



Occupational Health and Safety Act 2004
IMPROVEMENT NOTICE



This notice is issued under section 111 of the Occupational Health and Safety Act 2004. This notice requires the person (which can mean a body corporate) to whom it is issued to remedy a contravention of the Act or its Regulations. Section 115(2) places obligations on the person to whom an improvement notice is issued. If that person is an employee, he or she must give a copy of the notice to the employer. Otherwise, and for an employer given a copy of a notice issued to an employee, the person must:

- * bring the notice to the attention of all persons whose work is affected by the notice,
- * give a copy to each health and safety representative who represents employees whose work is affected by the notice; and
- * display a copy of the notice in a prominent place at or near the workplace or part of the workplace where the affected work is being performed.

Issued by: *Kevin Hayes*, an Inspector appointed under the Occupational Health and Safety Act 2004.

Signature: 

Date of Issue: 20/03/2014

Notice issued to: AUSTRALIAN POWER PARTNERS B V & OTHERS

Tenement No: MIN5004

HAZELWOOD POWER STATION BRODRIBB ROAD
HAZELWOOD 3840

ABN: 40924759557

Notice given to: George Graham

Service method: Left for a person

Provision of this Act and / or the Regulations that is being contravened: I reasonably believe that AUSTRALIAN POWER PARTNERS B V & OTHERS is in contravention of Section 21(1) and 21(2)(a) of the Occupational Health and Safety Act 2004

Basis for this belief: AUSTRALIAN POWER PARTNERS B V & OTHERS is a partnership that is listed as AUSTRALIAN POWER PARTNERS B V & CISL (HAZELWOOD) PTY LIMITED & HAZELWOOD INVESTMENT COMPANY PTY LIMITED & HAZELWOOD PACIFIC PTY LTD & NATIONAL POWER AUSTRALIA INVESTMENTS LIMITED under the ABN 40924759557.

I observed a safe system of work associated with the provision of 'Fire Breaks' within the mine tenement boundary known as MIN5004 has not been maintained.

WorkSafe was advised by AUSTRALIAN POWER PARTNERS B V & OTHERS Management, that a fire occurred within the mine MIN5004 on the 9th of February 2014 extending into the Northern Batter area of

the mine. I observed the continuation of this fire today, 20th March 2014.

I observed that there is a documented requirement within the site's Mine Fires Safety Assessment #7, to ensure an appropriate fire break and control of grassed and forested areas within the 'zone of responsibility' is maintained. The document states that:

"A continuous 50 metre wide and permanently maintained fire break corridor around the perimeter of the Hazelwood Mine is to exist all year round. The fire break can include roads and may consist of the following:

- Grass not to exceed 100 millimetres in height;
- No trees, shrubs, scrub are permissible in the area; and
- Constant monitoring of the fire break corridor is required to ensure that the above protection is maintained."

I did not observe "A continuous 50 metre wide and permanently maintained fire break corridor around the perimeter of the Hazelwood Mine" as documented. Management could not demonstrate or provide a clear delineated area where a continuous 50 metre wide and permanently maintained fire break corridor around the perimeter of the Hazelwood Mine exists, during my site observations or within the site documentation.

I also observed (in areas that were described as the fire break) whilst visiting the Northern, North Eastern, South Eastern and Southern Batters:

- grass exceeding 100 millimetres in height; and
- trees, shrubs, scrub.

Furthermore, Management could not provide evidence of:

- constant monitoring of the fire break corridor that is required to ensure that the above protection is maintained.

Lack of maintenance of the fire break has the potential to allow an external fire to cross the 50 metre fire break corridor and access and enter the mine. A mine fire has the potential to place employees at risk of serious injury from exposure to fire and carbon monoxide.

Directions as to the measures to be taken to remedy the contravention:

AUSTRALIAN POWER PARTNERS B V & OTHERS must maintain a safe system of work associated with the provision of 'Fire Breaks' within the mine tenement boundary known as MIN5004.

One means of compliance may be to review the requirements of the document titled 'Major Mining Hazards 7 - Mine Fire (Major Fire) Safety Assessment system control #0071' including the adequacy of the 50 metre wide fire break, the requirement to regularly monitor its maintenance particularly during the fire season and maintain the fire break corridor as per requirements of the Major Mining Hazards 7 - Mine Fire (Major Fire) Safety Assessment system control #0071. Guidance and advice is available from the CFA and Mining Industry.

This contravention must be remedied by 23/06/2014.

See Review and Offence provisions below

Internal Review

As the person to whom this improvement notice has been issued, you or another eligible person can apply to WorkSafe Victoria (WorkSafe) for internal review of the reviewable decision to issue an improvement notice. Your application must be in the approved form and must be received by WorkSafe's Internal Review Unit within 14 days after the day on which the decision first came to your notice or came to the eligible person's notice. WorkSafe may however allow a longer period of time within which the application has to be lodged in appropriate cases. The applicant may also request a stay of the operation of the reviewable decision pending the outcome of the internal review. The request for a stay must accompany the application for internal review. WorkSafe must make a decision to grant a stay with or without conditions or not to grant a stay and communicate that decision within 24 hours of receipt of the request for a stay. If no decision is made WorkSafe is considered to have granted a stay. If no request for a stay is made the operation of this improvement notice remains in force. The application for internal review must be made to the Internal Review Unit, WorkSafe Victoria, GPO Box 4306, Melbourne 3001. An inspector must not give written certification that the activity or matters to which the notice relates have been remedied whilst there is an internal review pending.

You can contact the Internal Review Unit on telephone (03) 8663 5450, fax (03) 8663 5451 or by email at internalreviewunit@worksafe.vic.gov.au

If you have lodged an application for internal review and you do not receive a decision within the required time frame (which is taken to be a decision to affirm the reviewable decision) or you receive a decision that you are not happy with you can apply to Victorian Civil and Administrative Tribunal for external review within 14 days of the date the decision or non-decision came to the attention of the applicant. Applicants seeking external review must be an eligible person.

Offence

A person to whom an improvement notice is issued and who does not comply with the improvement notice shall be guilty of an indictable offence against the Act. In the case of a natural person, the indictable offence carries a penalty of not more than \$72,180. In the case of a body corporate, the indictable offence carries a penalty of not more than \$360,900.

The issue, variation or cancellation of this notice does not affect any proceedings for an offence against this Act or the regulations in connection with any matter in respect of which the notice was issued.

COMPLIANCE WITH THIS NOTICE DOES NOT indicate that the person to whom it is issued complies with all health and safety requirements, NOR does it affect the continuing obligation to ensure workplace health and safety.