



# **National OHS Bulletin**

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## **1) MUA response to safety incidents during Cyclone Billy December 2008**

Immediately following two major safety incidents during Cyclone Billy, one involving the death of an IR, National Secretary Paddy Crumlin wrote to Martin Ferguson, Minister for Resources, Energy and Tourism (responsible for NOPSA), and Anthony Albanese, Minister for Infrastructure, Transport, Regional Development and Local Government (responsible for AMSA) seeking an independent review of the role of both regulators during these incidents. In response, Minister Ferguson announced an extension of the terms of reference for the joint Commonwealth-WA Government Inquiry into the Varanus Island gas explosion to include regulatory issues associated with safety incidents on the *Karratha Spirit* and *Castoro Otto* during Cyclone Billy.

The Union subsequently lodged a submission to the Inquiry and has since met with advisers to the Inquiry to further highlight key elements of the Union's submission. We are seeking significant changes to the Offshore Petroleum Act to overcome the dissapplication of the Navigation Act and OHS(MI) Act.

The inquiry is due to report in mid April 2009.

The MUA-AWU has subsequently written to Minister Ferguson asking that he now hold off responding to the Recommendations in the Review of NOPSA until he has the Report of the Offshore Regulatory Inquiry so both sets of outcomes can be addressed concurrently.

## **2) Meeting with CEO and Deputy CEO of NOPSA**

Offshore Unions, under the auspices of the ACTU met with senior NOPSA management on 13 March 2009. Key issues discussed included:

- The stage reached in NOPSA investigations of the *Karratha Spirit* and *Castoro Otto* incidents;
- Emergency preparedness – personnel and medical evacuation;
- Formation of a NOPSA Liaison Group;
- The Safety Case model; and
- The 2009 HSR Forum.

## **3) RET Crane Competencies Working Group**

The Union has participated in all 3 meetings of the Working Group, which is chaired by the Department of Resources, Energy and Tourism (RET), not NOPSA. Union concerns about the unwillingness of the employers and operators to consider an industry based standard to be applied by way of a Regulation under the Offshore Petroleum Act has been raised with Minister Ferguson. We are now seeking a meeting with the Minister to discuss this and other NOPSA issues.

#### **4) NOPSA Accommodation Working Group**

This Group has met on three occasions. The parties have been asked to develop views of minimum standards in relation to:

- Noise
- Whole of body vibration
- Indoor air quality
- Lighting
- Arrangement of the Main Facilities in the Living Quarters
- Ergonomic
- Psycho-social Parameters

With the support of financial contributions from other offshore unions, the MUA is now project managing a short consultancy to develop advice for the Unions on standards in each of these areas. We hope to have that expert advice before the next Working Group meeting in April.

#### **5) The Rudd Government review seeking to harmonise OHS legislation (Acts, Regulations and Guidance material) in Australia**

The first report was presented to the Government on 31 October 2008. It focussed on defining duties of care, including the identification of duty holders and what are their roles and their duties, as well as penalties for breaches.

The second report was presented to the Government on 13 February 2009. It covered:

- scope and coverage of the proposed OH&S harmonisation, including definitions;
- workplace-based consultation, participation and representation provisions, including the appointment, powers and functions of health and safety representatives and/or committees;
- enforcement and compliance, including the role and powers of OHS inspectors, and the application of enforcement tools including codes of practice;
- regulation-making powers and administrative processes, including mechanisms for improving cross-jurisdictional cooperation and dispute resolution;
- permits and licensing arrangements for those engaged in high risk work and the use of certain plant and hazardous substances;
- the role of OHS regulatory agencies in providing education, advice and assistance to duty holders; and
- other matters the review panel has identified as being important to health and safety that should be addressed in a model OHS Act.

Of direct importance to the union is that the second report recommends that there is still a need for separate legislation for specific industries, but that the

need for this separation should be regularly tested. This recommendation is directly relevant to the future independence of the Seacare scheme for seafarers and the NOPSA scheme for offshore oil and gas workers.

The inquiry's other recommendations do not have a significant impact on the MUA because shipping and offshore oil and gas are already regulated under Commonwealth legislation, which itself is modeled on the Commonwealth's national Comcare legislation; and in relation to stevedoring, we are seeking a harmonized National Code of Practice.

The ACTU also supports the retention of industry specific schemes such as Seacare and NOPSA.

## **6) Progress with the Bill to establish Safe Work Australia**

Due to a failure by the Senate to support the form of the Government's Bill to establish Safe Work Australia to replace the Australian Safety and Compensation Council (ASCC) the Government laid aside the Safe Work Australia Bill on 4 December 2008. As a result we understand the Government has now decided to establish Safe Work Australia by administrative means i.e. it will be a part of Minister Gillard's Department.

The Intergovernmental Agreement signed by the Prime Minister and State Premiers that underpins the new Safe Work Australia arrangements and the harmonisation process commits all jurisdictions to a process for the adoption of model OHS laws, and which we expect will enable the development of uniform, equitable and effective safety standards and protections for all Australians. That work will commence later this year.

## **7) Employment and Workplace Relations Amendment Bill - Seacare**

The Union understands that the Rudd Government plans to introduce an amendment this year that will increase lump sum death benefits and weekly payment death benefits for dependent children under the *Seafarers Rehabilitation and Compensation Act 1992*.

The reason for the legislation is to align the death benefits payable under the Seacare Scheme with those payable under the Comcare Scheme, reflecting the original policy intention underlying the establishment of the Seacare Scheme that it be aligned with Comcare in relation to benefits.

## **8) Review of NOPSA – no action by Minister Ferguson as yet**

The Minister for Resources and Energy has not yet released the Government's response to the Recommendations contained in the Report of the Review of NOPSA, which were tabled in the Federal Parliament in May 2008. The AWU and MUA jointly responded to the Recommendations in November 2008 at the invitation of the Government. However, as a result of Minister Ferguson including a review of the Karratha Spirit and Castoro Otto incidents in the Offshore Petroleum Regulatory review, the union has now

requested Minister Ferguson to hold of his response to the Review of NOPSA until he has considered the outcomes from the Offshore Petroleum Inquiry.

### **9) MO32 Final Submission**

The MUA's final submission on the Review of MO32 was sent to AMSA on 16 March 2009.

The submission argues the case for inclusion of a dispute settling mechanism in MO32 and also proposed a review of the penalties in the Marine Order, which are out of step with OHS penalties applying in OHS legislation generally. Furthermore we highlighted that we believe there is a weakness in the definition of "Competent Person", which is poorly defined in the Marine Order.

We also requested that the implementation of the nationalised waterfront guidance material and introduction of new AMSA MOU's with States/NT are integrated and that there is a managed roll-out.

The union also requested that further investigation be made into the possibility of utilising a database of all vessels prior safety issues and incidents on the job. If access to these records was available the knowledge would be very useful in identifying safety hazards before work commences on any vessel that arrives in our ports.

When the new Marine Order is published the union will put together guidance material for members so that they are able to easily interpret the changes and be armed with information to assist them on the job. In addition to this there will be guidelines for specialised vessel and cargo operations to assist in determining the requirements for a Hatchman.

It should also be noted that we remain committed to seeking to settle an MUA MOU with each of the stevedores setting out the obligations of the employers and union in implementing the integrated package.