

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Resources and Water, the Hon Keith Pitt MP

*Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*

*Offshore Petroleum and Greenhouse Gas Storage Act 2006*

*Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Levy Amounts) Regulations 2021*

### **Purpose and Operation**

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Levies Act) provides for the imposition of safety case levies, annual well levies, well activity levies, annual titles administration levies and environment plan levies in relation to offshore petroleum and greenhouse gas facilities or titles. The levies are collected by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and the National Offshore Petroleum Titles Administrator (the Titles Administrator) to fund their operations on a cost-recovery basis.

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act) provides the legal framework for the exploration for and recovery of petroleum, and for the injection and storage of greenhouse gas substances, in offshore areas. This includes provision for the regulations to specify when levies imposed under the Levies Act are due and payable.

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the Levies Regulations) provide for the amounts of safety case levies, annual well levies, well activity levies, annual titles administration levies and environment plan levies imposed by the Levies Act.

The mechanism for setting levy amounts is through the preparation of a cost recovery implementation statement (CRIS) that meets the requirements of the Australian Government Cost Recovery Guidelines. NOPSEMA and the Titles Administrator conduct regular reviews of their CRISs to ensure that their cost recovery arrangements are adequate to enable them to continue to effectively discharge their regulatory functions.

The purpose of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Levy Amounts) Regulations 2021* (the Amendment Regulations) is to implement the outcomes of the recent reviews of NOPSEMA's and the Titles Administrator's CRISs, which proposed increasing levy amounts for safety case levies, annual well levies, well activity levies, annual titles administration levies and environment plan levies. The adjusted amounts for safety case levies are also relevant to the calculation of any part of the levy imposed on a mobile facility that must be remitted or refunded.

The Amendment Regulations commence on 1 January 2022.

## **Authority**

Section 11 of the Levies Act provides that the Governor-General may make regulations for the purposes of a number of sections of the Levies Act, including sections 7 and 8 (safety case levies), 10A and 10B (annual well levies), 10C and 10D (well activity levies), 10E (annual titles administration levy), and 10F and 10G (environment plan levies). These sections provide that the amount of the levies imposed by the Levies Act is the amount specified in, or worked out in accordance with, the regulations.

Section 781 of the OPGGS Act provides that the Governor-General may make regulations prescribing matters required or permitted by the OPGGS Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the OPGGS Act.

## **Consultation**

NOPSEMA and the Titles Administrator each undertook a review of their cost recovery arrangements in 2021, followed by consultation with facility operators and titleholders (levy payers) and the industry peak body, the Australian Petroleum Production and Exploration Association (APPEA). Neither the industry representatives nor APPEA raised any concerns with the proposed increases to levy amounts. NOPSEMA and the Titles Administrator also consulted the Department of Finance in relation to their reviews of their CRISs.

## **Regulatory Impact**

The department has received a standing Regulatory Impact Statement exemption from the Office of Best Practice Regulation (OBPR) for legislative amendments to revise levy and fee amounts. The OBPR reference is ID 20801.

## **Details of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Levy Amounts) Regulations 2021***

### **Section 1 – Name**

This section provides that the name of this instrument is the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Levy Amounts) Regulations 2021* (the Amendment Regulations).

### **Section 2 – Commencement**

This section provides that the Amendment Regulations commence on 1 January 2022. It is necessary for this instrument to commence on that date as collection of annual well levies and safety case levies is based on a calendar year.

### **Section 3 – Authority**

This section provides that the Amendment Regulations are made under the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Levies Act) and the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act).

### **Section 4 – Schedules**

This section is a machinery provision that provides that the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the Levies Regulations) is amended or repealed as set out in the applicable items in the relevant Schedule, and any other item in the Schedule 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; Regulation 52**

Section 10A of the Levies Act imposes annual well levies on eligible wells in relation to Commonwealth petroleum titles for a year. Section 10B of the Levies Act imposes annual well levies on eligible wells in relation to State/Territory petroleum titles for a year. An ‘eligible well’ in relation to a Commonwealth petroleum title or a State/Territory petroleum title is respectively defined by sections 10A and 10B to mean any well having been drilled within a title area but not abandoned, and that requires ongoing regulation.

Regulations 49 and 52 of the Levies Regulations respectively provide for the amount of annual well levy on eligible wells in relation to Commonwealth petroleum titles and State/Territory petroleum titles for a year as an amount per eligible well.

These items amend regulations 49 and 52 of the Levies Regulations to increase the amount of annual well levy imposed per eligible well from \$4,540 to \$5,000.

### **Items 3 and 4 – Regulation 55 (table items 1 and 2, column headed “Amount”)**

Section 10C of the Levies Act imposes well activity levies on applications by Commonwealth titleholders under Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* (the RMA Regulations) for acceptance of a well operations management plan or a proposed revision of a well operations management plan. The amount of well activity levy is set in regulation 55 of the Levies Regulations as an amount per application.

These items amend items 1 and 2 in the table in regulation 55 to increase the amount of well activity levy imposed on an application for acceptance of a well operations management plan, or a proposed revision of a well operations management plan, from \$38,500 to \$42,400.

### **Items 5 and 6 – Regulation 58 (table items 1 and 3, column headed “Amount”)**

Section 10D of the Levies Act imposes well activity levies on applications by State/Territory titleholders under regulations of a State or Territory that substantially correspond to Part 5 of the RMA Regulations for acceptance of a well operations management plan or a proposed revision of a well operations management program, or approval to commence an activity relating to a well. The amount of well activity levy is set in regulation 58 of the Levies Regulations as an amount per application.

These items amend items 1 and 3 in the table in regulation 58 to increase the amount of well activity levy imposed on an application for acceptance of a well operations management plan, or a proposed revision of a well operations management plan, from \$38,500 to \$42,400.

### **Items 7 to 17 – Subregulations 59A(2) to (9)**

Section 10E of the Levies Act imposes annual titles administration levies on petroleum and greenhouse gas titles for the year beginning on the day the title comes into force, and for each subsequent year beginning on that day, if the title is in force at the start of the anniversary.

Regulation 59A of the Levies Regulations sets out the amounts of annual titles administration levy in relation to petroleum and greenhouse gas titles.

These items amend subregulations 59A(2) to (9) to increase the amount of annual titles administration levy imposed in relation to petroleum and greenhouse gas titles in line with the National Offshore Petroleum Titles Administrator’s revised cost recovery implementation statement. These include increasing the amount of annual titles administration levy for the following titles:

- a work-bid, special, cash-bid or boundary-change petroleum exploration permit from \$10,000 to \$11,000;
- a petroleum retention lease or a petroleum production licence from \$20,000 to \$22,000 for each block to which the lease or licence relates;

- an infrastructure licence from \$25,000 to \$27,500;
- a pipeline licence from \$100 to \$110 for each kilometre, or part of a kilometre, of the pipeline's length;
- a work-bid or cross-boundary greenhouse gas assessment permit from \$10,000 to \$11,000; and
- a greenhouse gas holding lease or a greenhouse gas injection licence from \$20,000 to \$22,000 for each block to which the lease or licence relates.

### **Items 18 and 19 – Paragraphs 59C(3)(b) and (4)(b)**

Section 10F of the Levies Act imposes environment plan levies on the submission of an environment plan, or a proposed revision of an environment plan, in relation to activities authorised by Commonwealth titles. The amount of levy is calculated in accordance with regulation 59C of the Levies Regulations, which prescribes an 'activity rating' and a 'compliance rating' for each activity by reference to which levy is calculated.

Subregulation 59C(3) provides for the calculation of the 'activity amount' component of an environment plan levy by multiplying the activity rating for a particular activity by a set amount. Item 18 of the Amendment Regulations amends paragraph 59C(3)(b) to increase the set amount from \$3,960 to \$4,400.

Subregulation 59C(4) provides for the calculation of the 'compliance amount' component of an environment plan levy by multiplying the compliance rating by a set amount, and multiplying the result by the less of either the expected duration of the activity (expressed in years, with part years rounded up to the next whole year) or five. Item 19 of the Amendment Regulations amends paragraph 59C(4)(b) to increase the set amount from \$3,960 to \$4,400.

### **Items 20 and 21 – Paragraphs 59G(3)(b) and (4)(b)**

Section 10G of the Levies Act imposes environment plan levies on the submission of an environment plan, or a proposed revision of an environment plan, in relation to activities authorised by State/Territory titles. The amount of levy is calculated in accordance with regulation 59G of the Levies Regulations, which prescribes an 'activity rating' and a 'compliance rating' for each activity by reference to which levy is calculated.

Subregulation 59G(3) provides for the calculation of the 'activity amount' component of an environment plan levy by multiplying the activity rating for a particular activity by a set amount. Item 20 of the Amendment Regulations amends paragraph 59G(3)(b) to increase the set amount from \$3,960 to \$4,400.

Subregulation 59G(4) provides for the calculation of the 'compliance amount' component of an environment plan levy by multiplying the compliance rating by a set amount, and multiplying the result by the less of either the expected duration of the activity (expressed in

years, with part years rounded up to the next whole year) or five. Item 21 of the Amendment Regulations amends paragraph 59G(4)(b) to increase the set amount from \$3,960 to \$4,400.

**Items 22 to 26 – Clause 2.6 of Schedule 1; Clause 3.3 of Schedule 1 (table items 1 to 4, column 2)**

Sections 7 and 8 of the Levies Act impose safety case levies in relation to facilities located, or proposed to be located, in Commonwealth or designated coastal waters. The safety case levy is an annual levy calculated in accordance with the provisions of the Levies Regulations. The Levies Regulations set out a ‘facility amount’, a ‘unit value’ and the ‘SMS amount’ (where the ‘SMS amount’ is a charge for the assessment of the facility’s safety management system) by reference to which the safety case levy for a facility other than a pipeline is calculated.

Schedule 1 to the Levies Regulations sets out the manner of working out the ‘facility amount’ and the ‘SMS amount’ for a facility other than a pipeline.

The ‘unit value’ set out in clause 2.6 of Schedule 1 is used to calculate the ‘facility amount’. Item 22 of the Amendment Regulations increases the ‘unit value’ from \$38,500 to \$42,400.

The ‘SMS amount’ is worked using the table in clause 3.3 of Schedule 1 and the rules in clause 3.4 of Schedule 1. Items 23 and 25 of the Amendment Regulations increase the ‘SMS amount’ for facilities other than mobile facilities from \$187,000 to \$205,700. Items 24 and 26 of the Amendment Regulations increase the ‘SMS amount’ for mobile facilities from \$124,300 to \$136,700.

**Items 27 and 28 – Clause 1.3 of Schedule 3; Clause 2.2 of Schedule 3**

Sections 7 and 8 of the Levies Act impose safety case levies in relation to facilities located, or proposed to be located, in Commonwealth or designated coastal waters. The safety case levy is an annual levy calculated in accordance with the provisions of the Levies Regulations. The Levies Regulations set out a ‘pipeline amount’, a ‘unit value’ and the ‘SMS amount’ (where the ‘SMS amount’ is a charge for the assessment of the facility’s safety management system) by reference to which the safety case levy for a facility that is a pipeline is calculated.

Schedule 3 to the Levies Regulations sets out the manner of working out the ‘pipeline amount’ and the ‘SMS amount’ for a facility that is a pipeline.

The ‘unit value’ set out in clause 1.3 of Schedule 3 is used to calculate the ‘pipeline amount’. Item 27 of the Amendment Regulations increases the ‘unit value’ from \$15,400 to \$16,950.

Clause 2.2 of Schedule 3 sets out the ‘SMS amount’. Item 28 of the Amendment Regulations increases the ‘SMS amount’ from \$61,600 to \$67,800.

## **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 (Levy Amounts) Regulations 2021*

These Regulations are 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 Legislative Instrument**

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* provide for amounts of safety case levies, annual well levies, well activity levies, annual titles administration levies and environment plan levies imposed on offshore petroleum and greenhouse gas facilities or titles. The levies are collected by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and the National Offshore Petroleum Titles Administrator (the Titles Administrator) to fund their operations on a cost-recovery basis.

The Amendment Regulations increase the amounts of safety case levies, annual well levies, well activity levies, annual titles administration levies and environment plan levies. The levy amount increases implement the outcomes of recent reviews of NOPSEMA's and the Titles Administrator's cost recovery implementation statements, and ensure that their cost recovery arrangements are adequate to enable them to continue to effectively discharge their regulatory functions.

### **Human rights implications**

The Amendment Regulations do not engage any of the applicable rights or freedoms.

### **Conclusion**

The Amendment Regulations are compatible with human rights, as they do not raise any human rights issues.

**The Hon Keith Pitt MP**  
**Minister for Resources and Water**