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Western Australia

## **Petroleum and Geothermal Energy Safety Levies Regulations 2022**

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Petroleum and Geothermal Energy Safety Levies Act 2011

## **Petroleum and Geothermal Energy Safety Levies Regulations 2022**

**SL 2022/29**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations are the *Petroleum and Geothermal Energy Safety Levies Regulations 2022*.

#### **2. Commencement**

These regulations come into operation as follows —

- (a) Part 1 (other than regulation 3) — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Work Health and Safety Act 2020* Part 15 Division 3 Subdivision 2 comes into operation.

#### **3. Terms used**

In these regulations —

***class*** means a class listed in the Table to regulation 10(3);

***classification***, in relation to a safety system, means the classification given to the safety system by the CIPS under regulation 10;

**Petroleum and Geothermal Energy Safety Levies Regulations 2022****Part 1** Preliminary**r. 3**

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**facility** has the meaning given in the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022* regulation 4;

**levy amount** means the amount of safety levy payable;

**operation** means —

- (a) a petroleum operation; or
- (b) a geothermal energy operation;

**original assessment** has the meaning given in regulation 12(1)(a);

**safety system** means —

- (a) a safety case; or
- (b) a DSMS.

**Petroleum and Geothermal Energy Safety Levies Regulations 2022**

Prescribed matters

**Part 2**

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**r. 4****Part 2 — Prescribed matters****4. Prescribed activity for definition of petroleum operation  
(Act s. 3D(3)(g))**

For the purposes of section 3D(3)(g) of the Act, injecting gases consisting predominantly of carbon dioxide into an underground reservoir or other subsurface formation is a prescribed activity.

**5. Prescribed provisions of WHS regulations for safety systems  
(Act s. 3B(2)(a), 3E(2)(a))**

- (1) For the purposes of section 3B(2)(a) of the Act, the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022* regulation 71 is prescribed.
- (2) For the purposes of section 3E(2)(a) of the Act, the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022* regulation 27 is prescribed.

**6. When safety system is in force (Act s. 4(3), 7(3))**

- (1) For the purposes of section 4(3) of the Act, a safety case is in force for a petroleum operation or a geothermal energy operation if it is a safety case in force, as defined in the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022* regulation 26, for the operation.
- (2) For the purposes of section 7(3) of the Act, a DSMS is in force for a diving operation if it is a DSMS in force, as defined in the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022* regulation 68, for the operation.

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**7. Person responsible for safety system (Act s. 5(2), 8(2))**

- (1) For the purposes of section 5(2) of the Act, the person responsible for a safety case is the operator, as defined in the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022* regulation 4, of the facility associated with the operation to which the safety case relates.
- (2) For the purposes of section 8(2) of the Act, the person responsible for a DSMS is the diving contractor, as defined in the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022* regulation 68, for the diving operation to which the DSMS relates.

**Petroleum and Geothermal Energy Safety Levies Regulations 2022**

Levy period and levy amount

**Part 3****r. 8****Part 3 — Levy period and levy amount****8. Levy period (Act s. 3)**

For the purposes of the definition of *levy period* in section 3 of the Act, each of the following is a period in respect of which a safety levy is payable —

- (a) the period of 3 months beginning on 1 January each year;
- (b) the period of 3 months beginning on 1 April each year;
- (c) the period of 3 months beginning on 1 July each year;
- (d) the period of 3 months beginning on 1 October each year.

**9. Levy amount**

- (1) In this regulation —

*complexity rating* means —

- (a) for a class of safety system other than an offshore operation safety case — the number specified opposite the class in the 2<sup>nd</sup> column of the Table; or
- (b) for a class of offshore operation safety case — the number specified opposite the class in the 3<sup>rd</sup> column of the Table;

**Table**

<b>Class</b>	<b>Complexity rating for safety system other than offshore operation safety case</b>	<b>Complexity rating for offshore operation safety case</b>
A	21	30
B	15	22

**Petroleum and Geothermal Energy Safety Levies Regulations 2022****Part 3** Levy period and levy amount**r. 9**

<b>Class</b>	<b>Complexity rating for safety system other than offshore operation safety case</b>	<b>Complexity rating for offshore operation safety case</b>
C	10	15
D	6	10
E	3	5
F	1	2

***offshore operation safety case*** means a safety case for a petroleum operation that is carried out in the adjacent area, other than an operation associated with —

- (a) a pipeline that is subject to a pipeline licence; or
- (b) a pipeline that —
  - (i) is under construction, or is proposed to be constructed or operated; and
  - (ii) when constructed or operating, will be a pipeline subject to a pipeline licence;

***pipeline*** has the meaning given in the *Petroleum (Submerged Lands) Act 1982* section 4(1);

***pipeline licence*** has the meaning given in the *Petroleum (Submerged Lands) Act 1982* section 4(1).

- (2) For the purposes of sections 6(1) and 9(1) of the Act, the levy amount in respect of a safety system for a levy period is the amount worked out in accordance with this regulation.



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Levy period and levy amount

**Part 3****r. 9**

- (3) If the safety system is classified as belonging to 1 class for the levy period, the levy amount for the levy period is worked out using the formula —

$$L = \frac{R \times D \times C}{365}$$

where —

L is the levy amount for the levy period;

R is \$7 500;

D is the number of days on which the operation to which the safety system relates was carried out during the levy period;

C is the complexity rating for the class.

- (4) If the safety system is classified as belonging to different classes for different parts of the levy period, the levy amount for the levy period is worked out by —

- (a) working out an amount for each part of the levy period using the formula —

$$A = \frac{R \times P \times C}{365}$$

where —

A is the levy amount for the part of the levy period;

R is \$7 500;

P is the number of days on which the operation to which the safety system relates was carried out during the part of the levy period;

***Petroleum and Geothermal Energy Safety Levies Regulations 2022*****Part 3** Levy period and levy amount**r. 9**

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C is the complexity rating for the class to which the safety system belongs for the part of the levy period;

and

(b) adding those amounts together.

**Petroleum and Geothermal Energy Safety Levies Regulations 2022**  
Classification of safety systems **Part 4**

r. 10

### Part 4 — Classification of safety systems

#### 10. CIPS must classify safety system

- (1) This regulation applies if a safety levy is payable in respect of a safety system.
- (2) For the purposes of assessing the levy amount in respect of the safety system for a levy period, the CIPS must, after the end of the levy period, classify the safety system, in accordance with this regulation, as belonging to —
  - (a) 1 class for the levy period; or
  - (b) different classes for different parts of the levy period.
- (3) The CIPS must classify the safety system as belonging to a class specified in the 1<sup>st</sup> column of the Table for the levy period, or part of the levy period, if the CIPS considers that the operation to which the safety system relates meets the description specified opposite the class in the 2<sup>nd</sup> column of the Table for the duration of that period or part.

**Table**

Class	Description
A	extreme complexity
B	high complexity
C	moderately high complexity
D	moderate complexity
E	low complexity
F	minimal complexity

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- (4) Without limiting the matters to which the CIPS may have regard, the CIPS must, when assessing the complexity of the operation to which the safety system relates for the purposes of subregulation (3), have regard to the following matters —
- (a) the nature and extent of the operation;
  - (b) the number of persons engaged in the operation;
  - (c) the level of risk, arising from the operation, to the health and safety of persons engaged in the operation and other persons;
  - (d) whether, and if so the extent to which, any of the following activities were undertaken in respect of any facility at which the operation is carried out —
    - (i) inspection activities (involving persons other than inspectors appointed under the *Work Health and Safety Act 2020*);
    - (ii) maintenance or repair activities.

***Petroleum and Geothermal Energy Safety Levies Regulations 2022***  
Assessment and reassessment of safety levies **Part 5**

r. 11

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**Part 5 — Assessment and reassessment of safety levies**

**11. Assessment**

- (1) If a safety levy is payable in respect of a safety system for a levy period, the CIPS must, after the end of the levy period, assess the levy amount.
- (2) For the purposes of section 10(1)(b)(iii) of the Act, a notice given under section 10(1)(b) of the Act must specify the following —
  - (a) the day on which the notice is issued;
  - (b) the levy period to which the notice relates;
  - (c) the identifying number of the safety system to which the notice relates;
  - (d) the number of days on which the operation to which the safety system relates was carried out during the levy period;
  - (e) the classification of the safety system for the levy period and, if that classification involves different classes for different parts of the levy period —
    - (i) each class; and
    - (ii) the part of the levy period (expressed as a number of days) to which each class applies;
  - (f) that the person may object to the notice under section 14 of the Act within the period of 28 days under regulation 15, or any longer period that the CIPS may allow.
- (3) The day specified under section 10(1)(b)(ii) of the Act must not be earlier than 30 days after the day specified under subregulation (2)(a).

**Petroleum and Geothermal Energy Safety Levies Regulations 2022****Part 5** Assessment and reassessment of safety levies**r. 12**

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**12. CIPS may make reassessment**

- (1) The CIPS may reassess a levy amount if the CIPS considers that —
  - (a) there has been an error in the assessment of the levy amount (the *original assessment*); or
  - (b) there has been an error in an earlier reassessment of the levy amount; or
  - (c) there has been an error in the classification of the safety system in respect of which the levy amount is payable; or
  - (d) it is otherwise appropriate to do so.
- (2) A reassessment may increase or decrease the levy amount or determine that the levy amount is to remain unchanged.
- (3) A reassessment may be made whether or not the levy amount or any part of it has been paid in relation to the original assessment or any earlier reassessment.
- (4) A reassessment cannot be made more than 2 years after the original assessment was made.

**13. Notice of reassessment**

- (1) If, on a reassessment under regulation 12, the levy amount is increased or decreased, the CIPS must give a notice of reassessment to the person liable to pay the safety levy.
- (2) The notice of reassessment must specify the following —
  - (a) the day on which the notice is issued;
  - (b) the levy period to which the notice relates;
  - (c) the identifying number of the safety system to which the notice relates;
  - (d) the number of days on which the operation to which the safety system relates was carried out during the levy period;

***Petroleum and Geothermal Energy Safety Levies Regulations 2022***  
Assessment and reassessment of safety levies **Part 5**

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**r. 13**

- (e) the classification of the safety system for the levy period and, if that classification involves different classes for different parts of the levy period —
    - (i) each class; and
    - (ii) the part of the levy period (expressed as a number of days) to which each class applies;
  - (f) the levy amount as reassessed;
  - (g) if the levy amount is increased —
    - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment, that is unpaid; and
    - (ii) any additional amount of safety levy payable as a consequence of the reassessment and the day on which that amount is payable; and
    - (iii) any penalty amount that is owing;
  - (h) if the levy amount is decreased —
    - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment, that is unpaid (after taking into account the reassessment); and
    - (ii) the amount of any refund; and
    - (iii) any penalty amount that is owing (after taking into account the reassessment);
  - (i) that the person may object to the notice under section 14 of the Act within the period of 28 days under regulation 15, or any longer period that the CIPS may allow.
- (3) The day specified under subregulation (2)(g)(ii) must not be earlier than 30 days after the day specified under subregulation (2)(a).

***Petroleum and Geothermal Energy Safety Levies Regulations 2022*****Part 5** Assessment and reassessment of safety levies**r. 13**

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- (4) If an amount of safety levy in excess of the amount specified under subregulation (2)(f) has been paid by a person, the CIPS must refund to the person —
- (a) the amount of the excess; and
  - (b) any penalty amount paid in relation to the amount of the excess.



**Petroleum and Geothermal Energy Safety Levies Regulations 2022**

Objections and review

**Part 6**

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**r. 14****Part 6 — Objections and review****14. Ground of objection (Act s. 14(1)(c))**

For the purposes of section 14(1)(c) of the Act, an objection may be made on the ground that there is an error in the classification of the safety system in respect of which the safety levy is payable.

**15. Time for making objection (Act s. 14(2))**

For the purposes of section 14(2) of the Act, the prescribed period for making an objection is the period of 28 days after the day on which the assessment notice to which the objection relates was issued.

**16. Form of objection (Act s. 14(3)(c))**

For the purposes of section 14(3)(c) of the Act, an objection must include a copy of the assessment notice to which the objection relates.

**17. Determination of objection (Act s. 15)**

- (1) In determining an objection, the CIPS may decide —
  - (a) to increase or decrease the levy amount; or
  - (b) that the levy amount is to remain unchanged; or
  - (c) that the person to whom the assessment notice was given is not liable to pay the safety levy to which the notice relates.
- (2) After determining an objection, the CIPS must give to the person making the objection (the *objector*) a written notice (a *decision notice*) setting out —
  - (a) the decision; and
  - (b) the reasons for the decision; and

***Petroleum and Geothermal Energy Safety Levies Regulations 2022*****Part 6**                    Objections and review**r. 18**

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- (c) if the decision is to increase or decrease the levy amount — that the CIPS will determine the adjusted levy amount under regulation 18; and
  - (d) that the person may apply under section 16 of the Act to the State Administrative Tribunal for a review of the decision.
- (3) The CIPS must determine an objection and give the decision notice within —
  - (a) the period of 28 days after the day on which the objection was made; or
  - (b) if subregulation (4) applies — the period set out in a written notice given to the objector under that subregulation.
- (4) If the CIPS considers that the CIPS will be unable to determine an objection and give the decision notice within the period in subregulation (3)(a), the CIPS must, within that period, give the objector a written notice setting out a proposed period for determining the objection and giving the decision notice.
- (5) A failure by the CIPS to comply with subregulation (3) or (4) in relation to an objection does not affect the validity of a decision by the CIPS on the objection.

**18. Notice of adjusted safety levy following objection**

- (1) This regulation applies if the decision of the CIPS on an objection to an assessment notice is to increase or decrease the levy amount.
- (2) The CIPS must —
  - (a) determine —
    - (i) the levy amount in accordance with regulation 9; and
    - (ii) any penalty amount;and

***Petroleum and Geothermal Energy Safety Levies Regulations 2022***  
Objections and review **Part 6**

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**r. 18**

- (b) determine the amount that is owing or is to be refunded having regard to —
    - (i) any amount of safety levy already paid in relation to the assessment or reassessment; and
    - (ii) any penalty amount already paid in relation to the assessment or reassessment;and
  - (c) give a written notice of adjustment to the person who is liable to pay the safety levy.
- (3) The notice of adjustment must specify the following —
- (a) the day on which the notice is issued;
  - (b) the levy period to which the notice relates;
  - (c) the identifying number of the safety system to which the notice relates;
  - (d) the number of days on which the operation to which the safety system relates was carried out during the levy period;
  - (e) the classification of the safety system for the levy period and, if that classification involves different classes for different parts of the levy period —
    - (i) each class; and
    - (ii) the part of the levy period (expressed as a number of days) to which each class applies;
  - (f) the levy amount;

***Petroleum and Geothermal Energy Safety Levies Regulations 2022*****Part 6**                      Objections and review**r. 18**

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- (g) if the levy amount is increased —
  - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment, that is unpaid; and
  - (ii) any additional amount of safety levy payable as a consequence of the determination under subregulation (2)(b) and the day on which that amount is payable; and
  - (iii) any penalty amount that is owing;
- (h) if the levy amount is decreased —
  - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment, that is unpaid (after taking into account the determination under subregulation (2)(b)); and
  - (ii) the amount of any refund; and
  - (iii) any penalty amount that is owing (after taking into account the determination under subregulation (2)(b)).
- (4) The day specified under subregulation (3)(g)(ii) must not be earlier than 30 days after the day specified under subregulation (3)(a).
- (5) If an amount of safety levy in excess of the amount specified under subregulation (3)(f) has been paid by a person, the CIPS must refund to the person —
  - (a) the amount of the excess; and
  - (b) any penalty amount paid in relation to the amount of the excess.

***Petroleum and Geothermal Energy Safety Levies Regulations 2022***  
Objections and review **Part 6**

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**r. 19**

**19. Notice of withdrawal of safety levy following objection**

- (1) This regulation applies if the decision of the CIPS on an objection is that the person to whom the assessment notice was given is not liable to pay the safety levy to which the notice relates.
- (2) The CIPS must —
  - (a) give to the person a written notice stating that the assessment notice is withdrawn; and
  - (b) refund to the person —
    - (i) any amount of safety levy paid by the person in relation to the assessment or reassessment; and
    - (ii) any penalty amount paid by the person in relation to the assessment or reassessment.

**20. Review of decision on objection**

- (1) An application under section 16 of the Act for the review of a decision of the CIPS on an objection must be made within 42 days after the day on which notice of the decision is given under regulation 17(2).
- (2) The State Administrative Tribunal may extend the period in subregulation (1), before or after it expires, if the applicant shows that there are reasonable grounds for doing so.

**Petroleum and Geothermal Energy Safety Levies Regulations 2022****Part 7** Other matters**r. 21**

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**Part 7 — Other matters****21. Penalty amount: prescribed rate (Act s. 12(1))**

For the purposes of section 12(1) of the Act, the rate is 20% per annum.

**22. When levy amount becomes due and payable (Act s. 11(1))**

(1) In this regulation —

**notice** means —

- (a) an assessment notice; or
- (b) a notice of adjustment given under regulation 18(2)(c).

(2) For the purposes of section 11(1) of the Act, a levy amount becomes due and payable on the day specified in the notice relating to the levy amount as the day on which the levy amount is payable.

**Petroleum and Geothermal Energy Safety Levies Regulations 2022**

Transitional provision

**Part 8**

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**r. 23****Part 8 — Transitional provision**

Note for this Part:

See the *Work Health and Safety Act 2020* Part 16 Division 12 Subdivision 2 and the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022* Part 6 for transitional provisions relevant to these regulations.

**23. First levy period**

Despite regulation 8, the first levy period is the period —

- (a) beginning on the day on which the *Work Health and Safety Act 2020* Part 15 Division 3 Subdivision 2 comes into operation; and
- (b) ending on 30 June 2022.

V. MOLAN, Clerk of the Executive Council.

**Petroleum and Geothermal Energy Safety Levies Regulations 2022****Defined terms****Defined terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
class.....	3
classification .....	3
complexity rating .....	9(1)
decision notice .....	17(2)
facility .....	3
levy amount.....	3
notice.....	22(1)
objector .....	17(2)
offshore operation safety case .....	9(1)
operation .....	3
original assessment .....	3, 12(1)
pipeline .....	9(1)
pipeline licence .....	9(1)
safety system.....	3