



**NSW
Resources
Regulator**

INNOVATION POLICY



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6 February 2020	1.1	Update title of authorising officer and include link to application form.

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Contents

- Purpose and scope 3
- The innovation challenge for regulators 3
- Innovation and work health and safety legislation 4
- Our approach..... 5
- How can an innovation be adopted? 6
- How this policy contributes to the Australian Work Health and Safety Strategy 2012-2022 7

Purpose and scope

We are committed to having a responsive and effective regulatory framework for work health and safety that supports the development, trial and adoption of new technologies, systems and products.

We support the development and use of new technologies, systems and products to continuously improve hazard control, risk management, and health and safety outcomes at mines.

New technologies, systems and products are developed through the ideas, innovation and investment of many stakeholders, including mine workers, engineers and technical experts, mine operators, product and service suppliers, equipment manufacturers, as well as universities and research bodies.

The purpose of this policy is to make clear how we will ensure that the regulatory framework for work health and safety at mines and petroleum sites:

- supports continuous improvement of health and safety through design, technology, product and system innovation and development
- does not directly, or indirectly, inhibit investment in the development and adoption of improved technologies and products.

The innovation challenge for regulators

Regulatory frameworks and regulators are often perceived to be a barrier or blockage to the adoption of new technologies and new ways of doing things. This can be due to legislation and technical standards not anticipating change and not evolving as rapidly as new technologies. This can also be due to internal standards and policies for high-volume processes, like licensing and issuing registrations, tending to promote a high degree of standardisation and consistency.

When regulating a high-hazard industry, where there can be significant consequences if a new system or product fails or doesn't perform as expected, regulators may have an unconscious bias toward known and established technologies that comply with existing standards when the regulator is performing functions like licensing and registrations.

Even when regulators strongly support the principle of a new technology or system, developers and innovators may become disheartened when there is no clear pathway provided for new technologies and products to progress and they feel like they are 'put in the too hard basket'.

The challenge for regulators is to put mechanisms and processes in place to overcome the actual and perceived barriers and biases in the regulatory system, to simultaneously ensure worker and workplace

health and safety, and also support continuous improvement through the development, trial and adoption of new technologies, systems and products.

Innovation and work, health and safety legislation

The objectives of the *Work Health and Safety Act 2011* include securing health and safety outcomes for workers and workplaces by 'providing a framework for continuous improvement and progressively higher standards of work health and safety'.

The work, health and safety legislation provide a framework that promotes innovation and continuous improvement in work, health and safety outcomes from new technologies and innovative thinking. The WHS legislation in NSW is a duty-based scheme that effectively sets outcomes to be achieved, with relatively few prescriptive provisions.

The legislation provides scope for duty holders to determine how to manage risks in a way that is most appropriate to the whole of the circumstances of the work being undertaken.

However, in relation to certain areas of risk, the legislation is more prescriptive to ensure an appropriate level of risk control in relation to known hazards - such as in relation to aspects of high-risk plant - which may require an item of plant to be registered or the design of certain plant to be registered.

The high-hazard environment of underground coal mining and, for example, the fire and explosion risks associated with the presence of methane and coal dust, also means that certain areas of prescriptive regulation ensure known risk controls are always applied.

Additional regulatory mechanisms applied to certain mining and petroleum sites include requiring certain plant or components to conform to specified Australian and New Zealand Standards, requiring plant to be certified as meeting certain standards, certain activities to be undertaken only by licensed persons and certain functions to be carried out only by qualified people.

Our approach

We also recognise the risk that the prescriptive risk controls, licensing, registration, mandatory compliance with external standards and certification elements of the regulatory scheme may pose some risk of reduced innovation in and development of new technologies, systems and products to continuously improve hazard control, risk management, and health and safety outcomes at mines.

Our approach is to:

- in conjunction with relevant stakeholders, regularly review and put forward for amendment as a result, elements of the regulatory scheme to ensure it adapts to changing circumstances to maintain as far as possible currency with new and emerging technologies - to ensure that the use of better and safer technology is not prevented by the legislation and
- in conjunction with relevant stakeholders, promote an environment in which potential innovators are confident the regulatory scheme is open for discussion if they can demonstrate there is a better way
- regularly engage with stakeholders, encourage all stakeholders to identify and provide ideas on regulatory barriers that are tending to limit or prevent the use of healthier and safer technologies, systems and products
- remain actively involved in and aware of issues for stakeholders in the processes for any Australian and New Zealand Standards and external certification schemes (e.g. the IECEx scheme) that are referenced in the work, health and safety legislation for mines and petroleum sites
- use the tools available in the WHS legislative framework - such as the exemption provisions – and appropriately adjust licensing policies and standard licence conditions and requirements to:
 - support trials and the evaluation of potential new systems of work, products and plant in an operating work environment (mine)
 - permit alternative systems of work, products and plant to be used if the proponent can demonstrate effective risk control and that at least an equivalent level of health and safety will be achieved.

This policy forms part of, and is to be read in conjunction with, the NSW Resources Regulator's [compliance and enforcement approach](#) for the regulation of health and safety at mines and petroleum sites.

How can an innovation be adopted?

Under the *Innovation Policy*, we will provide a clear pathway for the consideration of innovations prevented by legislation or technical standards.

The first step is to complete and submit the innovation policy [application form](#) published on our website.

An officer of the NSW Resources Regulator will be appointed as a case officer and will act as your single point of contact to assist with the application process. The case officer will identify relevant NSW Resources Regulator personnel to be involved in evaluating the application and will keep you informed of progress.

The application process may involve an initial facilitation meeting with you to ensure you understand the requirements for documentation, effective consultation with affected stakeholders (e.g. mine operators, workers and safety and health representatives), independent evaluation and testing. This will help ensure that these requirements are identified and documented as early as possible.

We may apply a fee in connection with an application under this policy.

If you have any questions about how to apply, contact us on 1300 814 609.

How this policy contributes to the Australian Work Health and Safety Strategy 2012-2022

This policy supports the vision of the [Australian Work Health and Safety Strategy 2012–2022](#) - in which an effective systematic management of risks results in improved worker health and safety and productivity by:

- preventing and reducing the number and severity of injuries and illnesses and associated costs
- promoting worker health, wellbeing and capacity to work, and
- fostering innovation, quality and efficiency through continuous improvement.

The policy is particularly responding to two of the seven action areas in the strategy:

ACTION AREAS	STRATEGIC OUTCOMES
<p>Healthy and safe by design Hazards are eliminated or minimised by design</p>	<p>Structures, plant and substances are designed to eliminate or minimise hazards and risks before they are introduced into the workplace.</p> <p>Work, work processes and systems of work are designed and managed to eliminate or minimise hazards and risks.</p>
<p>Responsive and effective regulatory framework The regulatory framework improves effectiveness by responding and adapting to changing circumstances</p>	<p>Legislation, policies and regulatory practice are reviewed and monitored to ensure they are responsive and effective.</p> <p>Relationships between regulators and all who have a stake in work health and safety are effective, constructive, transparent and accountable</p>