

May 2025

Explanatory guide

Consultation draft of the Mine and Petroleum Site Safety (Cost Recovery) Regulation 2025

Introduction

Under the staged repeal provisions of Part 3 of the *Subordinate Legislation Act 1989* ('SL Act'), the Mine and Petroleum Site Safety (Cost Recovery) Regulation 2019 (the Regulation) is due to be repealed on 1 September 2025.

NSW Resources is progressing a remake of the Regulation. The substantive provisions of the Regulation continue to be required, and it is proposed that the Regulation, including its main operative clauses, be remade in substantially the same terms as those currently in force.

A draft of the Mine and Petroleum Site Safety (Cost Recovery) Regulation 2025 (draft Regulation) is now available for public comment.

The draft Regulation is available:

- on the NSW Resources public consultation web page www.resources.nsw.gov.au/mpss, or
- by emailing regulation.remakes@regional.nsw.gov.au

Copies of the current Regulation are available on the NSW Legislation website at www.legislation.nsw.gov.au.

Interested parties are invited to submit written comments on the draft Regulation via email to the address provided above by **5pm on Wednesday 18 June 2025**.

Those wishing to contribute comments are asked to note that submissions may be made public, subject to the provisions of the *Government Information (Public Access) Act 2009*.

Purpose of this document

The purpose of this document is to provide industry and community stakeholders, as well as interested members of the public, with an overview of the draft Regulation and to note the proposed changes.

The contents of this document do not constitute legal advice and should not be relied upon as such. You should seek legal advice or other professional advice in relation to any matters this document raises for you or your organisation.

Publication of submissions

NSW Resources may publish submissions on its website unless the submission is accompanied by a request for confidentiality with acceptable reasons. Please clearly mark 'IN CONFIDENCE' on your submission, or the specific parts of it if you wish material to remain confidential. NSW Resources will inform the submitter if the reasons given for a confidentiality request are not adequate and confirm if the submitter wishes to withdraw their submission.

NSW Resources may publish or reference findings from the consultation process in an anonymised way that does not disclose confidential information. Any personal details (for example, home and email addresses, signatures, and phone and mobile numbers) will be removed from submissions made by individuals to protect personal information.

Background

The Regulation is made under the *Mine and Petroleum Site Safety (Cost Recovery) Act 2005* (the Act). The Act's principal object is to provide for the funding of regulatory activities in relation to safety at mines and petroleum sites, and it establishes the Mine and Petroleum Site Safety Fund (the Fund) for this purpose. The Act also makes provision for contributions to be made into, and for payments to be made from, the Fund, as well as investment of the money held in the Fund.

In support of the Act, the Regulation contains three substantive provisions:

- To authorise payments from the Fund to meet expenditure incurred by the Department in:
 - carrying out regulatory activities under, or administering or executing, the *Explosives Act 2003*; and
 - exercising functions under or in connection with the *Protection from Harmful Radiation Act 1990* (section 4 of the draft Regulation).
 - To require the Secretary to prepare and publish a report containing an overview of payments made from the Fund during the financial year (section 5 of the draft Regulation);
 - To authorise members of staff of the State Insurance Regulatory Authority (SIRA) as a class of persons to whom the Secretary may delegate their functions under the Act (section 6 of the draft Regulation).
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Summary of changes

The Regulation's substantive provisions continue to be required and no need for significant change has been identified. It is intended that the Regulation, including its main operative clauses (sections 4, 5 and 6), be remade in substantially the same terms as those currently in force, with the following minor amendments:

- Replacement of the term 'relevant period' with 'financial year' in connection with reporting requirements (section 6(1)) to align with the definition of 'financial year' in the Act.
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- Updates to titles of legislation; notably the name of the *Radiation Control Act 1990* was amended on 24 October 2023 to the *Protection from Harmful Radiation Act 1990*.
- Wording changes to reflect the current regulatory drafting conventions of the Parliamentary Counsel's Office.
- Repeal of the *Mine and Petroleum Site Safety (Cost Recovery) Regulation 2019* and general savings provision.

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