



Australian Government

Department of Industry
Tourism and Resources

National Offshore Petroleum Safety Authority

Cost Recovery Impact Statement

for

Safety Levies Regulations

Review of Cost Recovery Levies

for the period

1 January 2005 to 31 December 2005

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Overview

1.1 Purpose

The 2004 CRIS recommended that a review of cost recovery arrangements for the National Offshore Petroleum Safety Authority (NOPSA) be undertaken every three years from 1 January 2005. However, the Minister for Industry, Tourism and Resources made a commitment to the Australian offshore petroleum industry to review cost recovery arrangements in the first year of operations of NOPSA. The commitment is outlined in the 2004–05 and 2005–06 Portfolio Budget Statement for the Department of Industry, Tourism and Resources.

The review team undertook extensive consultation with industry and NOPSA on the cost recovery mechanisms described in the March 2004 Cost Recovery Impact Statement (CRIS), and put in place by the legal authority of the *Offshore Petroleum (Safety Levy) Act 2003* (OPSLA) and its regulations the *Offshore Petroleum (Safety Levies) Regulations 2004* (Levy Regulations). The issues raised during the review are discussed at Section 2.1 *Description of activities*.

The Review identified seven issues on which six recommendations were made. The two key recommendations were to remove inconsistencies in definitions to improve the operations of the Safety Case levy and amend the design of the Pipeline Safety Management Plan levy (PSMP).

Four will be considered when a full cost recovery review is undertaken in 2008, as set out in the March 2004 CRIS. The reasons for deferring these recommendations is the lack of sufficient data upon which to properly analyse the impact of these issues on NOPSA's cost recovery arrangements. These recommendations are: amend the ratings for categories in the facility rating table; review the remittance process for the safety case levy for facilities that operate on an intermittent basis including invoicing procedures; annual variation to levies in line with the level of industry activity; and review the split between the proportion allocated to the Safety Management System (SMS) and facility rating components of the safety case levy. Industry also sought to have the late penalty rate for payments to NOPSA reduced. However as the late penalty rate is in line with the rate in the *Petroleum (Submerged Land) Act 1967* (PSLA) and with government standards recommending a change to the late penalty amount was not considered appropriate.

If any further information or significant matters of concern on these recommendations or any other issues come to the attention of the Government prior to the scheduled 2008 full cost recovery review of NOPSA, a separate CRIS will be initiated.

The purpose of this CRIS is to document the compliance of the review recommendations with Australian Government Cost Recovery Guidelines. This CRIS considers in detail the two key recommendations and in particular the design of the PSMP levy, as experience during the first year of NOPSA operations has demonstrated that the design of the PSMP levy will lead to cross subsidisation by companies with multiple pipelines for companies with only single pipelines.

1.2 Background

The National Offshore Petroleum Safety Authority (NOPSA), commenced operations on 1 January 2005 to regulate occupational health and safety in Commonwealth waters and State/Northern Territory (State/NT) designated coastal waters. NOPSA has responsibility for safety case assessment, monitoring and enforcement and safety case investigations in relation to offshore petroleum operations.

NOPSA is an independent agency accountable to relevant Commonwealth and State/NT Ministers through the Ministerial Council on Mineral and Petroleum Resources. The Authority was established under Commonwealth legislation, the *Petroleum (Submerged Lands) Act 1967* (PSLA). States/NT have mirrored this legislation in their own offshore Petroleum (Submerged Lands) Acts to enable NOPSA to regulate in State and NT designated coastal waters.

NOPSA's primary role is to administer Schedule 7 of the PSLA and related Regulations for Occupational Health and Safety, Management of Safety on Offshore Facilities (MoSoF), Pipelines and Diving Safety.

NOPSA is fully self-funded through cost recovery with general provisions for the collection of levies set out in the *Offshore Petroleum (Safety Levies) Act 2003*. The Offshore Petroleum (Safety Levies) Regulations 2004 set out the mechanism to impose a Safety Case levy, Pipeline Safety Management Plan levy and Safety Investigation levy. These levies provide for fees for the services provided by NOPSA to regulate and assess occupational health and safety at or near offshore petroleum facilities. The cost recovery levy system operates at the regime level and not at the level specific of individual tasks.

1.3 Australian Government Cost Recovery Policy

In December 2002 the Australian Government adopted a formal cost recovery policy to improve the consistency, transparency and accountability of its cost recovery arrangements and promote the efficient allocation of resources. Cost recovery policy is administered by the Department of Finance and Administration and outlined in the Australian Government Cost Recovery Guidelines and the review schedule is outlined in Finance Circular 2005/09. The underlying principle of the policy is that agencies should set charges to recover all the costs of products or services where it is efficient and effective to do so, where the beneficiaries are a narrow and identifiable group and where charging is consistent with Australian Government policy objectives.

The policy applies to all *Financial Management and Accountability Act 1997* (FMA Act) agencies and to relevant *Commonwealth Authorities and Companies Act 1997* (CAC Act) bodies that have been notified, under sections 28 or 43 of the CAC Act, to apply the cost recovery policy. These entities are collectively referred to as 'agencies' for the purposes of the guidelines. In line with the policy, individual portfolio ministers are ultimately responsible for ensuring agencies' implementation and compliance with the cost recovery guidelines.

Policy Review

The March 2004 CRIS supports the cost recovery activities of the levy under the OPSLA and its regulations. Cost recovery remains compatible with the objectives of the activities identified in the review. The aim of all cost recovery activities undertaken is to recover the full cost of providing the activity, with any significant over recoveries returned to industry. The prime beneficiaries of an efficient and consistent best practice safety regulatory regime are the owners and operators of offshore facilities. It is the owners who create the need for safety regulation and it is therefore appropriate to charge them for the costs of safety regulation.

The review looked at the appropriateness of the level of fees charged for the levies; the effectiveness and efficiency of NOPSA operations; and examined issues raised by industry during the first year of operations. The review team acknowledges that one year of operations does not provide a true statistical representation of NOPSA's financial profile. To ensure there is sufficient data for analysis, consideration of most

of the activities should be postponed until a three year review is undertaken as described in the March 2004 CRIS.

Terms of Reference

The Review will:

1. Consider the principles of specific sub-sections within the Design and Implementation section of the March 2004 Cost Recovery Impact Statement (CRIS), against NOPSA's actual activity and costs in the first twelve months of operation. The sub-sections are:
 - a. Design of the Annual Safety Case Levy
 - b. Industry activity levels – levy variation
 - c. Structure of Annual Safety Case Levy
 - d. Design of the Pipelines Safety Management Plan Levy, and
 - e. Varying unit values and ratings;
2. Exclude all other sections and sub-sections of the CRIS; and
3. Recommend whether there is a need for amendments to the *Petroleum (Submerged Lands) Amendment Act 2003* and/or the *Offshore Petroleum (Safety Levies) Regulations 2004*.

2.1 Description of Activity

1. Amend definitions for mobile facilities in the Regulations to achieve consistency with the Act.

As set out in the March 2004 Cost Recovery Impact Statement, the annual safety case levy recovers the majority of NOPSA's operating costs at rates set according to classes of operations. The levy is imposed through a taxing Act because NOPSA provides regulatory oversight on each facility and sometimes provides law enforcement services. The operator of a facility cannot decline these services or the funding. The levies charged under the tax are charged to recover the cost of NOPSA's safety regulation.

In the March 2004 CRIS there were two types of operators of facilities identified, operators of mobile facilities and operators of not-mobile facilities. The Levy Regulations define a mobile facility as those of a kind listed in Schedule 2 of the Offshore Petroleum (Safety Levies) Regulations 2004.

Schedule 2 Mobile facilities

(Regulations 20 and 28, definition of mobile facility)

1. Mobile offshore drilling unit or drill-ship
2. Pipe-lay barge or construction/transport barge
3. Accommodation barge

Note: A mobile facility mentioned in this Schedule may operate intermittently. The Safety Authority may remit part of an amount of safety case levy imposed by the OPSL Act in respect of a safety case for a mobile facility: see regulations 25 and 33.

However, there are other types of vessels that are 'mobile' (capable of moving readily) which could be considered facilities by virtue of the activities they undertake for example, vessels doing work on an existing pipe or decommissioning a facility. These types of vessels or structures are not listed in Schedule 1 and 2. The inconsistency between the definitions in the PSLA and the Levy Regulations has led to an incomplete coverage of the range of facilities by the Safety Case levy.

As described in the March 2004 CRIS the safety case levy is made up of the safety management system (SMS) amount and the facility rating amount. The SMS amount is \$125,000 for a not-mobile facility or \$80,000 for a mobile facility, as the assessment of the SMS for a mobile facility is generally less time intensive than that of a not-mobile facility. As the nature of the facility determines the way the levy is calculated, facilities that do not fit into the definition of mobile facilities in Schedule 2 are treated as ‘not mobile facilities’ for the purposes of calculating the Safety Management System (SMS) amount. Therefore an operator with a mobile facility which is not listed in Schedule 2 such as a facility undertaking decommissioning work would be considered to be ‘not mobile’ and would attract an SMS amount of \$125,000 per year rather than the mobile facility rate of \$80 000, which is inconsistent with the cost recovery arrangements where a mobile facility is charged the lower SMS amount as the assessment is generally less intensive than that of a not-mobile facility.

In addition, mobile facilities are charged for the period in which they are operating in Australian waters, with a six month minimum occurring in a 12 month period, since even if the mobile operates for a week, the same regulatory effort in assessing the SMS will be needed as if it operated for six months. However, in the case of the operator whose facility is classified as not-mobile they are required to pay the full 12 months SMS amount and therefore, operators of mobile facilities such as those decommissioning would be required to pay more than the cost of providing the activity.

Compounding this issue is the facility amount, as there is also no basis for calculating the facility amount portion of the levy for those mobile facilities that are not listed in Schedule 1. Therefore facilities not listed in Schedule 1 (below) are considered to have a rating of zero. As the facility amount is calculated by the facility rating x the unit value (\$25 000) the facility amount for those mobile facilities such as those undertaking decommissioning is calculated as zero.

Schedule 1 Division 2 paragraph 2.3

Item	Facility or proposed facility	Facility rating
1	Large production platform with drilling/workover capability	9
2	Other production platform with accommodation facilities:	
	(a) when drilling/workover facilities are in commission	8
	(b) when drilling/workover facilities are not in commission	5
	<i>Note This is a variable-rating facility.</i>	
3	Floating production storage and offloading facility	6
4	Mobile offshore drilling unit or drill-ship	6
5	Pipe-lay barge, construction/transport barge or accommodation barge	5
6	Floating storage unit linked to a production platform	3
7	Monopod, well head platform or other small production facility with no accommodation	1

The review recommended that the definition of vessels in Schedule 1 and 2 of the safety levy regulations be amended to match the definition in the PSLA. The amendment will not have an effect on the design or objectives of the activity. The proposed amendment is described below:

- a) Amend Schedule 1 clause 2.3 item 5 with
Vessel or structure being used for laying pipes for petroleum, the erection, maintenance, dismantling or decommissioning of a facility or for the provision of accommodation for persons working on another facility.
- b) Amend Schedule 2 point 2 and 3 with
 2. *Vessel or structure being used for laying pipes for petroleum, the erection, maintenance, dismantling or decommissioning of a facility.*
 3. *accommodation facility used for persons working on another facility.*

The effect of this amendment will ensure consistency and remove the anomaly between the PSLA and the Levy Regulations. All facility types that were intended to be covered under the regime will be clearly described. This will enable the NOPSA to charge the safety case levy to all vessels as described in Schedule 7 of the PSLA and ensure operators of mobile facilities undertaking work such as decommissioning will not have to pay the not-mobile facility SMS amount, will be eligible for the six month minimum and will pay the correct facility amount. This amendment will ensure that full cost recovery is maintained for all mobile facilities with charges based on the costs of assessing those facilities.

2 Amend current facility ratings and provide discounts to operators based on good performance

The facility rating covers 80-85 per cent of NOPSA's annual operating cost. This includes initial safety case assessment, audits, inspections, routine investigations, safety case revisions and decommissioning. Facility ratings were developed based on information provided by the Designated Authorities on the level of regulatory effort required to assess different types of facilities and the facility types were agreed in consultation with industry and State/NT Designated Authorities during the preparation of the 2004 CRIS. Each facility type is assigned a different rating, depending on the nature and complexity of the facility, and the resources needed to regulate that facility.

Some stakeholders have argued that Mobile Offshore Drilling Units (MODU) are less complex and risky than Floating Production Storage and Offloading facilities (FPSO), and therefore should have a lower facility rating amount. Working on a MODU has its own complex and hazardous activities such as the potential to drill into unknown hydrocarbon reserves, stop/start operations and manual handling and lifting operations. Some stakeholders also argue that vessels such as diving support vessels (DSV) should have a separate facility rating as the work is less hazardous. This argument is not sustainable as the facility rating is not based on the type of vessel but rather on the function of that vessel. The range of functions undertaken by a DSV, such as construction, repair, maintenance, lifting and other interventions are risky operations.

NOPSA is collecting data on the level of regulatory effort for each facility type, however at this stage there is not sufficient data available to make a judgement on whether the current facility ratings have been assessed correctly. NOPSA will continue to keep records and analyse the data. It would be more appropriate to consider changes to the facility ratings, the effect on costs to operators and on the budget for NOPSA in the three year CRIS review. This should provide enough time to collect sufficient data to undertake a proper analysis and ensure that costs are recovered as accurately as possible.

The current levies were set so that all operators of facilities with similar functions are charged the same to ensure fairness. While good operators might suggest that they are subsidising operators who require greater regulatory effort, providing a discount for good performance may expose the regulator to criticism of favouritism and compromise its independence. A scaled fee system or penalty system might also lead to a culture of non-reporting amongst those operators who do not meet the standards, increasing the likelihood of an incident and damaging the credibility of the regulator. Furthermore, discounts and penalties are generally not consistent with cost recovery as the charges must only reflect the costs of providing the activity.

3 Amend the structure of the PSMP levy

The cost of monitoring the safety of offshore pipelines is covered by the Pipeline Safety Management Plan (PSMP) levy. The PSMP covers NOPSA's safety regulation activities: monitoring compliance with the plan, conducting audits of a PSMP during pipeline construction, and reviewing and assessing updates to existing plans when a major revision occurs or after 5 years. The levy is paid by all companies with a pipeline licence.

The requirement to have a PSMP is new to the offshore industry in Australia. As there was very little data available when the initial March 2004 CRIS was being developed the basis for charging to assess a PSMP was based on advice from State/NT Designated Authorities who had the responsibility for assessing pipeline safety prior to the establishment of NOPSA.

Based on its experience during the first year of operations, NOPSA has calculated that the imposition of the PSMP levy under its current structure will not provide sufficient funds to recover the cost of assessing an individual licensed pipeline. In addition, the cost to a licensee with multiple or a network of pipeline licences is disproportionately high compared to the amount of regulatory effort required by NOPSA to assess their PSMP. As a result, network licensees will be subsidising licensees of single pipelines. Cross subsidisation is generally inconsistent with Cost Recovery policy and therefore the PSMP charging structure should be amended.

Adopting a structure similar to the Safety Case levy will provide a consistent and transparent mechanism to calculate the amount of regulatory effort to assess licensees PSMPs. The overall effort to assess PSMPs for multiple pipelines that employ the same SMS is less than the effort required to assess the PSMPs for the same number of pipelines which have different operators (and different SMSs). In addition, the ongoing interface with a single operator for many pipelines would be less effort than would be required for multiple operators. Therefore it may be desirable for there to be some alignment between the structure of the Safety Case levy and the PSMP levy to reflect the 'fixed cost' associated with individual licensees/SMS versus multiple licensees/SMSs.

The PSMP levy is currently based on the notional length of the pipeline (i.e. whether the pipeline is less than 100km or more and whether it is with or without a sub-sea development connected). However the amount of regulatory effort for NOPSA to assess a PSMP is related to the complexity of the pipeline, not its length.

The Review team examined the implications of adjusting the levy to provide a more equitable levy proposal, and looked at fairness, the effect on the industry and on revenue for NOPSA. As a major proportion of the cost and effort of an assessment is the Safety Management System (SMS) assessment, and there is no provision in the original design of the PSMP levy to assess the SMS, the most equitable mechanism

would be to copy the design of the Safety Case levy, which is working effectively and efficiently.

The proposed amendment to the PSMP levy will introduce a new basis for calculating the levy using the complexity of the pipeline, rather than the current basis of the notional length of the pipeline. The complexity of a pipeline is based on the number of sub-sea developments or manifolds connected to the pipeline. The intention is to remove the cross-subsidisation of the cost of assessing pipeline licensees of multiple pipelines (operated under a single SMS) of operators with a single pipeline. While the cost for individual pipelines will rise, the cost for a network will reduce and will more accurately reflect the amount and cost of regulatory effort. The proposed amendments will provide more equitable treatment for the whole industry, and ensure the fees charged are in line with the costs of the activity.

4 Amend invoicing procedures to enable further invoicing to cease for vessels or facilities that have left Commonwealth waters, and met the minimum requirements [2 quarters].

The levy regulations require the operators of a mobile facility to pay the annual safety case levy for the calendar year in quarterly instalments in arrears. The minimum number of quarterly instalments for vessels operating on an intermittent basis is two quarters (six months). NOPSA is required to forward invoices to each relevant operator quarterly. Remittal of the safety case levy also applies only to mobile facilities that operate on an intermittent basis for part of a year.

Quarterly invoicing was proposed to smooth cash flows for operators but has led to administrative burden on operators and the regulator. Removing the requirement for NOPSA to continue invoicing operators after the minimum two quarter requirement is met (and the mobile facility has completed its work and left Safety Authority waters) would reduce the administrative burden on NOPSA to remit payments and on operators to pay invoices that may be subsequently remitted.

While this recommendation does not have an implication for the cost recovery regime the Department of Industry, Tourism and Resources is looking at whether it is possible to reduce the administrative burden on NOPSA. Legal advice is being sought.

5 Maintain the level of the late penalty rate

The penalty rate is not a cost recovery charge. It is set by the PSLA to ensure the fees and charges under the PSLA are paid on time. However industry raised this in the cost recovery review and indicated that it considers the penalty amount to be too high. Industry estimated the penalty amount, if unpaid over a full year is equivalent to over 100% on the amount unpaid.

As the late penalty rate for payments to NOPSA are in line with the rate in the PSLA and with government standards it is not appropriate to change the late penalty amount. This recommendation does not have an impact on the cost recovery regime.

6 Annual variation of levies in line with the level of industry activity

The levies were set in the legislation and regulations to enable NOPSA to recover operational costs. Salaries are a major component of NOPSA's operating costs. When NOPSA was established, wage and salary levels for NOPSA inspectors were set in line with industry levels. To continue to retain qualified staff NOPSA will be required

to increase wage and salary levels commensurate with the industry as there is intense international competition for experienced staff.

The NOPSA advisory Board sought consideration of the appropriateness of linking the levies to a wage and salary indicator to enable NOPSA to keep pace with the increase in salary costs. Possible indicators for calculating the levies include the Australian Bureau of Statistics (ABS) Mining Indicators (ABS 8417.0) salary indicators or mining indicators (which present key performance indicators of the Australian mining industry, including income from sales, inventories, employment, exploration and expenditure). Currently there is no provision for including consideration of a relevant index in the regulations therefore they would need to be changed. Additionally, if the impact of the proposed amendment is considered to be a material amendment, a separate Cost Recovery Impact Statement will be required.

The review team recommend that this issue be considered by the full cost recovery review after 3 years of operations. This should ensure sufficient data is available upon which to make an assessment of the impact of the inspectors wage and salaries on the cost recovery regime.

7 Review of the 20:80 split between charges for the SMS and facility components of NOPSA operations

During final consultations on the issues paper industry sought analysis of the justification for the 20:80 split between the fees that operators are charged for the SMS and Facility Rating components of NOPSA operations. Industry argued that reducing or eliminating the SMS component and increasing the facility rating component would be simpler; allow NOPSA's income to be more sensitive to petroleum activity in terms of numbers of facilities rather than number of operators, as the number of facilities governs NOPSA's workload; and would be fairer for small operators.

The 20:80 levy structure established to fund NOPSA in the March 2004 CRIS was not tied to an exact (hourly) accounting of time spent on specific activities as there was considerable evidence from the UK that this structure had been counterproductive in encouraging industry interaction with the regulator on safety improvements. Instead it was proposed that the SMS component of the levy be paid by all operators of facilities to cover 15 to 20 per cent of NOPSA's annual operating cost. As the effort for the regulator to assess all SMS cases is similar, it was agreed that a flat fee would be charged for the assessment of operator SMS. This proportion was based on advice from the Designated Authorities and on international experience, which showed that approximately one fifth to one sixth of a regulators time is allocated to the assessment of the SMS.

80 per cent of NOPSA's annual operating cost reflects the regulatory effort related to the facility rating of different types of facilities. It includes initial safety case assessment, audits, inspections, routine investigations, safety case revisions and decommissioning. Facility ratings were developed based on information provided by the Designated Authorities on the level of regulatory effort required to assess different types of facilities and the facility types were agreed in consultation with industry and State/NT Designated Authorities during the preparation of the 2004 CRIS. Each facility type is assigned a different rating, depending on the nature and complexity of the facility, and the resources needed to regulate that facility.

NOPSA has established corporate governance mechanisms to monitor its cost recovery arrangements, but there is not enough data at this stage to get a good

understanding of the issue. Therefore consideration of this issue should be postponed until the three year review.

2.2 Stakeholders

Safety can be a negative externality of a petroleum activity and therefore industry creates the need for regulation to achieve better safety outcomes. Numerous reviews over more than a decade identified the need for a more efficient and nationally consistent regulation of the occupational health and safety of the Australian offshore petroleum industry in both Commonwealth and State/NT waters.

The Stakeholders of NOPSA are the Australian offshore petroleum industry; Australian Petroleum Production and Exploration Association; International Association of Drilling Contractors, International Marine Contractors Association; the National Oil and Gas Safety Advisory Committee which includes workforce representatives; and the relevant authorities within each State/NT through the Upstream Petroleum Subcommittee under the Standing Committee of Officials of the Ministerial Council on Petroleum and Mineral Resources.

2.3 Conclusion

Cost recovery remains appropriate for the Safety Case levy, Pipeline Safety Management Plan levy and Investigation levy as set out in the '*National Offshore Petroleum Safety Authority CRIS March 2004*'. It also remains appropriate to use levies as opposed to fees, as safety regulation in the petroleum industry acts as a safe guard of investment and revenue streams and there was considerable evidence from the UK that their fee structure had been counterproductive in encouraging industry interaction with the regulator on safety improvements.

Levies are paid by the offshore petroleum industry for the services provided by NOPSA, assessment and maintenance of safety cases, assessment of PSMPs and major investigations. The regulations ensure it is clear who should pay.

The amendments proposed do not substantially alter the funding received by NOPSA under the existing cost recovery arrangements. Removing the inconsistencies in definitions will provide greater clarity to industry without significantly increasing the level of revenue for NOPSA. The proposed amendments to the PSMP levy will remove the cost burden and cross-subsidisation for regulatory assessments from companies with multiple pipeline licenses and redistribute the cost more evenly across all pipeline licensees. It will also ensure that the levy on pipelines will cover the cost of regulation by NOPSA. The full cost recovery arrangements for NOPSA including the two proposed amendments in this CRIS will be reviewed in 2008.

Design and Implementation of the Pipeline Safety Management Plan

3.1 Basis of Charging

The majority of NOPSA's operating costs are recovered through the imposition of the Safety Case Levy, at rates set according to classes of operations, with a smaller proportion derived from the PSMP levy. A levy on the industry generally was chosen over a fee for service model for two reasons.

1. All facilities will be operated in the same safety-regulated environment, regardless of the actual level of monitoring activity at an individual facility in any one year. Moreover, whether a monitoring visit is made to any particular facility will depend, at least in part, on strategic decisions made within NOPSA, and may not

relate to actual events at the facility on the relevant day. It would therefore be inequitable to charge the individual operator according to the level of NOPSA's activities at any one facility.

2. It is essential that there be no barriers to a continuous flow of information from the industry to the regulator. It would seriously undermine this open and cooperative relationship if an operator were to incur a charge each time that it reported an incident to the regulator or requested the attendance of an OHS inspector at the facility.

The proposed amendment to the cost recovery arrangements for the PSMP levy will result in it being based on the same premise as the Safety Case levy with rates set according to classes of operations and will eliminate the cross subsidisation of licensees of single pipelines by operators of networks of pipelines. This should not substantially alter the funding received by NOPSA under the existing cost recovery arrangements or change the policy basis for charging for regulatory services. The amendments were considered on the basis that the founding principle of simplicity in regulation should not be eroded and that any further complexity will only increase the cost of administration to government and compliance to industry.

3.2 Legal Requirements for imposition of Charges

The Petroleum (Submerged Lands) Amendment Act 2003 amended the Petroleum (Submerged Lands) Act 1967 (PSLA) to create the National Offshore Petroleum Safety Authority (NOPSA), make improvements to the provisions related to occupational health and safety (OHS), and assign regulatory responsibility for OHS to NOPSA.

The Commonwealth prescribes matters related to the collection of safety levies by the National Offshore Petroleum Safety Authority through the Offshore Petroleum (Safety Levies) Act 2003.

The Offshore Petroleum (Safety Levies) Regulations 2004 enable NOPSA to charge levies and recover the costs for the administration of regulatory services.

3.3 Components of costs included in charges

The design of the PSMP Levy will be changed to ensure that the structure is similar to that used for calculating the Safety Case levy. The proposed amendment will introduce a new basis for calculating the levy using the complexity of the pipeline, rather than the current basis of the notional length of the pipeline. It will also have the effect of adjusting the fee to an amount that more accurately reflects the amount of regulatory effort.

The Safety Case Levy has a two part fee structure: the 'Safety Management System (SMS) amount' and the 'Facility Amount'. An SMS is an overarching system that must be prepared by all operators that outlines how risks will be assessed and controlled. The SMS amount must be paid by all operators regardless of the number of facilities they operate in Australian waters. The 'SMS amount' is a fee for NOPSA to assess the SMS and ensure that it is satisfactorily implemented at a facility. The SMS is charged at a flat fee because the effort for NOPSA to assess all SMS is similar as they address the same issues. The SMS component also recognises that operators with multiple facilities are likely to share the same SMS, so that the fee for this component is reduced.

The 'Facility Amount' paid per facility is based on the size/complexity of the facility. Each facility type has a different set of complexities and resource allocation issues for the regulator and accordingly is assigned a different rating.

As with the Safety Case levy, all pipeline licensees must have an SMS. This recognises that the same licensee may have multiple pipelines licenses which are likely to share the same SMS, thereby reducing the regulatory effort to assess an SMS for multiple pipelines.

The existing PSMP Levy is determined with reference to the length of the pipeline and whether there is a sub-sea development included in the PSMP. However, the length of a pipeline does not seem to have a strong influence on the difficulty of the PSMP assessment. For example, the time employed by NOPSA in assessing the PSMP associated with a 200km pipeline would be the same as the assessment time for a 20km pipeline. However, like the Safety Case levy the complexity of the pipeline does have an influence on the assessment process and the regulatory effort required. That is the number of sub-sea developments or manifolds. Therefore it is not appropriate to use the distance parameter to determine the quantum of PSMP levies and it is logical to also consider using the two part Safety Case levy structure for the PSMP levy.

The fee for assessing the SMS for the pipeline will remain constant, and the pipeline rating will vary depending on the nature and complexity of the pipeline. The PSMP levy will therefore reflect the resources needed to regulate that pipeline as shown below in the proposed amendment model. The charging structure for each item set out below (B1, B2 and B3) is shown at **Table A**.

Item	Description of sub-sea development	Pipeline rating
B1	No sub-sea development connected to the pipeline	1
B2	With one or two sub-sea developments or manifolds connected to the pipeline	2
B3	More than two sub-sea developments or manifolds connected to the pipeline	3

The proposed value of the unit amount and SMS amount are:

Unit value	\$10 000 per pipeline
SMS amount	\$40 000 per operator

The Pipeline Safety Management Plan levy imposed on a pipeline is the sum of the:
pipeline amount + SMS amount

The **pipeline amount** is calculated by multiplying:
pipeline rating x unit value

The 'Unit Value' is an estimate of the base line effort applied to work associated with an individual pipeline, as distinct from work which might be associated with a licensee's SMS.

Using this new structure there will be an increase for three single pipeline licensees there will be a decrease for three of the multiple pipeline licensees and a minor increase for the other two multiple pipeline licensee. This is due to the small number of pipelines in their network (two and three respectively). There will be a nil effect for the other three single pipeline licensees. This outcome more closely aligns the fees for licensees with a single pipeline and licensees with multiple pipelines to the amount of regulatory effort across the two groups. However if data or information (for example on the amount of work effort) comes to the attention of the Government prior to the full cost recovery review in 2008, a separate review will be instigated.

3.4 Outline of charging structure

Under the existing mechanism the cost of assessing a single pipeline that is less than 100 km with no sub-sea development connected to the pipeline is currently allocated a levy of \$15 000, assessing a pipeline of more than 100 km with no-sub-sea development connected to the pipeline is allocated a levy of \$30 000 and the cost of assessing a pipeline greater than 100 km with one or two sub-sea developments or manifolds connected allocated a levy of \$50 000. The proposed amendment uses the estimated revenue from the existing mechanism as its starting point to provide a more equitable distribution of the fee between pipeline licensees.

Unlike the safety case levy which is collected annually, the PSMP levy for a pipeline is only collected when the PSMP is initially assessed or if a major revision was required and accepted in a five year period. This is because the greater part of regulatory effort is in the initial assessment of PSMP and assessment of major revisions to PSMP in force. The regulators key function is to undertake a comprehensive assessment of a licensees' PSMP and acceptance of the plan. This includes the initial assessment of the PSMP and the clarification of the claims made by the licensee in the PSMP.

The estimated cost to undertake an assessment of a PSMP is based on an estimate of the time spent by NOPSA inspectors and applies the overhead costs allocated to assessing a Safety Case. As the 'pipeline amount' is paid per pipeline based on the size/complexity of the pipeline an estimation of the time taken for an Assessor/inspector, Lead Assessor and Team Leader to undertake each stage of the assessment process identified above for each type of facility is outlined in **Table A** below. Items B1, B2 and B3 relate to the item, description and pipeline rating described in the proposed regulation as set out on page 13. NOPSA estimated that approximately two inspections will be required and that one review or incident may occur every five years. The cost to undertake this work is estimated at around \$2 000 per day, which includes salary (assessor, lead assessor and team leader) and overheads as identified in **Attachment A**.

Table A:
5 year cost to NOPSA arising from regulatory responsibility for off-shore pipelines

Activity	NOPSA Personnel required	Item B1	Item B2	Item B3
		No sub-sea development connected to the pipeline	With one or two sub-sea developments or manifolds	More than two sub-sea developments or manifolds
		# days	# days	# days
Initial Assessment	Assessor	4	8	12
	Lead Assessor	4	4	5
	Team Leader	1	1	1
Clarifications	Assessor	2	2	2
	Lead assessor	1	1	1
	Team Leader	1	1	1
Two inspections every 5 years*	Inspector x 2	6	6	6
	Team Leader	1	1	1
One Review/incident every 5 years*	Inspector	4	4	4
	Team Leader	1	1	1
Total days		25	29	34
* Assume overhead and direct labour at \$2000/day				
Estimated total cost		\$50 000	\$58 000	\$68 000

The Levies collected under the full cost recovery regime established by the March 2004 CRIS provide funding for NOPSA's annual operating costs. This was

estimated at \$6.8 million in 2005, NOPSA's first full year of operations. The costs incurred in providing a service for the PSMP levy include salaries and associated costs, technical consultants, legal advice, IT, human resource, administrative and financial services, property operating expenses, training, travel and other costs such as insurance, supporting the Board and audit. Details are at **Attachment A**. The PSMP levy will contribute only a small proportion of this budget.

Using this new structure will result in a slight reduction of revenue to NOPSA for its regulation of pipelines of \$70 000 from an estimated \$1.180 million to \$1.110 million. This has been calculated on the number of known pipelines licenses at the time of the CRIS. This includes an estimated 11 pipeline licensees with five having more than one pipeline license and six with single pipelines. Of these licensed pipelines 51 have no sub-sea developments or manifolds and 8 have one or two sub-sea developments or manifolds. Estimates of future income will vary depending on the approach taken by existing and future licensees, which is outside NOPSA's control.

Ongoing Monitoring

4.1 Stakeholder Consultation

Industry was informed of the review and provided with the Terms of Reference October 2005. To determine the key issues impacting on the offshore petroleum industry during the first year of the cost recovery regime, the review team consulted with all relevant stakeholders. This included those that had made representations to the Minister for Industry, Tourism and Resources. The consultation process included circulation of a draft issues paper in April 2006 to provide industry the opportunity to comment on the recommendations prepared by the review team.

The review team also consulted NOPSA to develop and consider amendments to the legislation and regulations with the aim to develop practical regulatory solutions to the issues identified by industry. The amendments were circulated in the issues paper to seek comments from stakeholders. All comments were considered as part of the review process.

The majority of stakeholders, petroleum industry companies required to pay NOPSA for the regulation of their offshore facilities, were generally satisfied with the structure and design of the Safety Case levy.

Some issues related to misunderstandings about the administrative procedures (invoicing procedures, late penalty rates, and definitions). NOPSA contacted those stakeholders directly to provide advice and training. Further comment on the draft issues paper was not received from those stakeholders.

Operators of intermittent facilities, represented by the International Marine Contractors Association (IMCA) and International Association of Drilling Contractors (IADC), and NOPSA sought amendments to the regulations to provide an accurate and consistent definition of intermittent facilities. The existing definitions have caused confusion amongst contractors about vessels categories and have an impact on the levy charged. Operators of intermittent vessels also sought changes to the invoicing procedures to enable them to cease payment following the minimum six months.

Two changes to the design of the Safety Case levy were proposed. The first being a change to the facility ratings in the Safety Case levy with the second being consideration of the percentage split between the SMS and facility amount components of the levy. Both require further consideration once more data is available.

Pipeline licensees argued that the basis for the PSMP levy was flawed, and that charging the fee per individual pipeline for operators of networks will result in a total fee that is disproportionate to the amount of regulatory effort. NOPSA reviewed the cost structure and supported the industry view.

The NOPSA advisory Board sought consideration of a mechanism to vary the levy based on the consumer price index. This will be considered as part of the three year cost recovery review.

4.2 Periodic Review

NOPSA is required to provide an annual report to Parliament under clause 150YV of the PSLA 1967. An independent audit of NOPSA's financial statement undertaken by the Australian National Audit Office is provided in the Annual Report. The first NOPSA annual report tabled in Parliament on 11 October 2005, reported a surplus of \$1.058 million in the 2004–05 financial year, in its first six months of operations. NOPSA raised \$3.4 m revenue, close to the original estimate of \$3.7 m outlined in the Portfolio Budget Statement 2004–05. The surplus was achieved due to an unanticipated increase in industry activity and reduced expenses as NOPSA was short of its full staff complement in 2004–05. This led to reduced expenditure on salary, superannuation, travel, training and relocation costs. The surplus reported in 2004–05 was generated by the Safety Case levy. There was no income generated by the PSMP levy during the period of review as it will be imposed for the first time commencing January 2007.

NOPSA is also required to provide industry with a periodic (annual) review of cost recovery arrangements against its audited financial statements under Regulations 50 and 51 of the Offshore Petroleum (Safety Levies) Regulations 2004. This provide industry the opportunity to raise issues in regard to the cost recovery mechanism. The periodic review must include a comparison of fees and levies collected with the regulatory activities undertaken in the period, and the cost of and budget projections for the operations of NOPSA. Under these provisions NOPSA provided a detailed explanation for the surplus at its annual industry consultation on 18 November 2005. Industry made no comment on the higher than expected surplus or fee levels in relation to the surplus.

There was no over recovery for the PSMP levy during the review period. The income received was minor because the majority of pipelines were subject to transitional arrangements under the legislation. Expenditure from the PSMP levy is linked to NOPSA's legislated regulatory and educational activities, such as promotion and advice regarding occupational health and safety matters. For example, NOPSA has regulatory obligations with respect to diving but there are no levies directly linked to diving activities. Under OPSL Regulation 48(2) the fees for services provided by NOPSA must not exceed the total of the costs incurred to assess a safety case. Therefore if there is a sustained period of over or under recovery NOPSA will adjust its fees and levies with any significant over-recovery returned to industry.

The March 2004 CRIS stated that a full CRIS is required after three years. The review team has recommended that all the issues either considered or not considered in this CRIS should be reviewed during the next comprehensive review, scheduled for 2008. However if data or information comes to the attention of the Government in the intervening period, a separate review will be instigated.

Attachment A: NOPSA Budget Estimate 2005

Item	Average Amount per unit p.a.	Total per annum
1. Salaries & Associated Costs		
CEO package (includes superannuation & motor vehicle allowance)	\$250,000	\$250,000
Team Leaders package (includes superannuation & motor vehicle allowance) x 4	\$195,000	\$780,000
Regulators package (includes superannuation) x 20	\$130,000	\$2,600,000
Corporate Manager (includes superannuation)	\$110,000	\$110,000
Corporate Support Staff (includes superannuation)	\$60,286	\$422,000
Other Costs (Worker's Compensation, leave & other entitlements)		\$358,000
Sub-Total		\$4,520,000
2. Technical Consultants		
For specialised / niche skills		\$200,000
3. Legal advice		
For interpretation of law and if prosecution needed		\$250,000
4. IT, HR & Financial Services		
Information Technology		\$198,000
Human Resources		\$49,500
Financial Management		\$60,000
Sub-Total		\$307,500
5. Property Operating Expenses		
Perth - lease		\$143,640
Melbourne - lease		\$19,200
Darwin - lease		\$10,000
Sub-Total		\$172,840
6. Training		
Regulators	\$18,000	\$360,000
Support staff	\$3,500	\$28,000
Sub-Total		\$388,000
7. Travel		
Board		\$25,000
Managerial meetings (Melbourne & Darwin staff to Perth)		\$100,000
Technical visits		\$115,000
Corporate support staff		\$10,000
CEO (international & domestic)		\$50,000
Sub-Total		\$300,000
8. Other Costs		
NOPSA Board		\$100,000
Insurance		\$50,000
Motor Vehicle FBT		\$60,000
Audit		\$70,000
Administrative services (communications, library, stationery)		\$86,500
Annual Business Exigencies Reserve		\$300,000
Grand Total		\$6,804,840