



Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Regulations 2011 (No. 1)

Select Legislative Instrument 2011 No. 106

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* and the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Dated 16 June 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

MARTIN FERGUSON
Minister for Resources and Energy

Regulation 1

1 Name of Regulations

These Regulations are the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Regulations 2011 (No. 1)*.

2 Commencement

These Regulations commence on the commencement of Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 1) Act 2011*.

3 Amendment of *Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Regulations 2004*

Schedule 1 amends the *Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Regulations 2004*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 1

substitute

1 Name of Regulations

These Regulations are the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004*.

2	<i>Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Regulations 2011 (No. 1)</i>	2011, 106
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[2] **Regulation 3, definition of *OPGGS(SL) Act***

omit

[3] **Regulation 3, after definition of *quarter***

insert

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

[4] **After Part 5**

insert

Part 6 Well investigation levy — Commonwealth waters

Division 1 Preliminary

36 Definitions for Part 6

In this Part:

Commonwealth DPP means the Director of Public Prosecutions of the Commonwealth.

inspection has the meaning given by clause 3 of Schedule 3 to the OPGGS Act.

levy period means a period of 3 months mentioned in paragraph 9 (1) (f) or (g) of the Regulatory Levies Act.

petroleum title has the meaning given by clause 3 of Schedule 3 to the OPGGS Act.

registered holder, in relation to a petroleum title, has the meaning given by section 7 of the OPGGS Act.

well investigation levy has the meaning given by section 9 of the Regulatory Levies Act.

Division 2 Working out well investigation levy**37 Determination of no obligation to pay amount of well investigation levy**

- (1) The Safety Authority may determine, in writing, that it is inappropriate for the registered holder of a petroleum title to pay well investigation levy imposed on an inspection under section 9 of the Regulatory Levies Act.
- (2) The Safety Authority may make a determination at any time after well investigation levy is first imposed on an inspection.
- (3) The registered holder 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.
- (4) The Safety Authority must not unreasonably withhold its agreement to the selection or appointment of the independent expert.
- (5) The registered holder 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.

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- (9) If the Safety Authority makes a determination under subregulation (1):
- (a) the Safety Authority must give a copy of the determination to the registered holder as soon as practicable after making it; and
 - (b) the determination is taken to:
 - (i) have effect on the day on which levy was first imposed on the inspection; and
 - (ii) cover every levy period that occurs during the inspection.

38 Amount of well investigation levy

- (1) For subsection 9 (4) of the Regulatory Levies Act, the table sets out the amount of well investigation levy imposed on an inspection, depending on whether there is a determination under subregulation 37 (1) for the inspection.

Item	Is there a determination?	Amount for a levy period
1	No	The costs and expenses reasonably incurred by the Safety Authority in relation to the conduct of the inspection during the period
2	Yes	Zero

Note The effect of a determination under subregulation 37 (1) is to reduce the amount of well investigation levy payable for an inspection to zero for all levy periods that occur during the inspection, even if the registered holder of a petroleum title has already paid levy in respect of one or more levy periods.

When inspection ends

- (2) For this regulation, an inspection is taken to continue to be conducted until the day on which:
 - (a) the Safety Authority refers a brief of evidence to the Commonwealth DPP in relation to the inspection and to the proposed prosecution of a person concerning a contravention or possible contravention of subclause 13A (1) or (2) of Schedule 3 to the OPGGS Act; or
 - (b) the Safety Authority, by written notice, informs the registered holder of a petroleum title that the inspection is complete.
- (3) If an event mentioned in paragraph (2) (a) occurs in relation to a petroleum title, the Safety Authority must notify the registered holder of the petroleum title, in writing, as soon as practicable after it occurs.

39 Advice of independent expert about costs and expenses

- (1) The registered holder of a petroleum title 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 registered holder must bear the costs incurred for the services of the independent expert.
- (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 registered holder as soon as practicable after receiving it; and
 - (b) the Safety Authority must consider the report; and

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- (c) if the Safety Authority has notified the registered holder of the amount of levy that is payable for a levy period — the Safety Authority may give a notice to the registered holder stating that a revised amount of levy is payable for the period.
 - (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 well investigation levy

40 When well investigation levy is due and payable

- (1) For subsection 688 (1) of the OPGGS Act, this regulation sets out when well investigation levy is due and payable.
- (2) Well investigation levy imposed in respect of a levy period is payable as follows:
 - (a) if the inspection is completed during the levy period because of an event mentioned in subregulation 38 (2), the levy is payable on the day on which the event occurs;
 - (b) if paragraph (a) does not apply, the levy is payable at the end of the levy period.
- (3) The Safety Authority must notify the registered holder of a petroleum title of the amount of levy that is payable in respect of a levy period within 14 days after the amount becomes payable.
- (4) However, if the Safety Authority fails to notify the registered holder in accordance with subregulation (3), the validity of any subsequent notification is not affected by the failure.
- (5) For subsection 688 (1) of the OPGGS Act, well investigation levy is due 30 days after the Safety Authority notifies the registered holder under subregulation (3).

41 Safety Authority must keep records

- (1) The Safety Authority must make records of the costs and expenses that are to be included in the cost of an inspection.
- (2) In particular, the Safety Authority must make the following records:
 - (a) a statement that the costs and expenses incurred have reached \$30 000;
 - (b) a statement of the costs and expenses incurred in respect of the first levy period;
 - (c) a statement of the costs and expenses incurred in respect of each individual successive levy period.
- (3) The Safety Authority must keep the records for at least 7 years.
- (4) The Safety Authority must:
 - (a) make the records available for inspection by the registered holder of a petroleum title to whom they relate, on request, at any time during business hours; and
 - (b) give copies of the records to that registered holder, on request.

Part 7 Well investigation levy — designated coastal waters

Division 1 Preliminary

42 Definitions for Part 7

In this Part:

inspection has the meaning given by subsection 10 (5) of the Regulatory Levies Act.

levy period means a period of 3 months mentioned in paragraph 10 (1) (f) or (g) of the Regulatory Levies Act.

registered holder, in relation to a State/Territory petroleum title, has the meaning given by subsection 10 (5) of the Regulatory Levies Act.

State/Territory petroleum title has the meaning given by subsection 10 (5) of the Regulatory Levies Act.

well investigation levy has the meaning given by section 10 of the Regulatory Levies Act.

Division 2 Working out well investigation levy

43 Determination of no obligation to pay amount of well investigation levy

- (1) The Safety Authority may determine, in writing, that it is inappropriate for the registered holder of a State/Territory petroleum title to pay well investigation levy imposed on an inspection under section 10 of the Regulatory Levies Act.
- (2) The Safety Authority may make a determination at any time after the well investigation levy is first imposed on an inspection.
- (3) The registered holder 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.
- (4) The Safety Authority must not unreasonably withhold its agreement to the selection or appointment of the independent expert.
- (5) The registered holder 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 registered holder as soon as practicable after making it; and
 - (b) the determination is taken to:
 - (i) have effect on the day on which the levy was first imposed on the inspection; and
 - (ii) cover every levy period that occurs during the inspection.

44 Amount of well investigation levy

- (1) For subsection 10 (4) of the Regulatory Levies Act, the table sets out the amount of well investigation levy imposed on an inspection, depending on whether there is a determination under subregulation 43 (1) for the inspection.

Item	Is there a determination?	Amount for a levy period
1	No	The costs and expenses reasonably incurred by the Safety Authority in relation to the conduct of the inspection during the period
2	Yes	Zero

Note The effect of a determination under subregulation 43 (1) is to reduce the amount of well investigation levy payable for an inspection to zero for all levy periods that occur during the inspection, even if the registered holder of a State/Territory petroleum title has already paid levy in respect of one or more levy periods.

When inspection ends

- (2) For this regulation, an inspection is taken to continue to be conducted until the day on which:
- (a) the Safety Authority refers a brief of evidence to a prosecuting agency in relation to the inspection and to the proposed prosecution of a person concerning a contravention or possible contravention of a corresponding provision; or
 - (b) the Safety Authority, by written notice, informs the registered holder of a State/Territory petroleum title that the inspection is complete.
- (3) If an event mentioned in paragraph (2) (a) occurs in relation to a State/Territory petroleum title, the Safety Authority must notify the registered holder of the petroleum title, in writing, as soon as practicable after it occurs.
- (4) In this regulation:
- corresponding provision*** means a provision of a State or Territory PSLA that substantially corresponds to subclause 13A (1) or (2) of Schedule 3 to the OPGGS Act.
- prosecuting agency*** means the agency responsible for the prosecution of an offence in a corresponding provision.

45 Advice of independent expert about costs and expenses

- (1) The registered holder of a State/Territory petroleum title 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 registered holder must bear the costs incurred for the services of the independent expert.

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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 registered holder 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 registered holder of the amount of levy that is payable for a levy period — the Safety Authority may give a notice to the registered holder stating that a revised amount of levy is payable for the period.
 - (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 well investigation levy

46 When well investigation levy is due and payable

- (1) For subsection 688 (1) of the OPGGS Act, this regulation sets out when well investigation levy is due and payable.
- (2) Well investigation levy imposed in respect of a levy period is payable as follows:
 - (a) if the inspection is completed during the levy period because of an event mentioned in subregulation 44 (2), the levy is payable on the day on which the event occurs;
 - (b) if paragraph (a) does not apply, the levy is payable at the end of the levy period.
- (3) The Safety Authority must notify the registered holder of a State/Territory petroleum title of the amount of levy that is payable in respect of a levy period within 14 days after the amount becomes payable.

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- (4) However, if the Safety Authority fails to notify the registered holder in accordance with subregulation (3), the validity of any subsequent notification is not affected by the failure.
 - (5) For subsection 688 (1) of the OPGGS Act, well investigation levy is due 30 days after the Safety Authority notifies the registered holder under subregulation (3).

47 Safety Authority must keep records

- (1) The Safety Authority must make records of the costs and expenses that are to be included in the cost of an inspection.
- (2) In particular, the Safety Authority must make the following records:
 - (a) a statement that the costs and expenses incurred have reached \$30 000;
 - (b) a statement of the costs and expenses incurred in respect of the first levy period;
 - (c) a statement of the costs and expenses incurred in respect of each individual successive levy period.
- (3) The Safety Authority must keep the records for at least 7 years.
- (4) The Safety Authority must:
 - (a) make the records available for inspection by the registered holder of a State/Territory petroleum title to whom they relate, on request, at any time during business hours; and
 - (b) give copies of the records to that registered holder, on request.

Part 8 Annual well levy — Commonwealth petroleum titles

48 Definitions for Part 8

In this Part:

annual well levy has the meaning given by section 10A of the Regulatory Levies Act.

eligible well has the meaning given by section 10A of the Regulatory Levies Act.

petroleum title has the meaning given by clause 3 of Schedule 3 to the OPGGS Act.

transitional year means the year mentioned in subsection 10A (9) of the Regulatory Levies Act.

49 Amount of annual well levy

- (1) For subsection 10A (4) of the Regulatory Levies Act, the amount of annual well levy for a year, for the eligible wells in relation to a petroleum title, is worked out using the formula:

$$\$2\,600 \times (\text{number of eligible wells})$$

Amount for the transitional year

- (2) However, the amount of annual well levy for the transitional year, for the eligible wells in relation to a petroleum title, is worked out using the formula:

$$\frac{(\text{number of days in the transitional year})}{365} \times (\$2\,600 \times (\text{number of eligible wells}))$$

Note Subsection 10A (9) of the Regulatory Levies Act provides for a transitional year that commences when that section commences and ends on the next following 31 December.

50 When annual well levy is due and payable

- (1) For subsection 688A (1) of the OPGGS Act, this regulation sets out when annual well levy is due and payable.
- (2) Annual well levy is payable on 1 January of any year in respect of which annual well levy is imposed by subsection 10A (1) of the Regulatory Levies Act.
- (3) However, for annual well levy that is imposed in respect of the transitional year, levy is payable on the day on which section 10A of the Regulatory Levies Act commences.
- (4) For subsection 688A (1) of the OPGGS Act, annual well levy is due 30 days after the levy becomes payable.

Part 9 Annual well levy — State/Territory petroleum titles

51 Definitions for Part 9

In this Part:

annual well levy has the meaning given by section 10B of the Regulatory Levies Act.

eligible well has the meaning given by section 10B of the Regulatory Levies Act.

State/Territory petroleum title has the meaning given by subsection 10B (8) of the Regulatory Levies Act.

transitional year means the year mentioned in subsection 10B (9) of the Regulatory Levies Act.

52 Amount of annual well levy

- (1) For subsection 10B (4) of the Regulatory Levies Act, the amount of annual well levy for a year, for the eligible wells in relation to a State/Territory petroleum title, is worked out using the formula:

$$\text{\$2 600} \times (\text{number of eligible wells})$$

Amount for the transitional year

- (2) However, the amount of annual well levy for the transitional year, for the eligible wells in relation to a State/Territory petroleum title, is worked out using the formula:

$$\frac{\left(\begin{array}{l} \text{number of days in} \\ \text{the transitional year} \end{array} \right)}{365} \times (\$2\,600 \times (\text{number of eligible wells}))$$

Note Subsection 10B (9) of the Regulatory Levies Act provides for a transitional year that commences when the section commences and ends on the next following 31 December.

53 When annual well levy is due and payable

- (1) For subsection 688A (1) of the OPGGS Act, this regulation sets out when annual well levy is due and payable.
- (2) Annual well levy is payable on 1 January of any year in respect of which annual well levy is imposed by subsection 10B (1) of the Regulatory Levies Act.
- (3) However, for annual well levy that is imposed in respect of the transitional year, levy is payable on the day on which section 10B commences.
- (4) For subsection 688A (1) of the OPGGS Act, annual well levy is due 30 days after the levy becomes payable.

Part 10 Well activity levy — Commonwealth petroleum titles

54 Definitions for Part 10

In this Part:

petroleum title has the meaning given by section 10C of the Regulatory Levies Act.

registered holder, in relation to a petroleum title, has the meaning given by section 7 of the OPGGS Act.

Resource Management and Administration Regulations means the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

well activity levy has the meaning given by section 10C of the Regulatory Levies Act.

55 Amount of well activity levy

For subsection 10C (4) of the Regulatory Levies Act, the table sets out the amount of well activity levy imposed on an application mentioned in subsection 10C (1) of that Act.

Item	Application	Amount
1	Application for acceptance of a well operations management plan	\$20 000
2	Application for approval to commence an activity relating to a well	\$10 000

56 When well activity levy is due and payable

- (1) For subsection 688B (1) of the OPGGS Act, this regulation sets out when well activity levy becomes due and payable.
- (2) Well activity levy is payable at the time a registered holder of a petroleum title submits an application to the Safety Authority:
 - (a) under regulation 5.06 of the Resource Management and Administration Regulations for acceptance of a well operations management plan; or
 - (b) under regulation 5.23 of the Resource Management and Administration Regulations for approval to commence an activity relating to a well.
- (3) For subsection 688B (1) of the OPGGS Act, well activity levy is due 30 days after the levy becomes payable.

Part 11 Well activity levy — State/Territory petroleum titles

57 Definitions for Part 11

In this Part:

registered holder, in relation to a State/Territory petroleum title, has the meaning given by subsection 10D (6) of the Regulatory Levies Act.

Resource Management and Administration Regulations means the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

State/Territory petroleum title has the meaning given by subsection 10D (6) of the Regulatory Levies Act.

well activity levy has the meaning given by section 10D of the Regulatory Levies Act.

58 Amount of well activity levy

For subsection 10D (4) of the Regulatory Levies Act, the table sets out the amount of well activity levy imposed on an application mentioned in subsection 10D (1) of that Act.

Item	Application	Amount
1	Application for acceptance of a well operations management plan	\$20 000
2	Application for approval to commence an activity relating to a well	\$10 000

59 When well activity levy is due and payable

- (1) For subsection 688B (1) of the OPGGS Act, this regulation sets out when well activity levy becomes due and payable.

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- (2) Well activity levy is payable at the time at which a registered holder of a State/Territory petroleum title:
- (a) submits an application to the Safety Authority, under a regulation of a State or Territory that substantially corresponds to regulation 5.06 of the Resource Management and Administration Regulations, for acceptance of a well operations management plan; or
 - (b) submits an application to the Safety Authority, under a regulation of a State or Territory that substantially corresponds to regulation 5.23 of the Resource Management and Administration Regulations, for approval to commence an activity relating to a well.
- (3) For subsection 688B (1) of the OPGGS Act, well activity levy is due 30 days after the levy becomes payable.

[5] Part 6

renumber as Part 12

[6] Regulation 36

renumber as regulation 60

[7] Regulation 37

renumber as regulation 61

[8] Regulation 38

renumber as regulation 62

[9] Paragraph 38 (3) (c)

substitute

- (c) each registered holder of a petroleum title or a State/Territory petroleum title for whom levy has been due and payable in accordance with these Regulations during the financial year;

- (d) any other person to whom the CEO believes it would be appropriate to give the report.

[10] Regulation 39

renumber as regulation 63

[11] Further amendments — Regulatory Levies Act

The following provisions are amended by omitting each mention of ‘OPGGS(SL) Act’ and inserting ‘Regulatory Levies Act’:

- regulation 3, note
- regulation 6, definition of *notifiable accident or occurrence*
- subregulation 7 (1)
- subregulation 9 (1)
- regulation 13, definitions of *accident, dangerous occurrence, facility, inspection, notifiable accident or occurrence* and *operator*
- subregulation 14 (1)
- subregulation 16 (1)
- regulation 20, definitions of *facility, safety case in force in relation to a facility*
- regulation 20, note
- subregulations 21 (1), (1A), (2), (3) and (4)
- subregulation 22 (1)
- paragraph 25 (1) (b)
- regulation 28, definitions of *facility, operator, proposed facility* and *safety case in force in relation to a facility*
- regulation 28, note
- subregulations 29 (1), (1A), (2), (3) and (4)
- subregulation 30 (1)

- paragraph 33 (1) (b)
- Schedule 1, Part 3, item 3.1, definitions of *facility* and *safety case in force in relation to a facility*
- Schedule 2, note to the items.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.