

1 October 2019

Consultation on Improving the Financial Security Regime for Offshore Oil and Gas Installations
Ministry of Transport
PO Box 3175
Wellington 6140

Emailed to: info@transport.govt.nz

ICNZ submission on proposed amendments to Marine Protection Rules Parts 102 and 131

Thank you for the opportunity to submit on the proposed amendments to Marine Protection Rules Parts 102 and 131, which were released for comment by the Ministry on 3 September 2019.

Submission

ICNZ recognises that the current regime for offshore financial assurance needs to be revised, both to increase the level of assurance required and to reform the framework to make it compatible with international insurance practice in this area. We are therefore generally supportive of the progression of the *Maritime Transport (Offshore Installations) Amendment Bill* ('the Bill') and these accompanying changes to Marine Protection Rules.

ICNZ has the following comments to make on aspects of the proposed amendments to Marine Protection Rule Part 102:

- The requirements should be focussed on financial assurance for oil pollution. Whilst "dumping" is a liability under section 385C of the *Maritime Transport Act 1994*, we question whether it should be covered in rule 102.8A(1)(a)(ii) as this is a separate issue and not necessarily covered by the same sorts of insurance policies, which are centred on unplanned releases of petroleum.
- The policy intent as outlined in the Explanatory Note to the Bill is that owners of regulated offshore installations will be able to meet the assurance requirements using insurance policies that are consistent with internationally available best practice policy wording and available on the international market. This is supported by rule 102.8A(4) but also reduced by rule 102.8A(3) as this allows the Director to take into account, on a 'without limitation' basis, a number of aspects that may be included in standard policy wordings. To achieve the policy intent and provide certainty it is necessary to either make clear the priority of rule 102.8A(4), or develop guidance outlining how the factors listed under 102.8A(3) would be judiciously applied by the Director, given that all insurance policies (including market standard ones) will potentially have many of the seven matters listed under it.
- The timing of commencement needs to be confirmed and be workable in conjunction with the transitional provisions.

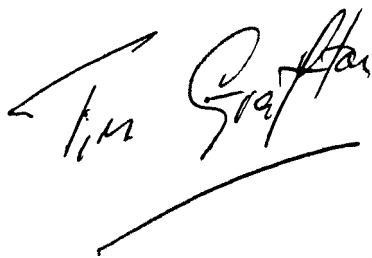
We also have some drafting comments on the proposed amendments:

- The use of “location of each installation to be covered” in rule 102.8(c)(ii) makes sense for fixed or permanently moored installations but not for mobile drilling rigs, which might drill wells at different locations within a single permit or across multiple permits. We suggest different wording is used to recognise this.
- The transitional provisions state that “new installation means a regulated offshore installation referred to in rule 102.7 that was not operating in New Zealand immediately before the commencement date”. The scope of this needs to be clarified as at that time a rig might be in New Zealand but for instance transiting between wells, begging the question of whether this counts as “operating”?
- Given the potential breadth of the term “owner” – there is a need to be more precise in rule 102.8B(a) as to what is intended as the owner can include multiple parties (i.e. rig owner, rig operator, permit operator, other permit participants, person in charge of the installation) whereas only a single name/address etc is sought.

Conclusion

Thank you again for the opportunity to submit. If you have any questions, please contact our Regulatory Affairs Manager on (04) 914 2224 or by emailing andrew@icnz.org.nz.

Yours sincerely,



Tim Grafton
Chief Executive



Andrew Saunders
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