



**THE CONTROL OF MARINE OIL POLLUTION
IN NEW ZEALAND**

A REVIEW OF THE SYSTEM

EXECUTIVE SUMMARY

Office of the
PARLIAMENTARY COMMISSIONER FOR THE ENVIRONMENT
Te Kaitiaki Taiao a Te Whare Pāremata

EXECUTIVE SUMMARY

This report presents the results of an independent review, by the Parliamentary Commissioner for the Environment, of the system established by Government to control marine oil pollution in New Zealand.

The report has, in the main, been written as if legal responsibility for the control of oil pollution in New Zealand will remain with the Crown and with regional councils. However, another option involving the transfer of responsibilities to the oil industry, which if pursued would render many of the recommendations in this report redundant, is identified at the end of the report (section 3.10).

Preparation for the possibility of a major oil spill is, in many respects, a classic risk management problem. Risk can be minimized and kept within acceptable limits through the development of appropriate strategies.

LEGAL AND INSTITUTIONAL ARRANGEMENTS

Current legal and institutional arrangements for the administration of oil pollution control in New Zealand are far from satisfactory. The responsibilities of the Minister of Transport, the Ministry of Transport, regional councils and port companies need to be clarified.

Recommendation:

1. That the Minister of Transport give high priority to a comprehensive review of the Marine Pollution Act 1974 with the aims, inter alia, of clarifying responsibilities for oil pollution control in New Zealand and incorporating the requirements of MARPOL (section 2.3).

THE NEW ZEALAND OIL POLLUTION CONTINGENCY PLAN - FUNCTION AND STATUS

There is currently no statutory basis for a national oil spill contingency plan. Preparation of such a plan is potentially the principal means of co-ordinating international, central government, local government, industry and public response to a major oil spill event in New Zealand waters.

Recommendation:

2. That the Minister of Transport consider providing a statutory basis for the preparation of a national oil pollution contingency plan, in a revised Marine Pollution Act (section 3.2).

Progress with the preparation of a comprehensive New Zealand Oil Pollution Contingency Plan has, for a number of reasons, been less than satisfactory.

Recommendation:

3. That Maritime Transport assign a high priority to the completion of the New Zealand Oil Pollution Contingency Plan and that it allocate resources and exercise management control accordingly (section 3.2).

THE ADEQUACY OF EQUIPMENT

Notwithstanding recent expenditure aimed at improving the quality and quantity of equipment for oil pollution control, it is clear that New Zealand (still) has a very limited response capacity in terms of the size of potential spills.

New Zealand's "target" response capacity is a 1500 tonne oil spill. Tankers travelling around the North Cape and into the Marsden Point Oil Refinery carry up to 120,000 tonnes of crude oil. Coastal tankers carry about 20,000 tonnes of oil or oil derivatives.

There is a political dimension to decisions about response capacity relating to the degree of risk considered acceptable, given resource constraints.

Recommendation:

4. That the Minister of Transport advise Cabinet of the risks associated with a 1500 tonne response capability, and with other levels of capability, and seek confirmation of the response capability considered desirable for New Zealand's ports and coastal waters (section 3.3).

In the event of a major oil spill, New Zealand would be reliant on assistance from overseas. Current arrangements for such assistance are informal. It is essential that *reliable* arrangements be developed between New Zealand and other countries to supply equipment to each other in the event of a major spill.

Recommendation:

5. That the Minister of Transport take steps to *formalize* arrangements for assistance in the event of a major oil spill, with the relevant authorities in Australia and/or in other countries (section 3.3).

The national stockpile contains little or no equipment for assisting with the clean-up of oil that has reached the shore.

Recommendation:

6. That Maritime Transport review its current capacity to deal with the clean-up of oil that has reached the shore and purchase equipment as appropriate (section 3.3).

There is a need for agreement between Maritime Transport, regional councils and the oil industry on the extent to which equipment needs to be standardized to ensure compatibility.

Recommendation:

7. That Maritime Transport review the need for standardization of equipment, in consultation with regional councils and the oil industry (section 3.3).

THE DISTRIBUTION OF EQUIPMENT

The location of oil pollution control equipment within New Zealand is important because the essence of dealing with an oil spill is speed of response. Spills need to be *contained* to facilitate clean-up and to prevent oil reaching the coastline.

The present distribution of equipment does not appear to reflect the rapid response imperative or the real distribution of risk.

Recommendation:

8. That Maritime Transport seek specialist advice on the probability of an oil spill in different parts of New Zealand, the likely movement of a spill and the relative sensitivity of different stretches of coastline, with a view to deciding priorities for the positioning of equipment (section 3.4).

If a decision is taken to relocate part of the national stockpile to places like Marsden Point, Port Taranaki and Lyttelton, there may be some merit in locating the "back-up" equipment in Wellington rather than Auckland.

Recommendation:

9. That Maritime Transport review the appropriateness of Auckland as a repository for any residual stockpile of equipment (section 3.4).

THE ADEQUACY OF HUMAN RESOURCES

There is currently a serious shortage of adequately trained personnel at all levels of the response organisation.

Recommendation:

10. That Maritime Transport give high priority to the training of in-house staff and (then) to the implementation of appropriate training programmes for regional council, port company and industry personnel (section 3.5).

ROLE OF REGIONAL COUNCILS WITHIN THE NATIONAL OIL SPILL RESPONSE STRATEGY

The Marine Pollution Act 1974 does not adequately specify the role of regional councils in oil pollution control. The respective roles of Maritime Transport and regional councils need to be reviewed and clarified in the context of related policy issues such as the distribution of equipment and the source of funding for equipment and regional contingency plans.

Recommendation:

11. That the Minister of Transport, in consultation with regional councils, the Minister of Local Government and the Minister for the Environment, review and clarify the responsibilities of regional councils in relation to oil pollution control and ensure that the Marine Pollution Act 1974 is amended accordingly (section 3.6).

Given the "high risk" nature of port areas and the advantages of rapid response and local knowledge, there would appear to be merit in confirming regional councils in the role of operations managers.

Recommendation:

12. That the Minister of Transport, in consultation with regional councils, consider the option of assigning responsibility for implementation of Section II (operations) of the New Zealand Oil Spill Contingency Plan to regional councils (section 3.6).

Recommendation:

13. That the Minister of Transport consider providing a statutory basis for the preparation of regional oil pollution contingency plans (section 3.6).

Recommendation:

14. That the Minister of Transport, in consultation with regional councils, consider extending the coverage of proposed regional oil spill contingency plans to include waters outside harbour limits (section 3.6).

There may be some merit in regional councils preparing regional oil pollution contingency plans as sections of coastal management or regional civil defence plans.

EQUITY OF LEVY APPLICATION

Oil pollution levies are currently imposed only on shipping companies.

Recommendation:

15. That, on equity grounds, the Minister of Transport consider whether an oil pollution levy should be payable by companies or individuals owning or operating exploration equipment, drilling equipment, production platforms, pipelines, land-based storage tanks (section 3.7).

ADMINISTRATION OF CROWN BANK ACCOUNT (OIL POLLUTION LEVIES)

There is an agreement between the Treasury and Maritime Transport that the Crown Bank Account which contains oil pollution levy monies is to be maintained at a *minimum* level of \$8 million to provide for the annual cost of Maritime Transport's oil pollution activities and the *costs associated with a major oil spill*. However, there is a case for making more of the fund available now to establish basic capabilities. In the event of a major oil spill, it would be more important to have adequate equipment, training and contingency plans in place than to have money in the Account.

Recommendation:

16. That the Ministry of Transport and the Treasury review the appropriateness of maintaining the Crown Bank Account at a level of \$8 million or more (section 3.8.2).

There has been a debate between regional councils, the oil industry and Maritime Transport about whether or not the Marine Pollution Act enables oil pollution levy monies to be used for reimbursing regional councils for expenditure on equipment. However, there appears to be nothing in law preventing Maritime Transport from purchasing equipment and allocating it to regional councils for their use, subject to adequate maintenance. Ownership of the equipment would remain with the Crown.

Recommendation:

17. Either that Maritime Transport seek an amendment to the Marine Pollution Act 1974 to empower the Minister to reimburse regional councils, from the Crown Bank Account, for the cost of equipment purchased for oil pollution control purposes.

or

That Maritime Transport purchase and allocate equipment to regional councils in accordance with the distributional needs (for equipment), identified in the revised New Zealand Oil Pollution Contingency Plan (section 3.8.3).

One of the consequences of the impasse over funding of regional equipment is that some regional councils have passed bylaws imposing dues on vessels using harbours, for the purposes of raising money for equipment. The New Zealand Shipping Federation is

concerned at the potential for its members to be taxed three times for oil pollution - that is, through the Marine Pollution Act levy, port company dues and regional council dues.

Recommendation:

18. That Maritime Transport take steps, in consultation with regional councils, port companies and oil companies, to rationalize current arrangements for oil pollution taxes (section 3.8.3).

Maritime Transport has concerns about its ability to access the oil pollution levies fund, as and when required, under current arrangements for management of the Crown Bank Account. There may be a case for providing Maritime Transport with more management flexibility with respect to the operation of the Account.

Recommendation:

19. That the Minister of Finance and the Minister of Transport review the appropriateness of current arrangements for operation of the Oil Pollution Crown Bank Account taking into account the fact that the money in the Account is derived from a special purpose levy, not from taxation revenues (section 3.8.4).

MEMBERSHIP OF THE OIL POLLUTION ADVISORY COMMITTEE

Given the scope of the work currently being undertaken by the Oil Pollution Advisory Committee, there would appear to be considerable merit in widening its membership.

Recommendation:

20. That the Minister of Transport widen the membership of the Oil Pollution Advisory Committee to include representation from the oil exploration industry, regional councils, Ministry for the Environment, and the Department of Conservation (section 3.9).

OPTION OF TRANSFERRING OIL POLLUTION RESPONSIBILITIES TO OIL INDUSTRY

The option of putting responsibility for oil pollution control firmly into the hands of the oil industry, subject to the establishment of standards by Government, needs to be considered.

Recommendation:

21. That the Treasury and the Ministry for the Environment, in consultation with the Ministry of Transport, regional councils, and the oil industry, consider the implications of transferring responsibility for the containment and clean-up of oil spills from the Crown and regional councils to the oil industry and report their findings to Government (section 3.10).