

Intentions Paper

**Regulatory Excellence and Continuous Improvement
in the Mining Sector**

Mines Act

Proposal for Legislative Changes

Introduction

The *Mines Act* regulates all mining activities in British Columbia – from early exploration to production, reclamation, closure, and post-closure. Under this legislation, mining activities include precious and base metal mines, coal mines, industrial mineral mines (e.g. silica, limestone), rock quarries, sand and gravel operations, and placer mines.

The *Mines Act* covers the issuance of permits, inspections and investigations, and compliance and enforcement actions. It is supported by specific requirements found in the Health, Safety and Reclamation Code for Mines in B.C. (the Code).

We are proposing targeted updates to the *Mines Act* to formalize recent organizational changes within the Ministry of Energy, Mines and Petroleum Resources (EMPR) and modernize compliance and enforcement provisions. We want your input and feedback on these proposed changes.

Background

Budget 2019 provided EMPR with \$20 million over the next three years to fulfill government's commitments to improve permitting and increase industry safety by establishing an independent oversight unit.

Using this funding, EMPR has separated its regulatory authorities through the creation of a new Mines Health, Safety and Enforcement Division (MHSED), separate and independent from the new Mines Competitiveness and Authorizations Division (MCAD). While the MCAD is focused on mine permitting and attracting increased investment in B.C.'s mining sector, the MHSED's priorities are focused on health, safety, compliance management, and enforcement activities. Together, these two divisions work to achieve regulatory excellence.

With the *Budget 2019* investment, EMPR has also created the Mine Audits and Effectiveness Unit (Audit Unit), which will be EMPR's independent oversight unit. The Audit Unit is mandated with conducting audits to assess the effectiveness of EMPR's regulatory regime in ensuring the protection of workers, the public, and the environment. Each audit will generate a public report with practical recommendations for continuous improvement in regulatory oversight that will result in on-the-ground improvements to how mining is done in B.C.

These structural changes respond to and were informed by lessons learned from the Mount Polley mine disaster, recommendations made by the Office of the Auditor General for BC, and from the unanimous report from the Mining Jobs Task Force (MJTF) comprised of representatives from Indigenous communities, industry, municipal government, an environmental non-governmental organization, labour, post-secondary/training and the financial sector. These changes are also aligned with other provincial regulators with permitting responsibilities separated from enforcement under different Assistant Deputy Ministers.

Proposed Changes

To support the changes announced in *Budget 2019* and strengthen mining compliance and enforcement, EMPR is proposing the following amendments to the *Mines Act*:

Formalize structural separation between regulatory functions

It is important that statutory decision-making under the *Mines Act* reflects EMPR's new organizational structure. Under the *Mines Act*, the Chief Inspector of Mines is currently responsible for mine permitting, as well as health, safety, and enforcement. The proposed amendments would enhance the separation between EMPR's regulatory functions by establishing a new statutory decision-maker for permitting, distinct from the health, safety, and enforcement functions, which would remain with the Chief Inspector of Mines.

Formally establish an independent oversight function

The proposed amendments would formally establish the authority and mandate for the new Audit Unit. The changes would also establish an independent statutory decision-maker to oversee the audit function, including making recommendations for improved regulatory effectiveness and providing specific powers to auditors (separate from inspectors).

Enhance compliance and enforcement

Certain provisions of the *Mines Act* need to be modernized to enhance government's ability to hold mines accountable for ensuring human health and safety and protecting the environment.

The proposed amendments would align key *Mines Act*'s compliance and enforcement provisions with other regulators. For example, they would provide inspectors and auditors with the authority to bring equipment or people required to conduct their work on to mine sites. This may include individuals with specialized technical expertise or representatives from Indigenous communities.

Other Regulatory Reform Initiatives

While this intentions paper is focused on proposed amendments to the *Mines Act*, there are also other significant regulatory initiatives underway for the mining sector in B.C.

Following a recommendation from the MJTF earlier this year, government has created a Standing Code Review Committee (SCRC) to conduct a continuous, comprehensive review of the Code, with equal representation from Indigenous communities, labour, and industry. The SCRC will ensure that mining continues to be one of the safest heavy industries in British Columbia and that provincial regulations keep pace with rapid industry changes.

The Province recognizes the need to ensure that the people of British Columbia are protected if a mining company fails to meet its reclamation requirements. The Province continues to engage with Indigenous communities, environmental organizations, and industry to formalize an updated policy for mine reclamation securities. We expect to release this updated policy later this year.

Throughout 2018 and 2019, EMPR has also conducted pre-engagement efforts with Indigenous communities, industry, and non-governmental organizations regarding the *Mineral Tenure Act* (MTA). The Province heard that the MTA is a foundational piece of legislation and that more time is needed to consider possible changes. As a result, amendments to the MTA are not being proposed at this time to allow the Province to continue engagement with interested parties.

Providing Input

We are seeking your input regarding the proposed amendments to the *Mines Act*. Comments and suggested improvements to ensure mining regulatory excellence that are beyond the scope of these amendments are also welcome and may inform future legislative, regulatory, and policy changes.

- Email written submissions to: **MinesActProposal@gov.bc.ca**
- This intentions paper will be available for comment until 4pm on October 25, 2019.
- Written submissions will be posted publicly.

**We encourage everyone to take part in these and upcoming engagement opportunities.
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