

FOI 190701  
Document 1

To: Dean Knudson, Deputy Secretary (for decision)

**INPEX - Infringement Notice for Breach of Conditions**

Timing: N/A

**Recommendation/s:**

- Endorse an authorised officer to issue one infringement notice of \$12,600 to INPEX Operations Australia Pty Ltd (ACN 150 217 262) for contravention of section 142B of the EPBC Act.
 

**Approved / Not approved**
- Note that the details of the infringement notice will be published on the Department's website, consistent with standard procedures.
 

**Noted / Please discuss**
- s47C**

**Noted / Please discuss**

Signatory: **s22** Date: 19 / 3 / 2019

Comments: *- Please inform Inpex prior to publication on our website.  
- Please advise me on progress on recommendation #3.*

<b>Clearing Officer:</b> Sent 15/3/2019	Monica Collins <b>s22</b>	Chief Compliance Officer, Office of Compliance	Ph: <b>s22</b> Mob: <b>s22</b>
Contact Officer:	<b>s22</b>	Director (A/g), Environmental Audit Section	<b>s22</b>

**Key Points:**


- In September 2018, INPEX Operations Australia Pty Ltd (INPEX) boiled wastewater from firefighting tests that contained per-fluoroalkyl and poly-fluoroalkyl substances (PFAS) at the Bladin Point gas export facility, in breach of EPBC Act approval 2008/4208.
- A management plan approved under condition 8 required INPEX to store waste water containing PFAS onsite and then transport the water interstate for treatment at a licenced facility. By boiling the waste water, INPEX undertook an action inconsistent with the approved management plan, and therefore breached condition 8.

3. The activity is likely to have released PFAS into the air and therefore may have placed the immediate environment including Darwin Harbour at risk of heightened PFAS levels. The Emerging Contaminants Section advised that: *'PFAS are known to be highly mobile and there is a risk that they would be mobilised through boiling and vapourisation processes, emitted into the atmosphere, and transported beyond the project site'*.
4. Darwin Harbour is habitat for EPBC Act listed threatened and migratory species including Dugongs, multiple cetacean species, two sawfish species, Saltwater Crocodiles and multiple sea turtle species.
5. A Compliance Assessment Report is attached at **Attachment A**, which includes a detailed case Evidence Matrix. Information provided about the incident by the Northern Territory Environment Protection Agency is provided at **Attachment B**. A reply by INPEX to the Department's show cause letter is at **Attachment C**.
6. The Office of Compliance recommends issuing an infringement notice to INPEX for the breach of its EPBC Act approval.
7. The EPBC Act provides for the issuance of infringement notices by authorised officers where there are reasonable grounds to believe that a person has contravened section 142B of the EPBC Act. Section 142B provides a strict liability offence for a breach of approval conditions without the need to prove intent. The penalty is 60 units (\$12,600).
8. Since July 2011, under Deputy Secretary instruction, all infringement notices must be endorsed at Deputy Secretary level in line with other enforcement-related delegations.
9. If endorsed, the details of the infringement notice will be published on the Department's website, consistent with standard procedures.
10. s47G(1)(a) [REDACTED]
11. s47C [REDACTED]
12. The issuing of an infringement notice is proportional enforcement relative to the offence and compliance history of the approval holder in this instance. Further information about the compliance history is included in **Attachment A**.

### **Sensitivities and Handling**

13. Communities affected by PFAS contamination (such as those living in the vicinity of Commonwealth sites where PFAS investigations are underway) are highly sensitised to the issue. The Department of Defence recently completed investigations at Robertson Barracks (Darwin), RAAF Base Darwin and Darwin Airport.
14. When the proposed infringement notice is published on the Department's website it could attract media attention. The Office of Compliance has prepared talking points (in consultation with the PFAS Taskforce) to handle any media enquiries.

## Consultation

15. s42 
16. The Emerging Contaminants Section provided written advice on the technical matters relating to the case (**Attachment E**).
17. The PFAS Taskforce has reviewed this brief and has provided advice on sensitivities and handling.

## ATTACHMENTS

- A:** Compliance Assessment Report
- B:** Emails from the NT EPA
- C:** INPEX response to show cause letter (cover letter and 6 page 'Attachment 1', does not include further 649 pages of attachments)
- D:** Advice from General Counsel Branch (SENSITIVE LEGAL)
- E:** Line advice from the Emerging Contaminants Section





ASIC

Australian Securities & Investments Commission

Australian Company

INPEX OPERATIONS AUSTRALIA PTY LTD  
ACN 150 217 262

Extracted from ASIC's database at AEST 17:02:13 on 08/10/2018

Company Summary
Name: INPEX OPERATIONS AUSTRALIA PTY LTD
ACN: 150 217 262
ABN: 48 150 217 262
Registration Date: 05/04/2011
Next Review Date: 05/04/2019
Status: Registered
Type: Australian Proprietary Company, Limited By Shares
Locality of Registered Office: PERTH WA 6000
Regulator: Australian Securities & Investments Commission

Further information relating to this organisation may be purchased from ASIC.

**Condition 8 of EPBC 2008/4208****8. Liquid Discharge Management Plan**

The person taking the action must submit for the Minister's approval a Liquid Discharge Management Plan or plans to mitigate the environmental effects of any liquid discharge from the proposal, including sewerage and surface water runoff. The Liquid Discharge Management Plan(s) must be for the protection of the Commonwealth marine area and habitat for listed species in Darwin Harbour and must:

- a) identify all sources of liquid discharge;
- b) describe any impacts associated with the discharge of liquids, including the cumulative impacts associated with the discharge of sewerage;
- c) clearly articulate the objectives of the plan and set measurable targets to demonstrate achievement of these;
- d) outline measures to avoid impacts;
- e) where impacts are unavoidable describe why they are unavoidable and measures to minimise impacts;
- f) demonstrate how any discharges into Darwin Harbour are consistent with the guidelines for discharges, and the water quality objectives for Darwin Harbour, developed under the National Water Quality Management Strategy;
- g) identify all regulatory requirements relating to the discharge of liquids and how these will be met;
- h) include a monitoring regime to determine achievement of objectives and success of measures used;
- i) outline reporting and auditing arrangements; and
- j) describe how the plan will apply the principles of adaptive management.

The plan(s) must be submitted prior to the commencement of the relevant activity to which they apply. The relevant activity may not commence until the plan is approved. Separate Liquid Discharge Management plans can be submitted for the management of liquid discharges in the Commonwealth Marine Area and Darwin Harbour. The approved plan(s) must be implemented.

**Definitions relevant to Condition 8 of EPBC 2008/4208**

**Minister:** the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and includes a delegate of the Minister.

**Relevant activity:** the following are relevant activities for which certain management plans are required under this approval; construction and installation of onshore or offshore facilities and the operation of onshore or offshore facilities.