

OHS IMPROVEMENT NOTICE

To: Esso Australia Pty Ltd (“EAPL”)

In conducting an OHS inspection in relation to the Marlin Complex facility, I, [REDACTED], a NOPSEMA inspector appointed under section 602 of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (the Act), am satisfied on reasonable grounds that:

- (a) EAPL is contravening clause 9(2)(a) of Schedule 3 to the Act, which requires the operator of a facility to *“Take all reasonably practicable steps to provide and maintain a physical environment at the facility that is safe and without risk to health”*

AND

- (b) As a result, there is, or may be, a risk to the health or safety of a person at the Marlin Complex facility.

The reasons for my opinion are:

NOPSEMA conducted an inspection between 29 November to 1 December 2021 at Marlin Complex facility and made further inquiries thereafter.

During the inspection, NOPSEMA inspectors observed:

- a) EAPL’s cleaning programme was not in compliance with the Victorian State Government Department of Health requirements as adopted by EAPL’s COVID Safe Plan dated 18 August 2021; and
- b) Objective evidence of EAPL’s compliance with their COVID Safe Plan since November 2020 was not provided.

The Victorian State Government Department of Health *COVID-19 cleaning guidelines for workplaces* – September 2021:

- Part 2: *Additional COVID-19 cleaning* describes one of the requirements to make your workplace safe is to take all reasonable steps to frequently and regularly clean and disinfect high (frequently) touch points in shared spaces. This requires workplaces to review cleaning schedules to increase cleaning and disinfection.
- Table 2: *Cleaning programs based on COVID-19 community transmission* describes cleaning programs to be scaled according to three levels of risk (Pre/post pandemic, Pandemic declared, Outbreak in the workplace); the risk status level “Pandemic declared”¹ requires additional COVID-19 cleaning, specifically to “increase cleaning of high (frequently) touched surfaces in communal areas twice daily”.

EAPL have identified the requirement for enhanced offshore cleaning as one of the control measures as part of COVID-19 management. The EAPL COVID Safe Plan dated 18 August 2021 describes the action “Cleaning focus on high touch surfaces by cleaning personnel. Cleaning frequency (roster) recorded and verified by Chef Supervisors. All personnel practicing enhanced hygiene and cleaning (e.g. own work areas)” against the Victorian Government’s requirement to “increase environmental cleaning, ensure high touch surfaces are cleaned and disinfected regularly (at least twice daily)” by cleaning personnel to mitigate the introduction and spread of COVID-19. EAPL have stated they meet the Victorian State Government Department of Health requirements.

¹ [GG2021S705.pdf \(gazette.vic.gov.au\)](#)

No evidence was provided by EAPL to demonstrate compliance with their COVID Safe Plan (and by default, the Victorian State Government Department of Health requirements) for increased cleaning of high touch surfaces for the period November 2020 to November 2021.

EAPL advised that since 26 November 2021 they have moved from an operating mode “Hot Standby” to an operating mode “Preparation” which only requires “routine cleaning” (being no additional enhanced cleaning as required by the Victorian State Government Department of Health guidelines and EAPL’s COVID Safe Plan whilst in the “Pandemic declared” risk status level). A risk assessment has not been provided to demonstrate that the removal of enhanced cleaning practices as required by Victorian State Government Department of Health and EAPL’s COVID Safe Plan is in line with “reasonably practicable steps to provide and maintain a physical environment at the facility that is safe and without risk to health” pursuant to clause 9(2)(a) of the Act.

As a result of this contravention, I am satisfied that there is, or maybe, the following risk to the health or safety of any person:

By not having an appropriately enhanced cleaning programme in place for cleaning and disinfection of high touch surfaces, there is a higher risk of potentially infective respiratory droplets/aerosols landing on a surface and transmission. A high (frequently) touch surface may become contaminated with virus and picked up by others on their hands. If hands are unwashed there may be an opportunity to touch mucous membranes such as the mouth, nose and eyes.²

You are required to take action within **14** days of the date of this notice to prevent or reduce the risk.

The following actions must be taken by the responsible person within the period specified above:

- 1) During the period of COVID-19 declared pandemic ensure a cleaning programme is implemented and executed to increase cleaning and disinfection of high (frequently) touch points in shared spaces.
- 2) Ensure documented evidence is produced to demonstrate implementation and execution of the programme.

Signed: 


NOPSEMA Inspector

Dated: 23 December 2021

NOTES: (Please see back of notice)

² [covid-19-cleaning-guidelines-for-workplaces.docx \(live.com\)](https://www.vic.gov.au/covid-19-cleaning-guidelines-for-workplaces-docx-live-com)

When the required improvement has been completed, return this part of the notice to the following person at the address below:

Name:



Position:

Manager – Assessment and Inspection Melbourne

Address:

Send in electronic format via email to:

submissions@nopsema.gov.au

Telephone number: +61 8 6188 8700

Specify the action that has been taken to comply with this notice in the space below.

Improvement Notice No. **1859** has been complied with by:

Signed: _____

Date: _____

NOTES:

1. Under clause 78 of Schedule 3 to the Act, a person who fails to ensure that this notice is complied with, to the extent that it relates to a matter over which the person has control, may be liable to a penalty of 300 penalty units or a civil penalty of 400 units.
2. This notice must be displayed in a prominent place at or near each workplace at which work affected by the notice is being performed and, must not be tampered with or removed before the notice has ceased to have effect.
3. If the notice is not issued by being given to the operator's representative at the facility, the responsible person (unless the responsible person is the titleholder) must cause a copy of the notice to be given to the operator's representative.
4. If the responsible person is the operator or an employer (other than the operator) of members of the workforce, the operator's representative at the facility must give a copy of the notice to each health and safety representative for a designated work group having group members performing work that is affected by the notice.
5. If the responsible person is the titleholder, as soon as practicable after issuing the notice, the NOPSEMA inspector will take reasonable steps to give a copy of the notice to the operator and, if the NOPSEMA inspector is at the facility when the notice issued, the operator's representative at the facility.
6. If the responsible person is the titleholder, but the inspector is not at the facility when the notice is issued, the operator must give a copy of the notice to the operator's representative at the facility.
7. As soon as practicable after issuing the notice, the NOPSEMA inspector will take reasonable steps to give a copy of the notice to, where applicable:
 - (a) the employer of an employee who is a member of the workforce if the notice is issued to the employee, and in connection with work performed by the employee, and
 - (b) the owner of any workplace plant, substance or thing that the notice relates to, unless the owner is the responsible person or an employer referred to in (a), and
 - (c) if the responsible person is the owner of any workplace, plant, substance or thing because of which the contravention has occurred, or is likely to occur: the operator of the facility, and if the employer of employees who work in that workplace or who use that plant, substance or thing is a person other than the operator—that employer; and
 - (d) the titleholder, if the responsible person is the operator, and the contravention relates, or is likely to relate to, the titleholders' well related obligations.
8. Under item 8 of subclause 80A(1) of Schedule 3 to the Act, any of the following persons may in writing request the reviewing authority to review the NOPSEMA inspector's decision:
 - the operator of the facility
 - the titleholder, if the notice is issued to a titleholder;
 - any other person to whom the notice has been issued;
 - an employer, if affected by the decision;
 - a relevant health and safety representative;
 - a relevant workforce representative, if requested by a member of the workforce affected by the decision;
 - a person who owns any workplace plant, substance or thing to which the NOPSEMA inspector's decision relates.
9. An improvement notice ceases to have effect when the responsible person takes the action specified in the notice.