

15 April 2010

Ministry for the Environment
PO Box 10 362
Wellington

Dear Sir

SUBMISSION - Proposed National Environmental Standard for the Management of Contaminated Land

1. The Association (PEPANZ) represents the interests of petroleum exploration and production companies operating in New Zealand.
2. PEPANZ supports the promulgation of a National Environmental Standard ("NES") which would require Councils to prioritise the evaluation of potential soil contamination where there is potential risk to human health, in particular if the land in question is undergoing or about to undergo a land use change.
3. This is even though the petroleum industry features on the Hazardous Activities and Industries List ("HAIL") which would mean that any change of use of land currently occupied by the industry to another land use which might expose members of the public to the priority contaminants listed in the NES would trigger the requirements of the NES.
4. Members of the Association attended various briefings by the Ministry, and have raised the following comments and concerns with the NES as currently drafted, which PEPANZ wishes to now raise for your consideration.
5. Exactly what triggers the requirements of the NES for soil testing, assessment of risk, and remediation is unclear. According to Ministry staff at the Richmond briefing, it was mainly all about subdivisions on land that has had a hazardous activity or industry on it.
6. At the Taranaki briefing the industry attendee gained the impression that was that testing only needs to take place if the site is going to be developed into a land use involving human exposure to soil. If that is the case then our reading of the situation is that the conversion of a well site back into pasture would not require a site investigation as there would be limited exposure to soil.
7. Some clarification of exactly what is intended would be desirable. PEPANZ believes detailed clarification for Councils with regard to what sort of change in land use would trigger the NES requirements, rather than leaving it open as it reads at the moment.
8. A temporary land use, such as exploration drilling, could on the face of it trigger the requirements of the NES. For the petroleum industry this could be the use of a piece of rural land for exploration well drilling for, say, 30-60 days only. Once drilling had finished and the site facilities and structures were removed, it would revert back to its former use.

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9. Sections 4.1.2 and 4.1.3 are very confusing, and it is difficult to ascertain exactly what is permitted and what is discretionary, including in terms of what conditions and requirements can or cannot be considered within any planning or consenting process, or emplaced on any resource consent.
10. As an example, one learns from s 4.1.2 that undertaking subsurface investigations of land is a permitted activity, but then it notes that this status only applies if the results are forwarded to the relevant Council within 60 days. If the results are not forwarded, this then seems to default to a discretionary activity status. What does this mean exactly? That resource consent would be required for doing the initial investigatory digging and testing, ie a retrospective consent? Or does it mean that the next step in the chain of investigation and reporting requires consent?
11. Perhaps introducing a controlled activity status may be handy if contamination is suspected. Discretionary maybe relevant to highly contaminated sites following initial investigation. This would provide applications with certainty in regard to timeframes and a straightforward procedural approach.
12. There is confusion over what the boundaries are in terms of the NES between requirements on Councils under the NES, and their other roles and responsibilities with regard to contaminated land where human health is not the driving issue.
13. There needs to be some classification or definition of an 'Experienced practitioner'. An experienced practitioner is required to undertake site investigation and retrieve samples. Would a surveyor or an environmental planner be classified an experienced practitioner?
14. At the workshop the Ministry for the Environment representative mentioned adding hydrocarbon testing to the soil guideline values. What proposed levels of hydrocarbon content would trigger the NES? And wouldn't this additional testing add unreasonable cost on applicants?
15. PEPANZ would endorse the making mandatory of a rigorous, national contaminated land information management system for all Councils to utilise.

Yours sincerely



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Executive Officer