

Western Australia

Petroleum and Geothermal Energy Safety Levies Act 2011

**Petroleum and Geothermal Energy Safety
Levies Regulations 2011**

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Petroleum and Geothermal Energy Safety Levies Regulations 2011

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Petroleum and Geothermal Energy Safety Levies Regulations 2011

Part 1 — Preliminary

1. Citation

These regulations are the *Petroleum and Geothermal Energy Safety Levies Regulations 2011*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Petroleum and Geothermal Energy Safety Levies Act 2011*, other than sections 1 and 2, comes into operation.

3. Terms used

In these regulations, unless the contrary intention appears —

class means a class listed in the Table to regulation 6;

classification, in relation to a safety system, means the classification determined for the safety system under regulation 7(3);

complexity rating means —

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- (a) for a class of safety system other than a facility safety case — the number specified opposite the class in the second column of the Table in Schedule 1;
- (b) for a class of facility safety case — the number specified opposite the class in the third column of the Table in Schedule 1;

facility safety case means a safety case that relates to a facility;

levy amount means the amount of safety levy payable;

operation means —

- (a) a petroleum operation; or
- (b) a geothermal energy operation; or
- (c) a pipeline operation; or
- (d) an offshore petroleum operation as defined in the *Petroleum (Submerged Lands) Act 1982* section 4;

original assessment has the meaning given in regulation 9(1)(a);

safety system means —

- (a) a safety management system; or
- (b) a safety case; or
- (c) an accepted DSMS; or
- (d) a pipeline management plan;

section means a section of the Act.

[Regulation 3 amended in Gazette 28 Sep 2012 p. 4655-6.]

Part 2 — Levy period and levy amount

4. Levy period

For the purposes of the definition of *levy period* in section 3, each of the following periods is prescribed as 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.

5. Levy amount

- (1) The levy amount in respect of a safety system for a levy period is the levy amount worked out in accordance with this regulation.
- (2) If the safety system is classified as belonging to one class for the levy period, the levy amount (L) for the levy period is worked out using the formula —

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

where —

- R is \$11 600;
- D is the number of days the operation to which the safety system relates was carried out during the levy period;
- C is the complexity rating for the class.

- (3) 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 —

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

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

where —

R is \$11 600;

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

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.

[Regulation 5 amended in Gazette 28 Sep 2012 p. 4656.]

Part 3 — Classification of safety systems

6. Classes of safety system

For the purposes of these regulations the classes of safety system are the classes listed in the Table.

Table

Class A	Class B
Class C	Class D
Class E	Class F

7. CEO to determine classification of safety system

(1) In this regulation —

other protected persons —

- (a) in relation to a petroleum operation or a geothermal energy operation — has the same meaning as it has in the *Petroleum and Geothermal Energy Resources Act 1967*; and
- (b) in relation to a pipeline operation — has the same meaning as it has in the *Petroleum Pipelines Act 1969*;

relevant period means the levy period or the relevant part of the levy period, as the case requires.

(2) This regulation applies if a safety levy is payable in respect of a safety system.

(3) For the purposes of assessing the levy amount payable in respect of the safety system, the CEO must, after the end of the levy period to which the levy amount relates, determine the classification of the safety system for the levy period by classifying the safety system, in accordance with this regulation, as belonging to —

- (a) one class for the levy period; or

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- (b) different classes for different parts of the levy period.
- (4) The CEO must classify the safety system as belonging to —
- (a) Class A for the relevant period if the CEO considers that the operation to which the safety system relates was of extreme complexity for the duration of that period; or
 - (b) Class B for the relevant period if the CEO considers that the operation to which the safety system relates was of high complexity for the duration of that period; or
 - (c) Class C for the relevant period if the CEO considers that the operation to which the safety system relates was of moderately high complexity for the duration of that period; or
 - (d) Class D for the relevant period if the CEO considers that the operation to which the safety system relates was of moderate complexity for the duration of that period; or
 - (e) Class E for the relevant period if the CEO considers that the operation to which the safety system relates was of low complexity for the duration of that period; or
 - (f) Class F for the relevant period if the CEO considers that the operation to which the safety system relates was of minimal complexity for the duration of that period.
- (5) When assessing the complexity of the operation to which the safety system relates for the purposes of subregulation (4) the CEO must have regard to the following —
- (a) the nature and extent of the operation;
 - (b) the number of persons engaged in the operation;
 - (c) the level of risk to —
 - (i) the occupational safety and health of persons engaged in the operation; and
 - (ii) in the case of a petroleum operation, geothermal energy operation or pipeline operation — to the safety and health of other protected persons,

arising from the operation;

- (d) whether, and if so the extent to which, any of the following activities were undertaken in respect of any facilities, pipelines, plant or equipment forming part of the operation —
- (i) inspection activities (involving persons other than inspectors appointed under the *Petroleum and Geothermal Energy Resources Act 1967*, the *Petroleum Pipelines Act 1969* or the *Petroleum (Submerged Lands) Act 1982*);
 - (ii) maintenance or repair activities,

and may have regard to any other matter the CEO considers relevant.

[Regulation 7 amended in Gazette 28 Sep 2012 p. 4657.]

Part 4 — Assessment and reassessment of safety levies

8. Assessment

- (1) If an amount of safety levy is payable in respect of a levy period, the CEO must, after the end of the levy period, assess the levy amount.
- (2) In addition to the matters referred to in section 10(1)(b)(i) and (ii), each notice given under section 10(1)(b) must specify the following —
 - (a) the day on which the notice was issued;
 - (b) the identifying number of the safety system to which the notice relates;
 - (c) the number of days the operation to which the safety system relates was carried out during the levy period to which the notice relates;
 - (d) the classification of the safety system for the levy period to which the notice relates 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.
- (3) The day referred to in section 10(1)(b)(ii) must not be earlier than 30 days after the day specified in the notice as the day on which the notice was issued.

[Regulation 8 amended in Gazette 28 Sep 2012 p. 4657.]

9. CEO may make reassessment

- (1) The CEO may reassess a levy amount if the CEO 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.

10. Notice of reassessment

- (1) If, on a reassessment under regulation 9, the levy amount is increased or decreased the CEO 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 was issued;
 - (b) the levy amount as reassessed;
 - (c) 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;
 - (d) if the levy amount is decreased —
 - (i) any amount of safety levy payable under the original assessment, or any earlier reassessment,

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- 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);
- (e) the identifying number of the safety system to which the notice relates;
- (f) the number of days the operation to which the safety system relates was carried out during the levy period to which the notice relates;
- (g) the classification of the safety system for the levy period to which the notice relates 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.
- (3) The day referred to in subregulation (2)(c)(ii) must not be earlier than 30 days after the day specified in the notice of reassessment as the day on which the notice was issued.
- (4) If an amount of safety levy in excess of the amount referred to in subregulation (2)(b) has been paid by a person, the CEO must cause —
- (a) the amount of the excess; and
 - (b) any penalty amount paid in relation to the amount of the excess,
- to be refunded to the person.

[Regulation 10 amended in Gazette 28 Sep 2012 p. 4658.]

Part 5 — Objections and review

11. Prescribed ground of objection

For the purposes of section 14(1)(c), a prescribed ground of objection is that there has been an error in the classification of the safety system in respect of which the levy amount is payable.

12. Time for making objection

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

13. Form of objection

In addition to the requirements of section 14(3)(a) and (b), an objection must have attached to it the assessment notice to which the objection relates.

14. Determination of objection

- (1) The CEO must consider and determine an objection within 28 days after the day on which the objection was made.
- (2) In determining an objection, the CEO may —
 - (a) decide to increase or decrease the levy amount; or
 - (b) decide that the levy amount is to remain unchanged; or
 - (c) decide that the person to whom the assessment notice was given is not liable to pay the safety levy to which it relates.
- (3) After making a decision on an objection, the CEO must give to the person making the objection written notice of the CEO's decision and a statement of the reasons for the decision.

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15. Notice of adjusted safety levy following objection

- (1) This regulation applies if the CEO's decision on an objection is to increase or decrease the levy amount.
- (2) The CEO must —
 - (a) determine —
 - (i) the levy amount in accordance with regulation 5; and
 - (ii) any penalty amount;and
 - (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 an assessment or reassessment; and
 - (ii) any penalty amount already paid;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 was issued;
 - (b) the levy amount;
 - (c) 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;
 - (d) 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 referred to in subregulation (3)(c)(ii) must not be earlier than 30 days after the day specified in the notice of adjustment as the day on which the notice was issued.
- (5) If an amount of safety levy in excess of the amount referred to in subregulation (3)(b) has been paid by a person, the CEO must cause —
 - (a) the amount of the excess; and
 - (b) any penalty amount paid in relation to the amount of the excess,to be refunded to the person.

16. Notice of withdrawal of safety levy following objection

- (1) This regulation applies if the CEO's decision 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 CEO must —
 - (a) give to the person referred to in subregulation (1) a written notice stating that the assessment notice is withdrawn; and
 - (b) cause to be refunded 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 in relation to the assessment or reassessment.

17. Review of decision on objection

- (1) An application under section 16 for the review of a decision must be made within 42 days after the day on which notice of the decision is given under regulation 14(3).
- (2) The State Administrative Tribunal may extend the period referred to in subregulation (1), before or after it has expired, if the applicant shows that there are reasonable grounds for doing so.

Part 6 — Other matters

18. Penalty amount: prescribed rate of interest

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

19. When levy amount becomes due and payable

(1) In this regulation —

notice means —

- (a) an assessment notice; or
- (b) a notice of adjustment given under regulation 15(2).

(2) 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.

Part 7 — Transitional provisions

[Heading inserted in Gazette 28 Sep 2012 p. 4658.]

20. Transitional provision for *Petroleum and Geothermal Energy Safety Levies Amendment Regulations 2012*

Levy amounts for the levy period ending on 30 September 2012 are to be worked out and assessed in accordance with these regulations as in force immediately before the commencement of the *Petroleum and Geothermal Energy Safety Levies Amendment Regulations 2012* (other than regulations 1 and 2).

[Regulation 20 inserted in Gazette 28 Sep 2012 p. 4658.]

Schedule 1 — Complexity ratings

[r. 3]

[Heading inserted in Gazette 28 Sep 2012 p. 4658.]

Class	Complexity ratings for safety system other than facility safety case	Complexity ratings for facility safety case
Class A	21	30
Class B	15	22
Class C	10	15
Class D	6	10
Class E	3	5
Class F	1	2

[Schedule 1 inserted in Gazette 28 Sep 2012 p. 4658.]

Notes

- ¹ This is a compilation of the *Petroleum and Geothermal Energy Safety Levies Regulations 2011*. The following table contains information about those regulations.

Compilation table

Citation	Gazettal	Commencement
<i>Petroleum and Geothermal Energy Safety Levies Regulations 2011</i>	30 Dec 2011 p. 5515-34	r. 1 and 2: 30 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2012 (see r. 2(b) and <i>Gazette</i> 30 Dec 2011 p. 5573)
<i>Petroleum and Geothermal Energy Safety Levies Amendment Regulations 2012</i>	28 Sep 2012 p. 4655-8	r. 1 and 2: 28 Sep 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Oct 2012 (see r. 2(b) and <i>Gazette</i> 28 Sep 2012 p. 4647)

Defined Terms

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

The list is not part of the law.]

Defined Term	Provision(s)
class.....	3
classification	3
complexity rating	3
facility safety case.....	3
levy amount.....	3
notice.....	19(1)
operation	3
original assessment	3, 9(1)
other protected persons	7(1)
relevant period	7(1)
safety system.....	3
section	3