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Ministry for the Environment
PO Box 10362
Wellington 6143

Dear Sir/Madam

Submission: Climate Change (Stationary Energy and Industrial Process) Regulations

New Zealand Oil & Gas Ltd (NZOG) appreciates the opportunity to comment on the draft climate change regulations for stationary energy and industrial processes (SEIP).

In this submission NZOG has focussed specifically on the regulations as they pertain to the Mining of Natural Gas.

NZOG acknowledges that many of the concerns raised by submitters in the initial round of consultation have been responded to, which has seen the method for calculating emissions from gas mining substantially revised. However, there remain areas of significant concern.

Losses

In the revised draft regulations a factor for 'losses' has been included. Losses occur in the transmission and distribution network and from unaccounted-for gas (which are largely metering errors). The current proposal in the draft SEIP regulations is to allocate a share of the national losses to each participant in proportion to their share of the total national gas production. The current losses factor is 1.75%, which has the effect of increasing each gas producer's carbon liability by the same percentage.

However, under the revised draft regulations the formula for calculating the liability of participants requires measurement of the quantity of gas produced to occur at the 'point of sale'. The point of sale is effectively the point where the gas leaves the processing plant and immediately before it enters the pipeline.

The inclusion of losses in the formula clearly results in double counting – the same molecules are counted twice. This is because the unit obligation is now imposed on volumes of gas measured at a point upstream of where the gas losses and metering inaccuracies occur.

The inclusion of losses in the formula also imposes inequitable costs on gas which is flared or consumed as fuel. This is gas that never enters the transmission and distribution network and it should not incur an allocation of the national losses.

Following the gas sector workshop held on 22 June 2009, the Ministry for the Environment has suggested that the loss factor adjustment may be removed. NZOG supports this approach.

Opting-in

Wholesalers or end users of natural gas who purchase more than two petajoules of natural gas per annum are able to opt in to participate within the NZ ETS as a natural gas purchaser so that they retain control over the cost to them of the NZ ETS scheme. However, to opt in, the opt-in participant needs to purchase the gas directly from a “participant” who mined the natural gas.

In this context, under section 157 of the Act, a “participant” appears to be the joint venture as a whole, not the individual joint venture partners.

There is therefore a serious potential issue as gas may be sold by each producer individually rather than by the joint venture as a whole. Therefore, a purchaser acquiring gas from a joint venture partner is arguably not purchasing gas from a mandatory participant and, therefore, cannot opt-in.

Further, the individual companies within a joint venture will arguably be unable to qualify as “participants” in their own rights, preventing them from purchasing New Zealand Units (NZU). This would deny companies the right to manage their own fiscal risk.

The individual producers should be the mandatory participants, rather than the joint venture. This removes a contingent liability which could crystallise if any of the other joint venture parties failed to meet their unit obligations at any time in the future. It would also be much simpler for each producer to control the acquisition of emission units to cover their share of the total surrender obligations, and enable producers to adopt a “portfolio” approach to their obligations when they have interests in multiple joint ventures.

NZOG submits that these are issues that urgently need clarification. A solution may lie outside of the regulations and require amendment to the Act to give rise to its intended effect.

Measurement

In the revised draft regulations, the quantity of sales specification gas produced is to be measured at the point of sale by fiscal meter in tonnes and the composition of the gas by gas chromatography.

Gas is generally sold in gigajoules (GJ) not tonnes. NZOG submits that the formula could be changed to allow measurement in GJ.

The draft SEIP regulations also specify standards for sampling and testing using gas chromatographic analysis. At present in the draft SEIP regulations there are no verification requirements for the sampling and testing regime prescribed. However, officials have indicated that consideration is being given to this and have asked for feedback on what the appropriate verification regime might be.

NZOG understands that the cost of a laboratory-verified sample would be approximately \$500. It is possible to conduct a pipeline test every four minutes. Testing at such a level would quickly overwhelm the laboratory and is presumably not envisaged by officials. However, testing at say 12 hourly intervals would still amount to \$365,000 a year; a significant compliance cost.

NZOG believes there are sufficient commercial tensions between seller and purchaser to ensure that gas chromatographic analysis is accurate, and submits that there is no need to introduce verification requirements into the regulations.

Unique Emission Factor

The new draft SEIP regulations contain a provision for participants to elect to use a unique emission factor in place of the default emissions factor for unprocessed gas, flaring, venting, processed gas, LPG, specification gas, and geothermal fluid to calculate and report on emissions. NZOG sees the ability to elect a unique emission factor as a positive step as the emission factors for particular fields differ substantially.

Timing

Officials have been developing a set of regulations based on an Act passed under the previous Government, which the current Government is intending to alter through amending legislation. The Minister for Climate Change has also stated that the proposed introduction of the stationary energy and industrial processes sectors to the ETS from 1 January 2010 "is not do-able" and has signalled it will be delayed.

NZOG considers that it would be prudent for the implementation of the regulations to also be delayed until the scope of any changes to the Act is confirmed and the implications of those changes are understood.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'D Salisbury', with a long horizontal line extending to the right from the end of the signature.

David Salisbury
Chief Executive
New Zealand Oil & Gas Ltd