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Legislation Review
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IADC Response to consultation document on amendments to the OPGGS (Safety) Regulations 2009

Dear Ms Princi

I refer to your email to Derek Morrow of IADC dated 21 October 2015 with two enclosures relating to the aforementioned amendments.

IADC makes no request that this submission, or any part of it, be treated as 'confidential' and has no objection to the publication of this response on the Department of Resources' website.

IADC is a not for profit organisation with around 2,000 member companies representing the worldwide drilling industry. Pertinent to this consultation, our membership includes the vast majority of offshore drilling contractors and all drilling contractors currently providing contract drilling services within the areas subject to Australia's jurisdiction. The views expressed herein are made without prejudice to any comments that may be offered by any of our members.

To begin, we appreciate the granting of extra time for consultation. Your patience and forebearance is helpful, particularly at a time in our industry when personnel resources are drawn low. We are also grateful for being granted the opportunity to respond to your proposals and recognise, in the steps taken by the government as a result of the previous consultations, that a number of IADC's suggestions have been incorporated into final drafting. The Department's receptiveness to

consultation on behalf of the government is encouraging for the future of offshore exploration and production in Australia.

Overview

We would obviously support the broad intent of the resources department to clarify the offshore safety regulations and to align with the revisions to the OPGGS Act 2006, and the take the opportunity to clean up some passages. Our comments below are intended in that light.

We have one generic comment, which is that whereas you substitute NOPSEMA, for Safety Authority in specific places such as subregulation 2.24(5)(a) in other places you continue to refer to the Safety Authority e.g. regulations 4.5 and 4.6 – is this intended?

The following comments and suggestions track the flow of the exposure draft – where no remarks are given, we have no comments to make.

Detailed remarks

Regulation 1.7 (b)

We think the terminology of risk/ordinary marine risk could be improved to be beyond doubt by linking to the defined term of major accident event, and introducing interference with an associated facility along the lines "…risk of [leading to] a major accident event to the vessel or to the people on the vessel or an associated facility."

Regulation 1.8

We support the clarification on behalf of the recipient of a notice. From the recipient's perspective we suggest an alternative drafting "…make the report in *suitable and sufficient detail to allow due consideration of the substance of the notice or report by the intended recipient*"

Regulation 2.32

We foresee circumstances where the revised safety case is of sufficient magnitude that it constitutes a resubmitted safety case; also there will be situations where the revision is virtually co-terminus with a scheduled 5 year resubmission. In either case – from both the duty holder and NOPSEMA's perspectives - there should be discretion to agree a re-submission and re-commencement of the 5 year period. We suggest a new sub paragraph:

> (4) The provisions of subregulation 2.32(2) may be waived at the discretion of NOPSEMA where it can be shown that the revised safety case submitted

pursuant to regulation 2.30 or 2.31 is the same in essential respects as would be submitted under subregulation 2.32(1).

Regulation 4.32(2)

Insert 'of the facility' after 'operator'. See also next point.

Regulation 4.12

In this sub regulation and *et seq* (e.g. regulations 4.14 and 4.15) the terms 'operator of the facility' and 'operator' are juxtaposed. We suggest that a consistent term is used, either by enhancing the definition in subregulation 1.5 and using simply 'operator' in the text, or by following the 2006 Act by using 'operator of the facility' throughout.

4.15(2)(b)

Insert 'diving' in front of 'project'.

Regulation 4.16(2A) (new)

We suggest that to some conventions of safety assessment the term 'risk' as used here is conflated with 'hazard'. To avoid doubt we suggest a substitution as follows: "…unless the *hazards to which persons are exposed at each facility are the same*"

Regulation 4.24(2)

See note under regulation 4.12 above. We are unclear what is the meaning of 'operator' in this case – it is substituted for the term 'operator for a diving project' and we are not sure who is such an entity within the meaning of the 2006 Act – this may be a misunderstanding on our part, but the key issue is for the distinction between the operator of a facility and another type of operator to be clear beyond doubt.

Regulation 4.24 (2A)(ii) (new)

We wonder whether 'of this subregulation" should be inserted after '…(1)(a) and (b)…"

This is a general point *et seq* (e.g. paragraphs (iii) and (iv) of 4.24(2A)

Chapter 6.1 (new)

Would it be clearer if the definition of old law should be amended:

"***old law*** means these regulations as in force before commencement *and subsequently repealed*" ?

6.2 (2)

The term ‘immediately before’ seems to us to bear the prospect of argument. We suggest an amendment: “…old law but, *within 14 days prior to commencement,* had not…”

6.3(b)

Further to the immediately preceding point: “was in force *within 14 days* before…”

Notices general.

You propose a new Schedule 3.1 for provisional improvement notices. Is it intended to offer further revised drafting for other notices as under existing Schedules 3.2-3.5?

Schedule 2 (new)

In this schedule you propose foreign companies be registered under Division 2 of Part 5B of the Corporations Act 2001. We have no comments on this issue because it is entirely a matter for those companies to whom these measures will directly apply.

We thank you once again for the opportunity to comment on your proposals and trust our comments will be of use.

Yours sincerely

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