

**NSW
Resources
Regulator**

○ **Mine Safety
Levy Report**

2016 - 2017



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- Continuous improvement of safety outcomes for the mining, extractive and petroleum industries is a key priority for the NSW Government.



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Foreword

Continuous improvement of safety outcomes for the mining, extractive and petroleum industries is a key priority for the NSW Government.

Since it was established on 1 July 2016, the NSW Resources Regulator has undertaken a reform program to ensure it is modelling best practice and deploying resources to where they are most needed.

In 2016-17 the Resources Regulator has worked hard to deliver on its *Incident Prevention Strategy* and develop a more transparent, robust and consistent approach to regulatory activities. Key achievements include:

- > successful implementation of centralised incident reporting
- > delivery of the targeted assessment program (TAP), with 58 TAPs undertaken in 2016-17 involving more than 4200 hours on-site assessing critical controls
- > publishing monthly reports on compliance activities, as well as the outcomes of each targeted assessment program
- > implementation of the causal investigation policy
- > investing in improved data capture and analysis, including online reporting tools
- > embedding a risk-based, outcomes-focused approach.

While the NSW mining industry is statistically one of the safest in the world, mining will always present the possibility of serious injuries and fatalities. It is critical that we maintain diligence and constantly strive for rigorous and innovative ways to keep the workforce safe.

In 2016-17 four fatalities were recorded across this high-hazard industry. Two have clear associations with hazards related to mining, with the cause of the remaining two still subject to ongoing inquiries, however, one of which appears to be the result of natural causes.

Globally, the industry has a long history of catastrophic incidents because of complacency, carelessness and cutting corners, both on the part of industry and those tasked with regulating it. Pike River, Upper Big Branch and, closer to home, Moura No 2 are all stark reminders of the need for industry and the Regulator to stay vigilant and responsive.



Also on a tragic note, in February 2017 a confirmed case of mixed dust coal worker pneumoconiosis in a former NSW coal mine worker was reported. The worker had been an operator in open cut coal mines for more than 30 years. This is the first case of pneumoconiosis detected in a NSW coal mine worker since the 1970s.

The Resources Regulator is investigating how this has happened and to determine if there are learnings or changes to our practices that will reduce the chance of further cases developing.

NSW already has the most stringent coal dust exposure limit in place in Australia at 2.5 milligrams per cubic metre under the work health and safety legislation.

The Resources Regulator has also embarked on a program of targeted assessments at mines to review the controls being adopted to manage the risks associated

with airborne contaminants such as coal dust, silica and diesel exhaust.

The Queensland Parliament Select Committee on Coal Worker Pneumoconiosis has tabled a report on its inquiry into the re-emergence of the disease in that state.

The report contains 68 recommendations, including more stringent exposure standards for coal dust and silica. The Resources Regulator, the Mine Safety Advisory Council and Coal Services are reviewing the report findings and recommendations and will consider if any learnings can be applied to improve worker health and safety in NSW.

Continuing incidents are a stark reminder that we must work together to achieve our common goal of a zero-harm industry.

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About us

The NSW Resources Regulator, established on 1 July 2016, is a stand-alone regulator within the Department of Planning and Environment.

The primary focus of the NSW Resources Regulator is on compliance activities within the NSW mining, extractive and petroleum sectors including:

- > regulating safety and health performance at NSW mines and petroleum sites
- > compliance with the *Mining Act*.

The NSW Resources Regulator was established to ensure a consistent and responsive regulatory approach and to provide increased transparency and community confidence.

To enable and support industry to understand and fulfil its obligations

MISSION

- > investigations of incidents to provide information on lessons learnt and to increase awareness and contribute to a better understanding and management of safety hazards and risks in mining operations
- > the collection, reporting and dissemination of safety data and information
- > providing specialised technical and engineering services
- > education campaigns
- > authorisations and licensing.

The NSW Resources Regulator is headed by a Chief Compliance Officer, who reports directly to the Coordinator General, Central Coast Coordination and Resources Regulation Division.

On 1 April 2017, the NSW Resources Regulator was transferred from the NSW Department of Industry to the NSW Department of Planning and Environment.

VISION

A safe and responsible mining extractive and petroleum industry

In administering its functions, the regulator undertakes various regulatory activities connected with mine safety legislation such as:

- > assessments, investigations and verification of safety systems, processes and standards

Snapshot of activities

Below is a snapshot of the NSW Resources Regulator's mine safety activities for the 2016-17 financial year.



Further details of the regulator's activities, including sector breakdowns, can be found on our website.

 [CLICK HERE TO VISIT THE WEBSITE](#)



About the Mine and Petroleum Site Safety Levy

***The Mine and Petroleum Site Safety (Cost Recovery) Act 2005 (the Act)* establishes the Mine and Petroleum Site Safety Fund, commonly referred to as the Mine and Petroleum Site Safety Levy. It is a levy charged by the NSW Government to pay for health and safety regulation of the state’s mining workplaces.**

The levy applies to employers in the mining industry who have obligations under mine and petroleum site safety legislation for the health and safety of workers. The levy is collected by the workers compensation insurers of mining industry employers and transferred to the NSW Department of Planning and Environment. The levy is calculated as a percentage of worker wages.

Under the Act, the fund can only be used to meet specified expenses incurred by the department in carrying out:

- > regulatory activities connected with mine and petroleum site safety legislation, the *Explosives Act 2003* and *Radiation Control Act 1990*
- > expenses incurred in the administration or execution of the mine and petroleum site safety legislation, and the *Explosives Act 2003* and *Radiation Control Act 1990* administrative expenses related to the fund.

The Mine and Safety (Cost Recovery) Regulation 2013 requires the Secretary of the NSW Department of Planning and Environment to publish a report (this report) containing an overview of payments made from the fund. It must be published within six months after the end of the financial year on the department’s website.

ADMINISTERING THE LEVY

Payments into and out of the Mine and Petroleum Site Safety Fund in accordance with Sections 6 and 7 of the Act are captured within the department’s financial accounting system. To ensure these payments are in accordance with the Act, the Mine and Petroleum Site Safety Levy accounts are periodically audited so that expenditure is in relation to mine safety regulatory activities. Responsibility for the levy moved from the Division of Resources and Geoscience to the Resources Regulator, effective May 2017.

SNAPSHOT: COAL

1549

INCIDENTS REPORTED

2412

SAFETY ASSESSMENTS CONDUCTED

135

PLANNED INSPECTIONS CONDUCTED

37

TARGETED ASSESSMENTS COMPLETED

7

TARGETED INTERVENTIONS UNDERTAKEN



THE AMOUNT CONTRIBUTED TO THE MINE AND PETROLEUM SITE SAFETY FUND FOR 2016-17 WAS

\$33.8 million

PAYMENTS FROM THE MINE AND PETROLEUM SITE SAFETY FUND

The Mine and Petroleum Site Safety Levy (the amount contributed to the Mine and Petroleum Site Safety Fund) for 2016-17 was \$33.8 million. The financial report on pages 13 - 15 is an overview of payments made from the fund.

MINE SAFETY LEVY REVIEW

An independent review of the Mine and Petroleum Safety Levy has been undertaken to investigate the determination and administration of the levy and make recommendations, as appropriate, on improvements to the management and expenditure of these funds.

Mr Carl Scully, Chair of the Mine Safety Advisory Council, was engaged to undertake the review in accordance with the following terms of reference:

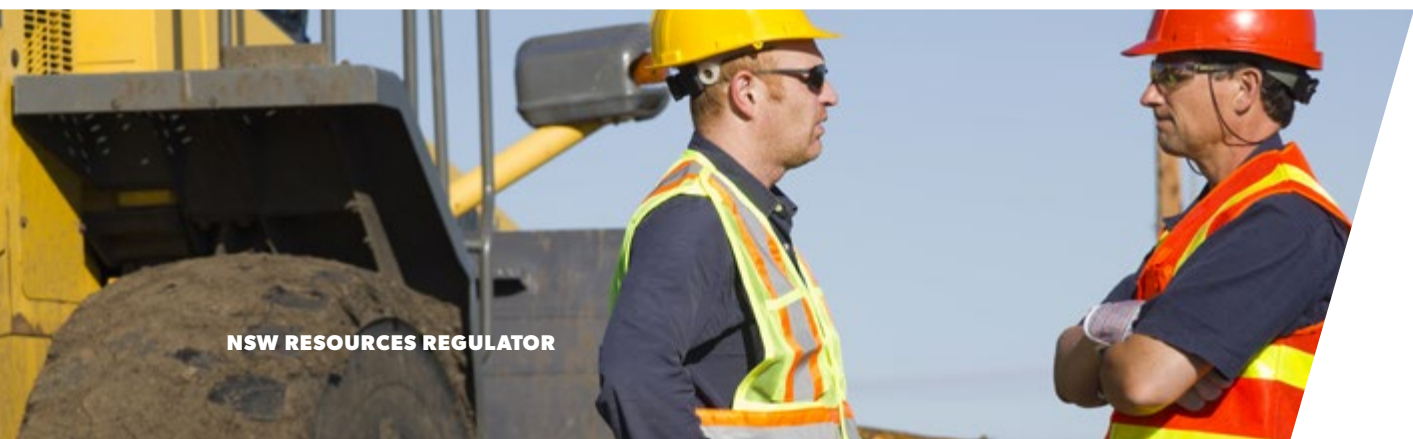
1. Is the levy being expended in an efficient and effective manner in accordance with the legislation?
2. Is the process for apportioning the levy among industry employers appropriate?
3. How can the determination of the annual levy estimates better reflect the cyclic nature of the mining industry?
4. What improvements can be made to the management and administration of the levy?
5. What enhancements could be made to reporting on the expenditure of the levy?

The department will be providing feedback on the final report, including an implementation plan to action recommendations, at the Mine Safety Advisory Council meeting in March 2018.



Mine and petroleum site safety legislation means any of the following Acts and the regulations and other instruments made under them:

- > *Mine and Petroleum Site Safety (Cost Recovery) Act 2005,*
- > *Work Health and Safety (Mines and Petroleum Sites) Act 2013,*
- > *Work Health and Safety Act 2011, and*
- > *Petroleum (Onshore) Act 1991, to the extent that it relates to work health and safety requirements.*



Effective and appropriate compliance and enforcement

The Resources Regulator takes a proactive approach to ensure that critical controls are in place, and to promote a safe and responsible industry through targeted assessment programs, planned inspections and targeted intervention programs.



The regulator has a range of regulatory tools at its disposal which can be tailored to influence changes in attitudes and behaviours. At the lower level these tools include self-regulation and education, while at the higher end they include enforcement by way of prosecution.

PLANNED INSPECTIONS

Planned inspections focus on the various principle mining hazards (PMH) that are present at mines and include assessing the controls mines have in place to manage those hazards and risks.

TARGETED ASSESSMENT PROGRAM (TAP)

Targeted assessment programs (TAP) take a planned and ‘targeted’ approach to assessing how effective a mining operation is when it comes to controlling its most significant risks – or principal hazards. Each TAP is conducted by a team of inspectors from a variety of disciplines, such as mining, electrical and mechanical engineering, who all work together with the mine’s management team.

TARGETED INTERVENTION PROGRAM (TIP)

Targeted intervention programs (TIPs) are similar to TAPs but focus on a specific mine site where specific non-compliance or significant hazards and risks are present or across a number of sites when a specific issue or risk is identified. The purpose of the targeted intervention program is to maximise voluntary compliance to prevent catastrophic, multiple fatality events, reduce personal injury, and address occupational health.

SNAPSHOT: SMALL MINES METALLIFEROUS, QUARRIES AND OTHER GEMSTONES

107

INCIDENTS REPORTED

573

SAFETY ASSESSMENTS
CONDUCTED

62

PLANNED INSPECTIONS
CONDUCTED

1

TARGETED INTERVENTION
UNDERTAKEN



Spotlight: Targeted assessment program

The targeted assessment program is proving to be a valuable and powerful analytical tool that has identified critical risk control issues not previously found by conventional inspections. During 2016-2017, the regulator conducted 58 TAPS, spending in excess of 4200 hours on site at 35 high risk mine sites as part of the program.

TARGETED ASSESSMENT PROGRAM	NUMBER CONDUCTED 2016-2017
Diesel exhaust emissions	10
Emergency management	6
Explosion suppression	10
Fatigue	5
Gas and ventilation	5
Ground or strata failure	10
Respirable dust	12
Total	58



SNAPSHOT: LARGE MINES

METALLIFEROUS AND QUARRIES

267 INCIDENTS REPORTED	303 SAFETY ASSESSMENTS CONDUCTED	53 PLANNED INSPECTIONS CONDUCTED
21 TARGETED ASSESSMENTS COMPLETED	1 TARGETED INTERVENTION UNDERTAKEN	



Financial report

Payments made from the Mine and Petroleum Site Safety Fund for the 2016-17 financial year

REFER NOTE	DESCRIPTION	AMOUNT \$,000
	Total payments from the fund	35,098
	Employee related	22,149
1	Salaries and wages - direct	18,536
	Salaries and wages - on costs	3,613
	Operating Expenses	5,831
2	Contractors	245
3	Consultants	245
4	Advertising and promotion	39
5	Travel expenses	797
6	Occupancy and maintenance	147
7	Training and development	51
8	Legal	2,013
9	Minor asset purchases	92
10	Administrative expenses	40
11	Audit fees	-
	Printing	25
	General expenses	148
12	Motor vehicle	42
13	Consumables and stores	253
14	Other fees - events	134
	Other fees - fee expense	3
	Other fees - licence expense	2



REFER NOTE	DESCRIPTION	AMOUNT \$,000
15	Other fees - computer software fees	41
16	Other fees - conference/seminar	239
17	Other fees - membership	12
18	Other fees - operating lease rentals - other	18
19	Other fees - professional fees	935
20	Other fees - union	180
21	Other fees - service fee	130
	Internal department service charges	6,820
22	Accommodation	1,887
23	Legal services	823
24	Computer hardware and software	104
25	Motor vehicles	737
26	Other corporate business services	1,956
	Miscellaneous internal services	27
27	NSW Resources Regulator management	723
28	Governance	563
29	Capital	299

Note: Expenditure figures are based on accrued expenses, and the same consistent approach has been used for reporting from year to year.



Payments made into the Mine and Petroleum Site Safety Fund for the 2016-17 financial year

REFER NOTE	DESCRIPTION	AMOUNT \$,000
	Total payments into the fund	37,183
	Levy contributions for 2016-17	33,830
30	Legal costs recovered	799
31	Moieties	106
32	Other revenue	1,611
	Accrued revenue from 2015-16 received in 2016-17	837

Summary of movements in the Mine and Petroleum Site Safety Fund for the 2016-17 and 2017-18 financial years

DESCRIPTION	AMOUNT \$,000
Opening balance @ 1 July 2016	9,560
Plus: revenue for 2016-17	36,346
Plus: accrued revenue from 2015-16 received in 2016-17	837
Less: expenditure for 2016-17	35,098
Opening balance @ 1 July 2017	11,645
Plus: Budgeted Mine Safety Levy 2017-18	34,300
Plus: Budgeted Miscellaneous other revenue 2017-18	1,223
Less: budgeted expenditure for 2017-18	39,738
Opening balance @ 1 July 2018	7,430

Comments on financial report

NOTE NUMBER	DESCRIPTION
1	Employee-related costs in 2016-17 were less than expected due to the number of roles vacated throughout the year.
2	Includes costs for contractors engaged to assist with investigations, servicing of laboratory equipment and development of software.
3	Includes consultancy fees for process mapping, bowtie risk analysis, geotechnical advice and review of the implementation of the incident prevention strategy.
4	Includes sponsorship through the Mine Safety Advisory Council of \$21,100 for Cement Concrete and Aggregates Australia (CCAA) Work Health and Safety Awards, NSW Minerals Council Health Safety and Environment Conference and Mines Rescue Challenge.
5	Includes domestic and overseas travel undertaken by mine safety personnel. Overseas travel expenses totalled approximately \$12,000 for the following: <ul style="list-style-type: none"> > Inspector electrical engineering - Germany - continuation of development of International Electrotechnical Commission (IEC) standard 60079. > Chief Compliance Officer and Strategic Advisor - New Zealand - review regulatory and operational mine safety reforms. > Chief Compliance Officer - United States - to participate in the Strategic Management of Regulatory and Enforcement Agencies program (partial costs).
6	Includes mobile and data charges of \$74,675.
7	Training for regulatory staff. Topics include investigations, issuing of notices, human factors and emergency management.
8	Legal advice obtained from Crown Solicitors Office and external providers in relation to major incident investigations and prosecutions.
9	Assets under \$5,000 each.
10	Includes administrative costs associated with collection of the levy.
11	An audit of the mine safety levy for 2015-16 was undertaken by Deloitte in the 2016-17 financial year. The cost of this audit was \$26,188 which is included in the governance internal charge.
12	Operational costs (fuel and maintenance) of fleet vehicles. See also internal motor vehicle charges below.
13	Includes uniforms, stationery and office supplies and other consumable items.
14	Cost for internal and external mine safety events hosted by the Resources Regulator, including Mechanical Engineering Safety Seminar and Electrical Engineering Safety Seminar. Costs associated with external events are offset by revenue from attendees.
15	Includes licensing fees for the Resources Regulator's mine safety database - ACES.

NOTE NUMBER	DESCRIPTION
16	Cost for internal and external mine safety events hosted by the Resources Regulator, including Mechanical Engineering Safety Seminar and Electrical Engineering Safety Seminar. Costs associated with external events are offset by revenue from attendees.
17	Membership fees for external organisations including JAS-ANZ and Australasian Fire and Emergency Service Authorities Council.
18	All expenses associated with the Mine Safety Technology Centre. Offset by commercial revenue.
19	Fees paid for professional services. Fees include \$486,000 for the completion of the investigations into 95 individual bullying and harassment allegations within the industry and \$289,000 for strategic advice in relation to mine safety.
20	Contribution to trade union for industry safety and health representatives appointed by the Minister under part 5 of the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> . Note that the amount relates to two financial years - 2015-16 and 2016-17.
21	Includes costs associated with the human and organisational factors project and the descriptions of WHS (Mines) statutory functions for the assessment and maintenance of competence framework project.
22	Costs associated with providing office accommodation to mine safety personnel in Maitland, Thornton, Sydney, Wollongong, Lithgow, Orange, Cobar, Broken Hill, Lightning Ridge and Armidale.
23	Legal services provided by departmental in-house legal team.
24	Costs associated with providing computer hardware and software for personnel.
25	Operational costs (leasing, fuel and maintenance) of fleet vehicles for use by mine safety personnel (including inspectors). See also motor vehicle expenses above.
26	Costs associated with providing corporate services such as finance, payroll, human resource, records and asset management for mine safety personnel in Maitland, Thornton, Sydney, Wollongong, Lithgow, Orange, Cobar, Broken Hill, Lightning Ridge and Armidale.
27	Costs associated with the Chief Compliance Officer for senior management and development of the ACES database to enable the qualitative and quantitative recording of data.
28	Costs associated with the Executive Director Governance and internal governance services provided to mine safety, including the costs associated with the audit of the 2015-16 mine safety levy (see note # 11). These internal costs will not exist in future as responsibility for mine safety related functions within the Division of Resources and Geoscience (Governance) were transferred to the Resources Regulator in May 2017.
29	Capital purchases associated with the Mine Safety Technology Centre.
30	Cost settlements in relation to prosecutions.
31	Moieties received in relation to prosecutions.
32	Other revenue includes fees collected in relation to the services provided by the Mine Safety Technology Centre, certificates of competence, workshops and conferences. It also includes reimbursement of costs associated with undertaking investigations into matters referred from SafeWork NSW (\$6,561).

