



Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009

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Law and Bills Digest Section

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Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009

Date introduced: 19 March 2009

House: Representatives

Portfolio: Resources and Energy

Commencement: Sections 1 to 3 on Royal Assent

Schedule 1 Part 3 on the day after Royal Assent

Schedule 1 Parts 1 and 2 on 1 January 2010.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009 (the Bill) amends the *Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Act 2003* (the Act) to:

- provide that pipeline licensees must pay a safety case levy for pipelines, and
- remove references to the pipeline safety management plan levy.

Background

Basis of policy commitment

For the policy background and basis for the legislation see the [Bills Digest](#) for the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009 No. 133, 2008-09 (the primary Digest). This primary digest deals with occupational health and safety (OH&S) policy issues affecting the operation of offshore petroleum and greenhouse gas facilities.

Warning:

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This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Safety Case Levy

The Bill removes references to the pipeline safety management plan levy. The Explanatory Memorandum states that future amendments to the *Offshore Petroleum (Safety Levies) Regulations 2004* will raise a levy for pipelines as a safety case levy¹ instead of the pipeline safety management plan levy. The effect of the amendments in this Bill is that a pipeline licensee pays the same levy as he or she currently does. It is, in effect, a name change to facilitate bringing offshore pipeline facilities within the operation of safety regulations rather than under the separate *Petroleum (Submerged Lands) (Pipelines) Regulations 2001*.² This accords with proposed OH&S reforms discussed in the primary Digest.

Currently, a safety case levy is payable by the operator of a facility. Section 7 of the Act defines facility or a proposed facility as having the same meaning as Schedule 3 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.³ If a facility is located or proposed to be located in Commonwealth waters, a safety case levy is payable by the facility operator if there is a safety case in force for that facility—in other words, the safety case has been accepted by the National Offshore Petroleum Safety Authority (NOPSA). Similar arrangements apply for designated coastal waters where State or Territory mirror legislation is in place.⁴

The safety case levy is payable annually. “The levies are imposed for a calendar year or part of a calendar year depending on when the safety case comes into force in that year. The amount of the safety case levy for the year, or part of the year, is worked out based on the *Offshore Petroleum (Safety Levies) Regulations 2004*. The levy calculation is broadly similar for all facilities.”⁵

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1. Explanatory Memorandum, Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009, p. 1.
 2. Explanatory Memorandum, Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009, p. 1.
 3. Clause 4 of Schedule 3 of the *Offshore Petroleum and Greenhouse Gas Storage act 2006* defines facilities that are vessels, structures or pipelines for offshore petroleum or greenhouse gas storage operations in Commonwealth waters. Clause 5 defines the operator of a facility as the person who is registered by the National Offshore Petroleum Safety Authority as the operator of that facility. In designated coastal waters, Section 8 of the Act defines operator and facility as having the same meaning as in the applicable State or Territory safety law.
 4. National Offshore Petroleum Safety Authority, Guideline: *Safety case and PSMP Levies*, version 5.1, pp. 1–2.
 5. National Offshore Petroleum Safety Authority, Guideline, p. 2.

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The purpose of the safety case levy is to recover the costs incurred by NOPSAs associated with its activities of “monitoring compliance with approved safety cases, conducting audits of facilities and reviewing and assessing updates to existing safety cases... This will be payable by all operators of exploration, production and support facilities on an annual basis whilst there is a safety case in force for that facility.”⁶ The existing annual pipeline safety management plan levy was originally intended to cover the costs of monitoring the safety of offshore pipelines and is calculated according to the type of pipeline.⁷

Committee consideration

The Senate Standing Committee for the Scrutiny of Bills (the Committee) reviewed the Bill and provided its comments on 13 May 2009.⁸ The Committee observed that the delayed commencement provisions for Parts 1 and 2 of Schedule 1 (1 January 2010) was a longer period than usual. The Committee suggested that where this is the case the Explanatory Memorandum should provide an explanation. The Committee noted that it would be desirable to commence the provisions at the start of a calendar year to avoid unnecessary administrative burdens on industry in adjusting the levies on a pro-rata basis.⁹

Financial implications

The Explanatory Memorandum states that the Bill would not have any financial impact on the Australian Government budget. For the pipeline licensee, there will still be a requirement to pay a levy and it will be the same amount as currently paid on an annual basis.¹⁰

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6. See W Entsch, ‘Second reading speech: Offshore Petroleum (Safety Levies) Bill 2003’, House of Representatives, *Debates*, 17 September 2003, p. 20238.
 7. W Entsch, ‘Second reading speech: Offshore Petroleum (Safety Levies) Bill 2003’.
 8. Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, Commonwealth of Australia, Canberra, 13 May 2009, p. 39.
 9. Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, Commonwealth of Australia, Canberra, 13 May 2009, pp. 39–40; Explanatory Memorandum, Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009, p. 2; M Ferguson, ‘Second reading speech: Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009’, House of Representatives, *Debates*, 19 March 2009.
 10. Explanatory Memorandum, Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009, p. 2.

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Main provisions

Schedule 1–Part 1–Safety case levy

Section 7 of the Act provides that if there is a safety case in force in relation to a facility in Commonwealth waters a safety case levy will be imposed on that safety case, payable by the operator of that facility.

Item 1 proposes to substitute subsection 7(3) of the Act extending it to include a pipeline licensee of pipeline facility that is the subject of a pipeline license.

Section 8 of the Act provides that if there is a safety case in force in relation to a facility in designated coastal waters of a State or Territory a safety case levy will be imposed on that safety case. *Designated coastal waters* is defined in section 644 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* as so much of the scheduled area for a State or Territory that consists of the territorial sea; and any area within the scheduled area for that State or Territory that is on the landward side of the territorial sea subject to a petroleum exploration permit under the repealed *Petroleum (Submerged Lands) Act 1967*.

Item 4 proposes to substitute subsection 8(3) of the Act extending the provision to include that a safety case levy would be payable by the pipeline licensee of the facility that is subject to a pipeline licence, in addition to the operator of a facility in any other case.

Item 5 proposes to insert a definition of a pipeline into subsection 8(8) of the Act to have the same meaning as in the applicable State and Territory safety law and includes proposed constructions or those being constructed.

Schedule 1– Part 2–Pipeline safety management plan levy

Part 4 of the Act contains provisions concerning the pipeline safety management plan levy. **Item 10** of the Bill **proposes to repeal Part 4 of the Act.**

Section 11 of the Act provides that the Governor-General may make regulations under certain sections of the Act. **Item 11 proposes to amend section 11** by removing references to sections 9 and 10 currently contained in Part 4 which are repealed by **item 10.**

Item 12 proposes that amendments in Part 2 of the Bill would apply to a pipeline safety management plan, to the extent that such a plan is in force at or after the commencement of the provisions of the current Bill.

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