



Australian Government
Department of Resources
Energy and Tourism

National Offshore Petroleum Safety Authority

2008 Review of Cost Recovery Arrangements and Cost Recovery Impact Statement

September 2009



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COST RECOVERY IMPACT STATEMENT

On 1 January 2005 the National Offshore Petroleum Safety Authority (NOPSA) was established as an independent statutory agency. NOPSA has regulatory responsibility in Commonwealth waters under the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006* (and in State and Territory designated coastal waters, where power has been conferred to it).

NOPSA is fully funded through cost recovery with general provisions for the collection of levies set out in the *Offshore Petroleum (Safety Levies) Act 2003* and the *Offshore Petroleum (Safety Levies) Regulations 2004*.

The Cost Recovery Impact Statement (CRIS) results from a review of the effectiveness and efficiencies of NOPSA's current cost recovery arrangements. The Cost Recovery Review builds on the outcomes and recommendations arising from the 2004 and 2006 review.

In general it has been determined that the cost recovery arrangements through levies remains applicable and that the service provided by NOPSA meets the test of the *Australian Government Cost Recovery Guidelines* that apply to entities subject to the *Financial Management and Accountability Act 1997* and the *Commonwealth Authorities and Companies Act 1997*.

The key recommendations that will impact on the current levy arrangements relate to changes to the invoicing arrangements and introducing minimum periods to make payments more reflective of the time spent on petroleum related work; adjustment of the facility ratings to better align levies with the regulatory oversight provided and addressing the reduction of the accumulated retained surplus, which is directly attributable to levies. Furthermore, it is recommended that in 2011-12 NOPSA implement a process for reviewing the current unit values for determining the levy amount, on a yearly basis to enable adjustments (upward or downward) to better reflect its anticipated work plan.

The Department of Resources Energy and Tourism undertook this review and the development of the CRIS in consultation with all major stakeholders, including companies that pay a levy to NOPSA. The feedback obtained through submissions has been considered and is summarised in this CRIS.

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1. Overview

1.1 Purpose

The objective of this Review is to assess the National Offshore Petroleum Safety Authority's (NOPSA's) activities, costs and cost recovery arrangements following the first three years of operation and give consideration to ensuring the arrangements are equitable and simplified, where appropriate.

1.2 Background

Australia introduced legislation in the offshore petroleum industry for safety case and goal setting regulation in 1992. The safety case regime, which was administered by each state and the Northern Territory, was fully operational in Australia from 1996. In 2000, an independent review of Australia's regulatory system for health and safety in the offshore petroleum industry recommended that a single national regulatory authority be established. One of the aims was to provide effective and cost efficient regulation of health and safety in the offshore petroleum industry.

The National Offshore Petroleum Safety Authority (NOPSA) was established on 1 January 2005 as an independent statutory agency, to deliver world class safety regulation for the Australian offshore petroleum industry, reduce regulatory burden and provide consistent and comprehensive services to achieve better safety outcomes. NOPSA has regulatory responsibility in Commonwealth waters under the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006* (and in State and Territory designated coastal waters, where power has been conferred to it). NOPSA is accountable to Commonwealth and State/NT Resource Ministers through the Ministerial Council on Mineral and Petroleum Resources (MCMPR).

NOPSA is fully funded through cost recovery with general provisions for the collection of levies set out in the *Offshore Petroleum (Safety Levies) Act 2003* and the *Offshore Petroleum (Safety Levies) Regulations 2004*.

In 2006 NOPSA's cost recovery arrangements were reviewed. This Review was undertaken after, and drawing from, the review of NOPSA's *Operational Activities* which was completed in April 2008.

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 Deregulation and outlined in the Australian Government Cost Recovery Guidelines and Finance Circular 2005/09. Both documents are available at http://www.finance.gov.au/finframework/cost_recovery.html

2. Review

The Cost Recovery Review considered the cost recovery arrangement relating to safety levies and examined issues raised by industry during the first three years of operations. A fee-for-service regime was not considered appropriate for NOPSA. The Terms of Reference were approved by the Ministerial Council of Minerals and Petroleum Resources (MCMPR) in February 2008.

The Review was conducted by the Department of Resources Energy and Tourism (RET) during May–September 2008. The outline and expectations of this Review is at Attachment D.

Industry, throughout this review, is interpreted broadly to include operators, employers, petroleum titleholders, contractors, consultants, suppliers, the workforce and workforce representatives.

2.1 Terms of Reference

The Review:

1. Considered the principles of the March 2004 Cost Recovery Impact Statement, against NOPSA's actual activity and costs in the first three years of operation.
 - a. The design and implementation of the Annual Safety Case Levy, Pipeline Safety Management Plan Levy and Investigations Levy;
 - b. The structure, collection and timing of the annual Safety Case Levy;
 - c. Varying unit values and facility ratings;
 - d. Fees for services provided by NOPSA; and
 - e. The capacity to charge all levies in arrears.
2. Considered the effectiveness of the ongoing monitoring and benchmarking mechanism for cost recovery arrangements put in place by NOPSA;
3. Considered recommendations from the June 2006 review to:
 - a. Amend the definition of mobile facilities and improve the alignment of facility definitions in the PSLA and the charging categories in the Offshore Petroleum Safety Levies Regulations 2004;
 - b. Amend current facility ratings;
 - c. Amend invoicing procedures for vessels or facilities that have left Commonwealth waters and met the minimum (2 quarter) requirement and examine options to implement a more efficient levy structure for mobile (and non-mobile) facilities, amend limits on the levy amount remitted, the timing of remittal assessments and invoicing procedures;
 - d. Maintain the level of the late payment penalty rate;
 - e. Consider a mechanism to implement annual variation of levies in line with the level of industry activity and improve the efficiency of managing the process; and
 - f. Review the 20:80 split between charges for the SMS and facility components of NOPSA operations;

4. Reviewed cost-recovery issues raised by key stakeholders (such as the definition of associated offshore place and the regime boundary) and the February 2008 independent review of NOPSA operations; and
5. Considered whether there is a need for amendments to the *Offshore Petroleum (Safety Levy) Act 2003* and/or the *Offshore Petroleum (Safety Levies) Regulations 2004*.

2.2 Description of Activity

The role of NOPSA is to administer offshore petroleum health and safety legislation. Its functions are specified at Schedule 3 of the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006* and related regulations for Occupational Health and Safety, Management of Safety on Offshore Facilities (MoSoF), Pipelines and Diving Safety.

NOPSA's functions are specified at Section 646 of the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006* which states

646 Safety Authority's functions

The Safety Authority has the following functions:

- (a) the functions conferred on it by or under this Act in relation to offshore petroleum operations in Commonwealth waters;
- (b) the functions conferred on it by or under a State PSLA or the Territory PSLA in relation to offshore petroleum operations in the designated coastal waters of that State or Territory;
- (c) to promote the occupational health and safety of persons engaged in offshore petroleum operations;
- (d) to develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their occupational health and safety obligations under this Act and the regulations;
- (e) to:
 - (i) investigate accidents, occurrences and circumstances that affect, or have the potential to affect, the occupational health and safety of persons engaged in offshore petroleum operations; and
 - (ii) report, as appropriate, to the responsible Commonwealth Minister, and to State and Northern Territory Petroleum Ministers, on those investigations;
- (f) to advise persons, either on its own initiative or on request, on occupational health and safety matters relating to offshore petroleum operations;
- (g) to make reports, including recommendations, to:
 - (i) the responsible Commonwealth Minister; and
 - (ii) each State and Northern Territory Petroleum Minister;
 on issues relating to the occupational health and safety of persons engaged in offshore petroleum operations;

- (h) to cooperate with:
 - (i) other Commonwealth agencies having functions relating to offshore petroleum operations; and
 - (ii) State and Northern Territory agencies having functions relating to offshore petroleum operations; and
 - (iii) the Designated Authorities of the States and the Northern Territory.

NOPSA addresses its core regulatory responsibilities through monitoring and enforcement strategies, that include planned inspections, themed audits, assessment and acceptance of safety cases (safety management plans for diving and pipelines), investigation of incidents or complaints and enforcement activities that include measures for prosecutions and withdrawal of safety case approvals.

In addition, NOPSA promotes occupational health and safety through a range of activities such as the national programs (facility integrity and lifting operations to date) and consultation and ongoing communication with its stakeholders.

The cost recovery arrangements provide NOPSA with the resources to fulfil these functions. A description of NOPSA's activities, including those functions outlined in the *Offshore Petroleum Greenhouse Gas and Storage Act 2006* is included in the *NOPSA Corporate Plan 2008-2011*. This document is available on the NOPSA website at: http://www.nopsa.gov.au/document/NOPSA_Corporate_Plan_2008_11.pdf

2.3 Current Cost Recovery Arrangements

NOPSA's cost recovery arrangements are outlined in the *Offshore Petroleum (Safety Levies) Act 2003* and the *Offshore Petroleum (Safety Levies) Regulations 2004*.

NOPSA has a single outcome – An Australian oil and gas industry that properly controls the health and safety risks to the workforce at its offshore petroleum operations. This outcome is managed through the following single Program:

Program 1 – Regulatory oversight of Operators' Safety Cases, safety management systems and operational practices coupled with effective monitoring, investigation and enforcement.

NOPSA's program is funded by revenue from industry, derived from safety case levies.

The safety case levies are: a safety case levy; a pipeline safety management plan levy and a safety investigation levy. The appropriate levy is determined in accordance with the Regulations. The amount of the safety case levy in relation to a facility is the facility amount plus the SMS amount. The facility amount is dependent on the type of facility and whether the operator has other facilities (for safety case levies). The facility levy is derived from the facility rating (a rating of 1 to 9 reflecting the increasing complexity of facilities) and the unit value (\$25,000 for facilities as per the safety case levies and \$10,000 for pipelines as per the pipeline safety management plan levies). The safety case levy is different for mobile and other than mobile facilities. Levies for mobile facilities are invoiced and paid quarterly in arrears. Levies for other than mobile facilities are invoiced in advance of the quarter.

An operator is required to pay only one SMS amount in a year regardless of the number of mobile or other than mobile facilities operated.

The following tables illustrate the current annual facility amounts and SMS amounts:

Table 1 – Facility Amount

Facility or proposed facility	Facility rating	Facility Amount	No. of facilities levied 2008-09
Large production platform with drilling/workover capability	9	225,000	2
Other production platform with accommodation facilities:			
a) when drilling/workover facilities are in commission	8	200,000	2
b) when drilling/workover facilities are not in commission	5	125,000	18
<i>Note</i> This is a variable-rating facility .			
Floating production storage and offloading facility	6	150,000	13
Mobile offshore drilling unit or drill-ship	6	150,000	13
Vessel or structure being used for laying pipes for petroleum, the erection, dismantling or decommissioning of a facility or for the provision of accommodation for persons working on another facility	5	125,000	12
Floating storage unit linked to a production platform	3	75,000	2
Monopod, well head platform or other small production facility with no accommodation	1	25,000	34

Table 2 – SMS Amount

Facilities	SMS amount
At least one of the facilities is not a mobile facility	\$125,000
All the facilities are mobile facilities	\$80,000

NOPSA also has the authority to recover actual costs above a \$30,000 threshold for safety investigations and charge fees for services in relation to proposed facilities. In both cases, these charges and fees relate to the services provided by NOPSA and are calculated separately from any levies.

2.4 2006 Review of Cost Recovery Arrangements

A review of the cost recovery arrangements was conducted in 2006 to assess the appropriateness of the arrangements by which NOPSA was funded. The 2006 Review found some areas that required immediate improvement, particularly in relation to some facility definitions that affected NOPSA's capacity to generate funds or resulted in higher than anticipated costs to industry. The Review made seven recommendations:

1. Amend definitions for mobile facilities in the Regulations to achieve consistency with the Act;
2. Amend current facility ratings and provide discounts to operators based on good performance;
3. Amend the structure of the [pipeline safety management plan] PSMP levy;
4. Amend invoicing procedures to enable further invoicing to cease for vessels or facilities that have left Commonwealth waters, and met the minimum requirements;
5. Maintain the level of the late payment penalty rate;
6. Annual variation of levies in line with the level of industry activity; and
7. Review of the 20:80 split between charges for the SMS and facility components of NOPSA operations.

It was agreed by the MCMPR in July 2006 that recommendations 2, 5, 6 and 7 would be further considered after NOPSA had been in operation for three years. The recommended amendments to the definitions (rec. 1) and the pipeline levy structure (rec. 3) were completed in 2006. Recommendation 4 (invoicing arrangements) was not progressed in 2006 and was considered in this Review.

3. The 2008 Cost Recovery Review

All companies that pay a levy to NOPSA were invited to participate. Stakeholders including the Australian Petroleum Production and Exploration Association (APPEA), the International Association of Drilling Contractors (IADC), the International Marine Contractors' Association (IMCA), the Australian Pipeline Industry Association (APIA), the Maritime Union of Australia (MUA), the Australian Workers' Union (AWU), the Australian Institute of Marine and Power Engineers (AIMPE) and the Australian Council of Trade Unions (ACTU) were also invited to participate. The Review was also advertised on the NOPSA website (www.nopsa.gov.au).

In preparing to conduct the Review, RET held discussions with the Australian National Audit Office (ANAO) and the Department of Finance and Deregulation. Prior to these meetings RET considered the cost recovery arrangements for other Commonwealth entities including the Therapeutic Goods Administration (Department of Health and Aging); Vehicle Safety Standards (Department of Infrastructure, Transport, Regional Development and Local Government); the Australian Quarantine and Inspection Service and the Australian Pesticides and Veterinary Medicines Authority (Department of Agriculture, Fisheries and Forestry) to ensure consistent application of the Government's cost recovery guidelines.

Written submissions were received from APPEA, Esso Australia Pty Ltd, IADC, IMCA and the MUA. Information on the distribution of regulatory effort against facility type was also provided by NOPSA. In addition the Review team met with APPEA; Esso Australia Pty Ltd; Woodside, IADC, IMCA (including three member companies) and NOPSA.

3.1 Issues

The views expressed in the written submissions were supported through face-to-face discussions. In summary, issues that were raised by stakeholders include:

1. Facility ratings be used as a measure of regulatory activity.
2. The inflexibility of the current levies system, as evidenced by the accumulation of a Retained surplus of around \$5 million of which approximately \$4 million is directly attributable to levies.
3. Opportunities to streamline the levy system, particularly in relation to the system of invoicing in arrears.
4. A need to set a more accurate forward budget built on an annual work program.
5. Improved communication and consultation with industry including feedback to industry on NOPSA's effectiveness and efficiency and discussions on the size of the inspectorate given NOPSA's growth beyond that anticipated prior to its commencement.
6. Review late payment penalties and its administration.

The following additional matters were carried over from 2006 and are also addressed as part of this Review:

7. Annual variation of levies in line with the level of industry activity; and
8. Review of the 20:80 split between charges for the SMS and facility components of NOPSA operations.

3.2 Costs incurred by the Safety Authority

In accordance with the Government's cost recovery principles NOPSA's income is primarily derived from levies that it collects as well as any interest equivalency payments that it may be entitled to receive from Government during the year. A breakdown of NOPSA's anticipated revenue from levies for 2009-10 through to 2012-13 is at Attachment A.

In 2007-08 NOPSA's audited accounts, as included in the NOPSA Annual Report, indicate total income of \$12.1 million of which \$11.4 million was expended in the year. It is noted that safety case levies made up \$11.5 million of NOPSA's income. Interest and late payment penalties that are not considered to be cost recovery arrangements for the purposes of the Government's Cost Recovery Guidelines made up the balance of \$600,000.

3.3 Distribution of Income by the Safety Authority

NOPSA's current staffing arrangements and budgetary underpinnings appear to be in balance in 2008. Details of NOPSA's budget estimates for 2009-10 till 2012-13 are at Attachment B.

During the Review some industry representatives contend that NOPSA was over servicing whereas others stated that NOPSA could do more. The Review notes that the current benchmarks within which NOPSA is operating against, such as the number of planned inspections (NOPSA expects that it will inspect each crewed facility at least once per year), are consistent with international practices. For example, the British Health and Safety Executive has a similar benchmark for its inspection program.

All stakeholders expressed a significant interest in the cost distribution arrangements.

Furthermore, in their submission, the Marine Contractors highlighted their concern regarding the apparent inequity of costs borne by their members, indicating that Marine contractors contributed a greater share to NOPSA's budget compared to the regulatory activity. This was also supported by figures provided by NOPSA, highlighted that the current distribution of costs arrangement needs to be reviewed. Both NOPSA and IMCA support the lowering of the levy rating.

NOPSA's submission further highlighted that regulatory activity directed towards the two facilities with the highest facility rating (rating 9) appear to be out of balance with the levies applied whereby operators of large production facilities appear to contribute proportionally less than others.

NOPSA is analysing its inspection program and cost structure to quantify an equitable cost distribution that may result in the extension of the current nine-point facility rating scale. It could, for example, move the highest facility rating from nine to around twelve or fifteen (there are currently two facilities that attract the nine point rating). An increase in the facility rating from 9 to 12 will increase the annual levies by \$150,000. The effect of changing facility ratings for construction vessels from five to three will be an overall reduction in NOPSA's levy of \$500,000. Facility ratings should be monitored by NOPSA with adjustments to either the work program or the ratings if required.

Extending the ratings scale from 9 will provide a greater degree of flexibility and capacity to cope with industry activity, changes to the risk profile or the introduction of new technologies that might not fit within the current descriptors in Schedule 1 of the Safety Levies Regulations.

3.4 Accumulated operating surplus

Since commencement, NOPSA has accumulated a Retained surplus of \$5.6 million, of which \$4.051 million is directly attributable to industry levies. All industry groups have an interest in these funds but no clear single view on how the money should be used.

In 2004, as NOPSA was being established it was anticipated that its operating costs would be around \$7 million in its first year. The half year figures for 2004-05 indicate that this was a reasonably accurate estimate. As is evidenced by table 3 since it began operating in 2005, NOPSA has been unable to expend all of the received funds within any year and has accumulated a surplus in each year of its operation.

Table 3

	Income (\$)	Levies (\$)	Expenditure (\$)	Levies less Expenditure (\$)	Surplus (\$)
2007-08	12,105,000	11,519,000	11,437,000	82,000	668,000
2006-07	10,639,000	10,306,000	9,647,000	659,000	992,000
2005-06	9,610,000	9,269,000	6,714,000	2,555,000	2,896,000
2004-05	3,422,000	3,119,000	2,364,000	755,000	1,058,000

In its submission to this Review, NOPSA advised that the surplus was due to delays in recruiting staff in the unprecedented tight labour market, and the buoyant petroleum development market that resulted in a significant number of new facilities operating in Australian waters. This resulted in a corresponding regulatory workload greater than was originally anticipated. NOPSA has since addressed the shortfall in staff.

Furthermore, in addition to known and planned annual expenditure, a contingency reserve of ten percent of the annual budget (approximately \$1.2 million in 2008) was considered sufficient for NOPSA to meet any unplanned costs in a single year. In addition, a further \$1.5 million is to be held for the future replacement and upgrading of assets. The quantum of the budget reserve above planned annual expenditure will vary from year to year. However this should not result in an ongoing increasing surplus.

The Review also considered potential applications to which this accumulated Retained surplus might be put, including use in the future levies system (section 3.8) Industry levies are paid to NOPSA to enable it to fulfil its functions under the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006*. The NOPSA Account is established to provide a financial mechanism for this to occur and is used for the receipt of moneys and payments in relation to NOPSA's functions and staffing (sections 682; 683 and 684 of the Act).

The quantum of the levy is about the actual cost of providing these services. It is therefore important to get the levies right. The Review notes the accumulation of the surplus is a result of the regulations in its current form and that the regulations may need to be amended to ensure that NOPSA has appropriate resources while minimising the financial impact on those being regulated.

The accumulated levies form part of NOPSA's operational capacity and therefore should be used for the purpose for which they were provided. As levies cannot now be used to pay for past staffing arrangements, or the retrospective exercise of powers, any new expenditure of that money should be consistent with NOPSA's functions under the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006*.

3.5 Calculation of costs

The current surplus demonstrates the inflexibility in the current arrangements under the Safety Levies Act and Regulations that invoke a fixed payment based on industry activity. Under the current arrangements a doubling of the number of facilities has the potential to double NOPSA's income with little opportunity for that money to be expended in the same year without a rapid escalation of staff or other expenditure. A future levies system should offer sufficient flexibility within each financial year to ensure that only funds required for the delivery of regulatory services are collected and that excess funds are either not collected or are returned within a reasonable timeframe.

A flexible system might entail, for example, annual correction of the unit values (currently \$25,000 and \$10,000 in the Safety Levies Regulations) to provide for a cost neutral position in line with NOPSA's annual work program plus a reasonable contingency amount of ten percent. As budgets and financial statements are prepared on a financial year basis, consideration should be given to the reconciliation of funds required and forecast expenditure being done on a financial year basis, with a correction made in the last quarter of each financial year. Under the current system levies are annual and on a calendar year basis.

The unit amount in the safety levies regulations could be amended either on an annual basis, or as needed should the regulations of the day be appropriate, by the Commonwealth Minister for Resources and Energy. The Review does not support a second option promoted by some that the amendment be authorised by the Prime Minister. A third option that the amount set in regulation be relaxed in favour of a unit amount set by the NOPSA CEO is also not supported.

A key feature of a future levies system (from July 2011 if recommendations from this Review are accepted) will need to include a high level of engagement between NOPSA, industry and governments during the forward workplan and budgeting process in time for the levies to be established before the commencement of the new program year.

The Review is not recommending a new unit value as this figure should be dependent on NOPSA's work program and based on planned, anticipated and unanticipated activity in the following program year.

3.6 Obligation to pay in advance / arrears

Currently the Regulations require operators of other than mobile facilities to pay quarterly in advance. This provides NOPSA with a cash inflow at the beginning of each year.

Operators of mobile facilities pay quarterly in arrears and may be entitled to a remittal based on the number of days in which the mobile facility was not operating in Safety Authority waters. Invoices are issued quarterly, ensuring a minimum payment of two quarters' levies for mobile facilities, irrespective of industry activity, in any rolling four quarter period.

NOPSA has suggested that the annual levy for mobile facilities be replaced by quarterly levies.

NOPSA has also suggested that it could collect all payments in arrears with a minimum of one quarter's levies instead of two, to cover minimum activity in relation to mobile facilities.

NOPSA has advised that the cashflow implications for the first year of these changes would be a reduction by approximately \$4 million. However the reduction to the surplus would only be \$105,000.

Payment in arrears for other than mobile facilities has no impact on the surplus because income from these facilities still needs to be accrued in the financial year in which that income is derived. However, the impact on the cashflow is significant, as a result of not collecting payment for two quarters in the first full financial year of implementation. For example if payment in arrears were to begin in July 2009, the quarterly payment for July to September would have already been paid in May 2009 and the payment for October to December would not be due until February 2010. Hence no payments would be received between July and January 2010.

NOPSA has provided financial modelling that suggests that the change to payment in arrears would be able to be absorbed at its current cashflow levels.

The operators of other than mobile facilities are likely to be supportive of moving to payment in arrears, as that would have an immediate cashflow impact. The retention of the surplus however is unlikely to enjoy industry support, unless it is clearly identified that it is the cash surplus that is being returned to industry and not the "Retained surplus", which is for contingency and asset replacement costs and is calculated on an accrual basis.

Another mechanism would be to leave the payment obligation as is and determine on a financial year basis, what facility rate could have applied in order that levies would equate to the actual expenditure plus an agreed contingency reserve. This would then enable all operators' and pipeline licencees' payments to match NOPSA's actual costs relating to each financial year. This mechanism however is not available under the current legislation.

The Review supports the alignment of payment due dates for safety case levies to be in arrears irrespective of whether a facility is mobile or other than mobile. The Review also supports a reduction to the minimum amount payable in relation to mobile facilities to one quarter.

As a result of the alignment of payment due dates, it is acknowledged that the reduction in cash surplus would need to be emphasised to industry, with no expectation that the "Retained surplus" would also be reduced.

3.7 NOPSA's workplan

NOPSA outlines its forward workplan in its Annual Report (Section: The Year Ahead), the Corporate Plan and in consultations with industry.

A common theme throughout the Review is that industry would like to be more involved in NOPSA's work program.

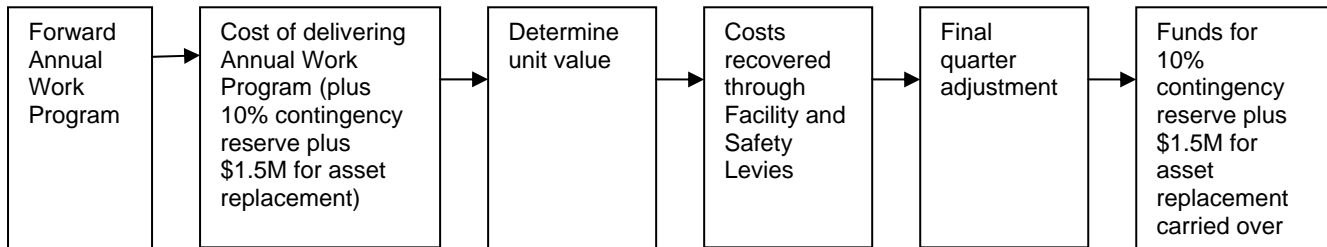
The Review does not support industry approval or endorsement of NOPSA's workplan but does see benefit in industry being engaged as a partner in identifying offshore petroleum industry issues that could be addressed each year. In this regard it appears that NOPSA could do more to proactively engage with industry and that a workplan that is developed through industry consultation could feed into the NOPSA budget and industry levies.

A costed workplan that is developed and communicated to industry, with sufficient flexibility for unforeseen additional regulatory activity, should form the basis of the forward annual budget. During communication, industry can advise NOPSA of expected changes to activity (including new and departing vessel types and duration or cessation of work) to determine the overall regulatory and promotional activity to be undertaken. Costs for such activity can be distributed across all facility operators through the levies.

NOPSA agreed during discussions that there was scope for more communication with stakeholders and had, following the Operations Review, instigated a regular number of meeting opportunities, particularly with involved unions. RET will look to NOPSA and industry for advice on the efficacy of these extended and new consultative arrangements.

3.8 A future levies system

A potential budget cycle is illustrated in the following diagram.



Safety levies should:

- provide NOPSA with sufficient funds, plus a contingency reserve of ten percent of annual budget and \$1.5 million for asset replacement, for annual operating costs;
- not generate income above the annual operating costs, or have the capacity to immediately return surplus funds to operators in the proportion to which they contributed;
- be based on an annual work program that is developed and communicated to with industry; and

- remain an annual levy for mobile facilities with no invoice required where no industry activity has occurred in the past quarter, if the minimum of one quarter's payment has been met in any rolling four quarter period.

The facility ratings system was developed in 2004 on the information available at the time. It was not intended that the ratings would be fixed for all time and evidence by both NOPSA and IMCA indicates that adjustment is necessary from time to time.

Industry, in various submissions and discussions highlighted the perceived inflexibility of the current levies regulations as evidenced by the accumulation of several millions of dollars above that required for its annual operations. Other comments related to the perceived lack of opportunity to influence NOPSA's work program. The Review was advised through better communication and cooperation between industry and NOPSA would reduce the likelihood of duplication of effort, or potential for inactivity, in areas that are current issues of concern and emerging priority areas for the offshore oil and gas industry.

3.9 Late payment penalty

Discussion of the quantum of the late payment penalty was deferred in 2006 and raised in this Review. Payments that have not been received by NOPSA by the due date incur a penalty of 0.333333 percent per day.

The late payment penalty is not subject to the cost recovery policy as fines and penalties are usually returned to the Government. However the Review Team notes that NOPSA has received a determination that provides NOPSA with a legislative basis for crediting the NOPSA Special Account with late payment penalties that it receives.

The late payment penalty (relevant to NOPSA's operations) appears in the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006* sections 686 (Safety investigation levy), 687 (Safety case levy) and 688 (Pipeline safety management plan levy). For example, Section 686:

Safety investigation levy

When safety investigation levy becomes due and payable

1. Safety investigation levy imposed by the Safety Levies Act becomes due and payable at the time specified in, or worked out in accordance with, the regulations.

Late payment penalty

2. If safety investigation levy payable by a person under the Safety Levies Act remains wholly or partly unpaid after it becomes due and payable, the person is liable to pay a late payment penalty under this section.
3. The late payment penalty is calculated at the rate of 0.333333% per day on the amount of the safety investigation levy remaining unpaid.
4. The Safety Authority may remit the whole or a part of an amount of late payment penalty if the Safety Authority considers that there are good reasons for doing so.

Recovery of safety investigation levy and late payment penalty

5. Each amount of safety investigation levy, and each amount of late payment penalty payable in respect of safety investigation levy:

- (a) is a debt due to the Safety Authority on behalf of the Commonwealth; and
- (b) is recoverable by the Safety Authority, on behalf of the Commonwealth, in a court of competent jurisdiction.

In 2006, industry estimated that the penalty amount, if unpaid over a year is equivalent to over 100 percent on the amount unpaid and indicated that it considers the penalty amount to be too high. The late payment fee is in line with all late payment penalties in the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006*. In discussions at the commencement of this Review, the Department of Finance and Deregulation advised that the amount is consistent with government standard for contracts.

Industry informed the Review that, in their view, NOPSA's strict application of the policy might be tempered with a period of grace before the impost of the penalty. The times at which payments are due are stipulated in the Safety Levies Regulations and are not at NOPSA's discretion. Given that the amounts and due dates are stated in the regulations and are consistent with Government policy, the Review is not proposing an amendment to this requirement.

The Review notes that operators can discuss quarterly payment programs with NOPSA and that NOPSA currently provides advice on when payments are due to assist operators with annual financial planning. The financial implications for NOPSA should the invoicing period be extended were not considered by the Review.

3.10 Performance discounts

The Safety Levies Act and Regulations provides appropriate financial resources for NOPSA in two tiers. A base level of funding is provided through the safety case or pipeline safety management plan levy comprising a facility levy and a SMS amount. Due to the nature of the industry and the unexpected nature of accidents and incidents a second level of funding (the *safety investigation levy*) is also provided where investigation costs exceed a threshold amount of \$30,000. In this way all offshore operators contribute to the operation of the safety authority to some extent and all operators are not impacted should a significant incident occur. In considering the request in 2006 for levies to be discounted for good safety performance the Review found that there is no current need to offer such levy discounts given the insulation of operators from the cost of major investigations.

The review does though recommend that the threshold amount for the Safety Investigation Levy be re-assessed as part of the next review.

3.11 Definitions – mobile facilities

Mobile facilities are defined in Schedule 2 of the Regulations as

"mobile offshore drilling units, drill-ships, vessels for laying pipe or vessels or structures used in the erection, dismantling or decommissioning of facilities or used for accommodating persons working on another facility".

This definition does not include a number of vessels that might reasonably be considered “mobile” facilities. This includes those doing work on an existing pipe. Under current arrangements operators of such vessels are invoiced in advance of the next quarter and are not subject to the remittal of part of the levy. Operators of these vessels are also subject to the

higher SMS amount of \$125,000 for facilities that are other than mobile facilities instead of \$80,000 applicable to mobile facilities per annum. However, such vessels are not included in the facility rating table at Schedule 1 and are not subject to that charge.

The effect of the regulations as they now stand is that a vessel used to support the dismantling of a facility is “mobile” and subject to one levy structure whereas the same vessel doing work on an existing pipeline is not mobile and its operator is required to pay full annual costs quarterly in advance.

One way to address this anomaly is to include vessels operating in support at a facility within the safety management requirements for the host facility. This would represent a fundamental change to the definition of facilities under the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006* and the associated offshore places. The Review notes consideration is being given to such definitions.

In the event that this matter is not resolved separately, the Review is supportive of submissions on this matter and in particular the revision of definitions to “mobile facilities” to align the entries in Schedules 1 and 2 of the *Offshore Petroleum (Safety Levies) Regulations 2004* with the definition at clause 4 of the OPGGSA.

4. Conclusions

The use of cost recovery arrangements through levies that commenced with NOPSA on 1 January 2005 remains applicable in 2008. Safety permissioning through acceptance of safety cases and training and inspections to assess compliance with occupational health and safety requirements directly engages industry (the service recipients). The service provided by NOPSA meets the tests in the July 2005 *Australian Government Cost Recovery Guidelines* that apply to all *Financial Management and Accountability Act 1997* agencies and those *Commonwealth Authorities and Companies Act 1997* bodies.

The Guidelines advise that cost recovery is different from general taxation. Some levies or taxes are used to raise cost recovery revenues, but the direct link — or ‘earmarking’ — between the revenue and the funding of a specific activity distinguishes such cost recovery taxes from general taxation. The Guidelines further state that where levies are used, they should be closely linked to costs and focused on recovering costs from only those groups of firms or individuals that use the products or services or create the need for regulation.

The Review did not revisit earlier discussions on the appropriateness of a levy, as is in place now, or introducing a fee-for service. This matter was discussed and resolved in the 2004 CRIS. The 2004 CRIS also anticipated the expansion of Australia's offshore oil and gas industry and the need for some capacity to vary the levies either within a year or from year to year. The current levy structure, including the \$25,000 unit value for the facility amount and the facility ratings, was constructed using industry activity levels in 2002-03 (in March 2003 oil was trading at US\$35 per barrel (a price described at www.treasury.gov.au at the time as 'very high'). Since then offshore industry activity in Australia has steadily increased as evidenced by indicators such as the oil price and exploration activities. The increased petroleum activity has required NOPSA to augment its regulatory resources to ensure that appropriate services are provided. The current downturn in the oil price indicates a potential change to the heavy growth of previous years and highlights the need for a flexible levies system that responds to changes in industry activity and ensures that NOPSA has sufficient resources to act effectively.

The Safety Levies Act and Regulations provide the offshore oil and gas industry (including NOPSA and the Australian public) with a clear statement and expectation of the quantum of the various costs that are associated with the provision of regulatory services in this industry. The Review concludes that while these are known, and therefore transparent and readily managed within the normal business and financial arrangements of the various operators, there is a degree of uncertainty in some areas. In this regard, NOPSA and industry have a joint responsibility to communicate more effectively on firstly, the levies system and secondly, the purposes to which the money is put.

Uncertainty of jurisdiction

The Review found uncertainty about the inclusion of some industry operations within the offshore petroleum OHS regulatory regime. Some operators expressed a view that their work was incidental to petroleum operations and therefore the vessels undertaking such work should not be included as facilities and consequently not be subject to safety levies. In addition, some industry operations are intermittent and of relatively short duration. The Review is sympathetic to this latter concern and supports NOPSA's suggestion for amendments to the invoicing arrangements and minimum periods for payments more reflective of the time spent on petroleum related work.

Costing framework

The Review also concludes, on the evidence provided by NOPSA and in other submissions that the facility ratings are in need of adjustment to align the levies paid with the regulatory oversight provided. The facility ratings should also be amended to ensure that new facilities are included as appropriate.

Accumulated Retained surplus

The fixed nature of the current levies system has resulted in NOPSA accumulating an operating surplus in each year of operation. That surplus is now exceeding \$5 million dollars, of which \$4 million is directly attributable to levies. The Review found that stakeholders have conflicting interest in this asset and most meetings spent some time discussing various means of reducing this surplus. The majority of submissions requested a return of the money to industry through refunds. Operators of other than mobile facilities, through APPEA, have indicated a preference for all levies being paid in arrears as a means of reducing the surplus (cash rather than accrual).

Any use of this money should be in accordance with the functions prescribed in legislation or returned to industry. Some flexibility in invoicing was intended in the 2004 CRIS and regulation development papers to ensure that NOPSA's budget was appropriate, adequate and in balance. That such flexibility is absent in the current arrangements, is a matter to be addressed in 2009.

Communication

Currently in accordance with the cost-recovery arrangements outlined in Part 6 of the *Offshore Petroleum (Safety Levies) Regulations 2004*, NOPSA meets with representatives of the offshore petroleum industry annually to discuss the cost-effectiveness of the Authority's operations. The Review found that in addition to this legislated requirement, NOPSA also holds or attends regular meetings with various stakeholders to discuss matters of mutual interest, including the inspection program and analyses of incidents and trends. Despite these meetings there is still industry interest in enhancing the communication between the regulator and those being regulated. This finding is consistent with the independent review into NOPSA's operational effectiveness completed earlier in 2008 that considered various elements of communication and stakeholder engagement.

One area of potential enhanced communication is in relation to the development of an annual work program that is underpinned by a costing and levy structure. NOPSA has developed a financial model that enables an appropriate cost recovery mechanism to establish the resources required via levies to meet its budgeted annual work program cost.

5. Recommendations

After consideration of the legislation, previous reviews, written submissions to this review and interviews, the Review recommends:

1. NOPSA's annual budget is derived from an annual work program consistent with NOPSA's functions and regulatory requirements.
2. NOPSA communicates to industry its intended work program for the next year prior to the finalisation of the next year budget. This will provide an opportunity for industry to be appraised of, and provide information, in relation to matters of emerging and ongoing significance that might influence NOPSA's inspection and other legislated activities. Communication to industry is only intended to assist NOPSA in developing its annual work program.
3. To reflect the level of regulatory activity required, it is recommended that the facility rating for large production platforms (item 1 in the table in Schedule 1 of the *Offshore Petroleum (Safety Levies) Regulations 2004*) be amended from nine (9) to twelve (12).
4. To reflect the level of regulatory activity required, it is recommended that the facility rating (item 5 in the table in Schedule 1 of the *Offshore Petroleum (Safety Levies) Regulations 2004*) be split and that those facilities deemed as a "vessel or structure used for the erection, dismantling or decommissioning of a facility or for the provision of accommodation for persons working on another facility" be rated as a three (3). A vessel used for laying pipes for petroleum activities is to remain a rating of five (5)
5. The Regulations be amended to provide for an annual reconciliation and remittal on a pro-rata basis at the end of each financial year of any part of the safety case levy or pipeline safety management plan levy that is likely to provide NOPSA with funds in excess of its operational requirements after taking into consideration the contingency and asset replacement reserves.
6. The accumulated Retained surplus, which is directly attributable to levies, be used for the purpose for which they were provided. In this regard it is recommended that the Retained surplus be utilised over a three year period.
7. All operators be invoiced quarterly in arrears. This will enable the accumulated cash surplus of approximately \$4 million to be returned to industry immediately.
8. In 2011-12, or earlier if necessary, the unit values of Schedule 1 and 3 of the *Offshore Petroleum (Safety Levies) Regulations 2004* be reviewed, taking into account data collected by NOPSA as well as and NOPSA's anticipated work program, and be amended as required (upwards or downwards) to reflect the relative risks and appropriate regulatory activity by category.
9. Following the 2011-12, or an earlier review, of the unit values of Schedule 1 and 3 of the *Offshore Petroleum (Safety Levies) Regulations 2004*, a process for reviewing the unit values on a yearly basis should be implemented by NOPSA and amendments (upwards or downwards) be applied, as required.

10. The definition and other regulations relating to mobile facilities be amended to address inequities in the treatment of vessels engaged in short-term contracted operations.
11. The Review recommends that the *Offshore Petroleum (Safety Levies) Regulations 2004* be amended to provide a minimum invoicing period for mobile facilities of one quarter.
12. No change is recommended to the Safety Investigation Levy.
13. No change is recommended to the quantum of the late payment penalty.
14. No change is recommended to the framework of the safety case levy that comprises an SMS amount and facility amount.
15. Should these recommendations be accepted, the *Offshore Petroleum (Safety Levies) Regulations 2004* and, if necessary the *Offshore Petroleum (Safety Levies) Act 2003*, are to be amended to enable the appropriate allocation of costs to facility operators before the commencement of NOPSA's 2010-2011 budget considerations.
16. In accordance with the Australian Government's Cost Recovery Guidelines 2005, unless considered necessary, a cost recovery review be undertaken every five years. The results of these reviews will be a Cost Recovery Impact Statement.
17. In response to NOPSA's projected deficit of \$3.9 million in 2012-13, and the number of initiatives currently being progressed by the Government as a result of a number of reviews with implications for NOPSA, a cost recovery impact assessment is to be undertaken by NOPSA in 2011-12, in parallel with the NOPSA Operational Review.

6. Cost implications

There is no anticipated overall effect on NOPSA's budget that is reflective of industry activity. By including an annual workplan in costing arrangements NOPSA's budget will continue to be responsive to industry variations.

Acceptance of all recommendations will result in a shift between levy payers as levies and regulatory activity are balanced. Shifting costs to reflect regulatory activity will reduce the current cross-sectoral subsidisation.

NOPSA has provided the following cash implications in the first year of implementation, based on current and projected activity levels:

Recommendation	Current income per year amount	Impact of Recommendation Increase/(Decrease)
Recommendation 3 Large platform rating from 9 to 12	450,000	150,000
Recommendation 4 Vessel or structure rating from 5 to 3	1,250,000	(500,000)
Recommendation 7	7,725,000	(3,862,500)
Recommendation 10	125,000	(45,000)
Recommendation 11	210,000	(105,000)
TOTAL CASH IMPACT	NA	(\$4,362,500)

NOPSA has advised that based on its financial modelling of the Review's recommendations, including an anticipated 25% decline in mobile facilities emanating from the economic downturn, and assuming there is no adjustment to the current unit facility amount (\$25,000), the accumulated Retained surplus will reduce considerably over the next three financial years as a result of annual deficits from 2009-10. This will ultimately lead to a projected accumulated deficit of \$3.9 million by 2012-13, unless the unit value is revised upward prior to July 2012. On this basis, NOPSA has indicated that it may be appropriate that modest increases are implemented to the unit value, through a staged approach starting in 2010, enabling a gradual reduction to the current accumulated Retained surplus. A staged and measured approach to addressing a forecasted deficit in the near future, is supported by the Review as it reflects good budget management, and is preferred over instigation of greater increases being imposed in 2012.

NOPSA has also estimated that its cash surplus of around \$4 million would reduce annually from 2009-10 to approximately \$66,000 by 2012-13, if there is no revision to the unit facility amount prior to 2012-13.

7. Timing of the next review

NOPSA provides Annual Reports to Parliament under Section 400 of the *Offshore Petroleum and Greenhouse Gas and Storage Act 2006*. The Annual Report also provides NOPSA with an ongoing yearly opportunity to declare the effectiveness of the cost recovery structure and to foreshadow some projected work activity.

NOPSA also provides industry with an annual review of its cost recovery arrangements that includes an independently audited financial statement under Regulations 50 and 51 of the *Offshore Petroleum (Safety Levies) Regulations 2004*. The periodic review must include a comparison of fees and levies collected with the regulatory activities undertaken in the year. Under these provisions NOPSA provides information on the cost recovery arrangements to APPEA, all operators who have made payments during the year and any other person the CEO believes it appropriate. The Review suggests that consultation on these issues should also include the employee representatives including relevant unions and Health and Safety Representatives. The Review notes that NOPSA participates in existing fora where this does or could occur.

In addition to reporting the year in review NOPSA meets annually with representatives of the offshore oil and gas industry to present its Annual Review of Cost Recovery Arrangements and Financial Report on Cost Effectiveness. The Review notes the legal underpinning of these annual reviews and the focus on the transparent disclosure of budget results and forecasts and recommends that the transparent disclosure of budget projections be accompanied by a notification of the annual work program that is to be funded by those budgets.

These annual reports are augmented by a review of NOPSA's operations every three years. The next operations review is due in the first half of 2011.

Given the annual reviews of NOPSA's budget and the impact on NOPSA's operations through conducting this cost recovery review directly after the operations review, the Review recommends that the nexus between this three yearly review, as a requirement of the 2004 Cost Recovery Impact Statement, and the three yearly operational review not continue. After the 2011 operations review cost recovery arrangements NOPSA will examine the potential for alternate scheduling of operational review."

The Review recommends that, in accordance with the *Australian Government's Cost Recovery Guidelines 2005* NOPSA will undertake a review of the appropriateness of cost recovery, the design of any cost recovery charges and the adequacy of monitoring arrangements, every five years, that is, before July 2013, to determine whether changes are necessary. The results of these reviews will be a Cost Recovery Impact Statement (CRIS) that will be considered in the Budget context.

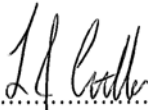
However the Review notes that that there are a number of initiatives currently being progressed (such as the consolidation of the Regulations supporting the Offshore Petroleum Greenhouse Gas and Storage Act 2006, recommendations arising from the 2009 Offshore Petroleum Regulatory Review and the 2009 Productivity Commission Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector) that may increase the use of NOPSA's resources and as such flexibility must be maintained to enable this arrangement to be revised.

Due to NOPSA's projected deficit of \$3.9 million in 2012-13 there will be a requirement prior to this date to review NOPSA's costs and pricing to ensure sustainability. It is proposed that a review be undertaken in 2011-13 to consider the implications of the recommendations implemented as a result of this Review, and the other initiatives noted above, and will ensure that NOPSA's cost recovery arrangements continue to meet the Australian Government's cost recovery policy.

The Review asks NOPSA to fully engage with the broader industry to ensure all stakeholders are informed of NOPSA's strategic and operational aspirations.

8. Certification

I certify that this Cost Recovery Impact Statement complies with the Australian Government Cost Recovery Guidelines.



.....
Jane Cutler
Chief Executive Officer
National Offshore Petroleum Safety Authority

Date: 5/10/09

2008 Review of Cost Recovery Arrangements and Cost Recovery Impact Statement for the
National Offshore Petroleum Safety Authority (NOPSA)

9. Attachments

- A — NOPSA Budget Revenue from Levies 2009-10 till 2012-13**
- B — NOPSA Budget Expenses 2009-10 till 2012-13**
- C — NOPSA Estimated Surplus (Deficit) 2009-10 till 2012-13**
- D — 2008 Review Plan**

NOPSA BUDGET REVENUE FROM LEVIES**2009-10 TILL 2012-13**

	2009-10	2010-11	2011-12	2012-13
REVENUE	\$,000	\$,000	\$,000	\$,000
BASE TOTAL LEVIES (Includes SMS + Facility)	10,810	10,810	10,810	10,810
Estimated Facility Moving in/out Authority Waters	2,168	2,280	2,405	1,755
	12,978	13,090	13,215	12,565
25% Decline in Mobile Facilities	0	(1,187)	(1,187)	(1,025)
	12,978	11,903	12,028	11,540
Impact of proposed changes	(560)	(392)	(514)	(364)
REVISED TOTAL LEVIES	12,418	11,511	11,514	11,176

NOPSA BUDGET EXPENSES**2009-10 TILL 2012-13**

	2009/10	2010/11	2011/12	2012/13
EXPENDITURE	\$,000	\$,000	\$,000	\$,000
Employee Benefits				
Staff Salaries	7,680	8,030	8,390	8,640
Superannuation	1,210	1,260	1,320	1,360
Other Staffing Costs	170	180	185	195
Other Expenditure				
Accommodation	650	900	925	950
Staff Travel	485	490	495	510
Consultants	460	560	430	440
IT Services & Licences	435	460	485	510
Legal Advice	380	390	400	410
Training	305	310	315	320
Telecommunications	185	190	195	200
Board Salaries	160	165	170	180
Board Travel	30	35	40	40
Office Expenses	100	100	100	100
Sponsorship & Promotional	100	100	100	100
Temp Staff	75	80	85	90
Printing & Stationery	65	70	70	70
Consumables	55	40	40	40
Insurance	30	35	40	40
Subscriptions & Publications	30	35	40	45
Depreciation	375	875	1,000	1,167
TOTAL	12,980	14,305	14,825	15,407

NOPSA ESTIMATED SURPLUS (DEFICIT)**2009-10 TILL 2012-13**for the period ended 30
June

	Budget estimate 2009-10 \$'000	Forward estimate 2010-11 \$'000	Forward estimate 2011-12 \$'000	Forward estimate 2012-13 \$'000
EXPENSES	12,980	14,305	14,825	15,407
LESS:				
OWN-SOURCE INCOME				
Revenue				
Revenue from levies (prior to proposed changes)	12,978	11,903	12,028	11,540
Fees and fines	100	100	100	100
Interest	200	200	200	200
Total revenue	13,278	12,203	12,328	11,840
Impact of proposed changes	(560)	(392)	(514)	(364)
Total own-source income	12,718	11,811	11,814	11,476
Surplus (Deficit)	(262)	(2,494)	(3,011)	(3,931)
Surplus (Deficit) brought forward	5,825	5,563	3,069	58
Accumulated Surplus (Deficit)	5,563	3,069	58	(3,873)

DEPARTMENT OF RESOURCES, ENERGY AND TOURISM

**REVIEW OF THE COST RECOVERY ARRANGEMENTS FOR THE
NATIONAL OFFSHORE PETROLEUM SAFETY AUTHORITY**

(THE COST RECOVERY REVIEW)

MARCH 2008

The 2008 Cost Recovery Review – Terms of Reference

The Department of Resources, Energy and Tourism (RET) will review cost recovery arrangements for NOPSA over the three year period commencing on 1 January 2005 to meet a commitment set out in the 2004 CRIS.

NOPSA is fully funded from fees and levies in line with the *Commonwealth Cost Recovery Guidelines for Regulatory Authorities*. The cost recovery mechanism operates under the legal authority of the *Offshore Petroleum (Safety Levy) Act 2003* and the *Offshore Petroleum (Safety Levies) Regulations 2004*.

The Cost Recovery Review will consider the principles set out in the 2004 CRIS which established the current fees and levies and address recommendations from the June 2006 review of cost recovery arrangements in the first year of NOPSA operations.

These Terms of Reference for the Review were approved by the MCMPR in March 2008.

The Review will

1. Consider the principles of the March 2004 Cost Recovery Impact Statement, against NOPSA's actual activity and costs in the first three years of operation.
 - a. The design and implementation of the Annual Safety Case Levy, Pipeline Safety Management Plan Levy and Investigations Levy;
 - b. The structure, collection and timing of the annual Safety Case Levy;
 - c. Varying unit values and facility ratings;
 - d. Fees for services provided by the Safety Authority; and
 - e. The capacity to charge MODU levies in arrears.

2. Consider the effectiveness of the ongoing monitoring mechanism for cost recovery arrangements put in place by NOPSA;

3. Consider recommendations from the June 2006 review to:
 - f. Amend the definition of mobile facilities;
 - g. Amend current facility ratings;
 - h. Amend invoicing procedures for vessels or facilities that have left Commonwealth waters and met the minimum (2 quarter) requirement;
 - i. Maintain the level of the late penalty rate;
 - j. Implement annual variation of levies in line with the level of industry activity; and
 - k. Review the 20:80 split between charges for the SMS and facility components of NOPSA operations;
4. Review cost-recovery issues raised by key stakeholders (such as the definition of associated offshore place and the regime boundary) and the February 2008 independent review of NOPSA operations; and
5. Recommend whether there is a need for amendments to the *Petroleum (Submerged Lands) Act 1967* and/or the *Offshore Petroleum (Safety Levies) Regulations 2004*.

Consultation with industry will be undertaken as part of the review. A Cost Recovery Impact Statement will be prepared and submitted to the Department of Finance and Deregulation.

Submissions

The Cost Recovery Review was announced at the Australian Petroleum Production and Exploration Association (APPEA) National Oil and Gas Safety Conference in August 2007 and industry submissions sought from March 2008. Notification of the Review was through the RET website and direct to companies identified by NOPSA as current levy payers.

The Review Team

The Cost Recovery Review will be conducted by the following RET officers with assistance provided by NOPSA:

Expectations

The Cost Recovery Review should be conducted in April 2008 and the draft report and new Cost Recovery Impact Statement completed immediately after.

Terms of Reference -

1. Consider the principles, design and effectiveness of the 2004 arrangements against NOPSA's activity over three years

Key Issues:

- Is the funding model under the Safety Levies Regulations providing NOPSA with sufficient funds to cover its functions as prescribed under section 150XE of the PSLA?

- Is the distribution of costs under the current model equitable and transparent?

2. effectiveness of NOPSA's monitoring arrangements

Key Issues:

- What comments has NOPSA received on its annual presentations?
- What is the degree of satisfaction with NOPSA's arrangements for monitoring, reviewing and discussing cost recovery arrangements?

3. Issues carried forward from the 2006 Cost Recovery Review

Key Issues:

- Issues carried over from the 2006 Review include consideration of discounts or amendments to the facility rating table (3.2), review the remittance process for intermittent facilities (3.4), annual variations to levies (3.6) and a review of the split between the SMS and safety case components (3.7).

4. Review of stakeholder issues (including issues of the Operations Review)

5. Amendments to legislation

Key Issue:

- Does legislation in its current form provide sufficient scope for the ongoing delivery of occupational health and safety regulatory services to the offshore oil and gas industry?

Focus Areas

The Review Team will

- a) consider the 2004 CRIS and 2006 Review report and CRIS with particular attention given to unresolved actions
- b) call for and review submissions from stakeholders in relation to NOPSA's funding arrangements
- c) consider the effectiveness of current funding arrangements, possible amendments to current arrangements, alternate models and the consultation and legislative underpinnings required
- d) assess NOPSA's forward budgetary requirements using the experience gained from its commencement in January 2005. Particular consideration should be given to:
 - the projected income stream from current and expected facilities;
 - NOPSA's inspection program and the accounting of staff time and resources against facility type;
 - the number and complexity of various facilities as described in Schedule 1 of the Safety Levies Regulations;
 - the quantum of and reasons for the collection of funds in excess of that required for NOPSA's work program;

- forward expectation of the surplus with recommendations on the handling of the additional funds; and
- recommendations for a levies program that meets projected regulatory costs only.

Recommendations

In making recommendations the Review Team should where necessary ensure there is, or has been:

- evidence to support change;
- opportunities for stakeholders to be aware of any recommendation based on information that they have provided;
- a statement clearly describing the intent of the recommendation;
- a statement clearly describing who is responsible for the implementation of the recommendation; and
- a suggested timeframe for implementation of each recommendation, noting the possible timeframe for amending legislation if that is recommended.

Action plans to implement the recommendations from the report will be formulated by RET in consultation with NOPSA.