



Head Office: #9 Alexandra Street, St. Clair, Port Of Spain

Telephone No.1 (868) 225 4300 Fax: 1(868) 225 5314 – website: [www.osha.gov.tt](http://www.osha.gov.tt)

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11<sup>th</sup> January, 2023

Ms. Sarah Sinanan

**Secretary**

**Paria Commission of Enquiry**

Southern Academy for the Performing Arts (SAPA)

Todd Street

**SAN FERNANDO**

Dear Ms. Sinanan,

**Re: Enquiry into the tragic incidents which occurred on 25<sup>th</sup> February, 2022 at facilities owned by Paria Fuel Trading Co. Ltd. Located at No. 36 Sealine Riser on Berth No. 6, Pointe-a-Pierre**

**Submission on Behalf of the Occupational Safety and Health Agency – Proposed Legislative Amendments**

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### Introduction

Prior to 2006, Occupational Safety and Health in Trinidad and Tobago was governed by the Factories Ordinance, 1948, as amended in 1953. In 2004 the OSH Act was assented to on January 30<sup>th</sup> and came into effect on February 17<sup>th</sup>, 2006 (with the exception of section 98 which came into force on August 17<sup>th</sup>, 2007). The OSH Act was developed primarily because the Factories Ordinance proved to be too narrow in scope, outdated and inappropriate to deal with the expanding industrial sectors in Trinidad and Tobago. It was found that many occupations and workplaces fell far outside the ambit of the legal framework of the Factories Ordinance of 1948.

With the exception of minor amendments in 2006, in itself over a decade ago, the OSH Act has undergone no amendments, despite technological and other changes in the various economic sectors in Trinidad and Tobago. As enforcement activities and proceedings (via OSHA's Inspectorate and the Legal Department) pursuant to the OSH Act have significantly increased, certain discrepancies, areas for improvement, gaps and areas of ambiguity have been identified. The creation of an improved regulatory framework would facilitate greater compliance, enforcement, competitiveness in regional and international trade as well as adherence to Conventions and Treaties such as those with the ILO.



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### Safety and Health Legislative Reform

In order to give effect to the objectives and commitment of the Government to a comprehensive and immediate review of all Labour Legislation as stated in its Official Policy Framework, the Ministry of Labour (“the Ministry”) in collaboration with the Occupational Safety and Health Agency (“OSHA”) hosted National Stakeholder Consultations on the Occupational Safety and Health Act Chapter 88:08 (the “OSH Act”) on March 21 and 22, 2017 in Trinidad and on July 10, 2017 in Tobago. The Minister is empowered by Section 99 of the OSH Act to make Regulations for the purposes of promoting the safety, health and welfare of the working populace and to give effect to the OSH Act, in general.

The Occupational Safety and Health Authority (the “OSH Authority”) is able to contribute to the Ministry’s Legislative Agenda by submitting proposals by virtue of Section 66(e) of the OSH Act for the making of Regulations under the Act. Such proposals are primarily data driven supported by accident statistics over various industries.

Draft policies for nine proposed Regulations were developed by OSHA over the period July 2018 - March 2019 (which are at various stages of development), based on empirical data relating to health and safety and consultative sessions held in July 2017. Five of these draft policies were approved by the OSH Authority. Public consultations were held for policy documents relative to Safety of Pressure Systems Regulations, Provision and Use of Work Equipment Regulations, Gas Safety (Use Conveyance and Storage) Regulations, Blasting and Use of Explosives Regulations, Welfare Regulations as well as the National Occupational Safety and Health Policy on the following dates:

- Provision and Use of Work Equipment Regulations on August 21, 2018;
- Lifting Operations and Lifting Equipment Regulations on August 23, 2018;
- The National Occupational Safety and Health Policy on April 29, 2019 (Trinidad) and May 3, 2019 (Tobago);
- The Safety of Pressure Systems Regulations on May 1, 2019;
- The Gas Safety (Use Conveyors and Storage) Regulations on May 13, 2019;
- The Blasting and Use of Explosives Regulations on May 15, 2019; and
- The Occupational Safety and Health (Welfare) Regulations Policy on May 17, 2019.





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Revision of the Draft Policy Position Papers was undertaken and a second draft was completed during the period of October 21- 25, 2019. The OSH Authority's Technical Operations Committee commenced a review of the revised draft policy documents in January 2020. In or around June 2020, OSHA received comments on submitted policy documents from the Line Ministry which were also reviewed, addressed and incorporated.

A second round of Consultations on the draft policy on Welfare Regulations pursuant to recommendations by the Joint Select Committee of Parliament was held virtually on September 28, 2021.

Work on amendments to the OSH Act was ongoing. Representatives of OSHA met with the Director of Public Prosecutions on January 19, 2022, as a means of consulting with his Office primarily on recommendations relative to the prosecution of summary offences under the OSH Act.

OSHA continued to receive valuable input from stakeholders and additional gaps were identified during the course of enforcement activities by OSHA's Inspectorate and Legal Department and further adjustments were made over the period following the public consultations.

Comments on the amended submission sent in March 2022 were received from MOL in June 2022 and the recommendations and advice were reviewed and incorporated accordingly. In August 2022 the following final draft policy documents were submitted and confirmed as final drafts.

- i. Lifting Operations and Lifting Equipment Regulations ("LOLER")- Policy Paper 2018;
- ii. Provision and Use of Work Equipment Regulations ("PUWER")- Policy Paper 2018;
- iii. Gas Safety (Use, Conveyance and Storage) Regulations- Policy Paper;
- iv. Safety of Pressure Systems- Policy Paper;
- v. Blasting and Use of Explosives Regulations.

Additional inclusions and adjustments were made to the draft policy for Amendment to the Act, and accepted by the Ministry.

### Diving Regulations

As hereinabove mentioned, OSHA's recommendations for prioritization of legislative reform are primarily driven by accident statistics. Public interest considerations would also be a factor in prioritization for legislative proposals. The number of diving accidents known to OSHA, was



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virtually non-existent until the reporting and investigation of one on January 2018 (critical injury) and subsequently on February 25<sup>th</sup>, 2022 when the fatalities of the LMCS divers occurred at Paria Fuel Trading Company Limited. Accidents and/or fatalities were far more frequent in other sectors such as Mining & Quarrying, Manufacturing and Wholesale & Retail.

It should be noted, however that OSHA has been a part of the Specification Committee for Commercial Diving (the “SCCD”) created by the Trinidad and Tobago Bureau of Standards (“TTBS”) which comprised stakeholders including large and small diving companies, from its inception in 2007 until 2018. The SCCD’s purpose was to assist in the revision of the existing standards including the commercial diving standard TTS 539:1997. However, we’re informed that consensus among the stakeholders on the use of the SCUBA diving in commercial diving operations was not reached and that attempts to reconvene in September of 2021 proved futile due to poor stakeholder response.

TTBS has two existing, voluntary standards for commercial diving:

- TTS 539:1997, Code of practice for safety in commercial diving operations
- TTS/CSA Z275.5:2010, Occupational Diver Training – Specification

The OSH Act also acknowledges the application of Standards that may be utilized in its enforcement as per certain provisions. Approved Standards are therein defined as follows:

““approved standard” as the context may admit, means a national or international standard so declared or adopted by the Trinidad and Tobago Bureau of Standards under the Standards Act and includes an appropriate type as determined by the Authority.”

OSHA intends to submit a proposal to the Ministry for the development of Regulations for Commercial Diving. Extensive Stakeholder Consultations are to be examined for 2023-2024. It is envisaged that international input and wide consultation would be required.

Kindly bring this correspondence to the attention of the Chairman.

Regards,

Ms Pettal John-Beerens  
Deputy Director Legal