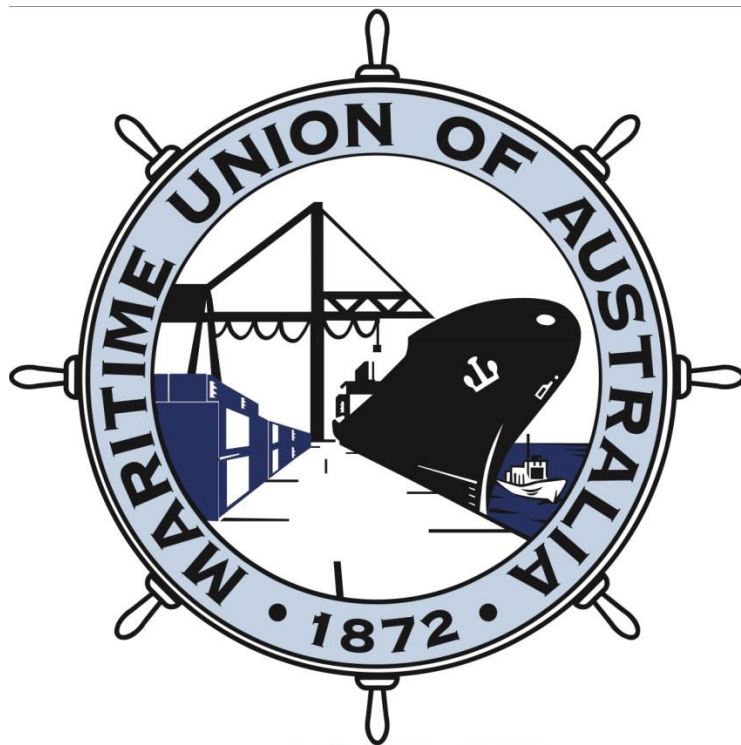


MUA Submission:
Draft Marine Order 47
(Offshore Industry Units) 2019



15 July 2019

Australian Maritime Safety Authority

Submitted by email: Consultation@amsa.gov.au

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Introduction

This submission has been prepared by Maritime Union of Australia (MUA). The MUA is a Division of the 120,000-member Construction, Forestry, Maritime, Mining and Energy Union and an affiliate of the 20-million-member International Transport Workers' Federation (ITF).

The MUA represents approximately 14,000 workers in the shipping, offshore oil and gas, stevedoring, port services and commercial diving sectors of the Australian maritime industry. Our members work on offshore supply vessels, Floating Production and Storage and Offloading (FPSO) vessels, Floating Storage and Offloading (FSO) vessels, Mobile Offshore Drilling Units (MODUs), and the *Prelude* Floating Liquefied Natural Gas platform. They are directly affected by amendments to the Marine Order. We are part of an Offshore Alliance with the Australian Workers Union that jointly organises workers across the Australian offshore oil and gas industry.

Summary

The Marine Order concerns changes to the safety regulation of Floating Production and Storage and Offloading (FPSO) vessels and Floating Storage and Offloading (FSO) vessels, which have the capacity to store billions of barrels of crude oil off the coast of some of Australia's most pristine coastlines. It also concerns safety regulation for Mobile Offshore Drilling Units (MODUs), which drill for oil beneath the seafloor. Australia's worst oil spill to date involved a Mobile Offshore Drilling Unit, the *West Atlas*, which was involved in the drilling of the Montara oil field. Oil spills involved in drilling oil are particularly catastrophic as they open a direct passage from subsea oil fields to the sea, and are very difficult to stop.

The Australian oil and gas industry is substantial. They report that they paid \$4 billion in taxes in 2016-17 and made \$40 billion in exports in 2017-18, according to the industry peak body the Australian Petroleum Production & Exploration Association (APPEA).¹ The combination of high risk and high revenue means that the industry should be held to the highest standards of safety.

In this context, the MUA has serious concerns with the draft Marine Order 47 (Offshore Industry Units) 2019. AMSA has taken two Marine Orders (47- Mobile Offshore Drilling Units and 60 -Floating Offshore facilities) which provide for matters relating to the certification, safe operation, and safe navigation of such facilities, and is proposing to replace them with one document which is solely focused on the certification and administration of Offshore Industry Units. We are concerned that:

- The Marine Order has been stripped of operational safety standards to requirements that are only administrative in nature.
- The Marine Order has been stripped of any penalty for operators.
- There is no requirement for AMSA to inspect international flag offshore units operating in Australian waters.

¹ APPEA, *Key statistics 2019*, p.7-8.

- There are no transparent requirements for units to have the necessary marine crew on board to ensure safe operation of vessels when they are disconnected from the seafloor.

The proposed Marine Order does allow for in-water surveys of the hulls of oil storage facilities to be carried out instead of drydocking, which will be a considerable cost saving for operators. However, there is no accompanying risk assessment to justify this change, or explanation of why it is necessary. The consequences of poor hull maintenance for FPSOs is considerable, as they store very large quantities of oil (Table 1).

Table 1: Storage capacity of a few Australian FPSOs.

Name of vessel	Crude oil storage capacity
Maersk Ngujima-Yin	1.9 million barrels
Nganhurra	900,000 barrels
Okha	925,000 barrels
Pyrenees Venture	850,000 barrels

Recommendation: MO47 should not come into effect until a full risk assessment and rationale of the need to remove the requirement to inspect the hulls of FPSOs and FSOs in drydock is published and subject to public scrutiny.

Removal of operational requirements

The following sections on operational safety are proposed to be removed from the current Marine Orders, with no equivalent in the proposed MO47 (2019). They are specific safety requirements for these specific types of vessel:

- Section 13, Personnel, and associated Schedule 1 from MO47, and associated penalty
- Section 9, Safe Manning from MO60
- Section 15, Storage of gas cylinders from MO47, and associated penalty
- Section 10, Operational Matters, from MO60 and Section 21, Transfer of material, appliances or persons, from MO47, and associated penalties
- Section 17, Muster List, from MO 47, and associated penalties
- Section 18, Emergency Drills, from MO 47, and associated penalties
- Section 19, Emergency training, from MO47, and associated penalties
- Section 22 Helicopter arrivals and departures, from MO47, and associated penalty

AMSA officials have told us that operational requirements must be removed from Marine Orders as the provision to make regulations about the 'safe navigation and operation' of ships, which was included in the *Navigation Act 1912* (s.425 (1)db), no longer exists in the *Navigation Act 2012* (s.339) powers with regards to Marine Orders (the relevant sections are in Appendix 1).

It is absurd that this provision has been removed, and the Navigation Act should be amended to have it reinstated. We sincerely hope that AMSA is recommending such an amendment to government. Without this provision in the Navigation Act, AMSA is

effectively hamstrung in carrying out the objectives of both the *Australian Maritime Safety Authority Act 1990* and the *Navigation Act 2012*, which are to promote maritime safety and the protection of the marine environment.

Despite the removal of the provision to make regulations about the 'safe navigation and operation' of ships being removed, many other regulatory powers remain in s.339. AMSA seems to be taking a very narrow view of the powers available to it. AMSA does have the power to make regulations regarding the operation of machinery and equipment, manning, seafarer certification, training and drills, yet it seems to be deliberately ignoring these powers, and instead is seeking to remove every requirement that is not administrative in nature.

Marine Order 47 and Marine Order 60 list specific penalties for contravention of a requirement in the order. The draft MO47 (2019) does not include a single penalty. This has a substantial impact on the ability of the regulator to enforce these measures, and the crew to insist that specific measures are taken to ensure safety, with direct penalties for noncompliance. It also sends a strong message to operators about the consequences of noncompliance.

Recommendation: Marine Order 47 (2019) should not come into effect until the safety and operational requirements from the current marine orders are included in the new draft.

Recommendation: AMSA must recommend to the government that the *Navigation Act 2012* regulation making powers that govern Marine Orders (s.339) should be urgently amended to restore the provision to make regulations about the 'safe navigation and operation' of ships, which was included in the equivalent section of the *Navigation Act 1912* (s.425 (1)db).

Minimum Safe Manning

FPSOs, FSOs and MODUs operate in remote locations and are not subject to inspection by AMSA unless they go into ports, which they rarely do. Thus it is critical that the requirements for marine crew are robust and transparent for all crew working on the vessel. The nature of the vessel's operations means that Navigation Act will come into force when the unit detaches from the seabed and comes into the Navigation Act jurisdiction, while at sea and likely far off the coast. Therefore, a Minimum Safe Manning Document MUST be issued for the vessel, be available in a public place on board the vessel, and be in force at all times when the Navigation Act and Marine Order 47 applies to the vessel.

In addition to the requirement for a MSMD, the Marine Order should be amended to ensure that both Marine crew and special personnel are appropriately trained and qualified, as follows:

"Offshore Industry Units are to be manned at all times in accordance with the guidelines and principles in Resolution A. 1047(27) 'Principles of minimum safe manning', and Resolution A.1079(28) 'Recommendations for the Training and Certification of Personnel on Mobile Offshore Units (MOUs)'."

Recommendation: Minimum Safe Manning Documents must be issued for Offshore Industry Units, be available in a public place on board the vessel, and be in force at all times when the Navigation Act and Marine Order 47 applies to the vessel. The Marine Order must require that Offshore Industry Units are to be manned at all times in accordance with the guidelines and principles in Resolution A. 1047(27) 'Principles of minimum safe manning', and Resolution A.1079(28) 'Recommendations for the Training and Certification of Personnel on Mobile Offshore Units (MOUs)'.

Inspection of Offshore Industry Units

This Marine Order applies to Australian-flag Offshore Industry Units, as well as international-flag units operating in the Australian EEZ.

However, we are concerned that AMSA does not carry out inspections of international-flag offshore industry units unless they visit an Australian port, which they are unlikely to do. While Australian flag units are covered by AMSA's flag state responsibilities and standards, AMSA should be making more effort to carry out its Port State Control responsibilities. This is of particular concern for international flag units travelling to work in Australian waters, who may never be inspected by AMSA.

It is extraordinary that an industry with the level of revenue and taxation of the offshore oil and gas industry can operate large international flag maritime production units in Australian waters without being inspected by AMSA.

Recommendation: All international flag Offshore Industry Units operating in Australian waters should be required to inspected by AMSA on arrival and at least every five years after.

Consultation

In preparing the draft Marine Order 47, AMSA has mainly consulted with operators and employers, who have a substantial interest in influencing AMSA to reduce their costs. These aims seem to have been achieved, with significant savings potential in the removal of the requirement for out of water surveys, and removal of the ability of the regulator to issue penalties for contravention of the Marine Order.

We understand that AMSA has consulted the oil and gas industry employer bodies Safer Together and Marine Safe at meetings some time ago, perhaps in 2018. We note that Safer Together Marine Working Group includes a permanent AMSA liason. In contrast, representatives of workers on Offshore Industry Units were not consulted until the proposed Marine Order was fully drafted and sent out for public consultation in early June 2019.

Recommendation: AMSA should develop better structures for consulting with the maritime workforce.

Safety Case

When Offshore Industry Units are attached to the seafloor they move from the jurisdiction of the Navigation Act to the Offshore Petroleum and Greenhouse Gas Storage Act. Under the OPGGS Act, units are required to have a comprehensive Safety Case, which are briefly referenced in the current MO 60.

For many of the vessels covered by this Marine Order, the safety case is the main document outlining safety procedures. Although it exists under the OPGGS Act, it covers many processes relevant to the marine operation of the vessel. It should be referred to in the Marine Order.

Notification of Planned tows

We note that the draft Marine Order 31 (SOLAS and vessel safety certification) 2019 also has a section on Notification of Planned tows. We request that the sections be amended to more closely reflect each other so that the intent that the owner or master must “implement arrangements for a safe towage operation” is unmistakable.

Lifeboats

One positive change in the Marine Order that may lead to improved safety, is perversely, removing the requirement for lifeboats and rescue boats to be launched and manoeuvred on the water. These craft are notoriously dangerous and have led to many fatalities worldwide. However, AMSA already has the power to exempt vessels from this requirement and to facilitate alternative arrangements for maintenance and testing if it is deemed to be unsafe.

Appendix 1: Powers to make marine Orders in Navigation Act 1912 and 2012

Navigation Act 1912

425 Regulations

(1) The Governor General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act or for the conduct of any business under this Act, and in particular prescribing matters providing for and in relation to:

- (a) the inspection and testing of machinery and appliances for the loading and unloading of ships;
- (b) the prevention of the use of defective machinery or appliances for the loading or unloading of ships;
- (c) the protection of the health and the security from injury of persons engaged in the loading or unloading of ships;
- (d) matters affecting the stability of ships;
- (da) the regulation of the use of lights or fire in the holds of ships;
- (db) the safe navigation and operation of ships;**
- (dc) vessel traffic services (within the meaning of section 411);
- (e) the safety of persons, including pilots, going on or coming from, or on board, ships;
- (ea) the training and qualifications of masters and seamen;
- (eb) the maximum number of hours that masters or seamen may be required to work in a particular period of time;
- (g) the issue of certificates as to the service at sea of seamen;
- (h) the imposition of penalties not exceeding 50 penalty units for a contravention of:
 - (i) a provision of the regulations; or
 - (ii) a provision of an order made under subsection (1AA); or
 - (iii) a notice, order, direction or instruction given, issued or made under, or in force by virtue of, the regulations;
- (ha) the manner in which notices, orders, directions, instructions or other documents under this Act may be given, served or notified; and
 - (i) the fixing of the fees to be paid in respect of any matters under this Act.

Navigation Act 2012

339 General regulation making power

- (1) The Governor General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), regulations may make provision for or in relation to the following:
 - (a) design and construction of vessels;

- (b) machinery and equipment to be carried on board vessels, including but not limited to the following:
 - (i) machinery and equipment for sending or receiving distress, urgency and other signals;
 - (ii) radio installations, radio navigational aids and communications equipment;
 - (iii) compasses;
 - (iv) lights;
- (c) operating, maintaining, checking and testing any such machinery and equipment;
- (d) marking of load lines on vessels;
- (e) the stability of vessels including information about, and testing of, the stability of vessels;
- (f) operating watertight doors;
- (g) saving of life at sea, including:
 - (i) the equipment to be carried on board vessels; and
 - (ii) measures to be carried out for the purpose of saving life at sea;
- (h) prevention, detection and extinguishment of fires at sea, including:
 - (i) equipment to be carried on board vessels; and
 - (ii) measures to be carried out for the purpose of preventing, detecting and extinguishing fires at sea;
- (i) maintenance, testing, survey and certification of vessels;
- (j) special purpose vessels;
- (k) nuclear vessels;
- (l) logbooks;
- (m) records relating to compliance with this Act;
- (n) the exercise of powers, and performance of functions, of issuing bodies under this Act;
- (o) matters of a transitional nature (including matters of an application or saving nature) arising out of the enactment of this Act or the repeal of the Navigation Act 1912 or the Lighthouses Act 1911.