



The Maritime Union Of Australia

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Senator the Hon Annette Hurley
Chair
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Emailed to Committee Secretary John Hawkins

Dear Senator

**Re: Inquiry into the Offshore Petroleum and Greenhouse Gas Storage
Amendment (National Regulator) Bill 2011 and related Bills**

The Maritime Union of Australia (MUA) strongly supports the policy and regulatory intentions of the Commonwealth to strengthen the regulation of offshore petroleum activities and reduce unnecessary regulatory burden that will generally be given effect by passage of the offshore petroleum regulatory Bills currently before the Parliament.

However, I am writing to inform the Committee about a potential consequence of the Bills currently subject to consideration by the Committee relating to safety, which could impact on the rights, duties and obligations of employers and employees operating and working in the offshore oil and gas industry.

The workers I refer to include marine crews, divers and other maritime workers working on a range of vessels types and on facilities associated with the exploration, construction, production and transportation of hydrocarbons in Australia.

In addition, the maritime and dive workforce relies for its safety regulation on the provisions of schedule 3 of the OPGGS Act and the jurisdiction of NOPSA.

If we are correctly interpreting the effect of passage and commencement of the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011 (National Regulator Bill) it will have the effect of limiting the current coverage of Commonwealth and Joint Authority responsibility to waters that are seaward of the 3 nautical mile limit (i.e. designated coastal waters, being the first 3 nautical miles of the territorial sea adjacent to each State and the Northern Territory, plus (in the case of Western Australia) some historic petroleum title areas landward of the (3-mile) territorial sea baseline but external to the State will cease to be covered by Commonwealth legislation), unless the States and NT agree to confer functions and powers to the Commonwealth.

The Explanatory Memorandum to the National Regulator Bill indicates that since 1 January 2005, NOPSA has been the regulator of occupational health and safety in Commonwealth waters under the Commonwealth Act and in State and Northern Territory coastal waters under the State and Northern Territory Petroleum (Submerged Lands) Acts, but this will only occur on passage and commencement of the Bill if there is a conferral of functions and powers by the States/NT. This does not appear likely in the immediate future given the position taken by the WA Government.

The change to the jurisdiction of NOPSA (or NOPSEMA if the Bill becomes law) will create even greater dysfunctionality and greyness in the application of safety regulation in the offshore oil and gas industry, and particularly to employees on vessels and divers who may regularly move across jurisdictional boundaries.

The safety jurisdiction is currently confusing and uncertain, involving at least 3 Commonwealth Acts (OPGGS Act, Navigation Act and Occupational Health and Safety (Maritime Industry) Act and State/NT Acts). This Regulatory uncertainty for OHS in particular will become even more uncertain if NOPSEMA's jurisdiction is withdrawn from designated coastal waters (in the absence of State/NT conferral).

This possible devolution of safety regulation functions to the State and Territory Governments is at odds with the development of National OHS Standards and Codes of Practices which is currently being developed and is intended to be implemented on 1 January 2012. It is noted that in July 2008, the Council of Australian Governments signed an *Intergovernmental Agreement for Regulatory and Operational Reform in OHS*.

In these circumstances we are opposed to any changes that may contribute to, or result in, a devolution of OHS regulation in this sector of Industry. We urge the Senate Economics Legislation Committee to recommend that the Bill be altered to ensure that the Commonwealth exercise its full powers to regulate OHS in State designated waters in the absence of referral to ensure the current status whereby NOPSA regulates OHS in Commonwealth waters under the Commonwealth Act and in State and Northern Territory coastal waters under the OPGGS Act, continues seamlessly.

Yours sincerely

Paddy Crumlin
National Secretary