



Australian Government
Department of Resources,
Energy and Tourism

COST RECOVERY IMPACT STATEMENT

JULY 2011

COST RECOVERY OF UPSTREAM PETROLEUM REGULATORY REFORM INTERIM PERIOD AND ESTABLISHMENT COSTS

Table of Contents

1	OVERVIEW	3
1.1	Purpose	3
1.2	Background	3
1.2.1	Regulation of Titles, Operations and Environment Plans in Commonwealth Waters 4	
1.2.2	Regulation of Occupational Health and Safety	5
2	POLICY REVIEW – ANALYSIS OF ACTIVITIES	6
2.1	Activity 1: Administering Regulatory Activities under the Existing DA Arrangements.....	6
2.2	Activity 2: Establishing NOPTA	6
2.3	Activity 3: Expanding NOPSA to become NOPSEMA	6
2.4	Stakeholders.....	7
2.5	Conclusion	8
3	DESIGN AND IMPLEMENTATION	9
3.1	Basis of Charging – Fee or Levy	9
3.2	Legal Requirements for the Imposition of Charges	10
3.3	Current Administration Costs of states and the NT	10
3.4	Costs to be Included in Charges	11
3.4.1	Charging Structure for Recovery of Establishment Costs of NOPTA and Expansion of NOPSA	11
3.4.2	Charging Structure for Recovery of State and the NT Administrative Costs	11
3.5	Summary of Charging Arrangements	12
3.6	Monitoring Mechanisms	13
3.7	Stakeholder consultation	13
3.8	Periodic Review	13
4	CERTIFICATION.....	14

1 OVERVIEW

1.1 Purpose

The Department of Resources, Energy and Tourism (RET), has developed this Cost Recovery Impact Statement (CRIS) to demonstrate that the cost recovery arrangements for the following activities are consistent with the Australian Government's decision in relation to a revised model for the regulation of the upstream petroleum sector in Commonwealth waters and the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* as amended and other associated legislation:

- the Australian Government's establishment of the National Offshore Petroleum Titles Administrator (NOPTA) and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA); and
- the state and Northern Territory (NT) Mines Departments' administration of petroleum activities in Commonwealth waters for the period commencing when the Commonwealth starts to retain registration fee revenues until NOPTA and NOPSEMA commence operations.

1.2 Background

On 26 March 2008, the Council of Australian Governments (COAG) announced the Productivity Commission (the Commission) *Review of the Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector*. The Commission was requested to consider Australia's framework for upstream petroleum regulation and consider opportunities for streamlining regulatory approvals, providing clear timeframes and removing duplication between jurisdictions.

In December 2008, COAG committed in-principle to broad reform of the upstream petroleum sector by signing the *National Partnership Agreement to Deliver a Seamless National Economy*. COAG identified the upstream petroleum sector as one of 27 deregulation priorities to reduce the level of unnecessary regulation and inconsistent regulation across jurisdictions.

On 30 April 2009, the Commission presented the final report of its *Review of the Regulatory Burden on the Upstream Petroleum (Oil & Gas) Sector* to all Australian governments. The report found that duplication, overlap and inconsistent administration of the 22 petroleum and pipeline laws and more than 150 statutes governing offshore and onshore upstream petroleum activities, regulated by over 50 agencies at the national and states and the NT level impose significant unnecessary burdens on the sector and raise international competitiveness concerns.

The Commission found that the regulatory burdens on industry could be reduced through new institutional arrangements – principally the establishment of a national regulator for offshore petroleum – as well as implementation of best practice regulatory principles in all jurisdictions. The Commission recommended that a new regulator for offshore petroleum be established on a full cost recovery basis.

On 5 August 2009 the Minister for Resources and Energy, the Hon Martin Ferguson AM MP, announced the Australian Government's intention to establish the national offshore regulator for petroleum, mining and greenhouse gas storage activities in Commonwealth offshore areas by 1 January 2012. Implementation of a national offshore petroleum regulator was suspended pending the outcomes of the Montara Commission of Inquiry.

On 24 November 2010, Minister Ferguson released the Report of the Montara Commission of Inquiry and a draft Government response. The Montara report recommended that the Productivity Commission's proposal to establish a national offshore petroleum regulator should be pursued at a minimum. At the same time, Minister Ferguson reiterated the Australian Government's commitment to a single national regulator by proposing to expand the role of the National Offshore Petroleum

Safety Authority (NOPSA) to include regulation of well integrity, environment and day-to-day operations; and establishing NOPTA to be responsible for title decisions and administering of titles and related data. These reforms are consistent with the recommendations of the Montara Commission of Inquiry's, going further than the recommendations of the PC Review.

On 25 May 2011 the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011* was tabled in the Australian Parliament to establish NOPTA and expand NOPSA to become NOPSEMA. These and associated amendments also provide for the Commonwealth to retain registration fee revenues to recover the establishment costs of NOPSEMA and NOPTA. The registration fees will be retained for the later of a period of 24 months and the lesser of \$30.6 million or the total establishment costs notified by the Minister. The Australian Government's responses to the Montara Commission of Inquiry and the Productivity Commission's Review were also released on 25 May 2011.

1.2.1 Regulation of Titles, Operations and Environment Plans in Commonwealth Waters

From 1967 until end June 2008, the *Petroleum (Submerged Lands) Act 1967* (PSLA) provided the regulatory framework for offshore petroleum activities in Commonwealth waters. The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA) replaced the PSLA. The OPGGSA provides a regulatory framework for petroleum and greenhouse gas storage activities in Commonwealth offshore areas. The *Offshore Minerals Act 1994* (OMA) provides the regulatory framework for mining activities in Commonwealth offshore areas.

Under the OPGGSA and the OMA the Australian Government and the states and the NT jointly administer and regulate petroleum and mining activities through a Joint Authority (JA)/ Designated Authority (DA) arrangement. The legislation creates a JA and a DA for the Commonwealth waters adjacent to each state, the NT and the external territories. The JA comprises the Australian Government Minister and the relevant state or NT Minister for the relevant offshore area. The DA is the relevant state or NT Minister. For offshore areas adjacent to external territories the Australian Government Minister is the JA and the DA. JA/DA arrangements do not apply to the regulation of greenhouse gas storage activities in Commonwealth offshore areas. Under the OPGGSA these activities are subject to regulation by the responsible Commonwealth Minister.

The *1967 Agreement relating to the Exploration for, and the Exploitation of, the Petroleum Resources, and Certain other Resources, of the Continental Shelf of Australia and certain Territories of the Commonwealth and of certain other Submerged Land* provides in clause 22 that the states will benefit from all monies, other than royalties and safety levies, payable under the Common Mining Code (i.e. the OPGGSA and the OMA) in relation to the offshore area of the state. This benefit was provided to compensate the states for their costs in the day-to-day administration of petroleum operations. These monies comprise the revenues from annual fees, application fees and registration fees. Periodically the level of the fees has been adjusted to ensure that the revenues are sufficient to cover the costs incurred by the states and the NT in administering the Commonwealth offshore areas.

To give effect to the above arrangement, section 76 of the OPGGSA provides for the Commonwealth to pay the state or the NT each month, an amount equal to the offshore petroleum fees received by the Commonwealth from that state or the NT in the preceding month. Similarly section 426 of the OMA requires the Commonwealth to pay each state or the NT an amount equal to the offshore mining fees received by the Commonwealth from that state or the NT. Greenhouse gas storage fees are retained by the Commonwealth.

A High Court decision in 1975 (*Seas and Submerged Lands Case 1975*) confirmed the Commonwealth's rights in relation to exploration for, and exploitation of, resources offshore. In June 1979, the Commonwealth and states and the NT agreed to a division of offshore powers and responsibilities known collectively as the Offshore Constitutional Settlement (OCS). The OCS did

not explicitly address regulatory fees but ensured that the role of the states in petroleum and mining operations continued.

In the Commonwealth offshore area, there are 437 petroleum titles, 1 mining title and no greenhouse gas storage titles. Over 99 per cent of current total revenues from offshore fees are derived from petroleum fees. The overwhelming bulk of the regulatory activities undertaken by the new regulator in the foreseeable future are also envisaged to relate to petroleum activities.

While the current offshore petroleum and mining fees are used to reimburse states and the NT administrative costs the quantum of the fees has not been determined on a cost recovery basis, and do not recover any of the Commonwealth's administrative costs. Offshore mining and greenhouse gas storage fees have not been determined on a cost recovery basis.

The existing offshore petroleum, mining and greenhouse gas storage fees can be divided into two categories:

- *Registration fees:* for the registration of a transfer or dealing, which is either a minimum fee or an ad-valorem fee of 1.5 per cent of the consideration; and
- *Non- registration fees:* which are set fees (i.e. non ad-valorem) for applications and annual fees.

Australian Government Cost Recovery Guidelines

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. The underlying principle of the policy is that entities 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. Cost recovery policy is administered by the Department of Finance and Deregulation and outlined in the *Australian Government Cost Recovery Guidelines* (Cost Recovery Guidelines).

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. In line with the policy, individual portfolio ministers are ultimately responsible for ensuring entities' implementation and compliance with the Cost Recovery Guidelines.

1.2.2 Regulation of Occupational Health and Safety

Under the OPGGSA the NOPSA was established on 1 January 2005 as an independent statutory authority to regulate the occupational health and safety of petroleum activities in offshore areas. Greenhouse gas storage activities were added in 2008. Following the necessary legislative and regulatory amendments, NOPSA became responsible for regulation of well operations management plans and approval of well activities from 29 April 2011. NOPSA is fully funded through cost recovery arrangements involving industry paying safety levies. Safety and well levies are paid directly to NOPSA and are administered by NOPSA through a Special Account. The safety levy cost recovery arrangements will not change NOPSA's existing safety levies.

2 POLICY REVIEW – ANALYSIS OF ACTIVITIES

2.1 Activity 1: Administering Regulatory Activities under the Existing DA Arrangements

The existing DA arrangements will continue until NOPTA and NOPSEMA commence operations. Subject to the passage of the amendment Bills, NOPTA and NOPSEMA are expected to commence operations from 1 January 2012.

Accordingly, the current DA arrangements with the state and NT will continue to administer day-to-day petroleum and mining activities in Commonwealth waters until 31 December 2011. To reimburse the states and the NT for the costs they incur in administering the Commonwealth offshore areas it is proposed to increase offshore petroleum non-registration fees for the period commencing when the Commonwealth starts to retain registration fee revenues (i.e. when the amendment Bills take effect) until NOPTA and NOPSEMA commence operations.

2.2 Activity 2: Establishing NOPTA

NOPTA will be established for ongoing operation on a full cost recovery basis from commencement of operations expected from 1 January 2012. NOPTA will advise the Joint Authority on title decisions and administer titles and data relating to offshore petroleum, minerals and greenhouse gas storage activities in Commonwealth. The regulatory activities undertaken by NOPTA include registration and dealings in titles and approvals (to undertake exploration, development and decommissioning activities), issuing exclusive rights and privileges (e.g. rights to explore and produce) and monitoring ongoing compliance with regulations (e.g. compliance with field development plans).

The Australian Government has provided RET with \$6.7 million in 2010-11 and \$3.4 million in 2011-12 to cover the cost of establishing NOPTA. The funds will cover the costs of legal advice; leasing and furnishing of the headquarter offices in Perth and regional offices in Melbourne and Darwin; design and implementation of electronic approvals tracking software; recruitment of staff and payment of salaries; and transfer of information from state jurisdictions. RET will monitor the actual costs that it incurs in establishing NOPTA.

It is intended the Commonwealth will recoup the establishment costs by retain the registration fees paid by industry in line with the *National Regulator Amendments Bill*. Currently the registration fees are returned by the Commonwealth to the states and the NT. By retaining the registration fee revenues for this period, excessively high charges on industry in the early years of NOPTA's operation will be avoided.

From its commencement NOPTA will operate on a full cost recovery basis. The level of the fees to be charged from NOPTA's commencement will recover the operating costs associated with regulatory activities. These fees to recover NOPTA operating costs will be subject to a CRIS process to be completed by RET prior to NOPTA commencing operations.

2.3 Activity 3: Expanding NOPSA to become NOPSEMA

The safety and structural integrity functions of NOPSA will be expanded to include the regulation of environmental management and day-to-day operations in Commonwealth waters on a full cost recovery basis, to become NOPSEMA expected to commence from 1 January 2012. The objective is to create a single, independent regulatory body looking after safety, structural integrity and environmental management.

The Australian Government has provided RET with \$2.1 million in 2009-10, \$2.3 million in 2010-11 and \$8.5 million in 2011-12. These costs will cover legal advice; fit-out of the headquarter offices in

Perth and regional offices in Melbourne and Darwin; and payment of staff salaries. RET and NOPSA will monitor the actual costs of establishing NOPSEMA.

The Commonwealth establishment costs will be recovered by retaining the registration fees paid by industry in line with the *National Regulator Bill*. Currently the registration fees are returned by the Commonwealth to the states and the NT. By retaining the registration fee revenues excessively high charges on industry in the early years of NOPSEMA's operation will be avoided.

NOPSEMA will operate on a full cost recovery basis. The level of the environment levies to be charged will be subject to a CRIS process to be completed by NOPSA prior to NOPSEMA commencing operations.

2.4 Stakeholders

The main stakeholders affected by these cost arrangements are the states and the NT and the offshore petroleum industry operating in Commonwealth waters. The industry is represented by the peak petroleum industry body, the Australian Petroleum Production and Exploration Association (APPEA).

Stakeholders have had a number of opportunities to provide feedback in development of the new regulatory arrangements over the past 18 months. Stakeholders were extensively consulted in the Productivity Commission's *Review of the Regulatory Burden on the Upstream Petroleum (Oil & Gas) Sector* which recommended the establishment of a national offshore petroleum regulator on a full cost recovery basis. Stakeholders were also consulted in the Montara Commission of Inquiry process that recommended that a national offshore petroleum regulator be pursued at a minimum. Stakeholders have also been extensively consulted during the development of the Government's response to those reviews and the design of the new regulatory arrangements.

APPEA opposes full cost recovery for the establishment of and activities to be undertaken by the new regulator. They argue that there are "*significant public benefits from regulation in ensuring the provision of energy to meet the everyday life demands and expectations of the Australian public, [and] there should be some degree of public funding in recognition of this public benefit*"¹.

The Productivity Commission disagreed with APPEA, arguing that:

*partial cost recovery is generally inappropriate — either the costs of an activity or product are recovered in full or funded from general taxation revenue. Deviating from this rule involves making subjective decisions about the degree of public and private benefits involved. For example, the public should not have to pay to avoid being potentially injured as a result of the regulated activity*²

There are a number of difficulties with partial cost recovery. First, the primary beneficiaries of the regulation are the petroleum, mining and greenhouse gas storage industries. Identifying other groups who may benefit from the externalities of the regulation of these industries is problematic. Difficulties arise because there is no sound way of aligning, through a taxation mechanism, the private and public costs. Identifying the size of the spillovers and who are the external beneficiaries is impracticable. Problems also arise because there are weak or non-existent property rights. The Australian Government Cost Recovery Guidelines state that partial cost recovery is generally inappropriate.

¹ APPEA 2008, Response to Productivity Commission Draft Report, pp 18-19.

² Productivity Commission, *Final Report: Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector*, p. 264

The Western Australian Government opposes the Commonwealth retaining revenues from registration fees as it claims that the fee was established in lieu of stamp duty, and is part of the state's general revenue for funding Government services and infrastructure. That state claims that the ad valorem registration fees were set in 1967 in lieu of stamp duty on property transfers (which were then generally levied at a rate of 1.5 per cent in each state), reflecting the uncertainty at that time over the constitutional rights of the Commonwealth and the states to levy taxation in offshore areas.

The Commonwealth agrees with the Commission's finding that the ad valorem registration fee is an unnecessary and burdensome impost on industry. There is no valid reason why these Commonwealth fees should continue to be paid to the states and the NT. The Government has made a decision to utilise the registration fee revenues until the establishment costs of the new institutional arrangements are recovered to avoid the need to increase significantly other fees to recover establishment costs. The Commonwealth will then abolish registration fees and replace them with a fee that reflects the actual cost of administering transfers and dealings in titles.

2.5 Conclusion

The Government has decided to establish NOPTA and NOPSEMA's on a full cost recovery basis from the petroleum, mining and greenhouse gas storage sectors. This will be achieved by retaining the petroleum registration fee revenues in line with the *National Regulator Bill*. The Commonwealth will then abolish registration fees and replace them with a fee that reflects the actual cost of administering transfers and dealings in titles.

It is also appropriate to amend the existing non-registration fees to ensure that states and the NT are reimbursed for their costs of administering the Commonwealth offshore areas in the period commencing when the Commonwealth starts to retain registration fee revenues (i.e. when the amendment Bills take effect) until NOPTA and NOPSEMA commence operations.

3 DESIGN AND IMPLEMENTATION

3.1 Basis of Charging – Fee or Levy

The Government will utilise the existing fees structure, used by DAs for the administration of petroleum, mining and greenhouse gas storage rights and titles in Commonwealth offshore areas. Almost all fee revenues are raised from petroleum fees. The petroleum fees are normally adjusted on a biannual basis to reflect movements in the consumer price index and were last adjusted on 1 July 2009. The greenhouse gas storage fees have largely been at the same level as the equivalent petroleum fee (with the exception of nil application fees for exploration leases). Mining fees have not been adjusted since they were set in 1994.

As outlined in the Background, the existing schedule of fees for offshore are comprised of two distinct types of fees:

Non Registration fees which include:

- *Application fees:* set fees accompanying applications for a particular title or activity;
- *Annual fees:* a set annual fee for the rental of the petroleum title, determined by the geographical size of the title in graticular blocks;
- *Other fees:* concerning changes to and searches of the titles register, and borrowing of open file seismic data.

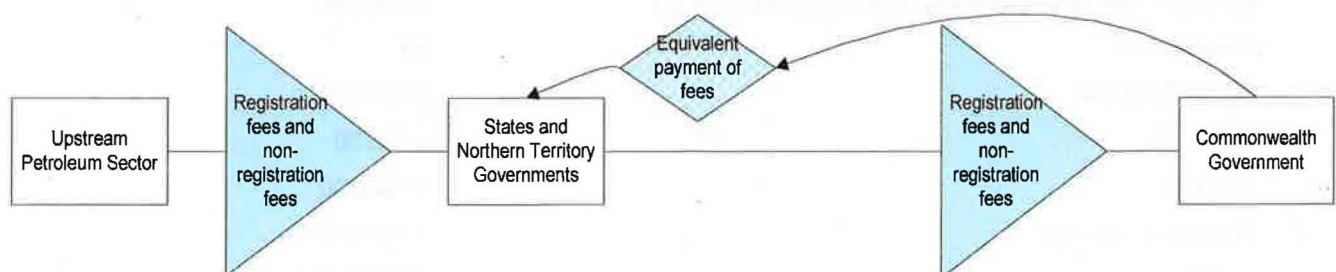
Registration fees which include

- *Registration of a transfer or dealing:* comprising either a minimum registration fee or a 1.5 per cent ad valorem fee on the value of the transfer or dealing in a title.

The table at **Appendix A** contains the current schedule of fees for offshore petroleum titles and activities.

All of the revenues from petroleum and mining fees are paid by companies to the relevant state and the NT Governments, who then forward the revenues to the RET, where they are paid into Consolidated Revenue. RET then makes an equivalent payment to the states and the NT Government to compensate them for administering petroleum and mining activities in the Commonwealth offshore area. However, RET receives no net payments to cover its own costs of administration. All of RET's and Geoscience Australia's costs, associated with the regulation of the OPGGSA, are provided for via the Commonwealth budget process. A diagram graphically presenting the revenue process is below (Diagram 3.1).

Diagram 3.1: Current arrangements for collection and redistribution of petroleum fees



The arrangements for the collection and distribution of offshore mining fees are similar to those for petroleum fees. Greenhouse gas storage fees are paid by companies directly to the Commonwealth and the revenues are retained by the Commonwealth.

3.2 Legal Requirements for the Imposition of Charges

Under the OPGGSA *Part 6.7 - Collection of fees and royalties* gives collection of fees authority under the *Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006*. The 1.5 per cent registration fee on transfers and dealings, the annual rental fees for titles, as well as the application and other relevant fees are provided for in the OPGGSA, OMA and associated Acts and regulations. The *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011* provides for the Commonwealth to retain registration fee revenues to offset the establishment costs of NOPSEMA and NOPTA. The amendment Bill is expected to take effect in August 2011.

The changes to the level of annual fees, application fees and other relevant fees to ensure that states and the NT are reimbursed the costs of administering the Commonwealth offshore areas will need to be approved by the Minister for Resources and Energy and given effect by amending the regulations under the OPGGSA and OMA.

3.3 Current Administration Costs of states and the NT

The states and the NT will incur costs under Activity 1, administering the Commonwealth offshore areas pending the commencement of NOPTA and NOPSEMA (Activities 2 and 3 respectively). On the basis of information provided by state and NT Mines Departments in March 2011, **Table 3.3** presents the DAs' estimated costs of \$4.29 million for administering the OPGGSA from 1 July 2011 to 31 December 2011.

The cost of states and the NT are not required to be transparent under the existing legislation. The Commonwealth does not have powers to require the states and NT to provide this transparency in their administration of Commonwealth waters. The Commonwealth Government understands that these advised costs include direct costs (staffing and operational costs including superannuation), indirect costs (corporate services costs) and capital related costs (depreciation) for the regulation of resource management and environmental aspects of petroleum exploration permits, production licences and retention leases and other associated matters. When NOPSEMA and NOPTA commence operations, expected from 1 January 2012, significantly increased transparency will be provided to industry about how the fee revenues are used.

Table 3.3 – Estimated cost of states and the NT administering OPGGSA

Jurisdiction	1 Jul to 31 Dec 2011
New South Wales	\$27,280
Northern Territory (including Ashmore/Cartier titles)	\$518,100
Queensland	\$0
South Australia	\$189,500
Tasmania	\$77,500
Victoria	\$454,000
Western Australia	\$3,023,000
TOTAL	\$4,289,380

Queensland has no identifiable resources dedicated to administering the OPGGSA.

3.4 Costs to be Included in Charges

3.4.1 Charging Structure for Recovery of Establishment Costs of NOPTA and Expansion of NOPSA

Currently, all petroleum fee revenues are returned to the states and the NT to compensate them for administering Commonwealth offshore areas. The petroleum fees comprise registration fees (principally a 1.5 per cent ad valorem fee) and non-registration fees (principally annual rents and application fees). RET receives no fee revenues to cover its costs of administration. The non-registration fees (i.e. set fees) are normally adjusted on a biannual basis to reflect movements in the consumer price index and were last adjusted on 1 July 2009. Registration fee revenues average \$13.2 million per year while non-registration fees raise about \$7 million per year.

The Government has decided that all the costs of Activity 2 and Activity 3 will be fully recovered by retaining the registration fee revenues that are presently returned to the states and the NT.

Table 3.4 below provides a breakdown of the estimated fees by registration fees and non-registration fees for the six financial years since 2004-05 and estimated 2010-11 financial year. **Appendix B** provides an explanation of how these estimates were derived.

Table 3.4 – Estimated revenues from offshore petroleum fees 2004-05 to 2010-11, by registration fee and non-registration fee

REVENUE (\$)	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11#
Registration fees	12,778,776	15,935,596	10,364,083	34,972,495	1,774,552	13,684,241.08	2,708,722
Non-Registration fees	6,350,000	6,350,000	6,350,000	6,350,000	5,900,000	7,231,545	7,544,465*
TOTAL	19,128,776	22,285,596	16,714,083	41,322,495	7,674,552	20,915,786	10,253,187

Note: The 2010-11 figures are as of 15 March 2011 and a scaled total to 30 June 2011 has been estimated at \$10,253,187 – the final figure for financial year 2010-11 will alter.

* Note: This figure is an estimate based on expected levels of activity, see Table B1.1

The above table highlights the variability in registration fee revenues. These revenues averaged nearly \$13.2 million per year from 2004-05 to 2010-11. The low registration fee revenues in 2008-09 were due to significantly reduced transfers and dealings as a result of the global financial crisis.

The Commonwealth will retain the registration fees in line with the *National Regulator Bill*. The Minister may notify the actual costs of establishment in a Gazette Notice within six months of the commencement of NOPSEMA and NOPTA. The retained registration fees will not exceed \$30.6 million, the estimated revenues to be raised from registration fees in 2011-12 and 2012-13.

3.4.2 Charging Structure for Recovery of State and the NT Administrative Costs

The states and the NT have advised that their estimated costs of administering petroleum activities in the Commonwealth offshore area for 1 July 2011 to 31 December 2011 will be in total \$4.29 million (Table 3.3 refers). The expected revenues from the current non-registration fees is estimated at \$3.77 million (Table 3.4 refers) for the six month period, not sufficient to cover the state and NT costs, after the Commonwealth retains the registration fee revenues to cover establishment costs. Accordingly, it is proposed that the non-registration fees will be increased by 13.7 per cent from the period commencing when the Commonwealth starts to retain registration fee revenues until NOPTA and NOPSEMA commence operations. **Appendix A** contains the fee schedule of the existing and the new increased non-registration fees.

3.5 Summary of Charging Arrangements

The Government will retain registration fee revenues in line with the *National Regulator Bill* for the later of 24 months or the lesser of \$30.6 million or the actual establishment costs to be notified by the Minister. The Commonwealth will then abolish registration fees and replace them with a fee that reflects the actual cost of administering transfers and dealings in titles.

To ensure that the states and the NT are still compensated for all the costs they incur in administering the Commonwealth waters (Activity 1), the non-registration fees will be increased by 13.7 per cent from the period commencing when the Commonwealth starts to retain registration fee revenues until NOPTA and NOPSEMA commence operations.

It is not proposed to increase the mining fees as the states and the NT currently incur negligible costs in administering mining activities in Commonwealth waters. It is also not proposed to increase the greenhouse gas storage fees as the states and the NT do not have a direct role in administering these activities in Commonwealth waters. Table 3.5 below illustrates the charging arrangements, from 2011 to 2013.

Table 3.5 Timeline for transitional fee structure and removal of registration fees

	1 Jan 2012	1 July 2012	1 Jan 2013	30 Jun 2013
Existing regulation by States and NT JA/DA with registration and non-registration fees	13.7% increase on non-registration fees to recover DA's costs	NOPTA Operates on Full Cost Recovery Basis with JA		
		NOPSEMA Operates on Full Cost Recovery Basis		
		Registration fees retained to recover establishment costs then replaced by cost recovery fees		

3.6 Monitoring Mechanisms

The Commonwealth via RET will monitor the collection of offshore petroleum fee revenues on a monthly basis to assess whether they are sufficient to recover the NOPTA establishment and NOPSA expansion costs. RET and NOPSA will also monitor the actual establishment costs of NOPTA and NOPSEMA.

The Minister for Resources and Energy may notify in the Gazette within six months of the commencement of NOPTA and NOPSEMA, the actual establishment costs of NOPTA and NOPSEMA.

3.7 Stakeholder consultation

Stakeholders were provided with an opportunity to comment on the cost recovery arrangements. On 14 April 2011, RET released a draft CRIS for stakeholder comment, with written submissions due on 6 May 2011. A stakeholder workshop was held in Perth on 3 May 2011. Representatives from four companies and APPEA participated. Following the workshop, APPEA requested and was granted an extension of the deadline for submissions to 20 May 2011.

One submission was received from APPEA on behalf of its members. APPEA reiterated its opposition to full cost recovery from industry and also raised concern about the lack of transparency of the operating costs submitted by DAs for the transition period.

The Commonwealth Government maintains that full cost recovery from industry is appropriate. The Government acknowledges the lack of transparency in the DAs' operating costs, and notes that the need for greater transparency is one of the reasons for the establishment of NOPTA and NOPSEMA.

A concern raised by stakeholders during the workshop was the need for transparency in the cost recovery arrangements for the operation of NOPTA and NOPSEMA. The operating costs of NOPTA will be the subject of a separate CRIS process to be conducted by RET prior to 1 January 2012. The operating costs of NOPSEMA will be the subject of a separate CRIS process to be conducted by NOPSA prior to 1 January 2012.

Reflecting the Australian Government's Cost Recovery Guidelines, stakeholders will be informed of any material changes to the cost recovery arrangements for Activities 1, 2 and 3.

In the second half of 2011, RET and NOPSA will each develop a further CRIS, in accordance with Australian Government Cost Recovery Guidelines to establish appropriate fees to recover the operating costs of NOPTA and the environment levies of NOPSEMA. Appropriate industry consultation will occur in the development of the new cost recovery arrangements.

3.8 Periodic Review

The cost recovery arrangements for Activity 1, the recovery of state and NT Mines Departments' costs will cease from the commencement of operation of NOPTA and NOPSEMA.

All fees and charges for recovery of NOPTA operating costs will be subject to an inaugural three yearly review and then subsequent five year reviews. Any future material amendments to the fees and charges would require a CRIS.

4 CERTIFICATION

I certify that this CRIS is consistent with the Australian Government decision in relation to cost recovery of the establishment costs and interim operational cost for upstream petroleum regulatory reform.

Signed by Drew Clarke



Drew Clarke

Secretary, Department of Resources, Energy and Tourism

Date: ¹² July 2011

Appendix A – Current and New Fee structure

TYPE	CURRENT FEES \$	NEW FEES \$
APPLICATIONS		
Infrastructure Licence	1835.00	2090.00
Permit	4590.00	5220.00
Permit by cash bidding	1835.0	2090.00
Premium Permit	4590.00	5220.00
Renewal of Permit	1835.00	2090.00
Production Licence (PL)	1835.00	2090.00
Production Licence in respect of Surrendered Blocks	4590.00	5220.00
Production Licence (Splitting)	920.00	1050.00
Renewal of Production Licence	1835.00	2090.00
Pipeline Licence	4590.00	5220.00
Retention Lease	1835.00	2090.00
Renewal of Retention Lease	1835.00	2090.00
Retention Lease unused area of licence	1835.00	2090.00
Special Prospecting Authority	920.00	1050.00
Variation of Pipeline Licence	920.00	1050.00
Change of Company Name	92.00	105.00
Devolution of Title	92.00	105.00
Search inspection of register/instruments	19.00	20.00
Copies/extracts from the Register/page	3.50	4.00
Certificate evidentiary provisions	45.00	50.00
Borrowing data/ material per day	38.00	45.00
ANNUAL FEES		
Infrastructure Licence (per title)	13640.00	15510.00
Permit (per block)	55.00	65.00
Permit (minimum)	1135.00	1290.00
Production Licence (per block)	20460.00	23265.00
Pipeline Licence (per km or part thereof)	90.00	105.00
Retention Lease (per block)	6820.00	7755.00
REGISTRATION FEES		
Dealing (minimum)	920.00	920.00
Transfer (minimum)	920.00	920.00
Transfer giving effect to Prior Dealing	920.00	920.00
Transfer/Dealing Related Corporation	4590.00	4590.00
Ad valorem fee on Transfers/Dealings (over 920.00)	1.5% of value of consideration	1.5% of value of consideration

Note: Fee increases are rounded.

Appendix B: Estimation of Registration Fee and Non-Registration Fee Revenues

Table B1.0 below illustrates the volatility in fee revenues due to the unpredictable nature of the registration fee for transfers and dealings. Registration fees revenues can be significantly impacted by individual transactions. It is impossible to forecast accurately the number of transfers and dealings in petroleum titles, and the value of the considerations.

Table B 1.0- Revenue from offshore petroleum fees 2004-05 to 2009-10, by jurisdiction

REVENUE (\$)	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
NSW	8,444	8,444	10,874	6,450	6,450	7,095
QLD	0	0	9,000	18,000	0	0
SA	122,918	85,721	19,866	44,350	12,850	28,040
TAS	297,691	342,683	320,380	877,314	163,396	2,187,541
VIC	2,035,921	2,120,023	1,879,487	7,299,053	1,514,534	2,422,298
WA	14,130,883	17,133,981	12,712,765	17,718,863	3,784,307	12,680,275
NT	342,119	349,577	228,202	3,966,186	308,644	2,211,891
ASHMORE	2,190,800	2,245,167	1,533,509	11,392,279	1,884,371	1,378,646
TOTAL	19,128,776	22,285,596	16,714,083	41,322,495	7,674,552	20,915,786

Note: Ashmore Cartier revenue is allocated to the NT as the delegated Designated Authority for this territory.

The revenues received from registration fees do not reflect the cost of altering the title register. The Productivity Commission emphasised that ad valorem registration fees on transfers and dealings act as an impediment to investment in Australia's petroleum industry. This is not only due to the significant charge for each transaction, but also because of the delays and uncertainty it creates as governments and companies negotiate the value of the title or transfer as a basis for the fee. Accordingly, the Commission recommended that the ad valorem registration fee be replaced by a fee reflecting the cost of amending the title register. The Commonwealth will replace the ad valorem registration fee after the establishment costs of the new institutional arrangements have been recovered with a set fee reflecting the actual costs of administration of transfers and dealings.

The states and the NT do not provide the Commonwealth with a break-down of petroleum fee revenues by fee. Recognising this, revenues from non-registration fees have been estimated for 2010-11 in Table B1.1 on the following page. It has been estimated that these fees will raise about \$7.54 million in 2010-11. Revenues in 2010-11 and subsequent years are likely to be very similar as over 90 per cent of these revenues are derived from annual fees on production licences, retention leases and exploration permits. As the number of petroleum titles remains reasonably constant, the revenues from these titles remain fairly constant over time unless the level of the fees changes.

Table B 1.1 – Estimated Total Revenue from non-registration Application and Annual fees for 2010-11

Estimated Revenues for 2010-11	Number in 10-11	Revenues A\$
Number of exploration permits active	215	
Number of graticular blocks in those exploration permits	9,500	
Estimated Total annual rental - exploration		\$522,500
Number of production licences active	83	
Number of graticular blocks in those production licences	276	
Estimated Total annual rental - production		\$5,646,960
Number of retention leases active	45	
Number of graticular blocks in those retention leases	134	
Estimated Total annual rental - retention		\$913,880
Number of pipeline licences active	69	
Number of kilometres in these pipeline licences	2,230	
Estimated Total annual rental - pipeline		\$200,700
Number of infrastructure licences active	2	
Estimated Total annual rental		\$27,280
Number of bids received for acreage release areas in 2010 – 31 areas release		
Round 1 –	25	\$114,750
Round 2 -	15	\$68,850
Average number of exploration permits renewed		
2009-10 – 22 renewals and 2010-11 (YTD – July to October) 3 renewals (25 renewals over 15 months > average of 1.67)	20	\$36,700
Number of retention leases applied for per year	3	\$5,505
Average number of retention leases renewed per year	8	
40 currently active - average of 6 renewal applications per year (33 / 5 year renewal period)*		\$11,010
Number of production licences applied for per year	1	\$1,835
Number of production licences renewed	1	
Total		\$7,544,465

*In 2008-09, there were 20 applications for retention lease renewals most of which were associated with the Greater Gorgon gas project. That project has now proceeded to development and such a high number of retention leases to be renewed is unlikely to occur again. As such, an average figure has been used to not distort the final figures.

An estimate of non-registration fee revenues for 2009-10 (\$7,231,545) was used to derive estimated non-registration fee revenues for the years 2004-05 to 2008-08. This was achieved by deflating the estimated 2009-10 revenues by the 13 per cent increase in fees that applied from 1 July 2009 to give effect to movements in the Consumer Price Index (CPI) since the fees were previously adjusted in July 2004. It should be noted that the CPI rose by 13 per cent over the five year period to 1 July 2009 and there were no fee increases during that period. It should also be noted that about \$450,000 in retention lease annual fees were forgone in 2008-09 due to delays in the Joint Authority considering applications for renewals.

Table B1.2 below provides an estimated breakdown of fees by registration fee and non-registration fees for the previous five financial years, based on the total revenues from table B1.0:

Table B1.2 – Estimated revenues from offshore petroleum fees 2004-05 to 2010-11, by registration fee and non-registration fee

REVENUE (\$)	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11#
Registration fees	12,778,776	15,935,596	10,364,083	34,972,495	1,774,552	13,684,241.08	2,708,722
Non-Registration fees	6,350,000	6,350,000	6,350,000	6,350,000	5,900,000	7,231,545	7,544,465
TOTAL	19,128,776	22,285,596	16,714,083	41,322,495	7,674,552	20,915,786	10,253,187

Note: The 2010-11 figures are as of 15 March 2011 and a scaled total to 30 June 2011 has been estimated at \$10, 253.187 – the final figure for financial year 2010-11 will alter.

This table highlights the extreme variability in registration fee revenues. These revenues have averaged about \$13.2 million per year over the period but varied from less than \$1.8 million in 2008-09 to about \$35 million in 2007-08. The low revenues in 2008-09 are due to significantly reduced transfers and dealings as a result of the global financial crisis.