

# Branch Bulletin March 2014

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## Hazelwood Mine Fire

The following media release by the UFU on the 24th March has highlighted potentially serious breaches of the Victorian OHS Act re exposure of Victorian firefighters to dangerous levels of CO. The Aviation Branch is concerned to ensure that members who were deployed to the Hazelwood fire were not exposed in the same way as the Victorian firefighters. Members who were deployed to Hazelwood and have any concerns about exposure to CO and/or who suffered any affects of exposure are asked to contact the Branch Secretary as a priority.

### *Morwell Firefighters Seek Prosecution*

*A leaked letter says Victorian fire services were warned that they were making firefighters work in the Hazelwood mine with arbitrary and dangerous levels of carbon monoxide in their blood.*

*An occupational hygienist employed by the fire services says all parties agreed that the CO exposure risk was 'untenable' and that immediate action was required.*

*He says the carbon monoxide blood level (COHb) set as safe for firefighters to enter or re-enter the mine had "no clear rationale or justification".*

*Agreed resolutions to protect firefighters did not happen. The risks and agreed actions were kept secret from the exposed firefighters. By law this information should have been shared with the firefighters' health and safety representatives.*

*Peter Marshall, secretary, United Firefighters Union, says Victorian firefighters have been treated like canaries in the mine.*

*"Many became ill, some were hospitalised – the outcome could have been far more serious."*

*"The fire services set an arbitrary carbon monoxide blood level of 5% for firefighters to enter the mine, but Safe Work Australia says adverse health results have been well documented at COHb levels of 2.5-3%.*

*"After the consultant visited the mine, the parties agreed that all firefighters would wear breathing apparatus in the mine. This didn't happen – firefighters were issued with P2 dust masks, like DIY handymen might wear when painting."*

*The UFU has written to the Premier, the CFA and MFB, Fire Services Commissioner Craig Lapsley, and WorkSafe. The UFU has asked for an immediate WorkSafe investigation to assess potential prosecution under the Occupational Health and Safety Act 2004 (Vic).*

All members deployed to Hazelwood are to be congratulated and commended for a great job well done in such adverse conditions.

**PLEASE NOTE THAT DIRECT DEBITS FOR FORTNIGHT ENDING 25TH APRIL WILL BE PROCESSED ON MONDAY 28TH APRIL DUE TO OFFICE CLOSURE ON ANZAC DAY**

## Rest Relief

Clause 4.7 of the *Airservices Australia (Aviation Rescue and Fire Fighting) Enterprise Agreement 2013-2017* provides that if you are required to work additional hours or emergency duty and there is less than eight (8) hours break to your next regular shift commencement time, you will not be required to attend for ordinary duty until you have been absent for eight (8) hours (plus reasonable travelling time) and that your pay will not be reduced for the period of such absence.

Further, if you are required to work without eight (8) consecutive hours off duty (plus reasonable travelling time), you will be paid at the additional hours rate (time and a half) for all hours worked until the required break is taken.

Note, the rest relief provisions do not apply where the period of emergency duty or additional hours worked immediately prior to the commencement of a normal shift is less than 3 hours.

The Union has been successful in securing significant adjustments for members in WA who were not being treated in accordance with the provisions of the EA on this matter.

If you believe the rest relief provisions have not been correctly applied to hours you have worked you should contact your Organiser/BCOM Delegate for clarification of your entitlements.

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## DCC and NCC Meetings

The next DCC and NCC meetings are scheduled for 28th and 29th May. Any agenda items for these meetings should be submitted to the Union office by **30th April 2014**.

## WHS Update March 2014 - Diesel Emissions

Wes Garrett

On Monday, 17 March 2014 a requirements workshop was convened by Airservices to discuss the risks associated with uncontrolled diesel emissions generated in the workplace. The meeting was attended by senior ARFF management, WHS specialists from both Airservices and ARFF, several Projects and Engineering staff and the UFU Aviation Branch (UFUA).

Until recently Airservices has been reluctant to acknowledge the risks to the health and safety of its workers who are routinely exposed to Diesel Particulate Matter (DPM) generated inside their workplace. The UFUA has for some time now, campaigned for a nationalised approach on this issue. We have strongly advocated for an engineering solution that is capable of capturing DPM at source within the confines of an engine bay. This type of system comes closest to eliminating DPM (a group 1 human carcinogen, *IARC 2012*) from our workplace, in line with the WHS Act 2012 and its hierarchy of control.

The requirements workshop has served as the catalyst for the formation of a diesel emissions working group headed by RM Rodney Reith and ARFF WHS Specialist Andrew McKay. The UFUA is also an integral member of this working group. .

*“Unlike most of the other exposures, DPM is actually able to be eliminated from our workplace using commercially available air handling systems”*

Agreed actions from the workshop are as follows:

- Collate available information/references/reports in one repository.
- Arrange for risk assessment workshop with SE&A Risk Systems Unit.
- Output must be referenced or included as a risk/threat in ARFF risk register.
- Schedule working group agenda to follow through on resolution.
- Capture at source engineered systems identified as optimal control.

The Aviation Branch hopes this working group will be able to bring about a new agenda within ARFF to control diesel emission that is generated inside of the occupational workplace.

It is important for all members to note that we are now in the age of Presumptive Legislation. This landmark amendment to the Safety Rehabilitation and Compensation Act recognises in Commonwealth Law that there are 12 occupational cancers associated with firefighting. Owing to the strength of this legislation, each and every exposure to a carcinogenic material within the context of our daily duties needs to be both acknowledged and identified. Some of these exposures, particularly during live fire scenarios, can only be mitigated to a given point; nevertheless, every effort must be made to do so.

Exposure to DPM should not be viewed in isolation. It is one of many regular and ongoing exposures to carcinogenic material that we come in contact with during our routine duties as ARFF firefighters. Unlike most of the other exposures, DPM is actually able to be eliminated from our workplace using commercially available air handling systems, the pricing of which, importantly, is comparable to the under-specified stationary systems currently sanctioned by ARFF and installed at a number of stations around the country.

### **Fitness for continued duty letters**

The Union has recently received calls from concerned members who have received letters about being currently unfit for operational duties. The letter indicates it arises from the provisions of clause 7.7 Fitness for Continued Duty of the Enterprise Agreement and is sent after the employee has attended an appointment with a DAME.

The letter notes the report of the DAME and then says that “ASA proposes you are currently unfit for operational duties.” The letter concludes with a paragraph that says, “in accordance with the provisions of ASA Enterprise Agreement 2013 - 2017, you are given an opportunity to provide a written response to the action proposed within (14) days from the date of this letter.”

On any reasonable reading, the letter causes the recipient to feel there is a requirement to provide a response.

ASA HR have advised that there is no requirement to reply to the letter, that it is merely sent in accordance with the provisions of the EA and provides the opportunity to provide any further comment subsequent to the report of the DAME if the employee wishes to or feels the need.

The Union has contacted ASA HR about the letter and the confusion it is causing. The Union has asked that the letter be reviewed with a view to making the purpose of the letter clear to recipients and clarifying the position for employees in regard to providing/not providing a response.

## BCOM Portfolio Holders

Like ARFF, the Union has portfolio responsibilities allocated to members of the BCOM. The BCOM recently reviewed and allocated the following portfolio responsibilities. The portfolio holders assist the Branch Secretary with representing and promoting the members views to ASA/ARFF on their portfolio areas. An example of the work of the portfolio holders is the WHS Update on Diesel Emissions provided by Deputy WHS Co-ordinator Wes Garrett in this newsletter.

The reviewed list of portfolios and portfolio holders is:

*Equipment* – Jon Vaughan and John Ring

*Equity and Diversity* – Henry Lawrence and Jon Vaughan

*DTO/WRS* – Simon Osborn

*WHS* – Mal Lacy and Wes Garrett [Deputy WHS Co-ordinator]

*Training/Recruitment* – Jon Vaughan, Simon Osborn and Simon Owen

*Rosters* – Jon Vaughan and Al Lerpiniere

*CASA* – Joe Stenhouse and Henry Lawrence

*Facilities* – Karl McDonald and Jake Callaghan

*Joint User* – John Ring, Joe Stenhouse and Rick Nolan

*Vehicles/New Vehicles* – John Ring and Al Lerpiniere

Portfolio holders provide reports to meetings of the BCOM and for inclusion in Branch newsletters.

## Proposed Recruit Physical Protocol

Further consultation on the recruit physical protocol will take place in Brisbane on Friday, April 14. The Aviation Branch is an integral part of this process and will be participating on Friday.

Fire services nationally and internationally base candidate testing on specific job critical skills. The proposed protocol focuses on an assessment of a candidate's body strength with job critical skills being taught/learned during the training program at the Learning Academy. WHS issues with the current testing regime are cited as one reason to change to a new model but no evidence has been produced to substantiate this.

ASA/ARFF have indicated that the candidate physical protocol will not become the benchmark for fitness for duty generally as there are already sufficient established processes in place for this including through the provisions of the Enterprise Agreement. Rumours to the contrary continue to circulate so this remains an issue and focus for the Aviation Branch in this whole process.

Karl McDonald from Brisbane ARFF Unit will represent the UFUA on Friday. Should you wish to raise any issues with Karl prior to the meeting he can be contacted on mobile 0407 068 747 or Karlmcdonald@icloud.com

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## NEWSWORTHY ITEMS

### WHAT PRICE A MOUSE CLICK? FWC SAYS 15% IN PAY-DOCK RULING

In a rare pay-docking case, a senior member of the Fair Work Commission has ruled that employers can't simply rely on the cost to them of industrial action in deciding how much to deduct from employee wages.

The NT Fire and Rescue Service decided to dock firefighters \$124 per shift for failing to complete reports detailing their attendance at false alarm incidents, a ban that was protected industrial action in support of a new agreement. The reports are used by the service to invoice property owners on a cost-recovery basis.

The deduction amounted to more than 25% of the average shift wage of \$470, and factored in the \$823 fee charged to property owners for attending a false alarm.

United Voice challenged the calculation under [s472](#) of the Fair Work Act, arguing that the amount should be \$11 per shift, or less than 10% of the amount arrived at by the employer.

The union said it only took "a mouse click" to submit a report, and based on an estimated one minute per click and three reports per shift, "the proportionate reduction should be calculated on the basis of three minutes for every 5760 minutes which equates to a percentage reduction of 0.052%".

It also argued that the \$124 deduction would prevent firefighters from implementing the ban, and given the limited range of industrial action available to emergency service workers, this was unfair.

Vice President Joe Catanzariti said there were only a "limited number of authorities" on [s472](#), but the "seminal decision" was Commissioner Barbara Deegan's *TWU v Department of Territory and Municipal Services (ACTION)* ruling. He went on to find the service's calculation was "inherently flawed".

"The reduction in payments cannot simply be arrived at by estimating the potential cost impact of the industrial action and allocating this cost to the employees undertaking industrial action," he said.

The employer's significant emphasis on the budget revenue generated from the reports was also undermined by its failure to routinely follow up their collection, the vice president said.

Vice President Catanzariti said that given the variation in wages for different ranks, it was more appropriate to set a percentage figure for the deduction rather than a flat dollar amount.

He rejected the union's \$11 figure as too low, and taking all the circumstances of the case into account, decided that a 15% reduction was appropriate.

**Source: Workplace Express, 19<sup>th</sup> February 2014, 11.36am**

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**Senior Vice President:** Jon Vaughan  
**Junior Vice President:** Simon Osborn  
**Branch Secretary:** Henry Lawrence

### BCOM Delegates

**North Queensland:** John Ring  
**South East Queensland:** Karl McDonald  
**New South Wales:** Al Lerpiniere  
**Victoria:** Jake Callaghan  
**South Australia:** Simon Osborn  
**Tasmania:** Simon Owen  
**Western Australia:** Les Milhinch  
**Northern Territory:** Ricky Nolan

**National WHS Co-ordinator:** Mal Lacy  
**Deputy WHS Co-ordinator:** Wes Garrett

### Organizers

<b>Cairns:</b> Mike McCarthy	<b>Townsville:</b> Tim Creighton
<b>Mackay:</b> David Tromba	<b>Rockhampton:</b> Phil Turner
<b>Maroochydore:</b> Derrick Runge	<b>Brisbane:</b> Karl McDonald
<b>Coolangatta:</b> Peter Young	<b>Sydney:</b> Mat Crook
<b>Melbourne:</b> Brendon Mimmo	<b>Hobart:</b> Scott Greenwood
<b>Launceston:</b> Trevor Mortyn	<b>Adelaide:</b> Wes Garrett
<b>Perth:</b> Vacant	<b>Darwin:</b> Vacant
<b>Broome:</b> Matt Reynolds	<b>Port Hedland:</b> Dennis Nixon
<b>Karratha:</b> John Le Bon	<b>Alice Springs:</b> Dan Thompson
<b>Ayers Rock:</b> Perry Stedman	<b>Hamilton Island:</b> Shane Campbell
<b>Avalon:</b> Marc Jansen	<b>Canberra:</b> Vacant

*We're on the web at*  
[www.ufuav.asn.au](http://www.ufuav.asn.au)