

Attachment C

The HSR Handbook A guide for health and safety representatives in Australia's offshore petroleum industry

2016



NOPSEMA

nopsema.gov.au



Message from the CEO

Congratulations on your successful nomination as a health and safety representative (HSR). Your commitment to the role of HSR is an important step in making meaningful improvements to the health and safety of your fellow workers.

A good understanding of the HSR role and powers you have been given is essential to help you carry out your responsibilities with confidence and effectiveness. You will be representing your fellow workers, understanding their health and safety concerns, and assisting them to participate in the decisions that affect them.

Since its first publication, the HSR Handbook has proved to be a useful tool in assisting HSRs to understand their role as it relates to the legislation. This latest edition of the Handbook has been revised and updated to provide you with concise and easy-to-read guidance that is of value to both new and experienced HSRs.

If you have any suggestions for future editions of the handbook, or any queries about this publication, please email communications@nopsema.gov.au. We would appreciate your thoughts and contribution.

I wish you well as you undertake your HSR role and help spread the message throughout the industry that there can be no compromise for health and safety.

A handwritten signature in black ink, appearing to read 'Stuart Smith', with a stylized flourish at the end.

Stuart Smith
Chief Executive Officer
NOPSEMA

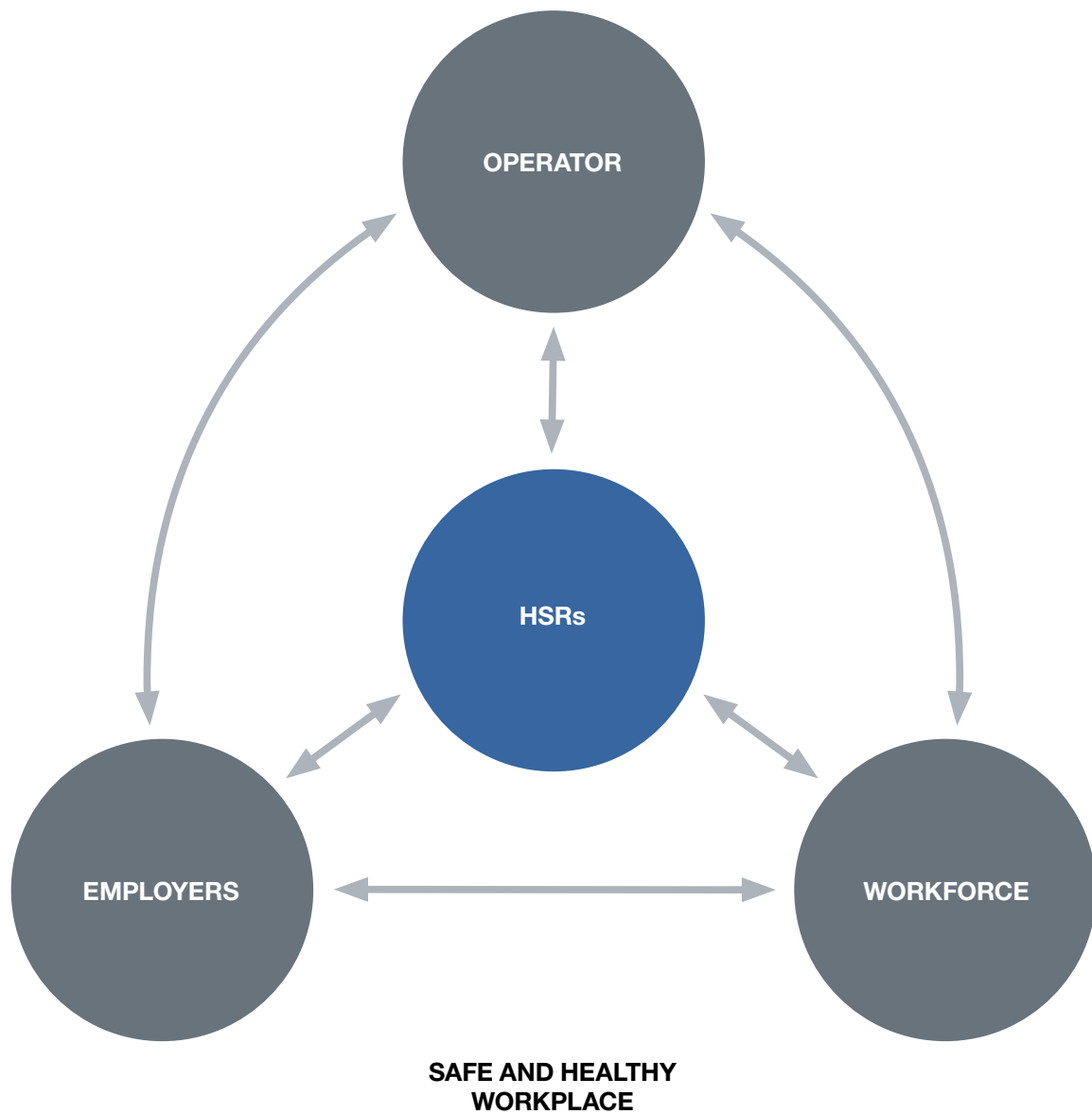
Table of contents

1. Introduction	3
2. The <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> , Schedule 3 and Regulations	4
3. Responsibilities under the legislation	6
4. Health and safety policy and agreement	11
5. Resources for health and safety representatives	12
6. Powers of health and safety representatives	12
7. Resolving health and safety issues	19
8. Hazard identification, assessment and control	20
9. Imminent and serious danger to health and safety	27
10. Designated work groups	29
11. Selection and training of health and safety representatives	30
12. Powers of NOPSEMA and NOPSEMA inspectors	31
Appendix A – Where to obtain more information	35
Appendix B – Blank provisional OHS improvement notice for Commonwealth waters	36
Your OHS contacts	37

Acronyms	
ALARP	as low as reasonably practicable
CEO	Chief Executive Officer
COAG	Council of Australian Governments
DIIS	Department of Industry, Innovation and Science
DWG	designated work group
FWC	Fair Work Commission
HAZOP	hazard and operability study
HSR	health and safety representative
JHA	job hazard analysis
JSA	job safety analysis
MSDS	material safety data sheet
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 OHS improvement notice
PPE	personal protective equipment



Figure 1: Parties involved in OHS offshore





1. Introduction

Now that you are a health and safety representative (HSR), you may be wondering what you can do to help ensure a healthy and safe workplace. It must be emphasised that an HSR is not responsible for the health and safety of their workplace. Nor are they expected to be an expert on occupational health and safety (OHS) issues.

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act) does, however, provide HSRs with extensive powers to allow them to contribute effectively in creating a safe and healthy workplace. These powers under the law are explained a little later in Section 6: Powers of health and safety representatives.

It may also be useful to meet or correspond occasionally with other HSRs to share experiences. This can assist in the development of negotiation skills and enhance communication with supervisors and managers. It also provides an opportunity to find out about solutions to health and safety problems that other organisations may have in place. Through discussions with other HSRs, you may find there are some common OHS issues, and a group approach to problems may prove most effective. Your facility operator, employer or union may be able to help you contact HSRs on other facilities.

Purpose of this handbook

NOPSEMA developed this handbook for HSRs as:

- a guide on how to exercise the powers given to you by the legislation
- a resource for you to refer to when you are selected or when you attend your accredited HSR training course.

This handbook is designed as a quick help guide for HSRs. It is not a substitute for legislation. In all circumstances the legislation overrides anything contained in this handbook. While the handbook discusses the manner in which an HSR may discharge their duties, the best solution is for the workforce, HSRs and the operator to agree on ways of working together with regard to OHS matters. The legislation requires such a policy to be developed – refer to Schedule 3, Clause 9(2)(i) of the OPGGS Act.

What this handbook contains

This handbook describes:

- your role, functions and powers as a HSR
- consultation arrangements under the legislation
- your responsibilities and the responsibilities of others involved in health and safety
- the processes of hazard identification, assessment and control
- procedures for resolving health and safety issues
- where to find more information.

It includes:

- references to key sections of the legislation
- the format for a provisional OHS improvement notice (PIN) and an example of a completed PIN
- flowcharts to provide assistance in resolving health and safety issues
- a space for you to write down your own OHS contacts at the back of this handbook.

If you wish to make comments or suggestions about this handbook, please email:
communications@nopsema.gov.au

2. The OPGGS Act

The primary legislation covering activities at Australia's offshore petroleum facilities is the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act). The OPGGS Act applies to facilities located in Commonwealth waters, which commence three nautical miles from the baseline of each state and the Northern Territory.

The Commonwealth Department of Industry, Innovation and Science (DIIS) is responsible for the content of the OPGGS Act. NOPSEMA is the independent statutory authority that administers and enforces the OHS aspects of this legislation. Schedule 3 of the OPGGS Act is the primary piece of OHS law, and is supported by a consolidated set of Regulations.

In most states and in the Northern Territory, there is corresponding legislation for offshore petroleum facilities located in individual state and territory waters within the three nautical mile limit. NOPSEMA also administers and enforces the OHS aspects of these acts, where a state or territory has conferred such powers on NOPSEMA within their legislation.

The legislation for each state and the Northern Territory largely mirrors the OPGGS Act, but may use different words. Clauses and subclauses may also be numbered differently.

The OHS Schedule first came into effect in 1993 for facilities located in Commonwealth waters off Western Australia. More recently, the Commonwealth Schedule and the corresponding schedules in the individual state or Northern Territory legislation have been applied to petroleum facilities in all the waters off Australia, replacing the state and territory onshore OHS legislation (see below).

The OHS legislation requires facility operators and other persons in management and control, including relevant employers, to establish workplace processes and a working environment where risks to health and safety are reduced to as low as reasonably practicable (ALARP).

Objectives of the offshore petroleum OHS legislation

The objectives of the OHS legislation relating to offshore petroleum facilities are given in Clause 1 of Schedule 3 of the OPGGS Act:

- a) to secure the health, safety and welfare of persons at or near those facilities; and
- b) to protect persons at or near those facilities from risks to health and safety arising out of activities being conducted at those facilities; and
- c) to ensure that expert advice is available on occupational health and safety matters in relation to those facilities; and
- d) to promote an occupational environment for members of the workforce at such facilities that is adapted to their needs relating to health and safety; and
- e) to foster a consultative relationship between all relevant persons concerning the health, safety and welfare of members of the workforce at those facilities.

Who does the offshore petroleum OHS legislation cover?

The OHS legislation applies to:

- operators of offshore petroleum facilities
- persons in control of particular parts of facilities or particular work
- all members of the workforce at those facilities
- employers of the members of the workforce
- manufacturers, suppliers, installers and erectors of a plant
- contractors providing goods and services to those facilities
- titleholders in relation to wells.



Where the legislation fits with state and Northern Territory law

The laws of a state or territory apply in their own right throughout the three nautical mile offshore zone. The OPGGS Act applies the same laws for all offshore petroleum facilities in Commonwealth waters beyond the three mile limit.

However, this is with the exception of the state or territory laws related to occupational health and safety, dangerous goods, explosives, electricity safety and gas safety, as listed in regulations under the OPGGS Act. The OPGGS Act, Schedule 3 and related safety regulations replace these state and territory onshore laws in Commonwealth waters. Similar replacement occurs in the corresponding state and Northern Territory legislation, and applies in state and Northern Territory waters respectively.

OHS Schedule 3

Schedule 3 of the OPGGS Act contains a number of parts:

- Part 1 sets out the objectives of the legislation and provides a number of definitions.
- Part 2 imposes the specific duties of care on operators of facilities; those in management and control of parts of facilities or particular work; employers and other parties.
- Part 3 sets out a range of 'workplace arrangements'. These include processes for: establishing designated work groups (DWGs); processes for the selection or election of HSRs; the powers of HSRs, and the roles and functions of OHS committees.
- Part 4 concerns inspections of facilities and related places by NOPSEMA inspectors, it sets out the powers of inspectors and imposes a duty on operators and others to give the inspectors reasonable assistance.
- Part 5 sets out a range of administrative matters, in particular, the duty of operators to report accidents and dangerous occurrences.

Part 3 of Schedule 3 of the OPGGS Act is of the most relevance to a HSR.

Regulations

Additional law is introduced through regulations as new provisions become necessary and add extra operations to the primary legislation. Schedule 3 of the OPGGS Act and these associated regulations form the whole of the 'OHS legislation'.

These regulations are contained in the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009 and address the following:

- prohibitions on drugs, intoxicants and specified hazardous substances
- exposure limits for hazardous substances and noise, as set out in national OHS standards
- requirements for the safe management of fatigue and working hours
- detailed processes for the election of HSRs (for use in cases where the involved parties cannot otherwise agree on a process)
- forms of official notices, including provisional OHS improvement notices for use by HSRs
- the registration of an operator for each facility
- a requirement for there to be a safety case for each facility that has been accepted by NOPSEMA, and the necessary contents of these safety cases
- a requirement for operations at each facility to comply with the facility safety cases
- detailed requirements for the notification and reporting of accidents and dangerous occurrences
- the requirement for any company that conducts diving at petroleum sites to have a diving safety management system that has been accepted by NOPSEMA and a diving project plan accepted by the relevant facility operator.

OHS matters covering well operations which are contained in Part IV of the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011, deal with well operations also form part of the OHS legislation.

Codes of practice and guidelines

From time to time, NOPSEMA issues guidelines for aspects of the legislation. These guidelines are published on the NOPSEMA website at nopsema.gov.au.

The OPGGS Act also allows NOPSEMA to prepare and issue 'codes of practice' as practical guides to people having a duty of care under the legislation.

At the time of publication of this handbook, no codes of practice had been issued by NOPSEMA or prescribed under the Regulations. The NOPSEMA website will contain the most current information on any guidelines or codes of practice that may be of relevance.

Keeping up to date

NOPSEMA advises HSRs to check with their employer to find out what other systems may be available in the workplace to keep HSRs updated on the most recent OHS legislation, codes of practice and guidelines.

3. Responsibilities under the legislation

The primary responsibility for a safe and healthy offshore workplace at a facility lies with the operator of the facility – although the operator is assisted in this by other parties, including:

- persons in control of parts of a facility or particular work
- employers of persons in the offshore workforce
- plant or substance manufacturers
- plant or substance suppliers
- persons erecting facilities or installing a plant
- members of the offshore workforce, including contractors.

The roles and duties of these parties are discussed below, as are the functions of NOPSEMA and the NOPSEMA Advisory Board.

Operators

Under Clause 9 of Schedule 3 to the OPGGS Act, the registered operator of an offshore petroleum facility must take all reasonably practicable steps to ensure that the facility is safe and without risk to the health of any person at or near the facility, and that all work and other activities at the facility are carried out in a manner that is safe and without risk to the health of any person at or near the facility. In particular, so far as reasonably practicable, the operator must:

- provide and maintain a physical environment at the facility that is safe and without risk to health
- provide and maintain adequate facilities for the welfare of all members of the workforce at the facility
- ensure that any plant, equipment, materials and substances at the facility are safe and without risk to health
- implement and maintain systems of work at the facility that are safe and without risk to health.
- implement and maintain appropriate procedures and equipment for the control of, and response to, emergencies at the facility
- provide all members of the workforce with the information, instruction, training⁽¹⁾ and supervision necessary for them to carry out their activities in a manner that does not adversely affect the health and safety of persons at the facility
- monitor the health and safety of all members of the workforce and keep records of that monitoring
- provide appropriate medical and first aid services at the facility
- in consultation with members of the workforce and any workforce representatives, develop a policy relating to occupational health and safety.

Schedule 3 also requires the operator to report particular accidents and dangerous occurrences to NOPSEMA. Although the operator of the facility has this overall duty, other parties have duties too. Other duties under the OPGGS Act Schedule 3 are described below.



Persons in control

Any person⁽²⁾ that has management or control of a particular part of a facility or particular work must take all reasonably practicable steps to ensure the part of the facility, or the particular work, is safe and without risk to health (Clause 10 of Schedule 3).

So far as reasonably practicable, this includes duties to:

- ensure that the physical environment at that part of the facility or at the place where the work is carried out is safe and without risk to health
- ensure that any plant, equipment, materials and substances used at that part of the facility or in that work are safe and without risk to health
- implement and maintain systems of work at that part of the facility or in that work that are safe and without risk to health
- ensure means of entry to, and exit from, that part of the facility or the workplace that is safe and without risk to health
- provide relevant members of the workforce with the necessary information, instruction, training and supervision.

Employers

All employers of persons offshore have a duty to protect the health and safety of their employees (Clause 11 of Schedule 3). So far as reasonably practicable, this includes duties to:

- provide and maintain a working environment that is safe for employees and without risk to their health
- ensure that any plant, equipment, materials and substances used in connection with the employees' work are safe and without risk to health
- implement and maintain systems of work that are safe and without risk to health
- provide means of entry to, and exit from, the employees' work location that is safe and without risk to health
- provide employees with the information, instruction, training and supervision necessary for them to carry out their work in a manner that is safe and without risk to health.

This duty is not only limited to direct employees, but also extends to any contractors working for the employer.

Titleholders

In relation to a well located within a title area, the titleholder must ensure that the well is designed, maintained and operated so that risks to the health and safety of persons at or near a facility from that well are as low as reasonably practicable (Clause 13A).

Manufacturers, suppliers and installers

Manufacturers and suppliers of any plant or substance are responsible for providing services that are safe and that do not contribute to any risk to the health and safety of persons offshore. They must also give the operator, or other person to whom the plant or substance is supplied, adequate information about that plant or substance (Clauses 12, 13).

Erectors and installers of facilities and plants must ensure that these are erected and installed in a manner that is safe (Clause 14).

(1) Information, instruction and training must be provided in a manner that enables it to be understood (including in foreign languages, if necessary).

(2) In law, the word 'person' can mean either an individual or a 'body corporate' (such as a company).

Members of the workforce

Members of the offshore workforce⁽³⁾ have a duty to:

- ensure they do not interfere with any health and safety equipment
- avoid placing themselves and others at risk
- observe health and safety provisions and follow safety instructions when using any equipment or substances
- cooperate with the operator and their employer to the extent necessary to enable the operator and employer to fulfil their duties.



(3) Schedule 3 makes clear that the term 'workforce' includes contractors as well as employees.



NOPSEMA

In respect of OHS, NOPSEMA's functions are defined by Section 646 of the OPGGS Act. NOPSEMA has general functions to:

- promote the OHS of persons engaged in offshore petroleum operations
- develop and implement effective monitoring and enforcement strategies for OHS in offshore petroleum operations
- investigate accidents, occurrences and circumstances that may affect the OHS of persons engaged in offshore petroleum operations and to report as appropriate to the Commonwealth, state and territory ministers on those investigations
- advise persons on occupational health and safety matters relating to offshore petroleum operations
- make reports, including recommendations, to the Commonwealth, state and territory ministers on issues relating to the OHS of persons engaged in offshore petroleum operations
- cooperate with other Commonwealth, state and territory agencies having functions relating to offshore petroleum operations.

NOPSEMA also has many other functions specifically conferred on it by the OPGGS Act or the corresponding Acts of the state or Northern Territory.

NOPSEMA is led by a Chief Executive Officer (CEO). The CEO has all the legal powers and functions that the law assigns to NOPSEMA, although many day-to-day powers are delegated to managers. The CEO appoints all NOPSEMA inspectors.

The ministers and the NOPSEMA Advisory Board

The relevant government ministers and the NOPSEMA Advisory Board also have roles to play in relation to OHS in offshore petroleum operations.

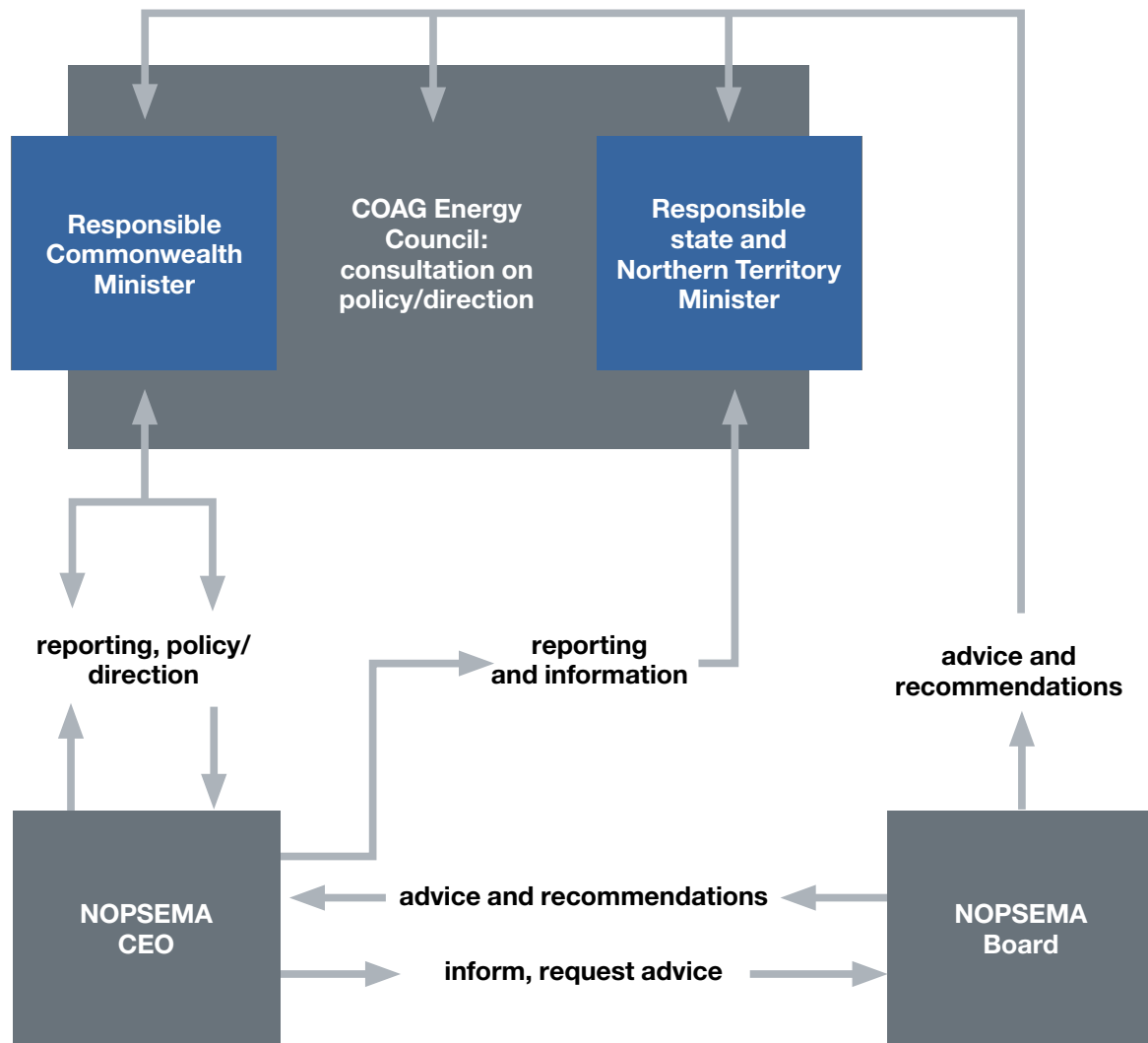
The Commonwealth minister, after consultation with relevant state or territory ministers, may issue policy principles to NOPSEMA, with which NOPSEMA must comply. These policy principles direct the manner in which NOPSEMA fulfils its responsibilities.

The NOPSEMA Advisory Board comprises up to eight independent persons with functions to:

- give advice and make recommendations to the CEO of NOPSEMA about the operational policies and strategies to be followed by NOPSEMA in the performance of its functions
- give advice and make recommendations to the Commonwealth, state and territory petroleum ministers, and to the Council of Australian Governments (COAG) Energy Council, about policy or strategic matters in relation to the functions of NOPSEMA or the performance by NOPSEMA of its functions
- engage with stakeholders regarding industry trends, issues and leading practice opportunities, and provide advice to ministers and NOPSEMA on strategies to improve safety and environmental management performance.

Under the OPGGS Act, the CEO of NOPSEMA is required to 'have regard' to the advice of the board.

Figure 2: Commonwealth independent statutory agency





4. Health and safety policy and agreement

The legislation, specifically Clause 9 of Schedule 3, requires the operator of an offshore petroleum facility to develop an OHS policy, in consultation with the workforce and any workforce representatives. This policy must, among other things, provide for the making of an agreement between the operator on the one hand and the workforce and its representatives on the other.

If you do not have a copy of your facility's health and safety policy and agreement, you should request a copy from your supervisor or OHS contact officer. If an operator does not have a health and safety policy and agreement, that is a breach of the legislation, and the operator should develop a policy and agreement as soon as possible, while consulting the workforce via the HSRs at the facility.

Purpose of the OHS policy

The OHS policy should encompass:

- a clear statement of management's commitment to, and responsibility for the health and safety of the workforce
- a broad strategic statement which ensures that this commitment is met.

Most organisations will already have such a policy set out. However, the requirement under the OPGGS Act goes further than this, in that the OHS policy should address the consultative mechanisms related to OHS at the facility. Specifically, the OHS policy must aim to:

- enable effective cooperation between the operator and the workforce in promoting and developing measures to ensure the health, safety and welfare of persons at the facility
- provide adequate mechanisms for reviewing the effectiveness of the measures
- provide for the making of an agreement.

Purpose of the agreement

The agreement should support the policy, that is:

- the agreement must provide mechanisms for ongoing consultation on OHS matters between the operator, the workforce and any workforce representatives.

5. Resources for health and safety representatives

Useful resources that could assist HSRs in their new role could include:

- filing and storage space to keep records, information and books
- access to a telephone, photocopier, word processor, the internet and email
- a room or other place to hold meetings with members of your DWG or other HSRs
- time to undertake the role.

Given the limitations of working offshore, it may not be possible to have dedicated space or equipment, but HSRs should at least have ready access to shared resources. The HSR should discuss the provision of appropriate resources with their operator and employer. The outcome could be included in the agreement.

To enable you to exercise the powers of a HSR, an operator or employer must provide you with:

- access to certain information on request
- time off work to undertake the role and associated training without loss of pay or entitlements.

6. Powers of health and safety representatives

The OHS legislation describes the powers given to HSRs to enable them to promote or ensure the health and safety at work of the members of their DWG. HSRs may use these powers to resolve health and safety issues. For more information on DWGs, see Section 10 of this handbook.

Consultation and record keeping

If HSRs identify a health and safety issue, particularly if they believe there is a breach of the legislation, they should consult with the relevant supervisor. The legislation emphasises the resolution of issues through consultation between management and worker representatives. HSRs should keep a record of any consultation in the form of diary notes, email records or handwritten notes.



HSR powers

Clauses 34 to 38 and 44 of Schedule 3 of the OPGGS Act set out the powers and actions given to HSRs.

Under the legislation, a HSR can:
If there has been a recent accident or dangerous occurrence, or if there is an immediate threat of an accident or dangerous occurrence, inspect the workplace of members of the DWG
Inspect the workplace of members of the DWG at any other time, provided the operator has been given reasonable notice of the inspection
Submit a request to NOPSEMA or a NOPSEMA inspector that an inspection be conducted at the workplace
Accompany a NOPSEMA inspector during an OHS inspection at the workplace
If there is no health and safety committee, represent the members of the DWG in health and safety consultations with the operators or their employers
If there is a health and safety committee, examine its records
Investigate health and safety complaints by DWG members
With the consent of the DWG member, attend any interview concerning health and safety at work between that person and a NOPSEMA inspector or the operator or employer
Access information held by the operator or employer that relates to risks to the health and safety of any DWG member ⁽⁴⁾
Issue a PIN (for more information see Figure 3: Breach of Schedule 3 or Regulations)
Request that NOPSEMA or a NOPSEMA inspector conduct an OHS inspection into a matter that is the subject of a PIN, if the notice has not been complied within the specified period, and if an inspection has not been requested by the operator, employer or other person responsible
Initiate emergency 'stop-work' procedures, where there is an immediate threat to the health and safety of any person and if the supervisor is unavailable
Request that NOPSEMA or a NOPSEMA inspector conduct an OHS inspection, if the HSR and the supervisor cannot agree on an appropriate course of action to remove a threat to health and safety
Appeal to the Fair Work Commission (FWC) against an inspector's decision to vary or cancel the PIN
Ask NOPSEMA to institute proceedings for offences against the legislation if proceedings have not been commenced within six months of an alleged breach
If the operator or NOPSEMA has agreed in writing, receive assistance from a consultant or provide a consultant with information ⁽⁵⁾
Request consent from an operator that a consultant accompany the HSR in an interview between a DWG member and a NOPSEMA inspector or operator

The legislation does not impose any obligations on HSRs to exercise any of the powers and actions outline in the legislation. In addition, HSRs are not liable under civil proceedings for exercising or not exercising thees powers and actions.

There are provisions for the disqualification of HSRs, which protect others against the possibility of HSRs misusing their powers. Therefore, these powers should be used carefully and only in relation to OHS matters. Clause 32 of Schedule 3 explains the disqualification process. An application to disqualify an HSR may only be made by the facility operator, an affected employer, a member of the DWG or a relevant workforce representative. The application must be made to NOPSEMA. Only NOPSEMA can disqualify a HSR, and can only do so if satisfied that the HSR has acted in an improper manner.

(4) An employer can claim legal professional privilege on health and safety information they have. In such a case, an HSR cannot gain access to that information if the claim of legal professional privilege is valid. Also, an HSR cannot gain access to a person's medical records except with the written consent of that person.

(5) It should be noted that an operator or employer is not liable for expenses or remuneration incurred by a consultant's activities.

Term of office for HSRs

The selection or election as a HSR has effect for two years, unless a different term has been decided and included in the written agreement with the operator. However, a HSR may stand for selection or re-election at the end of that term. A HSR may also resign at any stage during their term of office. If a HSR chooses to resign or leave the DWG, then they must inform the members of the group, the facility operator and relevant employers.

PIN issued by HSRs

If a HSR believes a person is breaching the OPGGS Act, or has breached it in the past and is likely to do so again, and the contravention affects or may affect one or more DWG members, then they must consult with the relevant supervisor and attempt to reach agreement on fixing the breach or preventing any future breach.

If an agreement on the resolution of a breach cannot be reached within a reasonable timeframe, HSRs may issue a PIN to the relevant person. The relevant person is referred to as the 'responsible person'.

The PIN must specify:

- the part of the legislation, in the HSR's opinion, that is being breached
- the reason why they believe a breach has occurred
- the period - not less than a week (seven days) after the date of issue of the PIN - in which the responsible person is to take action necessary to prevent any further or likely breach.

The PIN may specify action that may be taken by the responsible person, however this is not mandatory and care should be taken in wording any specific action. The period may be extended by the HSR in writing at any time before the original expiry date.

The HSR must give the original PIN to the responsible person. Copies of the PIN should go to:

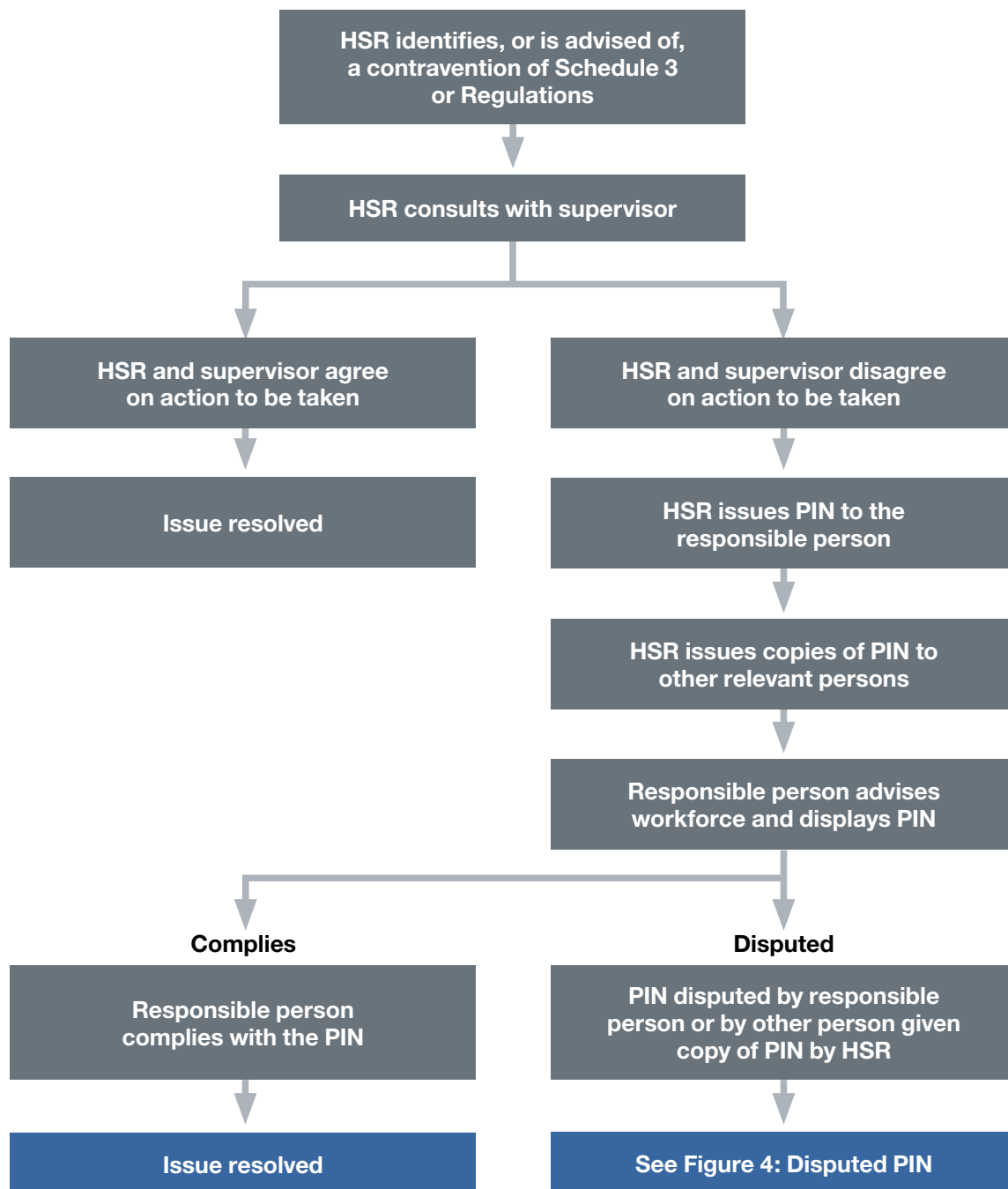
- the operator of the facility⁽⁶⁾
- relevant employers of the members of the workforce
- the owner of any directly-affected plant, substance or thing.

HSRs should also keep a copy of each PIN they issue. More detail on PINs can be found in Clause 38 of Schedule 3 of the OPGGS Act and also in NOPSEMA's Completion of a Provisional OHS Improvement Notice guideline (GL0517) which is available on NOPSEMA's website.

(6) As the facility operator is likely to be a company, a copy should be given to the 'operator's representative at the facility'. The name of the operator's representative must be prominently displayed at the facility.



Figure 3: Breach of Schedule 3 or Regulations



Example: Provisional OHS improvement notice

Provisional OHS improvement notice

Offshore Petroleum and Greenhouse Gas Storage Act 2006

PROVISIONAL OHS IMPROVEMENT NOTICE

To: **Jack Supervisor, Big Oil Company Pty Ltd**

I, **Jane Representative**, selected as the health and safety representative under Clause 25 and 26 of Schedule 3 to the Act for **Operations Shift at North Widget Platform**, after consultation in accordance with subclause 38 (1) of Schedule 3 to the Act, believe that the following provision of an OHS listed law is being contravened, or has been contravened, and is likely to be contravened again:

The contravention is: **a failure to take all responsibly practicable steps to ensure that all material and substances are safe and without risk to health, contrary to Clause 9(2)(c) of Schedule 3 of the Offshore Petroleum and Greenhouse Gas Storage Act 2006.**

The contravention is occurring at: **the chemicals storage locker at the north end of the main deck of North Widget Platform.**

The reasons for my opinion are as follows: **incompatible chemicals are being stored without appropriate segregation.**

In accordance with paragraph 38 (5) (b) of Schedule 3 to the Act, action necessary to prevent the contravention, or the likely contravention, of the provision or provisions referred to above must be taken before **(the date of a day that is:**

- (a) not less than 7 days after the day when the notice is issued; and**
- (b) reasonable in the opinion of the health and safety representative).**

In accordance with subclause 38 (6) of Schedule 3 to the Act, I specify the following action to be taken: **provide a second chemical storage locker in the area, and place incompatible chemicals in separate lockers.**

Dated: **31 July 2012**

Jane Representative

Health and safety representative

NOTES:

1. Under subclause 39 (1) of Schedule 3 to the Act, a person to whom a provisional OHS improvement notice is given may, within 7 days, request NOPSEMA or a NOPSEMA inspector to conduct an investigation into the subject matter of the notice.
2. Subclause 39 (5) of Schedule 3 to the Act requires a responsible person to whom a provisional OHS improvement notice is given:
 - to notify each group member affected by the notice of the fact that the notice has been issued; and
 - to display a copy of the notice at or near each workplace at which work that is the subject of the notice is being performed.
3. Under subclause 39 (6) of Schedule 3 to the Act, a provisional OHS improvement notice ceases to have effect when:
 - it is cancelled by the health and safety representative or a NOPSEMA Inspector; and
 - the responsible person takes the action specified in the notice, or if no action is specified, takes the action that is necessary to prevent the contravention, or likely contravention with which the notice is concerned.
4. Subclause 39 (7) of Schedule 3 to the Act requires the responsible person:
 - to ensure, as far as possible, that a provisional OHS improvement notice is complied with; and
 - to inform the health and safety representative who issued the notice of the action taken to comply with the notice.
5. Under item 1 of clause 80A(1) of Schedule 3 to the Act, if a NOPSEMA inspector has confirmed or varied a provisional OHS improvement notice:
 - a person to whom the provisional OHS improvement notice was issued under subclause 38(2)
 - the operator of the facility
 - a titleholder, if the notice relates to the titleholder's well-related obligations
 - an employer, if affected by the decision; or
 - a relevant health and safety representative; or
 - a relevant workforce representative, if requested by a member of the workforce affected by the decision; or
 - a person who owns any workplace, plant substance or thing to which the decision relatesmay in writing appeal against the decision to the reviewing authority.
6. Under Item 2 of subclause 80A(1) of Schedule 3 to the Act, if a NOPSEMA inspector has cancelled a provisional OHS improvement notice:
 - a relevant health and safety representative; or
 - a relevant workforce representative, if requested by a member of the workforce affected by the decision.may in writing appeal against the decision to the reviewing authority.



Who is the 'responsible person'?

As a general rule, the HSR should issue the PIN to the person who has the immediate authority to fix the problem. For example, it may be the supervisor of the work in question. In the event of uncertainty, or if the person approached by the HSR claims not to be the responsible person, the best course of action is to give the PIN to the operator's representative at the facility – such as the offshore installation manager or person in charge (PIC), as this person will have authority over all other persons at the facility.

Action by the 'responsible person' in response to a PIN

After receiving the PIN, the responsible person must:

- comply with the PIN
- inform the HSR who wrote the PIN of the action taken as a supervisor acting on behalf of the operator or employer
- notify the affected members of the workforce of the issue of a PIN
- display the PIN until it ceases to have effect.

If the 'responsible person' wishes to dispute the PIN

Where the PIN is disputed, the responsible person must, within seven days of the PIN being issued, request that NOPSEMA or a NOPSEMA inspector conduct an OHS inspection. **The responsible person cannot ignore the PIN.**

When a PIN ceases effect

The PIN ceases effect when:

- the responsible person takes the action required by the PIN
- the responsible person takes action to prevent any further breach of the subject of the PIN, even if the HSR did not request any specific action
- the HSR cancels the PIN
- a NOPSEMA inspector cancels the PIN.

If a NOPSEMA inspector confirms or varies a PIN, in effect this becomes an OHS improvement notice issued by the NOPSEMA inspector, which must be adhered to.

PINs and OHS inspections

A PIN will be suspended if a request for an OHS inspection is made to NOPSEMA or a NOPSEMA inspector within a week (seven days) of the issuing date on the PIN. Although it is suspended after the request for an OHS inspection is made, and during the OHS inspection, the PIN should remain on display until it is cancelled, varied or the problem described in the PIN is resolved.

An OHS inspection will be conducted as soon as possible after a request is made. The NOPSEMA inspector conducting the OHS inspection must:

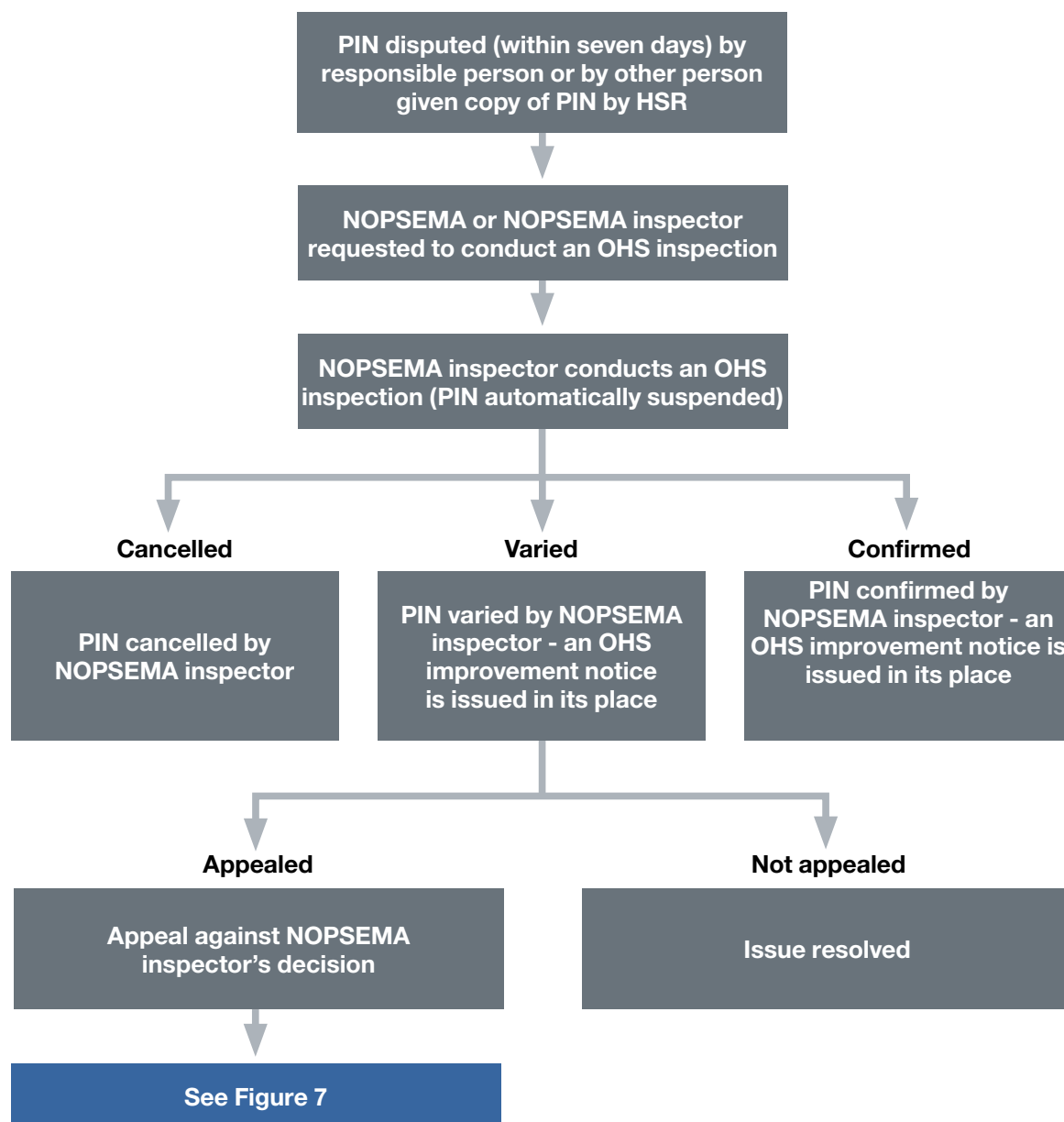
- either confirm, vary, or cancel the PIN
- notify the responsible person and the HSR
- notify any other person who has been given a copy of the PIN by the HSR.

This OHS inspection may be held at the offshore facility but could, in some cases, be limited to meetings and examination of records onshore. This would depend on the issue in question.

The NOPSEMA inspector should make decisions and exercise such powers as they consider necessary during the course of the OHS inspection.

For further information, see Figure 4: Disputed PIN.

Figure 4: Disputed PIN





7. Resolving health and safety issues

One of the key objectives of the legislation is to encourage cooperation and a consultative relationship between operators, the workforce and their employers on the health, safety and welfare of persons at offshore petroleum facilities.

The consultative approach in the legislation

The legislation, particularly Clause 9 and Part 3 of Schedule 3, emphasises consultation and cooperation between operators, the workforce and employers over OHS issues by:

- requiring an OHS policy and agreement to be determined through a consultative process
- setting out the means of establishing DWGs, selecting HSRs and establishing health and safety committees.

Health and safety committees

Activities of a health and safety committee

Health and safety committees are created in order to promote an environment in which the operator, the workforce and relevant employers cooperate to ensure health and safety at work. Committees may be formed in relation to any offshore petroleum facility, but they are only a legal requirement if the normal workforce comprises 50 people or more.

NOPSEMA strongly encourages the formation of committees in all cases, as a means of ensuring health and safety. Specific functions of committees are to:

- assist the operator to develop, implement, review and update measures to protect the health and safety of the workforce
- facilitate cooperation between the operator, employers and members of the workforce on OHS matters
- assist the operator to distribute OHS information to the workforce.

The legislation also allows for health and safety committees to carry out a variety of other functions agreed upon by the operator and the committee.

Committee composition

The number of operator, employer and workforce members on a committee may be a matter covered by an agreement, but if there is no such agreement there should be equivalent numbers of representatives of each area. A written agreement may specify who are to be the members of the workforce, to represent the interests of members of the workforce on the committee. Ideally, operator and employer representatives should include senior or line managers who have the authority to make decisions about improvements to health and safety and who have a good knowledge of the facility and the company organisation.

Frequency of meetings

The legislation states that a workplace health and safety committee must hold meetings at least every three months. A committee may meet more frequently.

If frequent committee meetings are required, this may mean the committee is not taking a sufficiently strategic view, and is performing the functions of 'safety meetings' instead. Ideally, a health and safety committee would be in addition to more frequent and routine safety meetings held by individual work groups or for particular work activities.

HSRs and their link with committees

The roles of HSRs and health and safety committees differ but are meant to complement each other.

HSRs may tend to concentrate their efforts on addressing specific issues within their work group. The health and safety committee should aim to address broader organisational issues, in accordance with their terms of reference. For example general trends, root causes of accidents, and so on. Facilities will generally have weekly safety meetings, which fall between the two, to review the week's events and follow up on issues raised.

If a committee exists, a HSR can examine the records of the committee. Where HSRs are not members of the committee, it is important that they communicate with those workforce representatives who are, as a means to ensure they know about the committee's activities and the issues that are being addressed. A HSR is not required under the legislation to be a member of the committee.

If there is no committee (for example because there has been no request to form one), HSRs have the power to perform some of the duties of a committee for the members of the respective DWGs.

8. Hazard identification, assessment and control

Risk management is the responsibility of operators and employers

Risk management is the responsibility of the various duty holders, and in particular, that of the facility operator. Risk management requires the application of management policies, procedures and practices to identify, assess, control and monitor risks.

Operators are responsible for identifying and assessing all reasonably foreseeable hazards that may affect the health or safety of persons at or near facilities and eliminating those hazards or minimising the risk of exposure to them. This includes identifying, assessing and controlling risks before the introduction of any new plant, substance, work practice or procedure and prior to any change to the workplace or to a work practice, activity or process.

The OPGGS Act also includes a general obligation by operators, employers and others to provide adequate information about hazards and risks, as well as the right of members of the workforce to obtain such information.

The Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009 require the operator to develop and maintain a safety case for the facility, which must be submitted to NOPSEMA and accepted in order for the facility to be constructed and operated. A safety case must describe in detail the safety management system for the facility, including:

- the processes for hazard identification, assessment and control
- a detailed description of the 'formal safety assessment' for the facility
- identifying all hazards that have the potential to cause a 'major accident event'⁽⁸⁾
- an assessment of the associated risks identifying the measures required to reduce that risk to as low as reasonably practicable.

Safety case preparation and revision

The safety case is a document prepared by the operator of the facility that describes:

- the facility
- activities expected to occur at the facility
- assessments carried out regarding any potential 'major accident events' including technical or other controls to reduce risk to a level that is as low as reasonably practicable
- the system for managing safety that is to be implemented by the operator.

⁽⁸⁾ That is: 'having the potential to cause multiple fatalities of persons'.



The safety case must be submitted to and accepted by NOPSEMA before operations at the facility can commence. Before NOPSEMA can accept the safety case or a revision to it, NOPSEMA must be satisfied that it complies with the legislation.

The operator must also demonstrate to NOPSEMA that there has been effective consultation with and participation of members of the workforce in the development or revision of the safety case, and must show that there are systems for members of the workforce to arrive at informed opinions about the risks and hazards they may be exposed to. Therefore, the workforce must be involved in the development and revision of the safety case. They must also be consulted and informed to the extent that they understand the hazards and risks that exist. A HSR may be involved in the safety case development and review, or consulted by the operator about the involvement of others.

How can HSRs be involved

Identification of hazards

There are a number of ways HSRs can help manage the hazards and risks that can affect the members of a DWG.

For example, the HSR can undertake routine inspections of the workplace and activities of their DWG to help identify and report workplace hazards. The legislation empowers HSRs to do this.

When unusual work activities are proposed – in particular if they may pose special hazards – it is good practice to conduct a formal risk assessment. This might take the form of a job safety or job hazard analysis (JSA/JHA) or similar workshop-type assessment, in which the HSR could be involved.

At a more strategic level, there is a legislative requirement for all hazards and risks having the potential to cause a major accident event to be identified, assessed and documented in the safety case for the facility. The law requires the operator to involve the workforce in the development and maintenance of a safety case which must include an assessment of the major accident event risks. A HSR may provide that input or nominate someone else they believe to be more suitable. Safety cases require a review and revision every five years, or for significant changes to the facility or safety management system, and these are triggers for workforce involvement. Also, if an operator is developing the safety case for a new facility, the members of the workforce of existing facilities may usefully be involved.

Although an HSR can be involved in any of these activities, there may be other people within the DWG who are more qualified to contribute in particular cases. For example, they may be more familiar with the particular work area, work processes or technology that is employed. If this is the case, it should be discussed with a supervisor, and with the person leading the inspection, investigation or assessment.

Workplace inspection

Inspections are part of a regular program of checking the workplace. They can be carried out by a HSR alone, or jointly with the supervisor or other management representatives, provided the HSR has been given reasonable notice. The frequency of regular inspections should relate to the size of the workplace, the number of workers involved and any other relevant factors. Special inspections may also prove useful following any change to the workplace, such as the installation of new equipment.

A plan of the work area, descriptions of the work activities and copies of the key procedures used in these activities – together with checklists – form the basis for a comprehensive inspection and review of workplace practices. Checklists can vary according to the type of work and the workplace. The HSR can compile one or they may be available from their operator or employer.

Accident investigation

The operator has an obligation, under Schedule 3 and the Regulations, to notify and report accidents and dangerous occurrences to NOPSEMA and to keep records of such events. NOPSEMA's Notification and Reporting of Accidents and Dangerous Occurrences guidance note (GN0099) explains the notification and reporting obligations on operators and is available at nopsema.gov.au.

The workforce should be encouraged to report all accidents, dangerous occurrences to their supervisor so that the events can be investigated. This will help to prevent similar occurrences in the future.

A HSR may inspect the whole or any part of the workplace following an accident or dangerous occurrence. This is best done as part of the investigation which the operator must conduct. This does not mean the HSR must necessarily agree on the findings of the operator, but by taking part in the operator's investigation, they will have the best access to information and the best chance of having influence on the conclusions and recommendations.

Job safety/hazard analysis

A JSA/JHA simply looks at the work task step-by-step, considers the hazards of each step, the measures that need to be put in place to control those hazards, and whether any additional measures are possible and practicable. A JSA/JHA is best carried out as a team activity involving all the persons who will be involved in the work, led by someone who has been suitably trained.

The operator may have a formal documented process for conducting a JSA/JHA, including a form for recording the results. If this resource is not available, one may be obtained from some of the websites listed at the back of this handbook. A HSR could be involved in any JSA/JHA for work in which they themselves will be taking part and, with their operator's and employer's agreement, may be able to attend a JSA/JHA for work to be performed by others members of the DWG.

Review of proposed changes

Modifications to a facility should be assessed for hazards and risks as part of the design process, prior to construction and prior to start-up. Hazard identification and assessment for modifications to the oil and gas production systems often includes a hazard and operability study (HAZOP). This is a line-by-line or section-by-section review of the process systems that looks at possible problems that may arise as well as the means of avoiding or reducing them. Members of the workforce who are involved in process operations and maintenance are ideally suited to take part in this type of assessment.

As well as preparing a JSA/JHA immediately prior to construction activities, it is also good practice to carry out 'constructability' reviews, or something similar, at an earlier stage. These reviews look at the practicality of performing the construction work, the hazards inherent in the work, and whether there is a better approach. Members of the construction workforce and the facility deck-crew may usefully contribute to such studies.

It is common practice for operators and employers to consult with HSRs regarding those members of the workforce who will be involved in these reviews.

Access to information

In some cases, it may be necessary for a HSR to access specialist information in order to be able to conduct an inspection, investigation or assessment effectively. **A HSR is entitled to have access to this information.** Examples are:

Substances used in the workplace

Many substances (chemicals) used in the workplace are potentially hazardous. To determine whether a chemical, or a process in which chemicals are used, is a particular hazard, it is necessary to identify the chemical and find as much information about it as possible. Information collected might include health effects, correct handling procedures, storage and transport. Manufacturers and suppliers of such chemicals can provide this information. The information may be in the form of a material safety data sheet (MSDS).

As a HSR, you are entitled to this information.



Use of monitoring devices

Some hazards may only be properly identified and assessed by the use of monitoring devices, which measure the level of noise, light or radiation, or the concentration of fumes or dusts. Such equipment may not be readily available, or they may require specialist skills to operate them.

Where there is a particular concern over such a matter, a HSR may be able to reach agreement with their operator or employer that this testing is carried out under HSR observation and that they will be provided with the results. If the operator or NOPSEMA agree, a HSR may be accompanied by an NOPSEMA inspector or a consultant, who may be able to carry out such testing.

Consultants to HSRs

A HSR is entitled to a consultant's assistance when appropriate. However, before making any such arrangements, the HSR must get agreement for the services of the consultant from their operator or from NOPSEMA. To request agreement from NOPSEMA, see the Request for NOPSEMA agreement to HSR assistance by consultant form (FM1069), published on NOPSEMA's website.

The operator may agree to pay for such services, but is not obliged to do so. Nor is the operator obliged to provide transport for the consultant to the facility, or accommodation at the facility.

Controlling the risk using 'hierarchy of control measures'

The 'hierarchy of control measures' prioritises the types of hazard control measures that can be used to eliminate or minimise exposure to a hazard. The term 'hierarchy' implies that there is a preferred order to these measures.

All hazards should be eliminated if practicable, otherwise the associated risk should be minimised, in order of preference, through:

- substitution by a less hazardous substance, work process or procedure
- engineering control
- administrative control (such as procedures or work instructions)
- personal protection.

Elimination

Eliminating a hazard from the workplace is the best solution. Potential hazards may best be eliminated if recognised during the design phase of a new facility, a modification or new process.

A HSR may be asked by the operator to take part in reviews of the design of new equipment, or the design of other modifications to their facility. For example, they may be asked to take part in a HAZOP or even be asked to take part in reviews of the design of new facilities that the operator is planning. This provides the best possible opportunity to eliminate hazards, although it must be emphasised that the legal powers of a HSR do not apply at this early stage.

Substitution

Hazardous equipment, substances or work processes that cannot be eliminated may be most effectively controlled through substitution by less hazardous equipment, substances or work processes. For example:

- safer chemicals may be available which can perform the same function as proposed, or currently used, chemicals
- plant equipment may be designed with better ergonomic practices
- equipment with less noise may be used
- manual tasks can often be redesigned to remove the need for constant fixed postures or for extensive, repetitive work.

Engineering control

Hazardous plant equipment, such as the oil and gas processing systems and platform cranes, can be protected by alarms, interlocks and shutdown devices, to reduce the risk of failure. Plant equipment or dangerous parts may be enclosed, for example:

- by using guards or sound-absorbing material to reduce exposure of the workforce to moving parts or noise
- by using exhaust or extraction systems to remove vapours, fumes and dust
- by employing mechanical aids, such as trolleys, hoists or ramps, to assist workers with manual handling tasks.

Administrative control

Administrative procedures can reduce exposure to hazardous equipment and processes by limiting the time of exposure, for example, by job rotation or by varying the time when a particular process is carried out.

The inherent risks of work activities can be reduced by putting formal procedures in place, with which the activities must comply.

The workforce must be provided with sufficient information, instruction and training about the administrative procedures that apply to their work.

Regular maintenance and programmed housekeeping can provide an ongoing method for controlling certain workplace hazards.

Personal protection

If a hazard cannot be eliminated and cannot be controlled to acceptable levels by substitution, or by engineering and administrative procedures, then the workforce must be personally protected, by wearing suitable personal protective equipment (PPE).

The employer is responsible for providing PPE and giving appropriate training to the workforce on its correct use and maintenance. Members of the workforce are responsible for the full and proper use of PPE to ensure maximum protection and should report any equipment failure or malfunction.

PPE has a number of limitations as an effective control method. In some instances, it may:

- not be able to provide full protection, depending on the scale of the hazard
- not be properly maintained and therefore fail to provide the intended level of protection
- make the job more difficult to perform
- restrict workers from warnings of danger
- cause other health problems
- be uncomfortable, causing employees to remove it.

It is because of these limitations that PPE is at the bottom of the hierarchy of control measures. While in this sense PPE might be considered as a 'last resort', if it is provided to the workforce, it must always be used.



What does 'reasonably practicable' mean?

Operators and others have duties to 'take all reasonably practicable steps' to protect health and safety, and the safety case for a facility must demonstrate how the operator has reduced the risk of major accident events to as low as reasonably practicable (ALARP).

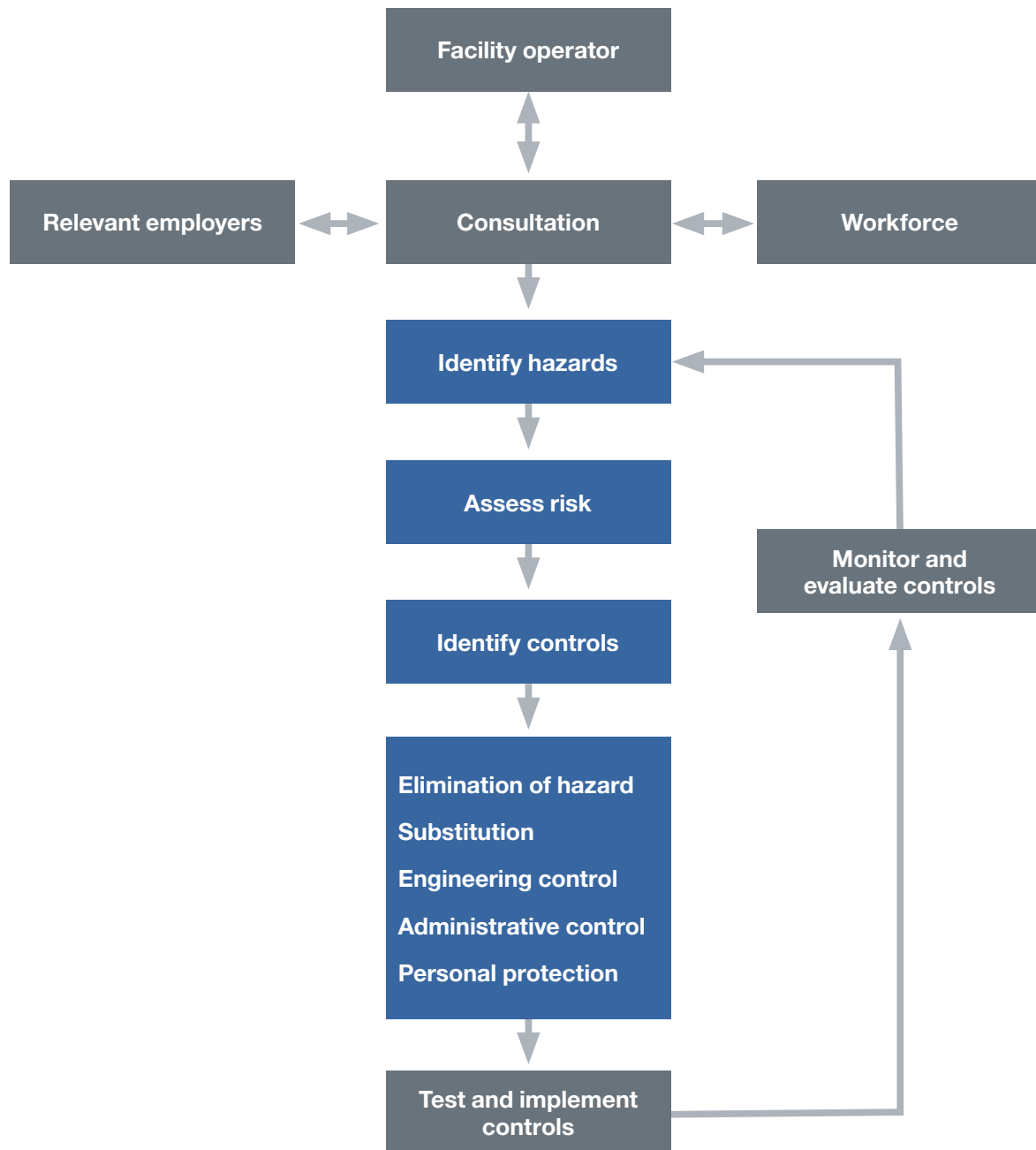
The term 'reasonably practicable' is not defined in the OPGGS Act. However, the concept is fundamental to most modern OHS legislation and encompasses consideration of such factors as:

- (a) the likelihood of the hazard or the risk concerned occurring
- (b) the degree of harm that might result from the hazard or the risk
- (c) what the person concerned knows, or ought reasonably to know, about:
 - (i) the hazard or the risk
 - (ii) ways of eliminating or minimising the risk
- (d) the availability and suitability of ways to eliminate or minimise the risk
- (e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

See NOPSEMA's ALARP guidance note (GN0166), which is published on NOPSEMA's website, for more detail on ALARP and 'reasonable practicability'.

There may be no single solution for risk control that can be adopted everywhere. For example, the solution that is adopted needs to take into account the level of risk; the higher the level of risk, the more effort (and hence cost) must be put into controlling that risk. If the nature of the hazards and risks is well understood and there are known and proven solutions, perhaps in published standards, these solutions would generally be preferred. However, if the nature of the hazards and risks is unusual, and not particularly well understood, it is unlikely that standards will provide the solution.

Figure 5: Hazard identification, assessment and control





9. Imminent and serious danger to health and safety

HSR procedures

Clause 44 of Schedule 3 of the OPGGS Act sets out the powers of HSRs in the event of an imminent and serious danger to the health and safety of any person at or near the facility. If the HSR reasonably believes there is an imminent and serious danger to the health and safety of any person at or near the facility, they should inform a supervisor immediately. If this is not possible, they must direct the relevant members of the workforce to cease work in a safe manner, and then notify the supervisor as soon as practicable.

Supervisor's response

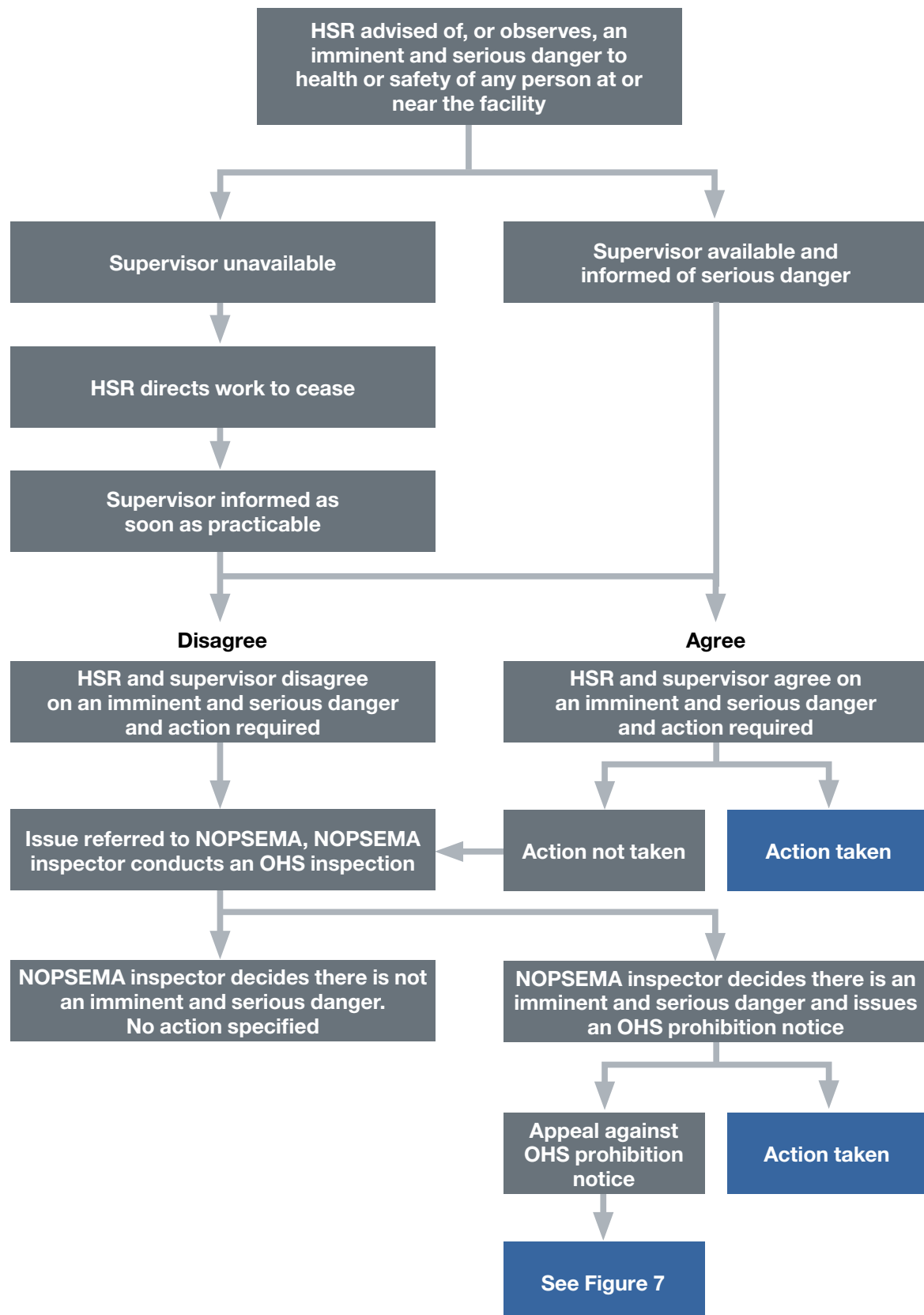
When an imminent and serious danger to the health and safety of any person at or near the facility has been identified by a HSR, the supervisor must take appropriate action to remove the threat to health and safety. When this happens, the employers of the members of the workforce may (under Clause 45 of Schedule 3 of the OPGGS Act) direct the relevant members to carry out suitable alternative work without affecting the terms and conditions of their employment.

OHS inspection

If the HSR and the supervisor cannot agree on an imminent and serious danger to health and safety of any person at or near the facility or the appropriate course of action to be taken, either party may request NOPSEMA or a NOPSEMA inspector to conduct an OHS inspection into the matter. This request should be made as soon as possible. An OHS inspection must then be carried out as soon as possible after such a request. A supervisor may also request NOPSEMA or a NOPSEMA inspector to conduct an OHS inspection of the work that is the subject of the disagreement.

For further information see Figure 6: Imminent and serious danger to health and safety and HSRs.

Figure 6: Imminent and serious danger to health and safety and HSRs





10. Designated work groups

Previous sections of this handbook have made extensive reference to DWGs. HSRs are selected or elected by the members of a DWG to represent them on health and safety matters, and the HSR must be a member of that group.

The legislation describes the processes for setting up DWGs and the selection or election of HSRs from each group. Forming DWGs and selecting a HSR for each DWG provides for the development and maintenance of a consultative relationship between operators, employers and employees on all OHS issues. These arrangements are already in place at a facility with an appointed HSR, but it is still worth describing them here, in case there is a need to explain them.

What is a DWG?

A DWG is a group of members of the workforce, established so that each person within the group can be represented by a HSR.

The HSR for a DWG should be accessible to each person within the group. When physical distance is involved, for instance, if a DWG applies across more than one facility, group members should be able to contact their HSR by telephone and, where possible, email and fax. There may be just one DWG for a facility, or many. That is for the operator, employers and workforce to decide through consultation.

Construction of a DWG

Any member of the workforce, or a workforce representative, may request that consultations commence about the establishment of DWGs. An operator may also begin these consultations without waiting for a request. The consultations must involve the operator, any person who has made a request, and relevant employers.

After DWGs have been established, any member of the workforce, a HSR or relevant employer may request that consultations commence about varying the DWGs. Again, the operator may start such consultation without there being a request. The number of DWGs for a facility, and how the workforce is split between DWGs, should be decided through this consultation and will depend on a number of factors. If the consultation results in a disagreement, any party may refer the matter to the reviewing body – the FWC.

The following factors must be considered in developing or varying DWGs:

- the size of the workforce at the facility
- the variety of work performed at the facility
- the number and grouping of persons who do similar sorts of work
- the physical areas where each type of work is performed
- the nature of any risks to health and safety
- the overtime and shift arrangements.

11. Selection and training of health and safety representatives

Selection

One HSR may be selected for each DWG by its members. A deputy HSR may also be selected. Both the HSR and deputy must be members of the DWG. The HSR is selected either by unanimous agreement of all the members of the DWG, or through a formal election within the DWG.

Election

If there is a vacancy for a HSR within an existing DWG, the operator of the facility must invite nominations for the post of HSR. If the operator fails to do this, then NOPSEMA may direct the operator to do so. If there is more than one candidate, the operator must arrange for an election, while complying with any directions from NOPSEMA. All members of the DWG are entitled to vote in the election.

Details of HSRs

If you have been selected as a HSR by unanimous agreement of the employees in the DWG, you must inform your employer and operator as soon as possible after your selection. Within a reasonable time after your selection, the operator or employer must notify the members of the workforce in writing of the name of the HSR for the DWG. The operator of the facility must prepare and update a list of all the HSRs for the facility and must make this list available to the workforce and to any NOPSEMA inspector.

Deputy HSRs

As well as a HSR for each DWG, the group members may select or elect a deputy HSR, who has all the powers of a HSR, to be used in circumstances when the HSR is unavailable.

Term of office

The term of office for a HSR is two years, unless otherwise agreed upon between the operator, workforce and relevant employers during the consultations over the establishment and variation of DWGs. A HSR may be re-selected for a further term of office. However, a person ceases to be a HSR if the term of office expires or the person:

- resigns by notice in writing as the representative
- ceases to be a member of the DWG
- is disqualified under Clause 32 of Schedule 3 of the OPGGS Act
- the DWG is varied and the variation results in a change to the membership of the group.

Accredited training for HSRs

As a HSR, you must undertake a course of training related to OHS that is accredited by NOPSEMA. The operator and employer must permit an HSR to take the amount of time off work necessary for this training, without loss of pay or other entitlements.

Further information about accredited HSR courses are available by contacting NOPSEMA, or from the NOPSEMA website.

The functions and powers of a HSR take effect as soon as they have been selected or elected, and are not dependent upon the training being completed.



12. Powers of NOPSEMA and NOPSEMA inspectors

Inspections

If either NOPSEMA or a NOPSEMA inspector receives a request for an OHS inspection, they may conduct it at the facility or at the operator's or employer's offices. For this purpose, a NOPSEMA inspector may enter a facility or any other 'regulated business premises' at any reasonable time and:

- search the workplace
- inspect, examine, take measurements or conduct tests
- take photographs, make video recordings, or make sketches
- request assistance or further information
- inspect, take extracts from, or make copies of, any documents at the facility.

Inspector to notify HSRs

Upon entering a facility, a NOPSEMA inspector must take all reasonably practicable steps to notify any HSRs at the facility. A HSR is entitled to accompany the NOPSEMA inspector during the OHS inspection.

Removal of a plant or sample

During an OHS inspection, a NOPSEMA inspector may inspect, examine, take measurements of, or conduct tests on, any 'plant, substance or thing' at a workplace connected with the inspection. The NOPSEMA inspector may also take possession of the plant, substance or thing, or a sample of the plant, substance or thing, and remove it from the workplace. Upon taking possession of the plant, substance or thing, or a sample of the plant, substance or thing, the NOPSEMA inspector must issue a 'notice of removal'.

'Do not disturb' notice

During an inspection, a NOPSEMA inspector may issue a 'do not disturb' notice to the responsible person in order to:

- remove an immediate threat to the health and safety of any person
- allow the inspection, examination, measurement, or the conduct of tests concerning a workplace, plant, substance or thing.

The responsible person must display the 'do not disturb' notice in a prominent place and inform the relevant HSR.

Enforcement options

There are a number of actions that can be taken by a NOPSEMA inspector during or following an OHS inspection, including:

Issue of an OHS prohibition notice

During the OHS inspection, a NOPSEMA inspector may issue an OHS prohibition notice to the operator or other relevant person, so as to remove an immediate threat to the health and safety of any person. The OHS prohibition notice must:

- specify, with reasons, the activity which the NOPSEMA inspector believes there is an immediate threat to health and safety or an immediate threat may occur
- direct an operator or other relevant person to ensure that the activity is not conducted or not conducted in a specified manner.

The person to whom the OHS prohibition notice is given must give a copy of the OHS prohibition notice to the relevant HSR and have the OHS prohibition notice displayed in a prominent place at, or near, the workplace.

Issue of an OHS improvement notice

If a NOPSEMA inspector forms the opinion during an OHS inspection that the legislation is being breached and, as a result, there is or may be a risk to health or safety of any person, he or she can issue an OHS improvement notice to the operator, employer or other responsible person.

The OHS improvement notice must specify:

- the nature of the breach, with reasons
- the risk to health and safety
- a period within which any remedial action must be taken
- the action the NOPSEMA inspector believes is required.

The person to whom the OHS improvement notice is given must give a copy of the OHS improvement notice to the relevant HSR and have the OHS improvement notice displayed in a prominent place at, or near, the workplace.

Appeal against a NOPSEMA inspector's decision

Appeals against the decisions of a NOPSEMA inspector may be made to the Reviewing Authority by:

- the operator or an employer who is affected
- a person to whom a notice has been given
- a HSR of a DWG in which a group member is affected
- a workforce representative
- a person who owns a workplace, plant, substance or thing referred to in any notice.

For more information see Figure 7: Appeal of a NOPSEMA inspector's decision. You can also contact your nearest NOPSEMA office or view the relevant NOPSEMA policy on NOPSEMA's website.

Tampering with notices

No person may, without reasonable excuse, tamper with the following notices when they are displayed:

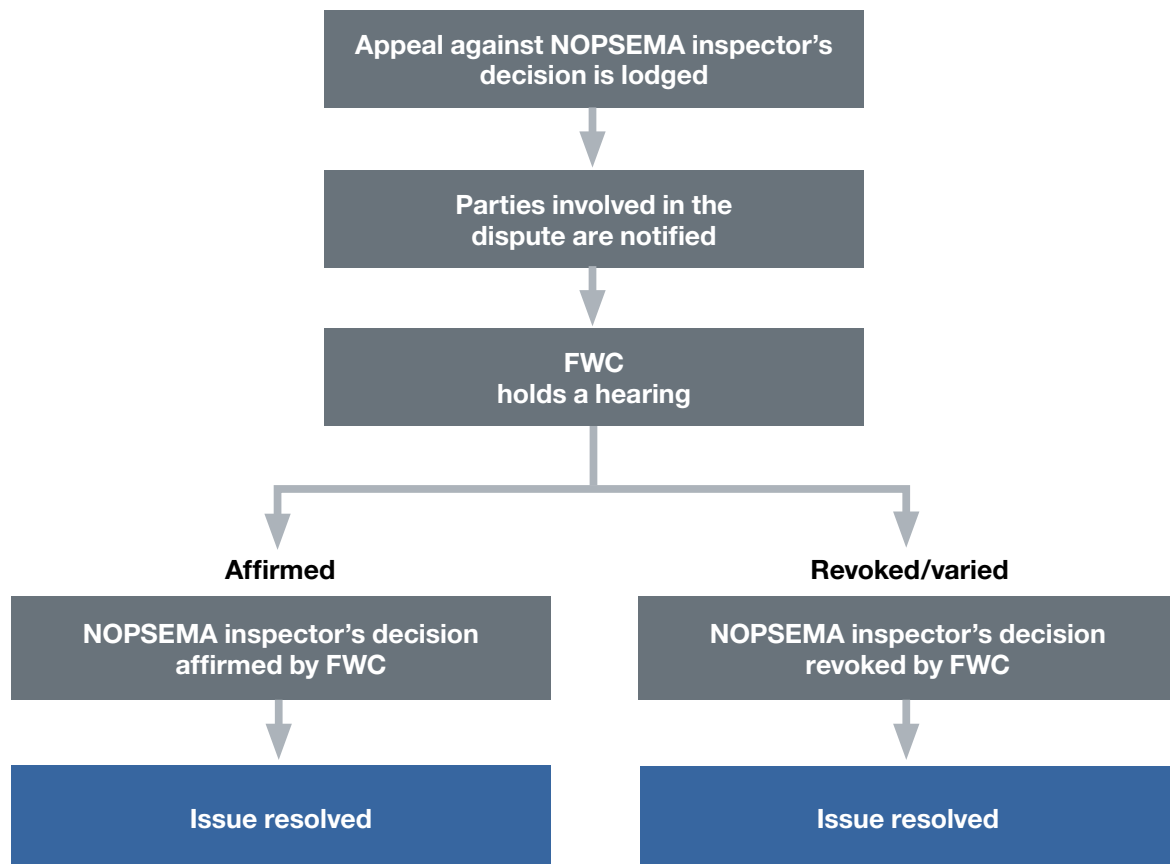
- an OHS prohibition notice
- an OHS improvement notice
- a notice of removal of a plant or sample
- a 'do not disturb' notice.

People cannot, without reasonable excuse, remove:

- a 'do not disturb' notice, OHS prohibition notice or an OHS improvement notice before the notice ceases to have effect
- a notice of removal of a plant or substance, until the plant or substance is returned to the workplace from where it was removed.



Figure 7: Appeal of a NOPSEMA inspector's decision



Inspection reports

A NOPSEMA inspector must prepare a report for NOPSEMA after conducting an OHS inspection. NOPSEMA must then forward the report with any comments made to the facility operator.

The operator must provide a copy of the report, together with any written comments made by NOPSEMA, to the relevant health and safety committee, or to each relevant HSR if there is not a health and safety committee. In most cases, NOPSEMA will also require the operator to detail any action proposed to be taken in response to the report.

Enforcement of the OHS provisions

Where Schedule 3 of the OPGGS Act or the Regulations state that a person must take action, failure to do so is a breach of the law. Similarly, if the legislation states that something must not be done, and it is done, this is also a breach of the law.

NOPSEMA and NOPSEMA inspectors have a number of enforcement tools available to them to deal with breaches of the legislation, ranging from the issue of verbal advice, through to written warnings or the issue of notices, to prosecution. NOPSEMA uses its enforcement policy to determine the appropriate action in each case.

Prosecution can be taken in cases where the legislation states a penalty. These cases include, in particular, the following clauses of Schedule 3:

Breach of a duty of care (Clauses 9 to 15)

Obstruction or hindrance of a NOPSEMA inspector (Clause 54)

Failure to provide assistance and information to a NOPSEMA inspector, or to answer questions or produce documents (Clauses 73, 74)

Giving false information to a NOPSEMA inspector (Clause 74)

Failure to comply with a notice (Clauses 77, 78A)

Tampering with a notice (Clause 79)

Failure to notify and report an accident or dangerous occurrence (Clause 82)

Failure to keep records of accidents and dangerous occurrences (Clause 83)

Interfering with safety equipment (Clause 86)

Levying, dismissing etc. any person in certain circumstances (Clauses 87, 88).

The Regulations also define some offences. In particular, the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009 include the following offences related to the safety case:

- failure to have a safety case in force for a facility (2.44)
- failure to comply with the safety case that is in force for a facility (2.45).



Appendix A – Where to obtain more information

There are a large number of sources of information on OHS, such as:

- your own organisation's OHS staff
- NOPSEMA in Perth or Melbourne
- union and other workforce organisations
- Safe Work Australia
- state or territory OHS regulators

NOPSEMA

Perth office:

GPO Box 2568, PERTH WA 6001
Phone: 08 6188 8700

Melbourne office:

PO Box 7104, St Kilda Road, VIC 3004
Phone: 03 8866 5700

Email: communications@nopsema.gov.au
Website: nopsema.gov.au

Appendix B – Blank provisional OHS improvement notice for Commonwealth waters

Download the form at: nopsema.gov.au

Provisional OHS improvement notice

Offshore Petroleum and Greenhouse Gas Storage Act 2006

PROVISIONAL OHS IMPROVEMENT NOTICE

To: **(insert name of responsible person within the meaning of subclause 38 (2) of Schedule 3 to the Act)**

I, **(insert name of the health and safety representative issuing the notice)**, selected as the health and safety representative under clause 25 or 26 of Schedule 3 to the Act for **(insert description of the designated work group)**, after consultation in accordance with subclause 38 (1) of Schedule 3 to the Act, believe that the provision of an OHS listed law is being contravened, or has been contravened and is likely to be contravened again:

The contravention is: **(insert a brief description)**

The contravention is occurring at: **(insert location)**

The reasons for my opinion are as follows: **(insert reasons for opinion)**

In accordance with paragraph 38 (5) (b) of Schedule 3 to the Act, action necessary to prevent the contravention, or the likely contravention, of the provision referred to above must be taken before **(insert the date of a day that is:**

- (a) not less than 7 days after the day when the notice is issued; and**
- (b) reasonable in the opinion of the health and safety representative).**

In accordance with subclause 38 (6) of Schedule 3 to the Act, I specify the following action to be taken **(insert details of the action(s) to be taken, if applicable):**

Dated: **(insert date)**

(signature)

Health and safety representative

NOTES:

1. Under subclause 39 (1) of Schedule 3 to the Act, a person to whom a provisional OHS improvement notice is given may, within 7 days, request NOPSEMA or a NOPSEMA inspector to conduct an investigation into the subject matter of the notice.
2. Subclause 39 (5) of Schedule 3 to the Act requires a responsible person to whom a provisional OHS improvement notice is given:
 - to notify each group member affected by the notice of the fact that the notice has been issued; and
 - to display a copy of the notice at or near each workplace at which work that is the subject of the notice is being performed.
3. Under subclause 39 (6) of Schedule 3 to the Act, a provisional OHS improvement notice ceases to have effect when:
 - it is cancelled by the health and safety representative or a NOPSEMA inspector; and
 - the responsible person takes the action specified in the notice, or if no action is specified, takes the action that is necessary to prevent the contravention, or likely contravention with which the notice is concerned.
4. Subclause 39 (7) of Schedule 3 to the Act requires the responsible person:
 - to ensure, as far as possible, that a provisional OHS improvement notice is complied with; and
 - to inform the health and safety representative who issued the notice of the action taken to comply with the notice.
5. Under item 1 of clause 80A(1) of Schedule 3 to the Act, if a NOPSEMA inspector has confirmed or varied a provisional OHS improvement notice:
 - a person to whom the provisional OHS improvement notice was issued under subclause 38(2)
 - the operator of the facility
 - a titleholder, if the notice relates to the titleholder's well-related obligations
 - an employer, if affected by the decision; or
 - a relevant health and safety representative; or
 - a relevant workforce representative, if requested by a member of the workforce affected by the decision; or
 - a person who owns any workplace, plant substance or thing to which the decision relates.may in writing appeal against the decision to the reviewing authority.
6. Under Item 2 of subclause 80A(1) of Schedule 3 to the Act, if a NOPSEMA inspector has cancelled a provisional OHS improvement notice:
 - a relevant health and safety representative; or
 - a relevant workforce representative, if requested by a member of the workforce affected by the decision.may in writing appeal against the decision to the reviewing authority.



Your OHS contacts

Name:

Position:

Organisation:

Location:

Postal address:

Phone number:

Fax number:

Email address:

Name:

Position:

Organisation:

Location:

Postal address:

Phone number:

Fax number:

Email address:

Name:

Position:

Organisation:

Location:

Postal address:

Phone number:

Fax number:

Email address:

Name:

Position:

Organisation:

Location:

Postal address:

Phone number:

Fax number:

Email address:

Name:	
Position:	
Organisation:	
Location:	
Postal address:	
Phone number:	Fax number:
Email address:	

Name:	
Position:	
Organisation:	
Location:	
Postal address:	
Phone number:	Fax number:
Email address:	

Name:	
Position:	
Organisation:	
Location:	
Postal address:	
Phone number:	Fax number:
Email address:	

Name:	
Position:	
Organisation:	
Location:	
Postal address:	
Phone number:	Fax number:
Email address:	



Disclaimer

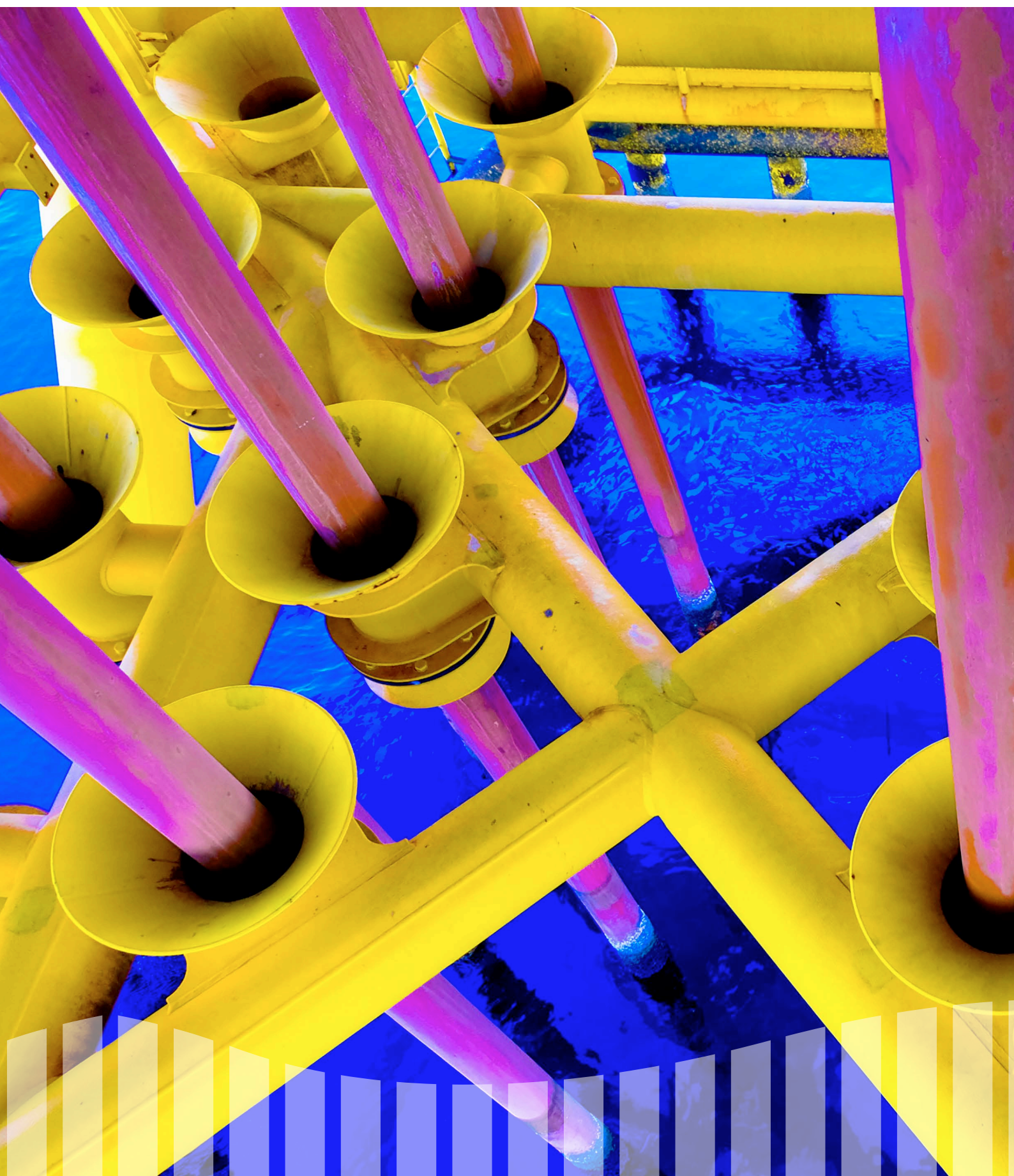
This handbook is intended to provide HSRs with general guidance on the approach that NOPSEMA takes in carrying out its regulatory functions under powers conferred on it by the Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and by equivalent state and Northern Territory legislation where powers have been conferred on NOPSEMA, and by regulations under those Acts. This handbook should not be relied on as advice on the law, or treated as a substitute for legal advice in any relevant situation.

NOPSEMA wishes to acknowledge the assistance of Comcare, which is the regulator for the *Work Health and Safety Act 2011*. Comcare made its HSR handbook available to NOPSEMA for use as the basis for this document.

Publication details

© National Offshore Petroleum Safety and Environmental Management Authority, 2016

This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation. Apart from any use as permitted under the *Copyright Act 1968*, all other rights are reserved.







NOPSEMA

Perth

Level 8
58 Mounts Bay Road
Perth WA 6000

GPO Box 2568
PERTH WA 6001

p: +61 (0)8 6188 8700
f: +61 (0)8 6188 8737

Melbourne

Ground Floor
493 St Kilda Road
Melbourne VIC 3004

PO Box 7104
St Kilda Road VIC 3004

p: +61 (0)3 8866 5700
f: +61 (0)3 8866 5706

