

Powers of Health and Safety Representatives

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Core concepts

- Health and safety representatives play a key role in promoting and ensuring a safe and healthy offshore workplace by representing the health and safety interests of their designated work group members.
- Facility operators must establish health and safety representatives when requested by the workforce.
- Health and safety representatives are granted specific powers under part 3 of schedule 3 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act).
- Health and safety representatives can issue a provisional improvement notice in response to specific circumstances. The OPGGS Act describes the process and content requirements that must be met when a notice is issued.
- Health and safety representatives have powers to take action in response to imminent and serious danger to health and safety.
- Health and safety representatives are not obligated to use their powers.
- This guidance note groups the elements of the OPGGS Act relating to health and safety representative powers in one document to help:
 - health and safety representatives use their powers.
 - managers and supervisors understand the powers available to health and safety representatives.
 - facility operators and employers meet their legal obligations.

Table of contents

Core concepts	1
Definitions	3
Abbreviations/acronyms	4
1. Introduction.....	4
1.1. Intent and purpose of this guidance note	4
1.2. Collaboration	4
2. Powers of health and safety representatives.....	5
2.1. Obligations and liabilities	5
2.2. Promoting and ensuring the health and safety of group members.....	5
2.2.1. Powers to promote and ensure health and safety.....	5
2.2.2. Assistance by a consultant	7
2.2.3. Access to information.....	8
2.2.4. Request for review of safety management-related documents	8
2.3. Request to institute prosecution.....	10
2.4. Provisional improvement notices.....	11
2.5. Emergency procedures.....	16
2.6. Appeals against NOPSEMA decisions	18
3. Duties of the operator and employers in relation to health and safety representatives	20
4. Further information and support	20
5. References, acknowledgments and notes.....	21

Definitions

The following are some useful definitions for terms used in this guidance note. Unless prescriptively defined in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act) or associated Safety Regulations and they are suggested as a starting point only.

Designated work group	<p>(a) A group of members of the workforce at a facility that is established as a designated work group under clause 19 or 20 of schedule 3 to the OPGGS Act; or</p> <p>(b) That group varied in accordance with clause 21 or 22 of schedule 3 to the OPGGS Act.</p>
Group member	<p>In relation to a designated work group at a facility, means a person who is:</p> <p>(a) A member of the workforce at that facility; and</p> <p>(b) Included in that designated work group.</p>
Health and safety representative	A person selected as a health and safety representative for a designated work group under clause 25 of schedule 3 to the OPGGS Act.
Health and safety committee	<p>A group consisting of members chosen by the workforce representing the interests of the workforce, and members chosen by the operator representing the interests of the operator, which is responsible for assisting in the development, implementation, review, and update of measures designed to protect the health and safety of members of the workforce, and for facilitating cooperation between the operator and the workforce in relation to occupational health and safety matters (refer to part 3, division 4 of schedule 3 to the OPGGS Act for more details).</p> <p>Note: If a facility has one DWG and the HSR consents to being a member of the committee then the HSR is a member of the committee. If there is 2 or more DWGs the HSRs for those DWGs may choose one or more of their number, who consent, to be members of the committee.</p>
Member of the workforce	<p>In relation to a facility, an individual who does work at the facility:</p> <p>(a) Whether as an employee of the operator of the facility or of another person; or</p> <p>(b) Whether as a contractor of the operator or of another person (clause 3 of schedule 3 to the OPGGS Act)</p>
Operator	In relation to a facility, the person who, under the regulations, is registered by NOPSEMA as the operator of that facility (clause 3 of schedule 3 to the OPGGS Act).
Reviewing authority	Fair Work Commission (clause 3 of schedule 3 to the OPGGS Act)
Work group employer	In relation to a designated work group at a facility, means an employer of one or more group members, but does not include the operator of the facility.
Workplace arrangements	Arrangements as described in part 3 of schedule 3 to the OPGGS Act, including the interrelationships between members of the workforce, designated work groups, health and safety representatives and health and safety committees, in relation to occupational health and safety matters.

Abbreviations/acronyms

DWG	Designated work group
HSR	Health and safety representative
NOPSEMA	National Offshore Petroleum Safety and Environmental Management Authority
OHS	Occupational health and safety
OPGGS Act	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
PIN	Provisional improvement notice

1. Introduction

1.1. Intent and purpose of this guidance note

All members of the workforce play an important role in safeguarding occupational health and safety on offshore petroleum facilities. Schedule 3 to the OPGGS Act requires operators and employers to engage with members of the workforce, and describes how this engagement can occur. NOPSEMA has published guidance on workplace arrangements ([N-09000-GN1783](#)) including how to develop an occupational health and safety (OHS) policy, and how to establish workplace arrangements including:

- designated work groups (DWGs)
- health and safety representatives (HSRs)
- health and safety committees.

This guidance note focuses on the powers of HSRs under the OPGGS Act. It consolidates the elements of the OPGGS Act relating to HSR powers, to help HSRs use their powers, and to help facility operators and employers meet their legal obligations.

*Guidance notes indicate what is explicitly required by the regulations, discuss good practice and suggest possible approaches. An explicit regulatory requirement is indicated by the word **must**, while other cases are indicated by the words *should*, *may*, etc.*

1.2. Collaboration

While this guidance is focused on the HSR powers provided by the OPGGS Act, NOPSEMA recognises that the most successful workplace arrangements are those that include collaborative working relationships between HSRs and facility management. Ideally when attempting to resolve a health or safety concern, HSRs should engage with facility management to develop an acceptable solution. If collaboration is unsuccessful, HSRs can then use their powers to escalate the concern.

NOPSEMA also recognises HSRs provide a crucial link between employers and employees. Involving HSRs in health and safety issues can result in safer workplaces. HSRs have the experience and knowledge to help identify hazards, assess risks and develop workable solutions.

2. Powers of health and safety representatives

The OPGGS Act provides powers and protections to HSRs. Once selected, HSRs can exercise their powers immediately. The powers allow HSRs to take a range of actions.

2.1. Obligations and liabilities

The OPGGS Act does not oblige HSRs to exercise their powers and does not hold HSRs liable in civil proceedings in relation to how their powers are used.

OPGGSA – Obligations and liabilities of health and safety representatives

- Cl. 37 This schedule does not:*
- (a) impose an obligation on a person to exercise any power conferred on the person because the person is a health and safety representative; or*
 - (b) render a person liable in civil proceedings because of:*
 - (i) a failure to exercise such a power; or*
 - (ii) the way such a power was exercised.*

2.2. Promoting and ensuring the health and safety of group members

2.2.1. Powers to promote and ensure health and safety

HSRs have broad powers to promote and ensure the health and safety of their group members.

Powers include:

- inspecting workplaces
- investigating complaints
- representing group members
- issuing provisional improvement notices (PINs)
- Request for review of safety management-related documents

OPGGSA – Powers of health and safety representatives

- Cl. 34(1) A health and safety representative for a designated work group in relation to a facility may, for the purpose of promoting or ensuring the health and safety at a workplace of the group members:*
- (a) do any or all of the following:*
 - (i) inspect the whole or any part of the workplace if there has, in the immediate past, been an accident or a dangerous occurrence at the workplace, or if there is an immediate threat of such an accident or dangerous occurrence;*
 - (ii) inspect the whole or any part of the workplace if the health and safety representative has given reasonable notice of the inspection to the operator's representative at the facility and to any other person having immediate control of the workplace;*
 - (iii) make a request to a NOPSEMA inspector or to NOPSEMA that an OHS inspection be conducted at the workplace;*
 - (iv) accompany a NOPSEMA inspector during any OHS inspection at the workplace by the NOPSEMA inspector (whether or not the inspection is being conducted as a result of a request made by the health and safety representative);*
 - (v) if there is no health and safety committee in relation to the members of the workforce at the facility – represent group members in consultations with the operator and any work group employer about the development, implementation and review of measures to ensure the health and safety of those members at the workplace;*
 - (vi) if a health and safety committee has been established in relation to the members of the workforce at the facility – examine any of the records of that committee; and*
 - (b) investigate complaints made by any group member to the health and safety representative about the health and safety of any of the members of the workforce (whether in the group or not); and*
 - (c) with the consent of a group member, be present at any interview about health and safety at work between that member and:*
 - (i) a NOPSEMA inspector or*
 - (ii) the operator or a person representing the operator; or*
 - (iii) a work group employer or a person representing that employer; and*
 - (d) obtain access to any information under the control of the operator or any work group employer:*
 - (i) relating to risks to the health and safety of any group member; and*
 - (ii) relating to the health and safety of any group member; and*
 - (e) issue provisional OHS improvement notices in accordance with clause 38.*
- Cl. 34(2) Subparagraph (1)(d)(ii) has effect subject to clause 36.*

2.2.2. Assistance by a consultant

HSRs can be assisted by a consultant at the workplace or remotely. Any assistance first needs to be agreed to, in writing, by the operator or NOPSEMA. Operators are not obliged to pay for the consultant's time or expenses.

OPGGSA – Assistance by consultant

Assistance by consultant

Cl. 35(1) A health and safety representative for a designated work group is entitled, in the exercise of his or her powers, to be assisted by a consultant.

Cl. 35(2) A health and safety representative for a designated work group may:
(a) be assisted by a consultant at a workplace at which work is performed; or
(b) provide to a consultant information that has been provided to the health and safety representative by an operator or work group employer under paragraph 34(1)(d) of this schedule;
only if the operator or NOPSEMA has, in writing, agreed to the provision of that assistance at that workplace or the provision of that information, as the case may be.

Operator etc. not liable for consultant's remuneration etc.

Cl. 35(3) Neither the operator nor any workplace employer becomes, because of the agreement under subclause (2) to the provision of assistance by a consultant, liable for any remuneration or other expenses incurred in connection with the consultant's activities.

Consultant may be present at interviews

Cl. 35(4) If a health and safety representative for a designated work group is being assisted by a consultant, the consultant is entitled to be present with the representative at any interview, about health and safety at work, between a group member and:
(a) a NOPSEMA inspector; or
(b) the operator or any work group employer or a person representing the operator or that employer;
if, and only if, the group member consents to the presence of the consultant.

NOPSEMA encourages positive working relationships between HSRs and operators. If a HSR decides to request assistance by a consultant, NOPSEMA suggests that the HSR first raise the request with the facility operator. If agreement cannot be reached, the HSR can then seek NOPSEMA's agreement.

NOPSEMA has published a policy describing how it will consider and respond to HSR requests for consultant assistance ([N-04900-PL1068](#)), and a form for HSRs to use to make the request ([N-04900-FM1069](#)).

2.2.3. Access to information

HSRs have powers to obtain information relating to the health and safety of group members. Such information may include the safety case, the formal safety assessment, safety management system documents, risk assessments, inspection records, audit reports, and other relevant documents. However, that power does not extend to information that is confidential.

OPGGSA – Information

Legal professional privilege

Cl. 36(1) Neither:

- (a) the health and safety representative; nor*
- (b) if the health and safety representative is assisted by a consultant – the consultant;*

is entitled, under subparagraph 34(1)(d)(ii) of this schedule, to have access to information in relation to which a group member is entitled to claim, and does claim, legal professional privilege.

Medical information

Cl. 36(2) Neither:

- (a) the health and safety representative; nor*
- (b) if the health and safety representative is assisted by a consultant – the consultant;*

is entitled, under subparagraph 34(1)(d)(ii) of this schedule, to have access to information of a confidential medical nature relating to a person who is or was a group member unless:

- (c) the person has delivered to the operator or any work group employer a written authority permitting the health and safety representative, or the health and safety representative and the consultant, as the case requires, to have access to the information; or*
- (d) the information is in a form that does not identify the person or enable the identity of the person to be discovered.*

2.2.4. Request for review of safety management-related documents

An HSR may request a review of safety management-related documents by the operator of the facility. The HSR may request a review of safety management-related documents if the HSR reasonably believes that a circumstance exists that affects the health and safety of workers at the facility and the operator has not adequately reviewed the documents in response to the circumstance.

A safety management-related document is a document prepared by, or on behalf of, the operator of a facility that sets out, in whole or in part, a system for managing the OHS at the facility.

The request must be in the approved form ([N-09000-FM2317](#) available on NOPSEMA website and specify the circumstance which the HSR reasonably believes affects the health and safety of workers at the facility.

OPGGSA – Request for review of safety management-related documents

Requests for review

- Cl. 37A(1)** *A health and safety representative for a designated work group in relation to a facility may request the operator of the facility to review safety management-related documents relating to the facility, if the representative reasonably believes that:*
- (a) a circumstance exists that affects the health and safety of workers at the facility; and*
 - (b) the operator has not adequately reviewed the documents in response to the circumstance.*
- Cl. 37A(2)** *A request made under subclause (1) must:*
- (a) be in the approved form (if any); and*
 - (b) specify the relevant circumstance mentioned in paragraph (1)(a); and*
 - (c) specify details about how the circumstance affects the health and safety of workers at the facility; and*
 - (d) set out the reasons why the representative believes the operator has not adequately reviewed the documents in response to the circumstance; and*
 - (e) comply with any other requirements prescribed by the regulations for the purposes of this paragraph.*

Review and revision of safety management-related documents

- Cl. 37A(3)** *As soon as practicable after receiving a request under subclause (1), the operator of the facility must review the safety management-related documents.*
- Cl.37A(4)** *As soon as practicable after reviewing the safety management-related documents in accordance with subclause (3), the operator of the facility must give a written notice to the health and safety representative specifying:*
- (a) that the safety management-related documents have been reviewed; and*
 - (b) either:*
 - (i) if the operator considers that revisions to the safety management-related documents are necessary—the revisions the operator intends to make and the Reasons for each revision; or*
 - (ii) if the operator considers that no revisions are necessary—an explanation as to why revisions are not required.*

Meaning of safety management-related document

- Cl.37A(5)** *Subject to subclause (6), a safety management-related document is a document prepared by, or on behalf of, the operator of a facility that sets out, in whole or in part, a system for managing occupational health and safety at the facility.*
- Cl.37(6)** *The regulations may provide that a specified document is taken to be, or taken not to be, a safety management-related document.*

As soon as practicable after receiving a request from an HSR, the operator of the facility must:

- review the safety management-related documents.
- the operator of the facility must provide the HSR a written notice that the safety-management related documents have been reviewed.
- The operator must identify any revisions that the operator intends to make to the safety management-related documents and the reasons or provide an explanation why revisions are not required

Examples of safety management-related documents for managing OH&S on offshore facilities

- | | | |
|-------------------------|--------------------------------|-------------------------|
| • Permit to work system | Facility Integrity | Incident investigation |
| • Safe work procedures | Emergency response | OHS & Personal safety |
| • Management of change | Management leadership | Training and competency |
| • Risk Management | Facility design & Construction | Contractor Management |

Examples of circumstance which may exist that affects the health and safety of workers at the facility and the operator has not adequately reviewed the documents in response to the circumstance.

- Generic safe work procedure and permit to work not adequately reviewed with regards the unique circumstances at the facility for the work practice planned by DWG.
- Incident investigation has not adequately reviewed the incident in identifying all possible root causes and hence further actions that could further reduce the likelihood of another incident affecting the health and safety of workers at the facility.
- Temporary Change implemented without obtaining all relevant information and experience potentially increasing the risk to health and safety of workers at the facility.

2.3. Request to institute prosecution

HSRs can ask NOPSEMA to prosecute in relation to an offence, when all of the following conditions are met:

- It has been six months or more since the occurrence.
- The HSR believes that the occurrence was an offence against a listed OHS law
- No proceedings have started in response to the occurrence

Within three months of receiving a written request for prosecution from a HSR, NOPSEMA must provide a response.

OPGGSA – Institution of prosecutions*Request to institute prosecutions*

- Cl. 89(1) Proceedings for an offence against a listed OHS law may be instituted by NOPSEMA or by a NOPSEMA inspector.*
- Cl. 89(2) A health and safety representative for a designated work group may request NOPSEMA to institute proceedings for an offence against a listed OHS law in relation to the occurrence of an act or omission if:*
- (a) a period of 6 months has elapsed since the act or omission occurred; and*
 - (b) the health and safety representative considers that the occurrence of the act or omission constitutes an offence against a listed OHS law; and*
 - (c) proceedings in respect of the offence have not been instituted.*
- Cl. 89(4) A request under subclause (2) must be in writing.*
- Cl. 89(5) NOPSEMA must, within 3 months after receiving the request, advise the health and safety representative whether proceedings under subclause (1) have been or will be instituted and, if not, give reasons why not.*

2.4. Provisional improvement notices

HSRs can issue a PIN when a listed OHS law has been or is likely to be contravened. Before issuing a PIN, the HSR must consult with facility management to try to resolve the matter within a reasonable amount of time. If the consultation is not successful, the HSR may then issue a PIN.

OPGGSA – Provisional OHS improvement notices – issue and notification*Consultation*

- Cl. 38(1) If:*
- (a) a health and safety representative for a designated work group believes, on reasonable grounds, that a person:*
 - (i) is contravening a provision of a listed OHS law; or*
 - (ii) has contravened a provision of a listed OHS law and is likely to contravene that provision again; and*
 - (b) the contravention affects or may affect one or more group members;*
the representative must consult with the person supervising the relevant activity in an attempt to reach agreement on rectifying the contravention or preventing the likely contravention.

The OPGGS Act describes the content that must be included in the PIN, and how the PIN must be issued. NOPSEMA has published a Guideline ([N-05000-GL0517](#)) and a form template ([N-05000-FM0194](#)) to help HSRs issue a PIN. HSRs should contact the NOPSEMA focal point inspector for their facility before they issue a PIN. The NOPSEMA inspector will discuss whether a PIN is the right option, and check content and procedure matters, so that the PIN complies with the OPGGS Act.

OPGGSA – Provisional OHS improvement notices – issue and notification

Issue of provisional OHS improvement notice

- Cl. 38(2) If, in the health and safety representative's opinion, agreement is not reached within a reasonable time, the health and safety representative may issue a provisional OHS improvement notice to any or all of the persons (each of whom is in this clause called a **responsible person**) responsible for the contravention.*
- Cl. 38(3) If a responsible person is the operator, the notice may be issued to the operator by giving it to the operator's representative at the facility*
- Cl. 38(4) If it is not practicable to issue the notice to a responsible person (other than the operator or the supervisor) by giving it to the responsible person:*
- (a) the notice may be issued to that responsible person by giving it to the person who for the time being is, or may reasonably be presumed to be, on behalf of the responsible person, in charge of the activity to which the notice relates; and*
 - (b) if the notice is so issued, a copy of the notice must be given to the responsible person as soon as practicable afterwards.*

Content of provisional OHS improvement notice

- Cl. 38(5) The notice must:*
- (a) specify the contravention that, in the health and safety representative's opinion, is occurring or is likely to occur, and set out the reasons for that opinion; and*
 - (b) specify a period that:*
 - (i) is not less than 7 days beginning on the day after the notice is issued; and*
 - (ii) is, in the representative's opinion, reasonable;**within which the responsible person is to take action necessary to prevent any further contravention or to prevent the likely contravention, as the case may be.*
- Cl. 38(6) The notice may specify action that the responsible person is to take during the period specified in the notice.*

Extension of period

- Cl. 38(7) If, in the health and safety representative's opinion, it is appropriate to do so, the representative may, in writing and before the end of the period, extend the period specified in the notice.*

Once the PIN is issued to the responsible person, the HSR must provide copies of the PIN to the parties listed in the legislation including:

- the operator
- work group employers
- supervisors
- owners of relevant plant, substance or thing.

OPGGSA – Provisional OHS improvement notices – issue and notification

Copy of provisional improvement notice

- Cl. 38(8) On issuing the notice, the health and safety representative must give a copy of the notice to:*
- (a) if the operator is not a responsible person – the operator; and*
 - (b) each work group employer other than a work group employer who is a responsible person; and*
 - (c) if the supervisor is not a responsible person – the supervisor; and*
 - (d) if the notice relates to any plant, substance or thing that is owned by a person other than a responsible person or a person to whom a copy of the notice is given under paragraph (a), (b) or (c) – that owner.*

The OPGGS Act describes the steps that the responsible person must take once a PIN has been issued. Steps include:

- Notifying affected parties of the PIN
- Displaying the PIN at workplaces that are the subject of the PIN
- Complying with the PIN
- Informing the HSR of actions taken to comply with the PIN.

The PIN remains in effect until it is cancelled by the HSR or a NOPSEMA inspector, or until actions are taken that prevent the contravention from occurring or continuing.

OPGGSA – Effect of provisional improvement notice

Notification etc.

- Cl. 39(5) If the notice is issued to a responsible person, the responsible person must:*
- (a) notify each group member who is affected by the notice of the fact of the issue of the notice; and*
 - (b) until the notice ceases to have effect, cause a copy of the notice to be displayed at or near each workplace at which the work that is the subject of the notice is being performed.*

When the notice ceases to have effect

- Cl. 39(6) The notice ceases to have effect if:*
- (a) it is cancelled by a NOPSEMA inspector or by the health and safety representative; or*
 - (b) the responsible person:*
 - (i) takes such action (if any) as is specified in the notice; or*
 - (ii) if no action is so specified – takes the action necessary to prevent the further contravention, or likely contravention, concerned.*

Compliance with notice

- Cl. 39(7) The responsible person:*
- (a) must ensure that, to the extent that the notice relates to any matter over which the person has control, the notice is complied with; and*
 - (b) must take reasonable steps to inform the health and safety representative who issued the notice of the action taken to comply with the notice.*

Appeals

- Cl. 39(8) For the purposes of clause 81, if the NOPSEMA inspector confirms or varies the notice, the NOPSEMA inspector is taken to have decided, under clause 78, to issue an OHS improvement notice in those terms.*

After the PIN is issued, any of the parties who have a copy of the PIN can ask NOPSEMA to conduct an inspection. The request must be made within 7 days of the PIN being issued. NOPSEMA must then inspect as soon as possible, and either confirm, vary, or cancel the PIN. If the PIN is cancelled, NOPSEMA may use other enforcement action to address the issue, such as a prohibition notice or an improvement notice.

OPGGSA – Effect of provisional improvement notice*Request for inspection*

- Cl. 39(1) within 7 days after a notice is issued under clause 38:*
- (a) the responsible person; or*
 - (b) any other person to whom a copy of the notice has been given under subclause 38(8);*
- may make a request to NOPSEMA or to a NOPSEMA inspector that an inspection of the matter be conducted.*
- Cl. 39(2) Upon the request being made, the operation of the notice is suspended pending the determination of the matter by a NOPSEMA inspector.*

Inspection

- Cl. 39(3) As soon as possible after a request is made, an inspection must be conducted of the work that is the subject of the disagreement, and the NOPSEMA inspector conducting the inspection must:*
- (a) confirm, vary or cancel the notice and notify the responsible person, and any person to whom a copy of the notice has been given under subclause 38(8), accordingly; and*
 - (b) make such decisions, and exercise such powers, under Part 4 of this Schedule, as the NOPSEMA inspector considers necessary in relation to the work.*

Variation of the notice

- Cl. 39(4) If the NOPSEMA inspector varies a notice, the notice as so varied has effect:*
- (a) so far as the notice concerns obligations imposed on the responsible person that are unaffected by the variations – as if the notice as so varied resumed effect on the day of the variation; and*
 - (b) so far as the notice concerns new obligations imposed by virtue of the variation – as if the notice as so varied were a new notice issued on the day of the variation.*

2.5. Emergency procedures

HSRs have powers to direct DWG members to stop work, in situations where the HSR believes there is an imminent and serious danger to health and safety. The first step is for the HSR to inform the supervisor of the danger. The supervisor must then act to remove the danger. If the HSR believes that the danger still remains, the HSR can then direct the work group to cease work and as soon as possible inform the supervisor that the direction has been given.

If, when the danger is first identified, the HSR cannot contact the supervisor immediately, the HSR can direct the work group to cease work. The HSR must then inform the supervisor, as soon as possible, that the direction has been given.

OPGGSA – Action by health and safety representatives

Imminent and serious danger to health or safety

- Cl. 44(1) If a health and safety representative for a designated work group has reasonable cause to believe that there is an imminent and serious danger to the health or safety of any person at or near the facility unless a group member or group members cease to perform particular work, the representative must:*
- (a) inform a person (a supervisor) supervising the group member or group members in the performance of the work of the danger; or*
 - (b) if no supervisor can be contacted immediately;*
 - (i) direct the group member or group members to cease, in a safe manner, to perform the work; and*
 - (ii) as soon as practicable, inform a supervisor that the direction has been given.*
- Cl. 44(2) If a supervisor is informed under paragraph (1)(a) of a danger to the health or safety of any person at or near the facility, the supervisor must take such action as he or she thinks appropriate to remove that danger, and any such action may include directing a group member or group members to cease, in a safe manner, to perform the work.*
- Cl. 44(3) If:*
- (a) a health and safety representative has informed a supervisor under paragraph (1)(a) of a danger; and*
 - (b) the representative has reasonable cause to believe that, despite any action taken by the supervisor in accordance with subclause (2), there continues to be an imminent and serious danger to the health or safety of any person at or near the facility unless the group member or group members cease to perform particular work;*
- the representative must:*
- (c) direct the group member or group members to cease, in a safe manner, to perform the work; and*
 - (d) as soon as practicable, inform the supervisor that the direction has been given.*

After the HSR has issued the direction, the HSR or the supervisor can ask NOPSEMA to inspect the work. The request can be made if the two parties:

- do not agree on the need for a direction; or
- do not agree that the actions taken to address a direction are sufficient.

The inspection must occur as soon as possible after the request is made and must focus on the work that is the subject of the direction.

OPGGSA – Action by health and safety representatives

OHS inspection

Cl. 44(4) If:

- (a) a health and safety representative gives a direction under paragraph (1)(b), but is unable to agree with a supervisor whom the representative has informed under that paragraph that there is a need for a direction under that paragraph; or*
- (b) a health and safety representative gives a direction under paragraph (3)(c); the representative or the supervisor may make a request to NOPSEMA or to a NOPSEMA inspector that an OHS inspection be conducted of the work that is the subject of the direction.*

Cl. 44(5) As soon as possible after a request is made, an OHS inspection must be conducted of the work that is the subject of the direction, and the NOPSEMA inspector conducting the inspection must make such decisions, and exercise such powers, under Part 4 of this Schedule as the NOPSEMA inspector considers necessary in relation to the work.

Once a direction to cease work has been issued, the employer can direct the work group members to perform other work that is suitable. The work group members are required to perform that other work per their employment agreements.

OPGGSA – Direction to perform other work

Scope

Cl. 45(1)

This clause applies if:

- (a) a group member who is an employee has ceased to perform work, in accordance with the direction of a health and safety representative under paragraph 44(1)(b) or (3)(c); and*
- (b) the cessation of work does not continue after:*
 - (i) the health and safety representative has agreed with a person supervising work at the workplace where the work was being performed that the cessation of work was not, or is no longer, necessary; or*
 - (ii) a NOPSEMA inspector has, under subclause 44(5), made a decision to the effect that the employee should perform the work.*

Direction to perform other work

Cl. 45(2)

The employer may direct the employee to perform suitable alternative work, and the employee is to be taken, for all purposes, to be required to perform that other work under the terms and conditions of the employee's employment.

2.6. Appeals against NOPSEMA decisions

If a NOPSEMA inspector makes a decision that affects a member of a DWG, the HSR for that DWG can appeal the decision. Decisions that may be appealed include:

- decisions to confirm, vary, or cancel a PIN
- decisions to take possession of items at the workplace
- decisions to direct that the workplace is not disturbed
- decisions to issue prohibition or improvement notices
- decisions about an operator's actions in response to a prohibition notice.

The appeal must be made by written notice to the reviewing authority.

OPGGSA – Appeals against decisions of NOPSEMA inspectors

Appeals to the reviewing authority

Cl. 81(1) If a NOPSEMA inspector, in conducting an inspection or having conducted an inspection:

- (a) decides, under clause 39, to confirm or vary a provisional improvement notice; or*
- (b) decides, under clause 75, to take possession of plant, a substance or a thing at a workplace; or*
- (c) decides, under clause 76, to direct that a workplace, a part of a workplace, plant, a substance or a thing not be disturbed; or*
- (d) decides, under clause 77, to issue a prohibition notice; or*
- (e) decides, under clause 77, that the operator of a facility to whom a prohibition notice has been issued has not taken adequate action to remove the threat to health and safety that caused the notice to be issued; or*
- (f) decides, under clause 78, to issue an improvement notice;*

an appeal against the decision may be made, by written notice, to the reviewing authority by:

- (i) the health and safety representative for a designated work group having a group member affected by the decision.*

Cl. 81(2) If a NOPSEMA inspector, having conducted an inspection:

- (a) decides under clause 39 to cancel a provisional improvement notice; or*
- (b) decides under clause 77 that the operator of a facility to whom a prohibition notice has been issued has taken adequate action to remove the threat to health and safety that caused the notice to be issued;*

an appeal against the decision may be made, by written notice, to the reviewing authority by:

- (c) the health and safety representative for a designated work group having a*

3. Duties of the operator and employers in relation to health and safety representatives

Operators and employers have duties in relation to HSRs under Clause 40 Schedule 3 of the OPGGS Act. Operators and employers must:

- consult with HSRs about workplace changes that may affect the health and safety of DWG members, when the HSR requests consultation
- permit HSRs to exercise their powers
- provide HSRs with access to the facilities that are necessary for them to exercise their powers.

Provision of facilities usually includes access to a private office or conference room, a computer with internet connection and access to local networks, the company intranet, and relevant safety documents. Some operators provide individual HSRs with company email accounts; others establish a generic 'facility HSR' email account. Access to a printer, telephone, and office supplies should also be provided.



*Further Information is available in the NOPSEMA Guidance Note:
"Workplace Arrangements"*

4. Further information and support

HSRs can contact the NOPSEMA focal point inspector for their facility. NOPSEMA Inspectors can offer coaching, advice, and information to HSRs. Contact can be by telephone, email, or in person. HSRs often contact NOPSEMA inspectors about issues including:

- the scope of their powers
- whether the operator is following legal requirements
- how to progress with a problem
- making a complaint about operator practices
- whether a PIN should be used
- how to complete and issue a PIN.

In addition to the NOPSEMA inspector, HSRs can access support materials on NOPSEMA's HSR webpage: nopsema.gov.au/safety/health-and-safety-representatives/

Other useful resources on NOPSEMA's webpage include:

- safety resources (nopsema.gov.au/safety/safety-resources/)
- safety alerts (nopsema.gov.au/safety/safety-alerts/)
- published directions and notices (nopsema.gov.au/resources/published-directions-and-notice/)
- publications (nopsema.gov.au/resources/publications/)

To request hard copies of any NOPSEMA publications, including the HSR handbook and pocketbook, email communications@nopsema.gov.au or telephone (08) 6188 8700.

5. References, acknowledgments and notes

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Offshore Petroleum and Greenhouse Gas (Safety) Regulations 2014

Note: All regulatory references contained within this Information Paper are from the Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and the associated Commonwealth regulations. For facilities located in designated coastal waters, please refer to the relevant State or Northern Territory *equivalents* and the associated regulations.

For more information regarding this information paper, contact NOPSEMA:

- Telephone: +61 (0)8 6188 8700, or
- e-mail: information@nopsema.gov.au.

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