

EXPLANATORY STATEMENT
Select Legislative Instrument No. 251, 2015

Issued by the authority of the Minister for Resources, Energy and Northern Australia
Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003
Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Well Levies) Regulation 2015

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (Regulatory Levies Act), inter alia, imposes well-related levies on the registered holders of offshore petroleum titles, including an annual well levy and a well activity levy. Well-related levies are collected by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) – the regulator of well integrity for the offshore petroleum industry. Levy amounts collected are used to fund NOPSEMA’s operations on a cost-recovery basis.

Section 11 of the Regulatory Levies Act provides that the Governor-General may make regulations for the purposes of a number of sections of the Regulatory Levies Act, including sections 10A, 10B, 10C and 10D, which impose an annual well levy and a well activity levy with respect to wells in relation to Commonwealth titles and State/Northern Territory titles.

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the Principal Regulations) prescribe matters necessary to enable the full and effective collection of well-related levies imposed on titleholders by the Regulatory Levies Act, including prescription of how levies are calculated.

The purpose of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Well Levies) Regulation 2015* (the Regulation) is to implement changes to levies amounts as set out in a revised Cost Recovery Impact Statement (CRIS).

NOPSEMA’s current CRIS is due to expire at the end of 2015. NOPSEMA has therefore developed a revised CRIS. The CRIS includes changes to amounts of annual well levies and well activity levies imposed on an application for acceptance of a well operations management plan; these amounts are increasing from \$2,600 per eligible well to \$4,125 per eligible well, and \$20,000 to \$35,000 respectively. The changes are required to ensure NOPSEMA is fully cost-recovered for its operations, in particular given the phase-out over the next two years of the requirement under Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the Wells Regulations) for titleholders to apply for approval to commence certain well activities. A levy is currently imposed on these applications.

An annual well levy is payable on 1 January of any year in respect of which the levy is imposed by the Regulatory Levies Act. Commencement of the Regulation on 1 January 2016 ensures that the new annual well levy amount will apply when the levy becomes payable. The Regulation amends the Principal Regulations to adjust the relevant levy amounts in line with the revised CRIS.

Details of the Regulation are set out in [Attachment 1](#). The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation will commence immediately after the commencement of the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Well Operations) Regulation 2015* (Well Operations Amendment Regulation), as the Regulation amends the Principal Regulations as they will be amended by the Well Operations Amendment Regulation. The Well Operations Amendment Regulation commences on 1 January 2016.

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full Statement of Compatibility is set out in Attachment 2.

The Office of Best Practice Regulation (OBPR) was consulted in the preparation of the Regulation. OBPR advised that no regulatory impact analysis was required to be undertaken.

Consultation

NOPSEMA has consulted with the Department of Finance in relation to its revised CRIS. NOPSEMA determined that consultation with the offshore petroleum industry was not required, as the adjustment of the well levies will achieve an unchanged level of overall cost recovery for the regulation of well integrity (save for increases in line with CPI), matched by an unchanged level of resources deployed by NOPSEMA to regulate. Further, the need for changes to the well levies was raised in relation to amendments to the Wells Regulations which were undertaken earlier in 2015, in particular given the phase-out over the next two years of the requirement for titleholders to apply for approval to commence certain well activities, and associated levy imposed on those applications.

NOPSEMA is scheduled to conduct consultation with levy payers and stakeholders on regulatory levies, including the well levies, towards the end of the 2015-16 financial year.

Details of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Well Levies) Regulation 2015*

Section 1 – Name

This section provides that the title of the Regulation is the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Well Levies) Regulation 2015*.

Section 2 – Commencement

This section provides that the Regulation commences immediately after the commencement of the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Well Operations) Regulation 2015* (Well Operations Amendment Regulation), as the Regulation amends the Principal Regulations as they will be amended by the Well Operations Amendment Regulation. The Well Operations Amendment Regulation commences on 1 January 2016.

An annual well levy is payable on 1 January of any year in respect of which the levy is imposed by the Regulatory Levies Act. Commencement of the Regulation on 1 January 2016 therefore also ensures that the new annual well levy amount will apply when the levy becomes payable.

Section 3 - Authority

This section provides that the Regulation is made under the Regulatory Levies Act.

Section 4 - Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004

Items [1] and [2] – Regulation 49 (formula); Regulation 52 (formula)

These items amend the formula for calculation of annual well levy imposed by sections 10A and 10B respectively of the Regulatory Levies Act on eligible wells in relation to a Commonwealth petroleum title or a State/Territory petroleum title for a year. The new amounts for the annual well levy are in line with the National Offshore Petroleum Safety and Environmental Management Authority's (NOPSEMA) revised Cost Recovery Impact Statement (CRIS).

Items [3] and [4] – Regulation 55 (table item 1); Regulation 58 (table item 1)

These items insert a new amount for the well activity levy imposed by sections 10C and 10D respectively on an application for acceptance of a well operations management plan under Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the Wells Regulations) or under regulations of a State or Territory that substantially correspond to the Wells Regulations. The new amounts for the well activity levy are in line with NOPSEMA's revised CRIS.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Well Levies) Regulation 2015

This Regulation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulation

The operations of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) are fully cost-recovered through fees and levies imposed on the offshore petroleum and greenhouse gas storage industries. The Regulation amends the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* to ensure NOPSEMA is fully cost-recovered for its operations, in line with amendments to NOPSEMA's Cost Recovery Impact Statement. Amendments are made to the amount of annual well levy and well activity levy imposed on an application for acceptance of a well operations management plan, which are imposed by the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* on offshore petroleum titleholders.

Human rights implications

The Regulation does not engage any of the applicable rights or freedoms.

Conclusion

The Regulation is compatible with human rights as it does not raise any human rights issues.