



**NSW  
Resources  
Regulator**

# **PROTOCOL**

Access to the Mine Safety Levy reserve



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# 1. Purpose

This protocol has been established to set clear guidance for accessing the Mine Safety Levy budget reserve.

## 1.1. Background

The *Mine and Petroleum Site Safety (Cost Recovery) Act 2005* established the Mine and Petroleum Safety Fund, commonly referred to as the Mine Safety Levy, in December 2005. The levy is charged by the NSW Government to fund the regulation of health and safety at the state's mining and petroleum workplaces.

The levy applies to employers in the mining industry who have obligations under the mine safety legislation for the health and safety of workers. It is collected by the workers compensation insurers of mining industry employers and transferred to NSW Department of Planning and Environment.

The coal, metalliferous and extractive industry sectors, as well as the oil and gas and explorations industries in NSW all contribute to the Mine Safety Fund.

## 1.2. Calculation of the levy

A business planning process and budget model underpins the determination of the annual mine safety budget.

When determining the Mine Safety Levy estimate, the department considers the planned mine safety program and related budget for the relevant period, any funds to be carried forward from the current financial year and the residual balance of the mine safety fund (the reserve).

The following regulatory activities are routinely budgeted for:

- planned compliance campaigns (including audits and inspections)
- response to incidents
- emergency response
- administration of licencing and registration
- investigations
- industry awareness campaigns.

This budget process must be approved by the Deputy Premier, Minister for Regional New South Wales, Industry and Trade.

A budget reserve equivalent of 10% of the levy determination is kept within the fund for emergency situations.

### 1.2.1. Payments from the levy

The *Mine Safety (Cost Recovery) Act 2005* outlines what payments can be made from the Mine Safety Levy.

The levy can only be used to fund:

- regulatory activities connected with mine and petroleum safety legislation
- expenses incurred in the administration or execution of mine and petroleum safety legislation
- reimbursement to the State Insurance Regulatory Authority for expenses incurred regarding administering the levy
- administrative expenses related to the levy.

The mine safety legislation also includes:

- *Work Health and Safety Act 2011*
- *Work Health and Safety (Mines and Petroleum Sites) Act 2013*
- *Explosives Act 2003*
- *Radiation Control Act 1990*

The Mine Safety Levy is public money and is subject to the same legislation and controls, including the *Public Finance and Audit Act 1983*, as funds from the Consolidated Fund.

Under the *Public Finance and Audit Act 1983* departments must prepare financial reports in accordance with Australian Accounting Standards that exhibit a true and fair view of the financial position and financial performance of the department.

In addition, the Mine Safety (Cost) Regulation 2013 requires the Secretary to prepare and to publish on the department's website an annual report providing an overview of payments made from the fund.

## 1.3. Access to the reserve

While the annual mine safety levy budget process generally accounts for all regulatory activities connected with mine safety levy legislation in NSW, there may be exceptional circumstances where access to the reserve is required.

Without limiting the ability of the Minister or Secretary to access the fund, accessing the reserve will be limited to meeting funding shortfalls which occur as a result of the following circumstances:

- Responding to a significantly catastrophic, sustained or complex incident
- Responding to the emergence of a significant and unforeseen health or safety issue (such as the re-emergence of CWP)
- The delivery of an urgent project approved by the Mine Safety Advisory Council.

In all instances the operating budget will be utilised first, with access to the reserve only triggered once the approved budget has been exhausted.

## 1.4. Approvals

Access to the Mine Safety Levy reserve, outside the approved mine safety budget, must be approved by:

- Secretary, Department of Planning, Industry and Environment
- Minister for Resources.

Access to the Mine Safety Levy reserve to maintain the reserve at 10% of the levy determination forms part of the normal budget approval process.

## 1.5. Notification

The Chairperson of the Mine Safety Advisory Council will be notified as soon as practicable once it is known there is a need to access the reserve.

Notification will include the approximate amount and the circumstances for accessing the reserve.

## 1.6. Reporting

Any expenditure from the reserve will be clearly documented within the Mine Safety Levy Annual Report.