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2004B00357



## Offshore Petroleum (Safety Levies) Regulations 2004

Statutory Rules 2004 No. 1

315

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Offshore Petroleum (Safety Levies) Act 2003* and the *Petroleum (Submerged Lands) Act 1967*.

Dated            4 NOV 2004            2004

PM Jeffery  
Governor-General

By His Excellency's Command

IAN MACFARLANE  
Minister for Industry, Tourism and Resources

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**Regulation 1**

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**Part 1 Preliminary****1 Name of Regulations**

These Regulations are the *Offshore Petroleum (Safety Levies) Regulations 2004*.

**2 Commencement**

These Regulations commence on 1 January 2005.

**3 Definitions**

In these Regulations:

**CEO** has the same meaning as in Part IIIC of the PSL Act.

**Commonwealth waters** has the same meaning as in Part IIIC of the PSL Act.

**designated coastal waters** has the same meaning as in Part IIIC of the PSL Act.

**OHS inspector** has the same meaning as in Part IIIC of the PSL Act.

**OPSL Act** means the *Offshore Petroleum (Safety Levies) Act 2003*.

**part quarter** means a period within a quarter that is at least 1 day long, but less than the length of the quarter, during which a safety case is in force in relation to a facility.

**PSL Act** means the *Petroleum (Submerged Lands) Act 1967*.

**quarter** means a period of 3 months starting on any of the following dates:

- (a) 1 January;
- (b) 1 April;
- (c) 1 July;
- (d) 1 October.

**Safety Authority** has the same meaning as in Part IIIC of the PSL Act.

**Regulation 4**

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**Safety Authority waters** has the same meaning as in Part IIIC of the PSL Act.

**State PSLA** has the same meaning as in Part IIIC of the PSL Act.

**Territory PSLA** has the same meaning as in Part IIIC of the PSL Act.

*Note* Other words and expressions used in these Regulations have the meaning given by section 3 of the OPSL Act. For example:

- applicable State or Territory safety law
- pipeline safety management plan levy
- safety case levy
- safety investigation levy
- State safety law
- Territory safety law
- year.

**4 Payment of levy for pipeline located both in Commonwealth waters and State/NT designated coastal waters**

- (1) This regulation applies if a continuous pipeline includes:
- (a) 1 or more segments of pipeline (within the meaning of section 9 of the OPSL Act) located in Commonwealth waters; and
  - (b) 1 or more segments of pipeline (within the meaning of section 10 of the OPSL Act) located in the designated coastal waters of:
    - (i) 1 or more States; or
    - (ii) 1 or more States and the Northern Territory;

and the length of the segment or segments located in Commonwealth waters is not the same as the length of the segment or segments located in the designated coastal waters.

*Note* A continuous pipeline may cross the boundary between Commonwealth waters and designated coastal waters, and may cross more than 1 of those boundaries.

**Regulation 5**

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- (2) Despite any other provision of these Regulations:
- (a) the amount of a levy, to which these Regulations relate, that is payable in relation to the waters in which the longer or longest part of the pipeline is not located is zero; and
  - (b) the Safety Authority is not required to comply with a provision of these Regulations relating to notifying a person of when an amount of that levy is due and payable in relation to the waters in which the longer or longest part of the pipeline is not located; and
  - (c) for regulations 39 and 45, a *notional length* of the segment of pipeline located in the waters in which the longer or longest part of the pipeline is located is to be worked out by adding the lengths of all of the segments of pipeline (within the meaning of sections 9 and 10 of the OPSL Act) that are part of the continuous pipeline.

*Note* Under the OPSL and PSL Acts, the imposition of levy in relation to a pipeline is based on where the pipeline is located.

Pipelines are often laid across more than 1 jurisdiction. The effect of this regulation is that an amount of levy is not to be paid more than once in the same period in relation to a pipeline of that kind. However, the entire length of the pipeline (within the meaning of sections 9 and 10 of the OPSL Act) is to be assessed for levy, which is why the full length of the pipeline will be 'credited' to one jurisdiction as a notional length.

The notional length of the pipeline is used to work out pipeline safety management plan levy in regulations 39 and 45.

**5 Payment of levy for pipeline located equally in Commonwealth waters and State/NT designated coastal waters**

- (1) This regulation applies if a continuous pipeline includes:
- (a) 1 or more segments of pipeline (within the meaning of section 9 of the OPSL Act) located in Commonwealth waters; and
  - (b) 1 or more segments of pipeline (within the meaning of section 10 of the OPSL Act) located in the designated coastal waters of:
    - (i) 1 or more States; or



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**Regulation 5**

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(ii) 1 or more States and the Northern Territory;  
and the length of the segment or segments located in Commonwealth waters is equal to the length of the segment or segments located in the designated coastal waters.

*Note* A continuous pipeline may cross the boundary between Commonwealth waters and designated coastal waters, and may cross more than 1 of those boundaries.

- (2) Despite any other provision of these Regulations:
- (a) the amount of a levy, to which these Regulations relate, that is payable in relation to waters other than Commonwealth waters is zero; and
  - (b) the Safety Authority is not required to comply with a provision of these Regulations relating to notifying a person of when an amount of that levy is due and payable in relation to waters other than Commonwealth waters; and
  - (c) for regulations 39 and 45, a ***notional length*** of the segment of pipeline located in Commonwealth waters is to be worked out by adding the lengths of all of the segments of pipeline (within the meaning of sections 9 and 10 of the OPSL Act) that are part of the continuous pipeline.

*Note* Under the OPSL and PSL Acts, the imposition of levy in relation to a pipeline is based on where the pipeline is located.

Pipelines are often laid across more than 1 jurisdiction. The effect of this regulation is that an amount of levy is not to be paid more than once in the same period in relation to a pipeline of that kind. However, the entire length of the pipeline (within the meaning of sections 9 and 10 of the OPSL Act) is to be assessed for levy, which is why the full length of the pipeline will be 'credited' to one jurisdiction as a notional length.

The notional length of the pipeline is used to work out pipeline safety management plan levy in regulations 39 and 45.

## **Part 2 Safety investigation levy — Commonwealth waters**

### **Division 1 Preliminary**

#### **6 Definitions for Part 2**

In this Part:

*accident* has the same meaning as in section 5 of the OPSL Act.

*dangerous occurrence* has the same meaning as in section 5 of the OPSL Act.

*facility* has the same meaning as in section 5 of the OPSL Act.

*incremental cost* means the cost worked out under subregulation 7 (2).

*inspection* has the same meaning as in section 5 of the OPSL Act.

*notifiable accident or occurrence* has the same meaning as in section 5 of the OPSL Act.

*operator* has the same meaning as in section 5 of the OPSL Act.

#### **7 Condition for imposition of safety investigation levy**

- (1) For paragraph 5 (1) (c) of the OPSL Act, the prescribed condition is that the incremental cost of an inspection mentioned in paragraph 5 (1) (b) of the OPSL Act exceeds the threshold amount for the inspection.
- (2) The incremental cost of an inspection is the sum of the costs and expenses that the Safety Authority reasonably incurs for the purposes of carrying out the inspection.

- (3) For subregulation (2), the costs and expenses that the Safety Authority reasonably incurs for the purposes of carrying out the inspection:
  - (a) include (but are not limited to) remuneration and other costs in relation to OHS inspectors and other staff of the Safety Authority who are involved in the inspection; and
  - (b) do not include any share of fixed overheads.
- (4) The threshold amount for an inspection is \$30 000.
- (5) The Safety Authority must give a notice to an operator, as soon as practicable after the incremental cost of an inspection exceeds the threshold amount, stating that the incremental cost of the inspection exceeds the threshold amount.

*Note* See regulation 10 for the use of an independent expert to assess the costs and expenses that the Safety Authority has reasonably incurred.

## **Division 2                      Working out safety investigation levy**

### **8                      Determination of no obligation to pay amount of safety investigation levy**

- (1) The Safety Authority may determine, in writing, that it is inappropriate for the operator of a facility specified in the determination to pay the amount of safety investigation levy imposed on a notifiable accident or occurrence.
- (2) The Safety Authority may make a determination at any time after the incremental cost of an inspection exceeds the threshold amount for the inspection.
- (3) An operator and the Safety Authority may agree, at any time, to the selection and appointment of an independent expert:
  - (a) to investigate whether the Safety Authority should make a determination under subregulation (1) (whether or not the Safety Authority has previously refused to make a determination); and
  - (b) to report to the Safety Authority on whether it should make a determination.

**Regulation 9**

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- (4) The Safety Authority must not unreasonably withhold its agreement to the selection or appointment of the independent expert.
- (5) The operator must bear the costs incurred for the services of the independent expert.
- (6) After the independent expert has given the report, the Safety Authority:
  - (a) must consider the report; and
  - (b) may make a determination under subregulation (1).
- (7) The Minister may give directions, in writing, to the Safety Authority with respect to the exercise of its powers and functions under subregulations (3) and (6).
- (8) The Safety Authority must comply with the Minister's directions.
- (9) If the Safety Authority makes a determination under subregulation (1):
  - (a) the Safety Authority must give a copy of the determination to the operator as soon as practicable after making it; and
  - (b) the determination is taken to have effect on the day on which the incremental cost of the inspection exceeded the threshold amount for the inspection.

**9 Amount of safety investigation levy**

- (1) For subsection 5 (5) of the OPSL Act:
  - (a) if the Safety Authority has not made a determination under subregulation 8 (1) for a particular inspection, the amount of safety investigation levy imposed on a notifiable accident or occurrence is the post-threshold incremental cost of the inspection; and
  - (b) if the Safety Authority has made a determination under subregulation 8 (1) for a particular inspection, the amount of safety investigation levy imposed on a notifiable accident or occurrence is zero.

*Note* The effect of a determination under subregulation 8 (1) is to reduce the amount of safety investigation levy payable to zero, even if the operator has already paid some or all of the levy.

- (2) The post-threshold incremental cost of the inspection is worked out by:
- (a) identifying the incremental cost of the inspection on the day when the inspection is complete; and
  - (b) subtracting the threshold amount.

*Note* The costs and expenses that the Safety Authority has reasonably incurred for the purposes of carrying out an inspection may be assessed by an independent expert: see regulation 10.

- (3) For paragraph (2) (a), an inspection is taken to be complete on the earlier of:
- (a) the day when the Safety Authority refers a brief of evidence to the Commonwealth Director of Public Prosecutions in relation to the proposed prosecution of a person in connection with the accident or dangerous occurrence; and
  - (b) the day when the Safety Authority, by written notice, informs the operator that the inspection is complete.

*Note* The referral of a brief of evidence, or the giving of a notice, does not prevent the Safety Authority or an OHS inspector from continuing the inspection, or resuming the inspection. However, if the inspection is continued or resumed, no further levy will be payable.

## **10 Advice of independent expert about costs and expenses**

- (1) An operator and the Safety Authority may agree, at any time, to the selection and appointment of an independent expert to assess the costs and expenses that the Safety Authority has reasonably incurred for the purposes of carrying out an inspection.
- (2) The Safety Authority must not unreasonably withhold its agreement to the selection or appointment of the independent expert.
- (3) The operator must bear the costs incurred for the services of the independent expert.

**Regulation 11**

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- (4) After the independent expert has given a report of the assessment:
  - (a) the Safety Authority must give a copy of the report to the operator as soon as practicable after receiving it; and
  - (b) the Safety Authority must consider the report; and
  - (c) if the Safety Authority has notified the operator of the amount of levy, or the amount of an instalment of levy, that is payable, the Safety Authority may give a notice to the operator:
    - (i) stating that a revised amount of levy, or a revised amount of an instalment of levy, is payable; or
    - (ii) withdrawing the notice previously given under subregulation 7 (5).
- (5) The Minister may give directions, in writing, to the Safety Authority with respect to the exercise of its powers and functions under subregulations (1) and (4).
- (6) The Safety Authority must comply with the Minister's directions.

**Division 3 Paying safety investigation levy**

**11 When safety investigation levy is due and payable (PSL Act)**

- (1) For subsection 150YR (1) of the PSL Act, this regulation sets out when safety investigation levy is due and payable.
- (2) If an inspection continues for 3 months or less, safety investigation levy is payable when the inspection is taken to be complete for subregulation 9 (3).
- (3) If an inspection continues for more than 3 months, safety investigation levy is payable in instalments:
  - (a) at the end of each period of 3 months, starting when the inspection starts, during which the inspection continues; and
  - (b) when the inspection is taken to be complete for subregulation 9 (3).

- (4) The Safety Authority must notify the operator:
- (a) within 14 days after the inspection is taken to be complete for subregulation 9 (3); and
  - (b) if the inspection continues for more than 3 months — within 14 days after the end of each 3 month period; of the amount of levy, or the amount of an instalment of levy, that is payable.
- Note* The amount of safety investigation levy takes into account the post-threshold incremental cost of an inspection.
- (5) However, if the Safety Authority fails to notify the operator in accordance with subregulation (4), the validity of any subsequent notification is not affected by the failure.
- (6) For subsection 150YR (1) of the PSL Act, safety investigation levy is due 30 days after the Safety Authority notifies the operator under subregulation (4).

## **Division 4 Administration**

### **12 Safety Authority must keep records**

- (1) For this Part, the Safety Authority must make records of:
- (a) the costs and expenses that are to be included in the incremental cost of an inspection, up to the time that the threshold amount is reached; and
  - (b) the costs and expenses that are to be included in the post-threshold incremental cost.
- (2) The Safety Authority must keep the records for at least 7 years.
- (3) The Safety Authority must:
- (a) make the records available for inspection by the operator to whom they relate, on request, at any time during business hours; and
  - (b) give copies of the records to that operator, on request.

## **Part 3 Safety investigation levy — designated coastal waters**

### **Division 1 Preliminary**

#### **13 Definitions for Part 3**

In this Part:

*accident* has the same meaning as in section 6 of the OPSL Act.

*dangerous occurrence* has the same meaning as in section 6 of the OPSL Act.

*facility* has the same meaning as in section 6 of the OPSL Act.

*incremental cost* means the cost worked out under subregulation 14 (2).

*inspection* has the same meaning as in section 6 of the OPSL Act.

*notifiable accident or occurrence* has the same meaning as in section 6 of the OPSL Act.

*operator* has the same meaning as in section 6 of the OPSL Act.

#### **14 Condition for imposition of safety investigation levy**

- (1) For paragraph 6 (1) (c) of the OPSL Act, the prescribed condition is that the incremental cost of an inspection mentioned in paragraph 6 (1) (b) of the OPSL Act exceeds the threshold amount for the inspection.
- (2) The incremental cost of an inspection is the sum of the costs and expenses that the Safety Authority reasonably incurs for the purposes of carrying out the inspection.



- (3) For subregulation (2), the costs and expenses that the Safety Authority reasonably incurs for the purposes of carrying out the inspection:
  - (a) include (but are not limited to) remuneration and other costs in relation to OHS inspectors and other staff of the Safety Authority who are involved in the inspection; and
  - (b) do not include any share of fixed overheads.
- (4) The threshold amount for an inspection is \$30 000.
- (5) The Safety Authority must give a notice to an operator, as soon as practicable after the incremental cost of an inspection exceeds the threshold amount, stating that the incremental cost of the inspection exceeds the threshold amount.

*Note* See regulation 17 for the use of an independent expert to assess the costs and expenses that the Safety Authority has reasonably incurred.

## **Division 2                      Working out safety investigation levy**

### **15                      Determination of no obligation to pay amount of safety investigation levy**

- (1) The Safety Authority may determine, in writing, that it is inappropriate for the operator of a facility specified in the determination to pay the amount of safety investigation levy imposed on a notifiable accident or occurrence.
- (2) The Safety Authority may make a determination at any time after the incremental cost of an inspection exceeds the threshold amount for the inspection.
- (3) An operator and the Safety Authority may agree, at any time, to the selection and appointment of an independent expert:
  - (a) to investigate whether the Safety Authority should make a determination under subregulation (1) (whether or not the Safety Authority has previously refused to make a determination); and
  - (b) to report to the Safety Authority on whether it should make a determination.

**Regulation 16**

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- (4) The Safety Authority must not unreasonably withhold its agreement to the selection or appointment of the independent expert.
- (5) The operator must bear the costs incurred for the services of the independent expert.
- (6) After the independent expert has given the report, the Safety Authority:
  - (a) must consider the report; and
  - (b) may make a determination under subregulation (1).
- (7) The Minister may give directions, in writing, to the Safety Authority with respect to the exercise of its powers and functions under subregulations (3) and (6).
- (8) The Safety Authority must comply with the Minister's directions.
- (9) If the Safety Authority makes a determination under subregulation (1):
  - (a) the Safety Authority must give a copy of the determination to the operator as soon as practicable after making it; and
  - (b) the determination is taken to have effect on the day on which the incremental cost of the inspection exceeded the threshold amount for the inspection.

**16 Amount of safety investigation levy**

- (1) For subsection 6 (5) of the OPSL Act:
  - (a) if the Safety Authority has not made a determination under subregulation 15 (1) for a particular inspection, the amount of safety investigation levy imposed on a notifiable accident or occurrence is the post-threshold incremental cost of the inspection; and
  - (b) if the Safety Authority has made a determination under subregulation 15 (1) for a particular inspection, the amount of safety investigation levy imposed on a notifiable accident or occurrence is zero.

*Note* The effect of a determination under subregulation 15 (1) is to reduce the amount of safety investigation levy payable to zero, even if the operator has already paid some or all of the levy.

- (2) The post-threshold incremental cost of the inspection is worked out by:
- (a) identifying the incremental cost of the inspection on the day when the inspection is complete; and
  - (b) subtracting the threshold amount.

*Note* The costs and expenses that the Safety Authority has reasonably incurred for the purposes of carrying out an inspection may be assessed by an independent expert: see regulation 15.

- (3) For paragraph (2) (a), an inspection is taken to be complete on the earlier of:
- (a) the day when the Safety Authority refers a brief of evidence to an agency responsible for the prosecution of offences in relation to the proposed prosecution of a person in connection with the accident or dangerous occurrence; and
  - (b) the day when the Safety Authority, by written notice, informs the operator that the inspection is complete.

*Note* The referral of a brief of evidence, or the giving of a notice, does not prevent the Safety Authority or an OIIS inspector from continuing the inspection, or resuming the inspection. However, if the inspection is continued or resumed, no further levy will be payable.

## **17 Advice of independent expert about costs and expenses**

- (1) An operator and the Safety Authority may agree, at any time, to the selection and appointment of an independent expert to assess the costs and expenses that the Safety Authority has reasonably incurred for the purposes of carrying out an inspection.
- (2) The Safety Authority must not unreasonably withhold its agreement to the selection or appointment of the independent expert.
- (3) The operator must bear the costs incurred for the services of the independent expert.

**Regulation 18**

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- (4) After the independent expert has given a report of the assessment:
- (a) the Safety Authority must give a copy of the report to the operator as soon as practicable after receiving it; and
  - (b) the Safety Authority must consider the report; and
  - (c) if the Safety Authority has notified the operator of the amount of levy, or the amount of an instalment of levy, that is payable, the Safety Authority may give a notice to the operator:
    - (i) stating that a revised amount of levy, or a revised amount of an instalment of levy, is payable; or
    - (ii) withdrawing the notice previously given under subregulation 14 (5).
- (5) The Minister may give directions, in writing, to the Safety Authority with respect to the exercise of its powers and functions under subregulations (1) and (4).
- (6) The Safety Authority must comply with the Minister's directions.

**Division 3 Paying safety investigation levy**

**18 When safety investigation levy is due and payable (PSL Act)**

- (1) For subsection 150YR (1) of the PSL Act, this regulation sets out when safety investigation levy is due and payable.
- (2) If an inspection continues for 3 months or less, safety investigation levy is payable when the inspection is taken to be complete for subregulation 16 (3).
- (3) If an inspection continues for more than 3 months, safety investigation levy is payable in instalments:
- (a) at the end of each period of 3 months, starting when the inspection starts, during which the inspection continues; and
  - (b) when the inspection is taken to be complete for subregulation 16 (3).

- (4) The Safety Authority must notify the operator:
- (a) within 14 days after the inspection is taken to be complete for subregulation 16 (3); and
  - (b) if the inspection continues for more than 3 months — within 14 days after the end of each 3 month period;
- of the amount of levy, or the amount of an instalment of levy, that is payable.
- Note* The amount of safety investigation levy takes into account the post-threshold incremental cost of an inspection.
- (5) However, if the Safety Authority fails to notify the operator in accordance with subregulation (4), the validity of any subsequent notification is not affected by the failure.
- (6) For subsection 150YR (1) of the PSL Act, safety investigation levy is due 30 days after the Safety Authority notifies the operator under subregulation (4).

## **Division 4 Administration**

### **19 Safety Authority must keep records**

- (1) For this Part, the Safety Authority must make records of:
- (a) the costs and expenses that are to be included in the incremental cost of an inspection, up to the time that the threshold amount is reached; and
  - (b) the costs and expenses that are to be included in the post-threshold incremental cost.
- (2) The Safety Authority must keep the records for at least 7 years.
- (3) The Safety Authority must:
- (a) make the records available for inspection by the operator to whom they relate, on request, at any time during business hours; and
  - (b) give copies of the records to that operator, on request.

## **Part 4 Safety case levy — Commonwealth waters**

### **Division 1 Preliminary**

#### **20 Definitions for Part 4**

In this Part:

*facility* has the same meaning as in section 7 of the OPSL Act.

*mobile facility* means a facility of a kind mentioned in Schedule 2.

*operator* has the same meaning as in section 7 of the OPSL Act.

*proposed facility* has the same meaning as in section 7 of the OPSL Act.

*safety case in force in relation to a facility* has the same meaning as in section 7 of the OPSL Act.

*variable-rating facility* means a facility mentioned in item 2 of the table in item 2.3 of Schedule 1.

*Note* Under subsection 7(8) of the OPSL Act, a *facility* includes a proposed facility. Paragraph 7(1)(b) of the OPSL Act imposes safety case levy on a facility:

- (a) that is located, or proposed to be located, in Commonwealth waters; and
- (b) in relation to which a safety case is in force.

A proposed facility is not required to have a safety case in force unless it has commenced to be constructed or installed in Commonwealth waters (in which case it becomes a facility). However, it is possible for an operator to have a safety case accepted by the Safety Authority in relation to a proposed facility: if the safety case is accepted, it is taken to be in force and safety case levy becomes payable.

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## Division 2 Working out safety case levy

### 21 Amount of safety case levy

- (1) For subsections 7 (4) and (5) of the OPSL Act, and subject to subregulations (2) and (3), the amount of safety case levy imposed on a safety case is the sum of:

- (a) the SMS amount; and
- (b) the facility amount for each facility in relation to which the safety case is in force;

as worked out using Schedule 1.

*Note* The effect of Schedule 1 is that an operator will pay only one SMS amount in any year, whether:

- (a) one safety case or more than one safety case, is in force in relation to the operator; and
- (b) the operator operates facilities in Commonwealth waters, designated coastal waters, or both.

- (2) For subsections 7 (4) and (5) of the OPSL Act, if the facility is a mobile facility that:

- (a) was first operated in designated coastal waters during a year; and
- (b) was then operated in Commonwealth waters during the year;

the facility amount for the facility is zero.

*Note* Although there is no facility amount for the mobile facility in respect of its operation in Commonwealth waters, a facility amount will be calculated for the mobile facility in accordance with regulation 29 in respect of its operation in designated coastal waters.

- (3) For subsections 7 (4) and (5) of the OPSL Act:

- (a) if the facility is a proposed facility (within the meaning of regulation 48):
  - (i) in relation to which the fee mentioned in that regulation has been paid; and
  - (ii) that has not entered Safety Authority waters;

the amount of safety case levy imposed on the safety case is zero; and

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- (b) the safety case in relation to the facility is taken to have come into force for the facility when it first enters Safety Authority waters.

**22 Reconciliation of safety case levy recovered by instalments with levy payable**

- (1) For subsections 7 (4) and (5) of the OPSL Act, the Safety Authority must ensure, as far as practicable, that the amounts of quarterly instalments that it notifies to an operator as being due and payable recover the whole of the amount of levy payable by the operator in relation to a safety case for a facility for a year or part of a year, taking into account:
  - (a) any changes in the applicable facility rating of a variable rating facility; and
  - (b) any remission of levy made under regulation 25; and
  - (c) any previous adjustment of levy made under regulation 26.
- (2) If the amounts paid by way of quarterly instalments during a year or part of a year are inadequate, or will be inadequate, to recover the whole of the levy payable by the operator in relation to a safety case for a facility for a year or part of a year:
  - (a) the Safety Authority must notify the operator, in writing, of:
    - (i) the amount of the shortfall in the instalments; and
    - (ii) the operator's obligation under this subregulation to pay the shortfall; and
  - (b) the operator must pay an amount equal to the amount of the shortfall; and
  - (c) the amount is due and payable by the operator 30 days after the Safety Authority notifies the operator under paragraph (a).



## **Division 3                      Paying safety case levy**

### **23                      When safety case levy is due and payable (PSL Act)**

- (1) For subsection 150YS (3) of the PSL Act, this regulation sets out when safety case levy is payable in relation to a facility.
- (2) Safety case levy is due and payable in quarterly instalments in accordance with the following table.

<b>Item</b>	<b>Facility</b>	<b>Levy</b>	<b>Instalment of levy is due and payable by</b>
1	Facility other than a mobile facility	Levy payable for the quarter or part quarter under Schedule 1 in which the safety case is accepted	1 month after the safety case comes into force for the facility
2	Facility other than a mobile facility	Levy payable in respect of any other quarter under Schedule 1	The later of: (a) the first working day of the month immediately before the start of the quarter or part quarter; and (b) the day when the first instalment is due and payable under item 1
3	Mobile facility	Levy payable for the quarter or part quarter under Schedule 1 in which the safety case is accepted	30 days after the Safety Authority notifies the operator that levy is due and payable for the quarter
4	Mobile facility	Levy payable in respect of any other quarter under Schedule 1	30 days after the Safety Authority notifies the operator that levy is due and payable for the quarter

*Note* The Safety Authority may be required to adjust the amount of safety case levy under regulation 26 to ensure that the correct amount of levy is paid. An adjustment may be necessary because the unit value for the facility has been reduced during the year, or the facility's applicable facility rating has changed during the year.

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**24 Notifying when safety case levy is due and payable (PSL Act)**

- (1) For subsection 150YS (3) of the PSL Act, the Safety Authority must notify an operator of:
- (a) the amount of each instalment of safety case levy that will be due and payable in a year in respect of the facility; and
  - (b) when each instalment will be payable; in accordance with the following table.

Item	Facility	Year to which levy relates	Operator must be notified
1	Facility other than a mobile facility	Year in which safety case is accepted	When the Safety Authority notifies the operator of the acceptance of the safety case
2	Facility other than a mobile facility	Any subsequent year (the <i>relevant year</i> )	<p>If the safety case first comes into force:</p> <ul style="list-style-type: none"> <li>(a) in a year earlier than the year immediately before the relevant year; or</li> <li>(b) on or before 30 November in the year immediately before the relevant year;</li> </ul> <p>on or before 30 November in the year immediately before the relevant year</p> <p>If the safety case first comes into force after 30 November in the year immediately before the relevant year — the later of:</p> <ul style="list-style-type: none"> <li>(a) that 30 November; and</li> <li>(b) when the Safety Authority notifies the operator of the acceptance of the safety case</li> </ul>

Item	Facility	Year to which levy relates	Operator must be notified
3	Mobile facility	Year in which safety case is accepted	By the end of the month following the end of the quarter in which the safety case is accepted, and by the end of the month following the end of each subsequent quarter in the year
4	Mobile facility	Any subsequent year	By the end of the month following the end of each quarter in the year

- (2) However, if the Safety Authority fails to notify the operator in accordance with subregulation (1):
- (a) the validity of any subsequent notification is not affected by the failure; and
  - (b) for a safety case levy in relation to 1 or more mobile facilities — safety case levy is due 30 days after the Safety Authority notifies the operator.

## **25 Remitting part of safety case levy**

- (1) For subsections 150YS (1) and (2) of the PSL Act:
- (a) a mobile facility is declared to be a facility that operates on an intermittent basis; and
  - (b) the Safety Authority may, in accordance with this regulation, remit a part of an amount of safety case levy imposed by the OPSL Act.
- (2) Subject to subregulation (3), if the Safety Authority remits a part of an amount of safety case levy for a quarter (the **relevant quarter**), the Safety Authority must work out the amount of facility amount, within that levy, that is to be remitted for the relevant quarter using the formula:

$$\text{facility amount} \times \frac{\text{number of days not operated}}{\text{number of days in relevant quarter}}$$

**Regulation 25**

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where:

**facility amount** means the facility amount due and payable for the relevant quarter in accordance with Schedule 1.

**number of days not operated** means the number of days in the relevant quarter on which the mobile facility is not operated in Safety Authority waters.

- (3) The Safety Authority must not remit a part of an amount of safety case levy if the effect of the remission would be that the total amount of facility amount worked out in relation to the mobile facility (whether under regulation 21 or 29) for the period of 4 consecutive quarters ending at the end of the relevant quarter would be less than the sum of 2 whole quarter amounts of facility amount worked out in relation to the mobile facility in that period using Schedule 1.
- (4) Subject to subregulation (5), if the Safety Authority remits a part of an amount of safety case levy for a quarter (the **relevant quarter**):
- (a) the Safety Authority must remit any SMS amount, within that levy, only in respect of any period in which no facility of the operator is in operation in Safety Authority waters (whether or not the same safety case is in operation in relation to those facilities); and
  - (b) the Safety Authority must work out the SMS amount, within that levy, that is to be remitted for the relevant quarter using the formula:

$$\text{SMS amount} \times \frac{\text{number of days not operated}}{\text{number of days in relevant quarter}}$$

where:

**SMS amount** means the SMS amount due and payable for the relevant quarter in accordance with Schedule 1.

**number of days not operated** means the number of days in the relevant quarter on which no facility of the operator is in operation in Safety Authority waters.

- (5) The Safety Authority must not remit a part of an SMS amount if the effect of the remission would be that the total amount of SMS amount worked out in relation to the mobile facility (whether under regulation 21 or 29) for the period of 4 consecutive quarters ending at the end of the relevant quarter would be less than the sum of 2 quarterly instalments of SMS amount worked out in relation to the mobile facility in that period using Schedule 1.

## **26 Adjustment of amount of instalments**

- (1) This regulation applies:
- (a) if:
    - (i) an operator has not previously informed the Safety Authority about the operation of a facility; and
    - (ii) the operator informs the Safety Authority that the operation of the facility has happened, or is projected to happen, in a way that may affect the facility's applicable facility rating; and
    - (iii) the nature of the operation would change an amount of safety case levy that has been calculated in relation to the facility but not yet paid; or
  - (b) if:
    - (i) an operator has previously informed the Safety Authority about the operation of a facility; and
    - (ii) the operator informs the Safety Authority that operations at the operator's facility have differed, or are likely to differ, from the operations of which the operator informed the Safety Authority; and
    - (iii) the nature of the operation would change an amount of safety case levy that has been calculated in relation to the facility but not yet paid; or
  - (c) if:
    - (i) the Safety Authority is satisfied that a facility is operating in a particular way; and
    - (ii) the nature of the operation would change an amount of safety case levy that has been calculated in relation to the facility but not yet paid.

**Regulation 27**

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- (2) The Safety Authority must make the necessary increase or decrease to the subsequent instalment or instalments.
- (3) However, the Safety Authority must not increase or decrease an instalment unless the Safety Authority notifies the operator of the adjustment at least 14 days prior to the date on which that instalment is due and payable.

**27 Operator of variable-rating facility must keep Safety Authority informed about operations**

- (1) The operator of a variable-rating facility must, as far as practicable, keep the Safety Authority informed about projected and actual operations at the facility that are relevant to working out the facility's applicable facility rating.
- (2) If the operator of a variable-rating facility becomes aware that operations at the operator's facility have differed, or are likely to differ, from the operations of which the operator informed the Safety Authority, the operator must, as soon as practicable, notify the Safety Authority of the change.

## Part 5                      Safety case levy — designated coastal waters

### Division 1                  Preliminary

#### 28                      Definitions for Part 5

In this Part:

*facility* has the same meaning as in section 8 of the OPSL Act.

*mobile facility* means a facility of a kind mentioned in Schedule 2.

*operator* has the same meaning as in section 8 of the OPSL Act.

*proposed facility* has the same meaning as in section 8 of the OPSL Act.

*safety case in force in relation to a facility* has the same meaning as in section 8 of the OPSL Act.

*variable-rating facility* means a facility mentioned in item 2 of the table in item 2.3 of Schedule 1.

*Note* Under subsection 8(8) of the OPSL Act, a *facility* includes a proposed facility. Paragraph 8(1)(b) of the OPSL Act imposes safety case levy on a facility:

- (a) that is located, or proposed to be located, in the designated coastal waters of a State or of the Northern Territory; and
- (b) in relation to which a safety case is in force.

A proposed facility is not required to have a safety case in force unless it has commenced to be constructed or installed in designated coastal waters (in which case it becomes a facility). However, it is possible for an operator to have a safety case accepted by the Safety Authority in relation to a proposed facility: if the safety case is accepted, it is taken to be in force and safety case levy becomes payable.

**Regulation 29**

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**Division 2 Working out safety case levy**

**29 Amount of safety case levy**

- (1) For subsections 8 (4) and (5) of the OPSL Act, and subject to subregulations (2) and (3), the amount of safety case levy imposed on a safety case is the sum of:
- (a) the SMS amount; and
  - (b) the facility amount for each facility in relation to which the safety case is in force;
- as worked out using Schedule 1.

*Note* The effect of Schedule 1 is that an operator will pay only one SMS amount in any year, whether:

- (a) one safety case or more than one safety case, is in force in relation to the operator; and
  - (b) the operator operates facilities in designated coastal waters, Commonwealth waters, or both.
- (2) For subsections 8 (4) and (5) of the OPSL Act, if the facility is a mobile facility that:
- (a) was first operated in Commonwealth waters during a year; and
  - (b) was then operated in designated coastal waters during the year;
- the facility amount for the facility is zero.

*Note* Although there is no facility amount for the mobile facility in respect of its operation in designated coastal waters, a facility amount will be calculated for the mobile facility in accordance with regulation 21 in respect of its operation in Commonwealth waters.

- (3) For subsections 8 (4) and (5) of the OPSL Act:
- (a) if the facility is a proposed facility (within the meaning of regulation 49):
    - (i) in relation to which the fee mentioned in that regulation has been paid; and
    - (ii) that has not entered Safety Authority waters;the amount of safety case levy imposed on the safety case is zero; and



- (b) the safety case in relation to the facility is taken to have come into force for the facility when it first enters Safety Authority waters.

**30 Reconciliation of safety case levy recovered by instalments with levy payable**

- (1) For subsections 8 (4) and (5) of the OPSL Act, the Safety Authority must ensure, as far as practicable, that the amounts of quarterly instalments that it notifies to an operator as being due and payable recover the whole of the amount of levy payable by the operator in relation to a safety case for a facility for a year or part of a year, taking into account:
  - (a) any changes in the applicable facility rating of a variable rating facility; and
  - (b) any remission of levy made under regulation 33; and
  - (c) any previous adjustment of levy made under regulation 34.
- (2) If the amounts paid by way of quarterly instalments during a year or part of a year are inadequate, or will be inadequate, to recover the whole of the levy payable by the operator in relation to a safety case for a facility for a year or part of a year:
  - (a) the Safety Authority must notify the operator, in writing, of:
    - (i) the amount of the shortfall in the instalments; and
    - (ii) the operator's obligation under this subregulation to pay the shortfall; and
  - (b) the operator must pay an amount equal to the amount of the shortfall; and
  - (c) the amount is due and payable by the operator 30 days after the Safety Authority notifies the operator under paragraph (a).

**Regulation 31**

**Division 3 Paying safety case levy**

**31 When safety case levy is due and payable (PSL Act)**

- (1) For subsection 150YS (3) of the PSL Act, this regulation sets out when safety case levy is payable in relation to a facility.
- (2) Safety case levy is due and payable in quarterly instalments in accordance with the following table.

Item	Facility	Levy	Instalment of levy is due and payable by
1	Facility other than a mobile facility	Levy payable for the quarter or part quarter under Schedule 1 in which the safety case is accepted	1 month after the safety case comes into force for the facility
2	Facility other than a mobile facility	Levy payable in respect of any other quarter under Schedule 1	The later of: (a) the first working day of the month immediately before the start of the quarter or part quarter; and (b) the day when the first instalment is due and payable under item 1
3	Mobile facility	Levy payable for the quarter or part quarter under Schedule 1 in which the safety case is accepted	30 days after the Safety Authority notifies the operator that levy is due and payable for the quarter
4	Mobile facility	Levy payable in respect of any other quarter under Schedule 1	30 days after the Safety Authority notifies the operator that levy is due and payable for the quarter

*Note* The Safety Authority may be required to adjust the amount of safety case levy under regulation 34 to ensure that the correct amount of levy is paid. An adjustment may be necessary because the unit value for the facility has been reduced during the year, or the facility's applicable facility rating has changed during the year.

**32 Notifying when safety case levy is due and payable (PSL Act)**

- (1) For subsection 150YS (3) of the PSL Act, the Safety Authority must notify an operator of:
- (a) the amount of each instalment of safety case levy that will be due and payable in a year in respect of the facility; and
  - (b) when each instalment will be payable;
- in accordance with the following table.

Item	Facility	Year to which levy relates	Operator must be notified
1	Facility other than a mobile facility	Year in which safety case is accepted	When the Safety Authority notifies the operator of the acceptance of the safety case
2	Facility other than a mobile facility	Any subsequent year (the <i>relevant year</i> )	<p>If the safety case first comes into force:</p> <ul style="list-style-type: none"> <li>(a) in a year earlier than the year immediately before the relevant year; or</li> <li>(b) on or before 30 November in the year immediately before the relevant year;</li> </ul> <p>on or before 30 November in the year immediately before the relevant year</p> <p>If the safety case first comes into force after 30 November in the year immediately before the relevant year — the later of:</p> <ul style="list-style-type: none"> <li>(a) that 30 November; and</li> <li>(b) when the Safety Authority notifies the operator of the acceptance of the safety case</li> </ul>

**Regulation 33**

Item	Facility	Year to which levy relates	Operator must be notified
3	Mobile facility	Year in which safety case is accepted	By the end of the month following the end of the quarter in which the safety case is accepted, and by the end of the month following the end of each subsequent quarter in the year
4	Mobile facility	Any subsequent year	By the end of the month following the end of each quarter in the year

- (2) However, if the Safety Authority fails to notify the operator in accordance with subregulation (1):
- (a) the validity of any subsequent notification is not affected by the failure; and
  - (b) for a safety case levy in relation to 1 or more mobile facilities — safety case levy is due 30 days after the Safety Authority notifies the operator.

**33 Remitting part of safety case levy**

- (1) For subsections 150YS (1) and (2) of the PSL Act:
- (a) a mobile facility is declared to be a facility that operates on an intermittent basis; and
  - (b) the Safety Authority may, in accordance with this regulation, remit a part of an amount of safety case levy imposed by the OPSL Act.
- (2) Subject to subregulation (3), if the Safety Authority remits a part of an amount of safety case levy for a quarter (the **relevant quarter**), the Safety Authority must work out the amount of facility amount, within that levy, that is to be remitted for the relevant quarter using the formula:

$$\text{facility amount} \times \frac{\text{number of days not operated}}{\text{number of days in relevant quarter}}$$

where:

**facility amount** means the facility amount due and payable for the relevant quarter in accordance with Schedule 1.

**number of days not operated** means the number of days in the relevant quarter on which the mobile facility is not operated in Safety Authority waters.

- (3) The Safety Authority must not remit a part of an amount of safety case levy if the effect of the remission would be that the total amount of facility amount worked out in relation to the mobile facility (whether under regulation 21 or 29) for the period of 4 consecutive quarters ending at the end of the relevant quarter would be less than the sum of 2 whole quarter amounts of facility amount worked out in relation to the mobile facility in that period using Schedule 1.
- (4) Subject to subregulation (5), if the Safety Authority remits a part of an amount of safety case levy for a quarter (the **relevant quarter**):
- (a) the Safety Authority must remit any SMS amount, within that levy, only in respect of any period in which no facility of the operator is in operation in Safety Authority waters (whether or not the same safety case is in operation in relation to those facilities); and
  - (b) the Safety Authority must work out the SMS amount, within that levy, that is to be remitted for the relevant quarter using the formula:

$$\text{SMS amount} \times \frac{\text{number of days not operated}}{\text{number of days in relevant quarter}}$$

where:

**SMS amount** means the SMS amount due and payable for the relevant quarter in accordance with Schedule 1.

**number of days not operated** means the number of days in the relevant quarter on which no facility of the operator is in operation in Safety Authority waters.

**Regulation 34**

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- (5) The Safety Authority must not remit a part of an SMS amount if the effect of the remission would be that the total amount of SMS amount worked out in relation to the mobile facility (whether under regulation 21 or 29) for the period of 4 consecutive quarters ending at the end of the relevant quarter would be less than the sum of 2 quarterly instalments of SMS amount worked out in relation to the mobile facility in that period using Schedule 1.

**34 Adjustment of amount of instalments**

- (1) This regulation applies:
- (a) if:
    - (i) an operator has not previously informed the Safety Authority about the operation of a facility; and
    - (ii) the operator informs the Safety Authority that the operation of the facility has happened, or is projected to happen, in a way that may affect the facility's applicable facility rating; and
    - (iii) the nature of the operation would change an amount of safety case levy that has been calculated in relation to the facility but not yet paid; or
  - (b) if:
    - (i) an operator has previously informed the Safety Authority about the operation of a facility; and
    - (ii) the operator informs the Safety Authority that operations at the operator's facility have differed, or are likely to differ, from the operations of which the operator informed the Safety Authority; and
    - (iii) the nature of the operation would change an amount of safety case levy that has been calculated in relation to the facility but not yet paid; or
  - (c) if:
    - (i) the Safety Authority is satisfied that a facility is operating in a particular way; and
    - (ii) the nature of the operation would change an amount of safety case levy that has been calculated in relation to the facility but not yet paid.

- (2) The Safety Authority must make the necessary increase or decrease to the subsequent instalment or instalments.
- (3) However, the Safety Authority must not increase or decrease an instalment unless the Safety Authority notifies the operator of the adjustment at least 14 days prior to the date on which that instalment is due and payable.

**35 Operator of variable-rating facility must keep Safety Authority informed about operations**

- (1) The operator of a variable-rating facility must, as far as practicable, keep the Safety Authority informed about projected and actual operations at the facility that are relevant to working out the facility's applicable facility rating.
- (2) If the operator of a variable-rating facility becomes aware that operations at the operator's facility have differed, or are likely to differ, from the operations of which the operator informed the Safety Authority, the operator must, as soon as practicable, notify the Safety Authority of the change.

**Regulation 36**

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**Part 6 Pipeline safety management  
plan levy — Commonwealth  
waters**

**Division 1 Preliminary**

**36 Definitions for Part 6**

In this Part:

*Designated Authority* has the same meaning as in the PSL Act.

*licensee of the pipeline licence* means the holder of the pipeline licence within the meaning of section 9 of the OPSL Act.

*major revision*, in relation to a pipeline safety management plan, means a revision other than a minor revision.

*minor revision*, in relation to a pipeline safety management plan, means a revision that is treated as a minor revision under regulation 38.

*pipeline* has the same meaning as in section 9 of the OPSL Act.

*pipeline management plan* has the same meaning as in the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001*.

*pipeline safety management plan* has the same meaning as in the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001*.

*pipeline safety management plan in force in relation to a pipeline* has the same meaning as in section 9 of the OPSL Act.

*Note* The pipeline safety management plan levy is imposed by the OPSL Act as an annual levy.



**37 When pipeline safety management plan and revisions come into force**

For this Part:

- (a) a pipeline safety management plan is taken to come into force for a pipeline when the pipeline management plan for the pipeline is accepted by the Designated Authority; and
- (b) a revision of a pipeline safety management plan is taken to come into force for a pipeline when the revision of the pipeline management plan of which the pipeline safety management plan is a part is accepted by the Designated Authority.

**38 Minor revisions**

- (1) The Safety Authority may determine, in writing, that a revision of a pipeline safety management plan that is in force in relation to a pipeline is a minor revision.
- (2) The Safety Authority may make a determination with or without a request by the licensee of the pipeline licence.
- (3) If the Safety Authority determines that a revision is a minor revision, the Safety Authority must notify the licensee of the pipeline licence, in writing, of the decision.
- (4) If the Safety Authority refuses to make a determination at the request of the licensee of the pipeline licence:
  - (a) the Safety Authority must notify the licensee of the pipeline licence, in writing, of the decision and the reasons for the decision; and
  - (b) if the decision was made by a delegate of the CEO, the notice must also state that the licensee of the pipeline licence may apply for review of the decision by the CEO within 30 days after the Safety Authority notifies the operator.

**Regulation 39**

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- (5) If a licensee of the pipeline licence applies to the CEO for review of a decision by a delegate of the CEO to refuse to make a determination at the request of the licensee of the pipeline licence, the CEO must, as soon as practicable:
- (a) review the decision; and
  - (b) notify the licensee of the pipeline licence, in writing, of:
    - (i) the decision; and
    - (ii) if the CEO confirms the refusal to make a determination — the reasons for the decision.

**Division 2 Working out pipeline safety management plan levy**

**39 Amount of pipeline safety management plan levy**

- (1) For subsections 9 (4) and (5) of the OPSL Act, the amount of pipeline safety management plan levy is the sum of the amount of levy for each pipeline in relation to which a pipeline safety management plan is in force, as worked out using Table A (and Table B if necessary).

**Table A**

Item	Is a pipeline safety management plan in force in relation to the pipeline at the start of a year?	Did a major revision of the pipeline safety management plan come into force during the previous year?	Amount of levy
A1	Yes	No	Zero
A2	Yes	Yes	Use Table B
A3	No	N/A	Use Table B

**Table B**

<b>Item</b>	<b>Notional length of pipeline</b>	<b>Description of sub-sea development</b>	<b>Amount of levy</b>
B1	Less than 100km	No sub-sea development connected to the pipeline	\$15 000
B2	Less than 100km	Sub-sea development connected to the pipeline	\$30 000
B3	100km or more	With or without a sub-sea development connected to the pipeline	\$50 000

- (2) For Table B in subregulation (1), the notional length of a pipeline is:
- (a) the notional length explained in regulation 4 or 5; or
  - (b) if those regulations do not apply — the length of the pipeline (within the meaning of section 9 of the OPSL Act).

*Note* Regulations 4 and 5 explain how to work out the notional length of a pipeline that is located in both Commonwealth waters and designated coastal waters.

### **Division 3                      Paying pipeline safety management plan levy**

#### **40                      When pipeline safety management plan levy is due and payable (PSL Act)**

- (1) For subsection 150YT (1) of the PSL Act, this regulation sets out when pipeline safety management plan levy is payable in relation to a pipeline safety management plan.
- (2) Pipeline safety management plan levy is due and payable in accordance with the following table.

**Regulation 41**

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<b>Item</b>	<b>Pipeline safety management plan</b>	<b>Levy is due and payable by</b>
1	Plan is in force in relation to a pipeline on 1 January in a year	The later of: (a) the first working day after 1 January; and (b) 60 days after the last major revision of the pipeline safety management plan came into force
2	Plan comes into force in relation to a pipeline after 1 January in a year	60 days after the pipeline safety management plan comes into force

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**41 Notifying when pipeline safety management plan levy is due and payable (PSL Act)**

For subsection 150YT (1) of the PSL Act, if a pipeline safety management plan or a major revision of a pipeline safety management plan, comes into force in relation to a pipeline, the Safety Authority must, within 30 days, notify the licensee of the pipeline licence of:

- (a) the amount of pipeline safety management plan levy payable; and
- (b) when the amount is due.

## Part 7                      Pipeline safety management plan levy — designated coastal waters

### Division 1                  Preliminary

#### 42                      Definitions for Part 7

(1) In this Part:

*licensee of the pipeline licence* means the holder of the pipeline licence within the meaning of section 10 of the OPSL Act.

*major revision*, in relation to a pipeline safety management plan, means a revision other than a minor revision.

*minor revision*, in relation to a pipeline safety management plan, means a revision that is treated as a minor revision under regulation 44.

*pipeline* has the same meaning as in section 10 of the OPSL Act.

*pipeline safety management plan in force in relation to a pipeline* has the same meaning as in section 10 of the OPSL Act.

*responsible Minister* means:

- (a) the responsible Northern Territory Minister within the meaning of Part IIIC of the PSL Act; or
- (b) the responsible State Minister within the meaning of Part IIIC of the PSL Act.

*Note* The pipeline safety management plan levy is imposed by the OPSL Act as an annual levy.

**Regulation 43**

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- (2) For the purposes of the application of this Part in relation to the designated coastal waters of a State or of the Northern Territory:

*pipeline management plan* has the same meaning as in regulations of that State or the Northern Territory that substantially correspond to the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001*.

*pipeline safety management plan* has the same meaning as in regulations of that State or the Northern Territory that substantially correspond to the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001*.

**43 When pipeline safety management plan and revisions come into force**

For this Part:

- (a) a pipeline safety management plan is taken to come into force for a pipeline when the pipeline management plan for the pipeline is accepted by the responsible Minister; and
- (b) a revision of a pipeline safety management plan is taken to come into force for a pipeline when the revision of the pipeline management plan of which the pipeline safety management plan is a part is accepted by the responsible Minister.

**44 Minor revisions**

- (1) The Safety Authority may determine, in writing, that a revision of a pipeline safety management plan that is in force in relation to a pipeline is a minor revision.
- (2) The Safety Authority may make a determination with or without a request by the licensee of the pipeline licence.
- (3) If the Safety Authority determines that a revision is a minor revision, the Safety Authority must notify the licensee of the pipeline licence, in writing, of the decision.

- (4) If the Safety Authority refuses to make a determination at the request of the licensee of the pipeline licence:
- (a) the Safety Authority must notify the licensee of the pipeline licence, in writing, of the decision and the reasons for the decision; and
  - (b) if the decision was made by a delegate of the CEO, the notice must also state that the licensee of the pipeline licence may apply for review of the decision by the CEO within 30 days after the Safety Authority notifies the operator.
- (5) If a licensee of the pipeline licence applies to the CEO for review of a decision by a delegate of the CEO to refuse to make a determination at the request of the licensee of the pipeline licence, the CEO must, as soon as practicable:
- (a) review the decision; and
  - (b) notify the licensee of the pipeline licence, in writing, of:
    - (i) the decision; and
    - (ii) if the CEO confirms the refusal to make a determination — the reasons for the decision.

## **Division 2                      Working out pipeline safety    management plan levy**

### **45                      Amount of pipeline safety management plan levy**

- (1) For subsections 10 (4) and (5) of the OPSL Act, the amount of pipeline safety management plan levy is the sum of the amount of levy for each pipeline in relation to which a pipeline safety management plan is in force, as worked out using Table A (and Table B if necessary).

**Regulation 45**

**Table A**

Item	Is a pipeline safety management plan in force in relation to the pipeline at the start of a year?	Did a major revision of the pipeline safety management plan come into force during the previous year?	Amount of levy
A1	Yes	No	Zero
A2	Yes	Yes	Use Table B
A3	No	N/A	Use Table B

**Table B**

Item	Notional length of pipeline	Description of sub-sea development	Amount of levy
B1	Less than 100km	No sub-sea development connected to the pipeline	\$15 000
B2	Less than 100km	Sub-sea development connected to the pipeline	\$30 000
B3	100km or more	With or without a sub-sea development connected to the pipeline	\$50 000

- (2) For Table B in subregulation (1), the notional length of a pipeline is:
- (a) the notional length explained in regulation 4 or 5; or
  - (b) if those regulations do not apply — the length of the pipeline (within the meaning of section 10 of the OPSL Act).

*Note* Regulations 4 and 5 explain how to work out the notional length of a pipeline that is located in both designated coastal waters and Commonwealth waters.



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## **Division 3                      Paying pipeline safety management plan levy**

### **46                      When pipeline safety management plan levy is due and payable (PSL Act)**

- (1) For subsection 150YT (1) of the PSL Act, this regulation sets out when pipeline safety management plan levy is payable in relation to a pipeline safety management plan.
- (2) Pipeline safety management plan levy is due and payable in accordance with the following table.

<b>Item</b>	<b>Pipeline safety management plan</b>	<b>Levy is due and payable by</b>
1	Plan is in force in relation to a pipeline on 1 January in a year	The later of: (a) the first working day after 1 January; and (b) 60 days after the last major revision of the pipeline safety management plan came into force
2	Plan comes into force in relation to a pipeline after 1 January in a year	60 days after the pipeline safety management plan comes into force

### **47                      Notifying when pipeline safety management plan levy is due and payable (PSL Act)**

For subsection 150YT (1) of the PSL Act, if a pipeline safety management plan or a major revision of a pipeline safety management plan, comes into force in relation to a pipeline, the Safety Authority must, within 30 days, notify the licensee of the pipeline licence of:

- (a) the amount of pipeline safety management plan levy payable; and
- (b) when the amount is due.

**Regulation 48**

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**Part 8 Fees for services provided by the Safety Authority****48 Fee for assessing safety case — Commonwealth waters (PSL Act)**

- (1) For subsection 150YQ (1) of the PSL Act, the fee for the assessment by the Safety Authority of a safety case submitted under regulation 28 of the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996* in relation to a proposed facility is the amount determined by the Safety Authority.
- (2) The amount of the fee must not exceed the total of the costs incurred by the Safety Authority in assessing the safety case in relation to the proposed facility.
- (3) The fee is payable:
  - (a) by the operator of the proposed facility; and
  - (b) at the time the safety case is submitted to the Safety Authority.
- (4) In this regulation:

*proposed facility* means a proposed facility (within the meaning of Schedule 7 to the PSL Act) that is being constructed at a place outside Safety Authority waters.

**49 Fee for assessing safety case — designated coastal waters (PSL Act)**

- (1) For subsection 150YQ (1) of the PSL Act, the fee for the assessment by the Safety Authority of a safety case submitted under regulations of a State or of the Northern Territory that substantially correspond to regulation 28 of the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996* in relation to a proposed facility is the amount determined by the Safety Authority.

**Regulation 49**

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- (2) The amount of the fee must not exceed the total of the costs incurred by the Safety Authority in assessing the safety case in relation to the proposed facility.
- (3) The fee is payable:
- (a) by the operator of the proposed facility; and
  - (b) at the time the safety case is submitted to the Safety Authority.
- (4) In this regulation:
- proposed facility*** means a proposed facility (within the meaning of the applicable State or Territory safety law) that is being constructed at a place outside Safety Authority waters.

**Regulation 50**

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**Part 9 Cost-recovery arrangements****50 Review of cost-recovery arrangements — periodic reviews**

- (1) The CEO must conduct periodic reviews of cost-recovery in relation to the operations of the Safety Authority.
- (2) A review must include a comparison of fees and levies collected with the regulatory activities undertaken in the period.

**51 Review of cost-recovery arrangements — financial report**

- (1) The CEO must prepare a financial report in respect of each financial year that assesses the cost-effectiveness of the operations of the Safety Authority in that financial year.
- (2) The report must be audited by an independent auditor.
- (3) The CEO must give a copy of the report, and the auditor's certification, to each of the following persons at least 1 month before the meeting required under regulation 52:
  - (a) the Australian Petroleum Production & Exploration Association Limited;
  - (b) each operator of a facility, and each licensee of a pipeline licence, in relation to which levy has been due and payable in accordance with these Regulations during the financial year;
  - (c) any other person to whom the CEO believes it would be appropriate to give the report.

*Note* The requirements of this Part are in addition to the requirements of Part 7 of the *Financial Management and Accountability Act 1997*.

**Regulation 52**

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**52 Meetings about operations of Safety Authority**

- (1) The CEO must, each year, meet representatives of the offshore petroleum industry to discuss the cost-effectiveness of the operations of the Safety Authority.
- (2) The CEO must present at the meeting:
  - (a) the costs of, and budget projections for, the operations of the Safety Authority; and
  - (b) the Safety Authority's operating budget for the following year; and
  - (c) a cost-effectiveness assessment based on the most recent periodic review conducted under regulation 50 and the financial report prepared under regulation 51 in respect of the preceding financial year.

## Schedule 1 Facility amount and SMS amount

(regulations 21 and 29)

### Part 1 Facility amount

1.1 Facility amount:

- (a) is first worked out when a safety case is accepted by the Safety Authority in relation to a facility; and
- (b) is worked out for each subsequent year in which the safety case is in force in relation to the facility.

*Note* If a mobile facility is operated during a year in Commonwealth waters and in designated coastal waters, the amount of the facility amount takes into account where the facility was first operated: see regulations 21 and 29.

1.2 For the year in which the safety case is accepted in relation to the facility, the facility amount for the facility is worked out using the following table.

Item	When was the safety case accepted in relation to the facility?	Facility amount
1	At the start of the year	The sum of the whole quarter amounts for each quarter in the year
2	At the start of a quarter other than the first quarter in the year	The sum of the whole quarter amounts for: <ul style="list-style-type: none"><li>(a) the quarter in which the safety case is accepted; and</li><li>(b) each subsequent quarter in the year</li></ul>
3	After the start of a quarter	The sum of: <ul style="list-style-type: none"><li>(a) the part quarter amount for the quarter in which the safety case is accepted; and</li><li>(b) the whole quarter amounts for each remaining quarter in the year</li></ul>

*Note* Whole quarter amounts and part quarter amounts are explained in Part 2 of this Schedule.

- 1.3 For each year after the year in which the safety case is accepted in relation to a facility, the facility amount for the facility is the sum of the whole quarter amounts for the facility for each quarter in the year.

## Part 2 Factors used to work out facility amount

### Division 1 Quarter amounts

- 2.1 To work out the whole quarter amount for a facility, multiply:
- (a) the facility's applicable facility rating; and
  - (b) the unit value;
- and divide the result by 4.
- 2.2 To work out the part quarter amount for a facility, multiply:
- (a) the facility's applicable facility rating; and
  - (b) the unit value; and
  - (c) the number of days in the part quarter during which the safety case is in force in relation to the facility;
- and divide the result by 365.

### Division 2 Applicable facility rating

- 2.3 The applicable facility rating for a facility described in an item in the following table is the number set out in the item.

Item	Facility or proposed facility	Facility rating
1	Large production platform with drilling/workover capability	9
2	Other production platform with accommodation facilities:	
	(a) when drilling/workover facilities are in commission	8
	(b) when drilling/workover facilities are not in commission	5
	<i>Note</i> This is a <i>variable-rating facility</i> .	
3	Floating production storage and offloading facility	6
4	Mobile offshore drilling unit or drill-ship	6

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Item	Facility or proposed facility	Facility rating
5	Pipe-lay barge, construction/transport barge or accommodation barge	5
6	Floating storage unit linked to a production platform	3
7	Monopod, well head platform or other small production facility with no accommodation	1

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2.4 If the facility is a variable-rating facility, the facility's applicable facility rating for a quarter is:

- (a) the rating that applies to the facility for the greater number of days in that quarter; or
- (b) if both ratings apply for the same number of days — the higher rating.

2.5 If a facility (including a variable-rating facility) can be described using more than 1 item, the item that most accurately describes the facility is the appropriate item.

*Note* If a facility changes its description during a year, the calculation of safety case levy will need to reflect any change to the applicable facility rating.

### Division 3 Unit value

2.6 The *unit value* is \$25 000.

### Part 3 SMS amount

3.1 In this Part:

*facility* means a facility to which the definition of that word in subsection 7 (8) or 8 (8) of the OPSL Act applies.

*safety case in force in relation to a facility* means a safety case to which the definition of that expression in subsection 7 (8) or 8 (8) of the OPSL Act applies.

3.2 An operator is required to pay only one SMS amount in relation to a year.

*Note* An operator may have one or more safety cases in force, in relation to different facilities, at a particular time.



3.3 The SMS amount for a safety case in force in relation to a facility is worked out using the following table and the rules in clause 3.4.

Item	Description of the safety case	What facility or facilities are involved?	The SMS amount is
1	The safety case is in force in relation to one or more facilities at the start of a year	Either: (a) the only facility is not a mobile facility; or (b) at least one of the facilities is not a mobile facility	\$125 000
2	The safety case is in force in relation to one or more facilities at the start of a year	Either: (a) the only facility is a mobile facility; or (b) all of the facilities are mobile facilities	\$80 000
3	The safety case is in force in relation to one or more facilities after the start of a year  No safety case has been in force in relation to any facility of the operator previously in that year	Either: (a) the only facility is not a mobile facility; or (b) at least one of the facilities is not a mobile facility	\$125 000
4	The safety case is in force in relation to one or more facilities after the start of a year  No safety case has been in force in relation to any facility of the operator previously in that year	Either: (a) the only facility is a mobile facility; or (b) all of the facilities are mobile facilities	\$80 000

- 3.4 The table in clause 3.3 is to be applied using the following rules:
- (a) if item 1 of the table applies to a safety case of the operator:
    - (i) the SMS amount mentioned in column 4 of the item is payable in relation to that safety case; and
    - (ii) no SMS amount is payable in relation to any other safety case of the operator;
  - (b) if item 1 does not apply to any safety case of the operator, but item 2 applies to a safety case of the operator:
    - (i) the SMS amount mentioned in column 4 of item 2 is payable in relation to that safety case; and
    - (ii) no SMS amount is payable in relation to any other safety case of the operator;
  - (c) if item 3 applies to a safety case of the operator:
    - (i) the SMS amount mentioned in column 4 of the item is payable in relation to that safety case; and
    - (ii) no SMS amount is payable in relation to any other safety case of the operator;
  - (d) if item 3 does not apply to any safety case of the operator, but item 4 applies to a safety case of the operator:
    - (i) the SMS amount mentioned in column 4 of item 4 is payable in relation to that safety case; and
    - (ii) no SMS amount is payable in relation to any other safety case of the operator.

*Note* Because the operator will be required to pay only one SMS amount for a year under clause 3.2, the operator will not be required to pay a second SMS amount as part of another safety case levy (for example, if the operator has safety cases in relation to both Commonwealth waters and designated coastal waters).

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## Schedule 2      Mobile facilities

(regulations 20 and 28, definition of *mobile facility*)

- 1    Mobile offshore drilling unit or drill-ship
- 2    Pipe-lay barge or construction/transport barge
- 3    Accommodation barge

*Note* A mobile facility mentioned in this Schedule may operate intermittently. The Safety Authority may remit part of an amount of safety case levy imposed by the OPSL Act in respect of a safety case for a mobile facility: see regulations 25 and 33.

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### Note

1.    Notified in the *Commonwealth of Australia Gazette* on    /    2004.    11 November