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oilpollutionlevy@maritimenz.govt.nz

Oil Pollution Levy Consultation
Maritime New Zealand
PO Box 27006
Wellington

PEPANZ Submission – Review of the Oil Pollution Levy

Introduction

1. This document constitutes the Petroleum Exploration and Production Association of New Zealand's (PEPANZ) submission in respect of *Review of the Oil Pollution Levy, Industry Consultation Document December 2012* ("consultation document").
2. PEPANZ represents private sector companies holding petroleum exploration and mining permits, service companies and individuals working in the industry. PEPANZ members include the operators of all New Zealand's offshore petroleum installations and pipelines.
3. PEPANZ notes the longstanding process to review the Oil Pollution Levy ("Levy") provided for in the *Oil Pollution Levies Order 1998*. We support the purpose of the Levy and the need to review it to ensure it remains sufficient to fund the relevant activities and allow the acquisition and maintenance of appropriate equipment. PEPANZ has participated in the review of the Levy over recent years and has submitted on the various issues and approaches proposed.
4. In this submission we provide responses to the 3 "financial proposals" and 13 "other proposals" outlined in the consultation document. We have limited our comments to responding to these specific proposals and have not re-traversed matters such as the relative merits of "threat based" vs. "risk based" models.

Comments on financial proposals

Proposal 1: Generating an increase in total Levy revenue from \$3.07 million to \$4.5 million per annum

5. PEPANZ supports increasing the total Levy revenue to \$4.5 million per annum to support Maritime New Zealand's business as usual activity in respect of oil pollution preparedness and response.

Proposal 2: A one off 'equipment' levy of \$1.87 million paid over three years

6. PEPANZ supports the purchase of new equipment to improve the ability to contain and clean-up oil spills.
7. However, as we have previously submitted, Levy payers have already paid money into the Oil Pollution Fund ("OPF") to fund these purchases and that money is effectively being sought from Levy payers a second time. As noted in our previous submissions the Oil Pollution Advisory Committee (OPAC) agreed in 2011 that \$1.95m should be spent from the OPF to purchase the equipment identified. The

occurrence of the Rena accident late in 2011 meant that the financial reserves of the OPF were used to fund the initial response to that incident.

8. As noted by industry members at the 10 February 2012 meeting of OPAC, there has always been a clear understanding (based on section 331(2) of the Maritime Transport Act 1994 and the NZ Marine Oil Response Strategy 2006) that those responsible for creating an oil spill will reimburse the OPF if money is spent on responding to an incident. The Act states that funds recovered from the entity that caused the spill should be repaid into the OPF to cover any corresponding disbursements made from it. As noted in the consultation document the Government received \$27.6 million in October 2012 in compensation for the costs of responding to the Rena incident. PEPANZ submits that government should use a small portion of this to reimburse the OPF rather than imposing a new “equipment levy” to recover the funds a second time from industry.

Proposal 3: Additional capability revenue

9. PEPANZ supports generating additional capability revenue of \$1.209 million over 3 years to enable post Rena operational improvements, increasing the Marine Pollution Response Service (MPRS) systems capability, and enhancing the National Response Team training regime.

Comments on other proposals in the consultation document

| | PEPANZ Comments |
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| Proposal 4 <i>Retaining the requirement that commercial ships of 100 gross tonnage or more are required to pay the Levy</i> | PEPANZ makes no comment on this proposal. |
| Proposal 5 <i>Retaining the requirement that ships of 100 gross tonnage or more and 24 metres in length must pay the Levy</i> | PEPANZ makes no comment on this proposal. |
| Proposal 6 <i>Using per sector risk assessments to calculate each sector's total Levy contribution</i> | PEPANZ supports using contemporary per sector risk assessments to calculate each sector's total Levy contribution. |
| Proposal 7 <i>Retaining the gross tonnage of a vessel as the substitute for calculating the Levy paid for oil carried as fuel</i> | PEPANZ considers the gross tonnage approach to be simplistic but recognises it is administratively simple to implement. |
| Proposal 8 <i>Clarification of the Levy status of fresh water vessels that meet the 100 gross tonnage and 24 metre threshold</i> | PEPANZ makes no comment on this proposal. |

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| <p>Proposal 9 <i>Determination and clarification of the Levy status of New Zealand Defence Force Vessels</i></p> | <p>For the reasons outlined in the consultation document it appears appropriate to exclude New Zealand Defence Force vessels that are warships from the Levy. PEPANZ supports this position being re-examined in the next review of the Levy.</p> |
| <p>Proposal 10 <i>Determination and clarification of the Levy status of harbour tugs</i></p> | <p>PEPANZ would support harbour tugs being made subject to the Levy for the reasons outlined in the consultation document. Consideration should however be given to determining a Levy rate that reflects the profile of harbour tugs.</p> |
| <p>Proposal 11 <i>Determination and clarification of the Levy status of off-take tankers</i></p> | <p>PEPANZ supports the status of off-take tankers being further considered and information being collected on them over coming years to support further consideration. Should off-take tankers be made subject to the Levy in future then the “transfer risk” currently attributed to FPSOs should be ascribed to FPSOs, or to off-take tankers, or split between them, but not applied twice.</p> |
| <p>Proposal 12 <i>Redefining the term 'persistent oil' to align it with the MARPOL definition</i></p> | <p>PEPANZ supports the proposed changes to the definition of “persistent oil”.</p> |
| <p>Proposal 13 <i>A set annual levy for operators of oil wells, oil pipelines, and FPSOs</i></p> | <p>PEPANZ supports providing specific levies for different types of oil industry infrastructure and activities, namely platforms, FPSOs, pipelines, and exploration wells.</p> <p>Each type of infrastructure/activity has a different risk profile and to maximise fairness it is logical these are separately provided for as proposed in the consultation document.</p> <p>Equally each particular facility within a type has its own individual profile. PEPANZ recognises the administrative and cost advantages at this time of not individually assessing the risk profile of each facility and applying a customised Levy rate. The approach will however need to be re-evaluated in future to ensure substantial discrepancies and therefore cross-subsidies do not emerge within a type – e.g. if for example there were FPSOs with substantially different risk profiles due to variances in their capacity, type of oil stored or other relevant factors.</p> |
| <p>Proposal 14 <i>Levy payable where persistent and non-persistent oil is carried as cargo</i></p> | <p>PEPANZ agrees it is sensible for vessels to pay the Levy on a basis that proportionally reflects carriage of persistent and non-persistent oil.</p> |

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| <p>Proposal 15 <i>Changing the way the levy is calculated for domestic tankers carrying oil as cargo</i></p> | <p>The proposal to align the Levy payable by domestic tankers with the actual oil carried rather than using gross tonnage as a proxy appears sensible.</p> |
| <p>Proposal 16 <i>A three yearly review of the Levy</i></p> | <p>PEPANZ supports reviewing the Levy on a three yearly basis, at least initially. PEPANZ agrees it is important to keep the Levy, as provided for in the <i>Oil Pollution Levies Order</i>, current and relevant. Given the information intended to be captured over the next few years (signalled in the consultation document, e.g. proposals 9 and 11) it will be necessary to undertake a review within 3 years to allow this to be utilised.</p> |

David Robinson
Chief Executive