

Health and Safety under the Offshore Petroleum and Greenhouse Gas Storage Act

WHAT OPERATORS AND WORKERS NEED TO KNOW

Improvement & Prohibition Notices



NOPSA

National Offshore Petroleum Safety Authority

www.nopsa.gov.au

What happens if there is a breach of the Offshore Petroleum Act or regulations?

When OHS inspectors become aware of non-compliance with the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* or regulations, they may issue verbal advice/directions, written advice/directions, or initiate prosecution action. Written advice usually takes the form of a letter raising a particular health and safety issue. However, written directions take the form of an improvement notice or a prohibition notice.

1 : Q. What are improvement notices?

A. An improvement notice requires a person to fix an alleged breach of the Act or regulations. Improvement notices are issued when the inspector believes the Act or regulations are being contravened, or have been contravened in circumstances that make it likely to be repeated.

The notice states the OHS inspector's opinion regarding the contravention of the Act or regulations, the reasons for the opinion, and the part of the Act or regulations that has been contravened. It may include directions on what needs to be done to remedy the situation and specifies a reasonable period in which the specified contravention is to be fixed.

2 : Q. Who are the improvement notices given to?

A. The improvement notice is issued to "the responsible person" who, in most cases, will be the operator of the facility, but can be an employer or another person. An improvement notice may be issued to



the operator by giving it to the operator's representative at the facility. The operator must give a copy of the notice to each HSR affected by the notice.

The notice must be displayed in a prominent place at the facility and must not be tampered with until the notice ceases to have effect.

3 : Q. How are prohibition notices different from improvement notices?

A. Prohibition notices are similar to improvement notices, except they immediately prohibit an activity, or activities, if there is an immediate threat to health or safety. A prohibition notice is essentially an order to stop an activity or remove a hazard considered to be dangerous or likely to become dangerous. The notice may also include directions on what needs to be done to remedy the situation.

4 : Q. Who is a prohibition notice issued to?

A. A prohibition notice is issued to the operator's representative at a facility and, as with improvement notices, a prohibition notice must be displayed in a prominent place at the facility and must not be tampered with until the notice has ceased to have effect.

5 : Q. Can notices be reviewed?

A. A range of parties can request for the 'reviewing authority' i.e. the Australian Industrial Relations Commission (AIRC) to review an OHS inspector's decision to issue a notice. The people who are allowed to request a review are listed in the notes on the back page of a notice. A request for a review (or 'appeal') may be lodged within 14 days of the notice being issued.

The applicant must submit three copies of the appeal notice together with three copies of the OHS inspector's decision under appeal; any notices, or other documents, issued relating to the decision under appeal; and any other document in the possession of the appellant that is relevant to the appeal.

The person making the appeal should also provide a copy of the documentation to the relevant OHS inspector and to NOPSA as soon as practicable after lodging the appeal documents with the Commission.

Improvement notices are generally suspended while they are being reviewed. Prohibition notices are not suspended while they are being appealed unless the AIRC makes an order to the contrary.

After considering a request for review of a notice, the AIRC can affirm, modify or cancel the notice.

Further information and standard forms for lodging request for a review of an OHS inspector's decision are available on the Australian Industrial Relations Commission website (www.airc.gov.au).



6 : Q. How do you know a notice has been issued?

A. The notice must be displayed at a prominent location at the facility. Also, a copy of the notice must be given to each health and safety representative of the workgroups to which the notice applies. After the requirements of an improvement notice have been completed, the responsible person (e.g. the operator) completes the section of the notice to indicate that the improvement notice has been complied with and returns this to the issuing OHS inspector. The notice is then removed from display.

A prohibition notice may be removed from display only after the requirements of the notice have been completed and the OHS inspector notifies the operator that the OHS inspector is satisfied that the operator has taken adequate action to remove the threat to health and safety.

7 : Q. Can anyone else issue notices?

A. The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* allows Health and Safety Representatives (HSR) to issue Provisional Improvement Notices (PIN) if a HSR believes, on reasonable grounds, that a person is contravening a provision of the law, or has contravened a provision of the law in circumstances that make it likely to be repeated. PIN forms are available under the Information for Health and Safety Representatives page (www.nopsa.gov.au/hsr.asp) on the NOPSA website.



NOPSA'S ROLE

To work with the industry, workforce and other authorities to ensure all health and safety risks in the offshore petroleum industry are properly controlled, and to reduce the likelihood and consequences of major accident events.

WANT TO KNOW MORE?

For information on health and safety in the offshore petroleum industry, refer to the NOPSA website (www.nopsa.gov.au).

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and the associated regulations can be sourced at the Attorney-General's Department ComLaw website (www.comlaw.gov.au) or via the links on NOPSA's website.

The information in this brochure is intended as a general guide only. The relevant Acts and regulations should be consulted for detailed information. This brochure is produced by:

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