely for the purposes of protecting UK fuel supply, and therefore acts to improve downstream oil resilience.

Network Information and systems directive

The resilience direction could also serve to meet one of the provisions of the NIS Directive which requires there to be a power for the relevant NIS Competent Authority to issue binding instructions to operators to remedy their operations when in breach of the NIS security and / or incident reporting provisions. This would follow the evaluation of information obtained through the information reporting measure ([Monitoring fuel supply resilience](#)), or wider information gathering powers proposed under the NIS Directive²⁴.

Voluntary improvement option

The commitment of the fuel supply industry as a whole to sector resilience has already been discussed above. BEIS continues to engage with the sector and to encourage voluntary arrangements to improve the resilience of downstream oil supply and is grateful for the response from companies and trade associations.

²⁴ For more information on the NIS Directive please refer to the DCMS consultation <https://www.gov.uk/government/consultations/consultation-on-the-security-of-network-and-information-systems-directive>

Work by BEIS and the supply industry has explored the potential for improvements in areas such as site security, maintaining plurality of infrastructure and business continuity planning. From this work, BEIS has identified options which appear to yield significant benefits to downstream oil resilience, presenting a clear value for money case to consumers and our economy.

However, following consultation with the owner / operators of assets, BEIS has had limited success in encouraging voluntary improvements to resilience. BEIS understands that commercial drivers provide limited scope for resilience improvements without direction and/or support from UK Government.

Regulatory regime option

Comprehensive sector regulation or a licensing regime as applied to other critical infrastructure sectors would meet the BEIS' objectives of ensuring appropriate resilience measures are implemented by the fuel supply industry. However, based on our assessment of impact on the sector, and requirements for Government administration, such a regulatory regime does not seem proportionate or appropriate to the risk. **BEIS does not intend to establish a new regulatory body or licensing regime for the downstream oil sector.**

Proposal for a resilience direction

Scope

The scope of the power would cover: any persons involved in the import, supply, storage, distribution and or retail of petroleum and or petroleum products, into or within the UK.

The direction would state either the required outcome, or both the outcome and the means necessary to achieve that outcome. For example, Government may issue a direction for improvements in physical security where existing arrangements demonstrate a real and unacceptable risk to fuel supply, and where the asset owner will not take the appropriate measures to improve resilience. In that case, the direction would state the improvements necessary to reduce the risks to fuel supply to acceptable levels.

This is comparable to existing powers in other sectors, for example: the power of direction in the Offshore Safety Act 1992 (s.5). In a similar way, the Water Industry Act 1991 (section 208, as amended)²⁵ enables the Government to direct

²⁵ <http://www.legislation.gov.uk/ukpga/1991/56/section/208>

water companies in the interests of national security or for the purpose of mitigating the effects of any civil emergency which may occur.

Direction under the Offshore Safety Act 1992 - The direction power in the Offshore Safety Act 1992 has been used once since it was introduced. This was to preserve the security of a Gas Terminal and clarify the competing priorities of site security and a right of way. In accordance with the legislation, a paper containing the direction by the Secretary of State was laid in the libraries of both Houses of Parliament.



Impacts

It is BEIS' intention that the proposed resilience direction will be used sparingly, with Government having no immediate intention for use. Any Government action would be reasonable and proportionate to risk to fuel resilience. Costs impacts will depend on use, but Government will ensure that affordability and any effect on competition are fully considered, and impacts will therefore be low. An assessment of benefits and costs resulting from the proposals described in this consultation document are available in the Impact Assessment available at <https://www.gov.uk/government/consultations/downstream-oil-supply-resilience>.

24. Resilience direction – Impact: Please provide further evidence on the costs and benefits of the resilience direction. BEIS' analysis is discussed further on Pages 25 and 26 of the Impact Assessment.

Catalogue of consultation questions

1. Consultees are invited to provide further information on the expected cost of fuel supply disruptions. BEIS' analysis of potential economic impacts is discussed further on Page 15 of the Impact Assessment. _____ 15
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4. General approach - wider impacts: Please provide further evidence on the costs to small and micro businesses. Wider impacts are discussed further on Pages 34 to 36 of the Impact Assessment. _____ 23
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16. Government spending – impact: Please provide evidence on the costs or benefits of the government spending measure. The analysis conducted by BEIS is discussed on Pages 28 to 30 of the Impact Assessment. _____	33
17. Industry-led measures – approach: Please set out how you think an industry-led reserve tanker fleet scheme could be best delivered including on the structure of the scheme (e.g. collaborative, company limited by shares). _____	38
18. Industry-led measures – members: Which part of the downstream oil sector do you consider best placed to manage the reserve tanker fleet: Hauliers, Wholesalers or some other category of undertaking? (Sector group definitions used for the purpose of this consultation are provided at Annex C). Based on the sector group chosen, how best could membership contributions be determined (for example, by using the Duty Point as described above)? _____	38

19. Industry-led measures – support: Are there other considerations that should be introduced to support or facilitate the creation of an industry body, or to protect industry interests? _____ 38
20. Industry-led measures – reserve tanker fleet drivers: In the event of requiring use of the reserve tanker fleet, how many of the reserve tanker fleet rigs could be manned by your company or agency drivers (i.e. how many drivers could be made available to operate reserve tanker fleet vehicles)? _____ 38
21. Industry-led measures – impact: Please provide evidence on the cost of running the industry-led fuel supply and distribution resilience scheme. This is discussed further on Page 22 of the Impact Assessment. _____ 38
22. Industry-led measures – impact: Please provide evidence on the cost of procuring a fleet reserve fleet. This is discussed further on Page 23 of the Impact Assessment. _____ 38
23. Industry-led measures – impact: Please provide further evidence on the benefits of the industry led resilience improvement scheme. This is discussed further on Page 24 of the Impact Assessment. _____ 38
24. Resilience direction – Impact: Please provide further evidence on the costs and benefits of the resilience direction. BEIS’ analysis is discussed further on Pages 25 and 26 of the Impact Assessment. _____ 41

Annex A – Information reporting areas

The main areas BEIS are seeking powers to reserve the right to request additional information for the purpose of downstream oil resilience are summarised below. They include:

- 1) **Monthly reporting of the production, supply and disposal of petroleum products in the UK.** This will include but not limited to all refiners, importers, wholesalers and resellers who supply greater than 50,000 tonnes per year.
- 2) **Quarterly reporting of supply and disposal of LPG products in the UK.** Applied to all LPG importers, wholesalers and resellers supplying at least 50,000 tonnes per year to the UK market. BEIS reserve the right to request information on total supply and inland deliveries by industrial sector for all LPG products.
- 3) **Annual reporting of the consumption of commercial fuels by industrial sector and the volumes of marine fuels sold in the UK.** This will include but not limited to all refiners, importers, wholesalers and resellers. BEIS reserve the right to request information on the total aggregated volumes sold, broken down by purchasing company and product for fuel oil, gas oil and burning oil only.
- 4) **Annual reporting by owners and operators of all downstream oil infrastructure assets.** This will include all major system assets regarded, including but not limited to: refineries, import terminals, inland terminals, regional supply depots, pipeline operators and port authorities.
- 5) **Annual reporting by key logistic companies on the supply and demand of petroleum products in the UK.** This will include, but not limited to: pipeline operators, hauliers, rail companies, airports and ports.
- 6) **Provision of Daily Forecourt Wet Stock Management Data.** Requires the reporting of daily forecourts supply and demand balances by downstream oil forecourt owners, operators or supply companies.
- 7) **Disruption based reporting.** Requires that companies notify, without delay, BEIS of any incidence of or material risk of “significant impact” on the continuity of service or supply of fuel. Information should include: the number of users affected by the disruption; the duration of the incident; and, the geographical spread with regard to the area affected by the incident.
- 8) **Security Information.** Details on physical and personnel security as well as a power for the competent authority to request information on network and information security.

Annex B – Information reporting details

Industry Resilience		
Information Source and intervals	Reporting Sectors / Companies / Thresholds	Additional Information reporting requirements
1) Monthly reporting of the production, supply and disposal of petroleum products in the UK	Applied to all UK refiners, importers, wholesalers and resellers supplying at least 50,000 tonnes of any petroleum product to the UK market on an annual basis	<p>Information through regular monthly reports via the DORS reporting template, supplemented with the additional Information on:</p> <ul style="list-style-type: none"> • All imports (product and crude) including: date, ship identity, ship size (dwt), source/loading location (esp if product is being moved from a UK refinery to a UK terminal), UK import terminal location, grade and volumes (tonnes) supplied. • Inland supply methods for each product and for each method of supply (pipeline, rail, road rack, ship) and from which terminal / refinery to which terminal / airport / bunker location • Volumes and location of marine bunkered fuel delivered

<p>2) Quarterly reporting of supply and disposal of LPG products in the UK</p>	<p>Applied to all LPG importers, wholesalers and resellers supplying at least 5,000 tonnes to the UK market on an annual basis</p>	<p>Information submitted through a Quarterly survey reporting template for total supply and inland deliveries of LPG (propane and butane) on:</p> <ul style="list-style-type: none"> • The total volumes Imported, exported and supplied inland • The volume delivered as Bulk or Packed deliveries • The volume supplied from each UK location <p>Deliveries to final consumption based as far as possible on the standard industrial classification 2007 (SIC 2007)</p>
<p>3) Annual reporting of the consumption of commercial fuels by industrial sector and the volumes of marine fuels sold in the UK</p>	<p>Applied to all UK refiners, importers, wholesalers and resellers supplying at least 50,000 tonnes of any petroleum product to the UK market on an annual basis</p>	<p>Information submitted through an annual survey reporting template for inland deliveries of fuel oil, gas oil or heating kerosene on:</p> <ul style="list-style-type: none"> • The product (i.e. one of fuel oil, gas oil, marine diesel or heating kerosene) • The total volume (tonnes) sold to the company in the requested year. • The name of the company purchasing the product • If available, the VAT code of the company purchasing the product <p>For each company marine grade fuel is sold to and/or aware that the fuel sold to is for use in marine bunkering (be that for national navigation or international bunkering):</p> <ul style="list-style-type: none"> • The product (i.e. one of fuel oil or gas oil) • Recorded as national navigation, or international bunkers. • The total volume (tonnes) sold to the company in the requested year. • The name of the company purchasing the product • If available, the VAT code of the company purchasing the product

<p>4) Annual reporting by owners and operators of all downstream oil infrastructure assets.</p>	<p>Applied to owners and operators of all downstream oil infrastructure assets including but not limited to refineries, import terminals, inland terminals, regional supply depots, pipeline operators, port authorities, airports.</p>	<p>Information submitted through an annual survey reporting template to identify site infrastructure, normal operations, supply capacities, bottlenecks and contingency plans.</p> <p>Specific information where relevant to the asset reported on:</p> <ul style="list-style-type: none"> • Asset location, contacts and normal business as usual operations • Asset infrastructure storage capacities by product, average stock holdings • Asset product supply infrastructure, supply source, feed, average volumes, capacities (all by product) • Asset inward supply restraints and bottlenecks • Asset product onward distribution infrastructure, supply method, average volumes, capacities (all by product) • Asset onward supply restraints and bottlenecks <p>Information submitted on asset contingency plans to ensure normal product supply can be maintained during a disruption.</p> <p>Information to be provided on planned maintenance works well in advance of any works. Including:</p> <ul style="list-style-type: none"> • What the maintenance work is and what it impacts, timescales and duration • Alternative supplies are scheduled & number required where appropriate, site stock levels, • Any allocations for customers over the time period • What the likely risks are even if they are not material.
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<p>5) Annual reporting by key logistic companies on the supply and demand of petroleum products in the UK.</p>	<p>Applied to but not limited to pipeline operators, hauliers, rail supply companies, airports and port authorities.</p>	<p>Information submitted through bespoke annual survey reporting templates:</p> <p>Hauliers:</p> <ul style="list-style-type: none"> • Number of operating trucks and drivers by location • Average daily volumes delivered by fuel type and location • Major locations / companies supplied <p>Airports:</p> <ul style="list-style-type: none"> • Monthly demand data (for previous 12 months) • Monthly Forecasted Fuel demand (for next 12 months) <p>Pipeline operators:</p> <p>For each major segment of pipeline:</p> <ul style="list-style-type: none"> • Monthly supply data by fuel type (for previous 12 months) <p>Rail operators:</p> <p>For each major supply route:</p> <ul style="list-style-type: none"> • Number of dedicated fuel rail movements per month (for previous 12 months) <p>Port Authorities:</p> <p>For each port under its control:</p> <ul style="list-style-type: none"> • Monthly data on the total number of oil tanker movements into each jetty / berth • Total monthly volume (import and export) where available of oil products (for previous 12 months) by product to and from each jetty / berth
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<p>6) Provision of Daily Forecourt Wet Stock Management Data</p>	<p>All downstream oil forecourt owners, operators or supply companies that are currently, or in the future are signed up to a wetstock management company, are required to supply (or authorise the wetstock company to supply) daily information to BEIS – irrespective of the number of sites they operate or the annual throughput of any of the sites.</p>	<p>A requirement to submit daily forecourt Information on:</p> <ul style="list-style-type: none"> a. Unique Site ID b. Forecourt Brand c. County d. Postcode e. Supply Terminal f. Fuel type (Motor Spirit or Diesel) g. Report Date h. Grade Capacity i. Grade Open j. Grade Delivery k. Grade Sales l. Current Inventory m. Grade Days Stock n. Average Grade Close o. Average Grade Sales p. Type of Site indicator real time data or not q. Motorway site flag r. Date/Time of most recent data submission <p>Information would be obtained through wet stock monitoring systems, and it would not be appropriate to require reporting from for small independent forecourts who do not have automated reporting equipment and service.</p> <p>If forecourt operators do not contract with a wetstock management company, owners could be required to supply daily information to BEIS if they own 6 or more sites (e.g. through email, reports, or another automated reporting method).</p>
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<p>7) Downstream Oil Sector events</p>	<p>All downstream oil sector</p>	<p>A requirement that companies or operators of essential services within the Downstream Oil Sector notify, without delay, BEIS of any incidence of or material risk of “significant impact” on the continuity of service or supply of fuel. Information should include: the nature of the incident or risk; the number of users/volume of fuel affected by the (actual or threatened) disruption; the duration of the incident; and, the geographical spread affected by the incident.</p> <p>Risks and incidents may include loss of operational capability due to accident, malicious attack or planned maintenance; failure of fuel to meet specification; threat of industrial action (e.g. significant parts of the workforce notify of their intention to ballot for industrial action); risk of or actual insolvency.</p> <p>In the event of an actual or threatened fuel disruption, SOS may require the companies involved to report any information he considers relevant. Reporting may be required for the duration of the disruption or for the reasonable likelihood of the disruption as directed. This will include BCPs, Emergency/Contingency Plans and any related Information. This will include for the provision of information to ensure appropriate and proportionate measures have been taken to manage risks, and minimise any impacts from risks, posed to network and information systems, including: evidence that risks have been identified and formally documented; and, evidence of operator risk management strategies.</p>
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<p>8) Security Information</p>	<p>All downstream oil sector</p>	<p>Network and Information, physical and personnel security.</p> <p>Information regarding site / asset security and protections for personnel.</p> <p>It has been proposed that BEIS will be nominated as the relevant NIS Competent Authority for the energy sector. If following the NIS consultation it is concluded that BEIS will take on this role, BEIS will require specific powers to request information relating to network and information security as outlined below.</p> <p>On information provision (regular reporting): An obligation on operators to provide:</p> <ul style="list-style-type: none"> a) the information necessary to assess the security of their network and information systems, including documented security policies; b) evidence of the effective implementation of security policies, such as the results of a security audit carried out by the competent authority or a qualified auditor and, in the latter case, to make the results thereof, including the underlying evidence, available to the competent authority. <p>On incident reporting: Operators of essential services shall notify, without undue delay, BEIS of incidents having a significant impact on the continuity of the essential services they provide (the DCMS consultation outlines incident reporting will be focused on incidents that have resulted in a disruption to the supply of energy). Notifications shall include information enabling BEIS to determine any cross-border impact of the incident. Notification shall not make the notifying party subject to increased liability.</p>
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Annex C – Downstream oil sector groups

A company may fulfil any one, combination or all of these roles (for retail, commercial and / or aviation fuel services).

- **Suppliers** – Company involved in bulk supply of a terminal, may be a refiner or company purchasing product in bulk (vessel, railcar, pipeline). Terminal or refinery owners - some of whom may not own the fuel.
- **Re-seller** – Company that both purchases and sells the same volumes of product at the loading rack.
- **Wholesalers** – Company that purchases product, arranges transport of that product, and sells product to a retailer. Sale is at a retail site and the Wholesaler arranges haulage, and owns the fuel during transport.
- **Hauliers** – Company that delivers fuel from terminals to service stations, typically acting on behalf of a Wholesaler.
- **Retailers** – Owner / operator of a service station forecourt. Purchases fuel, and has a contract to be supplied with fuel by Wholesalers. Also includes commercial wholesale customers and airport refuelling services.

