

Introduction

This guideline is provided for direction only on the administration of safety case levies by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), and is not to be taken as legal advice.

Background

NOPSEMA was established under the Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA). NOPSEMA is funded through industry levies that it collects on behalf of the Commonwealth. The Commonwealth *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* [OPGGs(RL)A] imposes the levies and its Regulations prescribe how the levies are worked out and when they are due and payable. The safety levies include:

- safety case levy, an annual levy imposed in relation to the safety case that is in force in relation to a facility, and comprising of a facility amount (or a pipeline amount) and an SMS amount
- safety investigation levy, imposed on the operator of a facility in relation to the investigation, by NOPSEMA, of an accident or dangerous occurrence at that facility, to reimburse the actual costs and expenses incurred by NOPSEMA above a threshold of \$30,000.

This guideline addresses the safety case levy.

Safety Case Levies – Legislative Framework

The OPGGSA, Schedule 3, Clause 4, defines vessels or structures that are facilities, including any pipe or system of pipes used for offshore petroleum operations or offshore greenhouse gas storage operations. A safety case is required for the relevant stage in the life of a facility. If a safety case for a facility is accepted by NOPSEMA, the operator of the facility and/or, in the case of a pipeline facility the licensee, is subject to levies as calculated under the Commonwealth Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004 [OPGGs(RL)R].

The OPGG(RL)A imposes a safety case levy (OPGG(RL)A sections 7 and 8). The safety case levy is imposed if a facility is located, or is proposed to be located, in Commonwealth waters or designated coastal waters where powers have been conferred to NOPSEMA (i.e. NOPSEMA waters), and if there is a safety case in force in relation to the facility.

The term ‘facility’ has the same meaning as that in Schedule 3 to the OPGGSA and also includes a ‘proposed facility’ (i.e. a facility that is proposed to be constructed, installed or operated).

The expression ‘in force’ means that the safety case for the facility has been accepted by NOPSEMA, and that the acceptance has not been withdrawn.

The safety case levy is an annual levy, imposed for a calendar year or part of a calendar year depending on when the safety case comes into force, and for a facility that is a pipeline, whether a major revision of a safety case is accepted.

The safety case levy for a facility, other than a pipeline, is payable quarterly in arrears in the year in which the safety case is accepted and in any subsequent years, and is made up of the sum of:

- the SMS amount
- the facility amount.

For a facility that is a pipeline, the safety case levy is payable only in the year in which a safety case is accepted or a major revision of a safety case is accepted, and is made up of the sum of:

- the SMS amount
- the pipeline amount.

In recognition that mobile facilities may operate on an intermittent basis, section 687 of the OPGGSA provides for the remittal of part of the safety case levy, provided that a minimum payment of one quarterly instalment is paid in any four consecutive quarters in accordance with regulation 25 of the OPGGS(RL)R.

The safety case levy is payable 30 days after NOPSEMA notifies the operator or licensee that the levy is due. Section 686 of the OPGGSA imposes a late payment penalty calculated at a rate of 0.333333 per cent, per day.

Calculating Safety Case Levies

The safety case levy is calculated in accordance with Schedule 1 of the OPGGS(RL)R.

SMS Amount

An operator or pipeline licensee is required to pay only one SMS amount in relation to a year irrespective of the number of safety cases in force. The SMS amount is specified depending on whether a facility is 'not a mobile facility', a 'mobile facility' or a pipeline facility, as follows:

Type of Facility	SMS amount	Payment Responsibility
At least one of the facilities is not a mobile facility	\$170,000	Operator
All the facilities are mobile facilities	\$113,000	Operator
A licenced pipeline	\$56,000	Pipeline Licensee

For the purposes of the safety case levy, 'mobile facility' means a facility of a kind mentioned in Schedule 2 of the OPGGS(RL)R. Schedule 2 lists only:

1. Mobile offshore drilling unit or drill-ship.
2. Vessel used for:
 - (a) Doing work on an existing pipe
 - (b) Laying pipes for petroleum, or a greenhouse gas substance.
3. Vessel or structure used for the erection, dismantling or decommissioning of a facility.
4. Accommodation facility used for persons working on another facility.

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

Facility amount

The facility amount is calculated by multiplying the **facility rating** by the **unit value**.

The unit value is \$35,000 for a facility that is not a pipeline.

The facility ratings are tabulated in Schedule 1 of the OPGGS(RL)R as follows:

Item	Facility or proposed facility	Facility rating
1	Floating liquefied natural gas facility	25
2	Large platform with drilling/workover capability	12
3	Platform, other than a platform mentioned in item 2 or 10, with accommodation facilities when drilling or workover facilities are in commission	8
4	Platform, other than a platform mentioned in item 2 or 10, with accommodation facilities when drilling or workover facilities are not in commission	5
5	Floating production storage and offloading facility	6
6	Mobile offshore drilling unit or drill-ship	6
7	Vessel for laying pipes for a petroleum or a greenhouse gas substance	5
8	Vessel or structure used for: (a) Doing work on an existing pipe; or (b) the erection, dismantling or decommissioning of a facility; or (c) the provision of accommodation for persons working on another facility	3
9	Floating storage unit linked to a production platform	3
10	Monopod, well head platform or other small production or injection facility with no accommodation	1
11	Vessel or structure not otherwise listed above	3

Operators of variable-rating facilities (item 2 of Schedule 1) must keep NOPSEMA informed about the operations of their facilities. The applicable facility rating is that with the greater number of days' operations within the quarter. The higher rating applies where the number of days is the same.

Pipeline amount

The pipeline amount is calculated by multiplying the **facility rating** by the **unit value**.

The unit value is \$14,000 for a facility that is a pipeline.

The facility ratings are tabulated in Schedule 3 of the OPGGS(RL)R as follows:

Item	Description of sub-sea development	Pipeline rating
1	No sub-sea development or manifold connected to the pipeline	1
2	One or 2 sub-sea developments or manifolds connected to the pipeline	2
3	More than 2 sub-sea developments or manifolds connected to the pipeline	3

Paying the Safety Case Levy – other than a pipeline facility

The safety case levy is an annual (calendar year) levy, payable by an operator in quarterly instalments in arrears, 30 days after NOPSEMA notifies the operator that the levy is due and payable.

If a safety case is accepted part way through the year, then the initial Facility Amount of the safety case levy is payable for the number of days during the first quarter of that year that a safety case is in force. For each subsequent quarter, the safety case levy is calculated as one quarter of the annual amount payable.

Notably, the SMS Amount is not calculated proportionately to the number of days as it is a fixed annual amount, payable quarterly.

As an example, if the safety case for a mobile offshore drilling unit (MODU) came into force on day 11 of the first quarter of 2013 and the MODU was operating in NOPSEMA waters by an operator with no other facilities, the safety case levy for the first quarter is calculated as follows:

$$\text{SMS} = \frac{\$113,000}{4} \text{ (MODU being a mobile facility)} = \$28,250 \quad \text{[Fixed amount, not pro-rata]}$$

$$\text{Facility Amount} = \frac{\text{Facility Rating} \times \text{Unit Value} \times \text{number of days in part quarter}}{365}$$

$$\text{Facility Amount} = \frac{6 \times \$35,000 \times 80 \text{ days}}{365} = \$46,027.40$$

$$\text{Total Safety Case Levy} = (\$28,250 + \$46,027.4) = \$74,277.40$$

Paying the Safety Case Levy – Pipeline Facility

The safety case levy is payable by a licensee in a single instalment, 60 days after a safety case comes into force (if after 1 January) or 60 days after the last major revision of the safety case came into force. For billing purposes, the pipeline licensee is typically the person that nominates a person to be the operator of the pipeline facility (see Operator Register). If the safety case comes into force on 1 January, the levy is payable on the first working day after 1 January.

As an example if a safety case comes into force covering two licensed pipelines, one pipeline connected a production platform to shore and a second pipeline with 3 sub-sea development connections, the total levy payable by the pipeline licensee would be calculated as follows:

SMS Amount = \$40,000	\$56,000
Pipeline amount (pipeline 1) = Facility Rating 1 X \$14,000	\$14,000
Pipeline amount (pipeline 2) = Facility Rating 3 X \$14,000	<u>\$42,000</u>
Total Safety Case Levy	<u>\$112,000</u>

No further safety case levy is payable unless a major revision of the safety case comes into force. A major revision is a safety case revision triggered by any of *Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009* [OPGG(S)R] Regulation 2.30 (Change of circumstances or operations), Regulation 2.31 (Revision on request by NOPSEMA) and Regulation 2.32 (Revision after 5 years). Changes in circumstances or operations include:

- a change in technical knowledge
- the operator proposes to modify or decommission a facility
- a series of proposed modifications to the facility is likely to result in a significant cumulative change in overall level of risk of major accident events
- the operator proposes to significantly change the safety management system
- the compositions of the petroleum or greenhouse gas substance conveyed in the pipeline are different from the compositions contemplated in the safety case
- the activities carried out at the facility are different from the activities contemplated in the safety case
- a significant increase in the level of risk to the health or safety of persons at or near the facility
- a series of increases in the level of risk to the health or safety of persons at or near the facility that, in total, are significant.

Remitting part of the safety case levy for Mobile Facilities

The OPGGS(RL)R provides a mechanism for remitting part of the safety case levy with regards to mobile facilities that operate on an intermittent basis.

The amount remitted in any quarter depends on the number of days that the mobile facility was not operated in NOPSEMA waters during that quarter.

A minimum SMS amount and Facility amount equivalent to one quarterly instalment is required over a period of 4 consecutive quarters before any remission may be made. This minimum amount, per 4 consecutive quarters, continues to apply while the facility safety case is in force, whether or not the facility is located in NOPSEMA waters.

The remittal of the SMS amount and the Facility amount are calculated separately. The SMS amount can be remitted only where an operator has no other facility in operation.

The remittal, subject to the above minimum, is calculated as follows:

$$\text{Remittal of Facility Amount} = \frac{\text{Facility Rating} \times \text{Unit Value}}{4} \times \frac{\text{number of days not operated in quarter}}{\text{number of days in quarter}}$$

$$\text{Remittal of SMS Amount} = \frac{\text{SMS Amount}}{4} \times \frac{\text{number of days not operated in quarter}}{\text{number of days in quarter}}$$

Disclaimer

This guideline is intended to provide guidance to the approach that NOPSEMA takes in carrying out its regulatory functions under the Commonwealth legislation and the relevant State and Northern Territory legislation where powers have been conferred. Any views expressed in this correspondence should not be relied on as advice on the law, nor treated as a substitute for legal advice.