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Ministry for the Environment  
PO Box 10362  
Wellington 6143

## Submission: consultation draft of Exclusive Economic Zone and Continental Shelf (Fees and Charges) Regulations 2013

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This document constitutes the Petroleum Exploration and Production Association of New Zealand's (PEPANZ) submission in respect of the consultation draft of the *Exclusive Economic Zone and Continental Shelf (Fees and Charges) Regulations 2013* ("the draft regulations") released for comment on 22 May 2013. PEPANZ recognises these draft regulations implement policy decisions made by Cabinet in December 2012.

The draft regulations simply provide that the Environmental Protection Authority ("EPA") must recover staff time on prescribed rates and "actual and reasonable costs" for any other expenses that it reasonably incurs. They provide no particular process for the EPA to follow beyond this and no ability for a person subject to fees or charges (e.g. an applicant for a marine consent or a person undertaking a permitted activity) to seek review of the fees and charges imposed. PEPANZ notes this cost recovery regime would provide little certainty for industry in terms of likely costs (even for permitted activities) and would not incentivise achieving the regulatory objectives at the lowest practicable cost.

The following additions to the draft regulations would bring them more into line with the provisions of the Resource Management Act and increase certainty and transparency for those persons subject to fees/charges under the regulations:

- A. Include a right for persons to request and obtain from the EPA an estimate of the likely charges (as per section 36(3A) of the Resource Management Act for charges other than fixed fees). A fee estimate would not restrict the EPA's ability to recover actual and reasonable costs that exceed the fee estimate but would provide industry with a degree of foresight that will enable it to better manage and monitor costs.
- B. Provide for monthly invoicing by the EPA (or as a minimum monthly reporting of charges incurred by the EPA). Monthly invoicing will provide industry with appropriate transparency of the costs being incurred by the EPA. It will also allow industry to better manage and estimate future costs.
- C. Give those subject to fees/charges under the regulations a right of objection or a right to apply for remission in relation to the imposition of costs. As currently drafted, there is no mechanism in the draft regulations that would allow industry to gauge the reasonableness of the costs being charged by the EPA. We recommend that a suitable safeguard be included along the lines set out in section 357B of the Resource Management Act (right of objection to charges other than fixed fees), or section 36(5) of that Act (discretion to remit).

It would be useful for this cost recovery regime to incorporate in future a higher degree of certainty with regard to likely fees/charges. An element of fixed fees could for example give industry more certainty and a greater ability to manage projects costs, but could still allow the EPA to recover actual and reasonable costs in excess of the prescribed fee (for an example of this approach, see section 36 of the Resource Management Act). We encourage reviewing this cost recovery framework when there is

greater baseline knowledge as to the likely costs associated with the EPA performing its various EEZ regime related functions.

Andrew Saunders  
Policy Manager