

Occupational Health and Safety Act 2004
IMPROVEMENT NOTICE



WorkSafe Victoria is a division of
 the Victorian WorkCover Authority

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 Shepard Hayes*, an inspector appointed under the Occupational Health and Safety Act 2004.

Signature: _____

Date of Issue: 22/05/2012

Notice issued to: AUSTRALIAN POWER PARTNERS B V & OTHERS

Tenement No: MIN5004

BRODBRIBB ROAD
 HAZELWOOD 3840

ABN: 40924759557

Notice given to: *Luc Dietvorst*

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 5 21(1) & 21(2)(a) of the Occupational Health and Safety Act 2004 because AUSTRALIAN POWER PARTNERS B V & OTHERS is in contravention of Regulation 3.5.24 of the Occupational Health and Safety Regulations 2007

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, also trading as IPR-GDF SUEZ HAZELWOOD

I observed that AUSTRALIAN POWER PARTNERS B V & OTHERS has not ensured that the risks associated with the refuelling of petrol-powered plant have been eliminated or reduced so far as is reasonably practicable.

I observed that an incident involving the refuelling of a petrol powered compressor occurred at this workplace. An employee has stated that he had opened the lid of a fuel container in close proximity to a

compressor, upon opening the container he heard a hiss and instantly observed flames on the compressor and the container. The employee stated that he may have then splashed fuel on the compressor and his right arm causing the fire to spread to the rear of the vehicle and onto his right arm. It was also noted and observed (during enquiries) that a funnel and spout (used to assist in fuel transfer) could not be located.

By not ensuring that the risks associated with the refuelling of petrol powered plant have been eliminated or reduced so far as is reasonably practicable, an incident has occurred that has resulted in a fire, damage to plant and employee's clothing being burnt. An incident exposing employees to the risks associated with fire may place persons at risk of being seriously burnt and possible fatality.

By not adequately controlling the risks associated with the with the refuelling of petrol powered plant, as required by regulation 3.5.24 of the Occupational Health & Safety Regulations 2007, you are in contravention of the requirements of Section 21(1) & 21(2)(a) of the Occupational Health & Safety Act 2004.

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

AUSTRALIAN POWER PARTNERS B V & OTHERS must control the risks associated with the refuelling of petrol powered plant by ensuring that the risks are eliminated, or if not reasonably practicable to eliminate, reduced so far as is reasonably practicable in accordance with the hierarchy of controls specified in regulation 3.5.24 of the Occupational Health and Safety Regulations 2007.

Compliance may be achieved by, but is not limited to:
 Removing all petrol powered plant from site and replacing with diesel powered equipment.
 Guidance on these matters is available from the Code of Practice for Plant.

This contravention must be remedied by 27/08/2012.

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, Ground Floor, 222 Exhibition Street, Melbourne 3000. 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