

7 January 2011

Chair
Primary Production Select Committee
Parliament Buildings
Wellington

Dear Sir

Submission: Biosecurity Act Amendment Bill

Introduction

1. This submission is made by the Petroleum Exploration and Production Association of New Zealand. The Association represents companies involved in petroleum exploration and production operating in New Zealand.
2. The Association has participated in a variety of workshops and seminars run by officials over the past 2 years where the review of the legislation has been discussed. We welcome the opportunity to provide comment on the Bill.
3. Our interest in the legislation arises from the operation by the industry of oil rigs in the territorial sea and wider exclusive economic zone, and the desire by the Government to ensure these are not a vector for unwanted marine organisms in NZ. The draft legislation anticipates a variety of mechanisms to control offshore operations by our industry; import health standards, craft risk management standards and craft risk management plans. Our submission focuses on the details of those provisions.

Clause 18 – Notice of craft’s intended arrival in New Zealand

4. We generally support Clause 18, which substitutes a new section 17 into the Principal Act. In particular we support the recognition in 17(2) and (6) that a “craft” may not always arrive in New Zealand at an “approved port”. This will almost always be the situation with drilling rigs which will rarely arrive or dock at a recognised port, but operate in the wider Territorial Sea or Exclusive Economic Zone.
5. What the Bill does not appear to anticipate is that an oil drilling rig may go to several locations (destinations) while operating in New Zealand waters.
6. As it stands, section 17(6) (b) (ii) anticipates a craft may not arrive at an “approved port” but at some other destination. It is unclear whether the Act should also anticipate that the rig (and its support vessels) may move to several locations while in NZ waters. Given that these various locations will have different biosecurity risks depending on their location, perhaps the Act should require both the original point of “arrival” and subsequent operating locations to be notified. (It isn’t entirely clear if section 17(11)(a) anticipates this requirement for future anticipated voyages while in NZ waters.)

Recommendation

7. If section 17(11)(a) does not cover this provision it is suggested that section 17(6) be amended to require notification of all locations where it is expected to operate.
8. Section 17(11) provides for regulations to be made that require the details of a craft’s previous voyages to be reported prior to entry into NZ waters. It isn’t clear what time limit is intended here in relation to “previous voyages”. Presumably there is intended to be some control over how much historical voyage data is required. It might be sensible to limit this in some manner. For example, either limit the data by a time period; or back to the time when the craft was last cleaned/dry docked; or simply limit the requirement to the voyage which immediately precedes the arrival in NZ.

Recommendation

9. That section 17(11)(a) limit in some manner the information requirements of a craft’s previous voyages.

Section 22AD - Craft Risk Management Standards

10. The Association supports the concept of Craft Risk Management Standards. We support the provisions in proposed section 22AD(2) where consultation is required of other government departments and industry participants having an interest in a proposed standard.
11. However section 22AD(3) could allow the chief technical officer to avoid consultation over a draft craft risk management standard, if he had consulted over a risk assessment. In our view this would be unsatisfactory. There is quite a difference in the details of a risk assessment and the wording of an actual standard. In the normal course of events one would expect initial consultation over a risk assessment, which defines the nature of the problem. Following that, consultation would occur over the wording of a draft standard.

Recommendation

12. That the word “or” in section 22AD(3), be deleted where it appears after the words:
“A draft of a craft risk management standard, **or**”, and be replaced with the word “and”.

Section 22AD(5)(c)(i) and(ii)

13. We support the general intent of the provisions in section 22AD (5), particularly (c) which allows for the direct costs of the requirements on owners to be considered. However the use of the word “may” at the start of the clause does not provide adequate certainty that these issues will be considered as a matter of course.
14. It is open for officials to decide whether (c)(i) and (ii) are relevant considerations. This is because use of the word “may” is not a mandatory requirement. This might allow a standard to be developed which ignored the economic costs being imposed on industry by a new Craft Risk Management Standard.

Recommendation

15. That the word “may” at the start of section 22AD(5)(c) be deleted and replaced with the word “shall”.

Craft Risk Management Plans – section 22AF

16. We fully support section 22AF(1)(a) and (b) which anticipates that an operator may wish to seek approval to a craft risk management plan as an alternative or equivalent means of compliance, and which is different to that specified in a craft risk management standard.

17. The Association wishes to be heard in support of this submission.

Sincerely

John Pfahlert

Executive Officer