

Attention: Shirley Bond, Chair and Mitzi Dean, Deputy Chair of the Select Standing Committee on Public Accounts

An Audit of Compliance and Enforcement of the Mining Sector, Released 06/16

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PAC Meeting Plan¹	06/06/16	Prepared by: Nathaniel Amann-Blake, Energy and Mines Gwenda Laughland, Environment	Reviewed by: Elaine McKnight, Deputy Minister, Energy and Mines Wes Shoemaker Deputy Minister of Environment
1st APPA Update	29/11/17	Prepared by: Nathaniel Amann-Blake, Gwenda Laughland	Reviewed by: Dave Nikolesjin, Deputy Minister, Energy, Mines & Petroleum Resources Mark Zacharias, Deputy Minister, Environment & Climate Change Strategy
2nd APPA Update	28/02/19	Prepared by: Nathaniel Amann-Blake, Gwenda Laughland	Reviewed by: Dave Nikolesjin, Deputy Minister, Energy, Mines & Petroleum Resources Mark Zacharias, Deputy Minister, Environment & Climate Change Strategy
3rd APPA Update	26/02/20	Prepared by: Brad Cox, Gwenda Laughland	Reviewed by: Peter Robb, A/Deputy Minister, Energy, Mines & Petroleum Resources Mark Zacharias, Deputy Minister, Environment & Climate Change Strategy

¹ The audited organization will be required to present their initial action plan at this meeting (i.e. First three columns completed for each OAG recommendation included in the audit report)

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Rec. # Accepted? Yes / No ²	OAG Recommendations	Actions Planned & Target Date(s) ³	Assessment of Progress to date ⁴ and Actions Taken ⁵ (APPA update)
1.0 No	<p>Overall recommendation:</p> <p>We recommend that the Government of British Columbia create an integrated and independent compliance and enforcement unit for mining activities, with a mandate to ensure the protection of the environment.</p> <p>Given that the Ministry of Energy and Mines is at risk of regulatory capture, primarily because EMPR's mandate includes a responsibility to both promote and regulate mining, our expectation is that this new unit would not reside within this ministry.</p>	<p>Summary of original published response</p> <p>Government committed to establishing a Deputy Minister level mining compliance and enforcement board to ensure greater integration, undertaking a review of other jurisdictions' regulatory models, and continuing discussion with OAG staff.</p> <p>Action Plan Update 29/11/2017</p> <p>The mandate letter of the Minister of Energy, Mines and Petroleum Resources reflects government's commitment to establishing an independent oversight unit for mines. Work is underway to develop options for implementing this commitment.</p>	<p>2019 Update: Alternative action taken</p> <p>The ministry undertook a comprehensive review of the OAG findings and drivers behind the Overall Recommendation, as well as the CIM investigation into Mount Polley, engagement with staff, and labour, Indigenous representatives and industry through the Mining Jobs Task Force. The Ministry also reviewed best practice in other jurisdictions and here in BC. In its review the ministry considered the full scope of responsibilities under the <i>Mines Act</i>, in particular the responsibility for health and safety on mine sites.</p> <p>The restructuring into two divisions with separate ADM-level accountabilities, and significant investment announced in Budget 2019, including the new Audit and Effectiveness Monitoring function and standing Code Review Committee, will ensure the appropriate controls are in place to address the risk of regulatory capture and position MEMPR for regulatory excellence.</p> <p>Full details of the findings, new structure and updated budget are available in Appendix A to this report.</p> <p>2020 update: Fully or Substantially implemented</p> <p>EMPR is proposing amendments to the <i>Mines Act</i> to formalize the actions taken and reported in Feb 2019. These amendments will separate permitting decisions from health, safety and enforcement through the creation of a Chief Permitting Officer. The Chief Inspector of Mines will retain responsibility for health, safety and enforcement. The separation of permitting from enforcement aligns EMPR with other regulators in B.C. and best practice across Canada.</p> <p>The changes will also formalize the creation of EMPR's independent Mine Audits and Effectiveness Unit, which will ensure that mining regulation remains effective and aligned with global best practice. This unit will have a statutory mandate to conduct audits to assess the effectiveness of all aspects of mining regulation (e.g., industry safety and environmental performance; EMPR policies and actions; and current regulatory requirements) and report publicly on audit conclusions and recommendations. Importantly, this unit will operate at the direction of an independent, statutory decision maker, the Chief Auditor, created and empowered under the <i>Mines Act</i>.</p> <p>EMPR has also established a distinct Mine Investigation Unit to perform regulatory and quasi criminal investigations. In 2019, the work of this unit led to the first prosecutions for offences under the <i>Mines Act</i> in over two decades. In 2019, EMPR also imposed its first administrative monetary penalty under the <i>Mines Act</i>.</p>

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Action Plan and Progress Assessment (APPA) for the implementation of audit recommendations from the OAG- Prepared for the Select Standing Committee of Public Accounts
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Rec. # Accepted? Yes / No ²	OAG Recommendations	Actions Planned & Target Date(s) ³	Assessment of Progress to date ⁴ and Actions Taken ⁵ (APPA update)
1.1 Yes	<p>Strategic planning:</p> <p>We recommend that government develop a strategic plan that would detail the activities of an integrated and coordinated regulatory approach, and the necessary capacity, tools, training and expertise required to achieve its goals and objectives.</p>	<p>Original published response</p> <p>A Mining C&E Board will be established to oversee an integrated and coordinated regulatory approach to mining in the Province of B.C. The Board will be accountable to the Deputy Minister of Energy and Mines, the Deputy Minister of Environment and the Associate Deputy Minister of the Environmental Assessment Office.</p> <p>The board will develop compliance and enforcement plans to map out proactive annual activities based on a risk-based approach. The board will also be responsible for furthering longer term strategic improvements in other areas such as: enhancing training; developing policies, procedures and tools; conducting evaluations; and expanding public reporting.</p> <p>MEM will appoint a new Deputy Chief Inspector of Mines for compliance and enforcement to oversee and implement improved C&E.</p>	<p>2019 Update: Fully or Substantially implemented</p> <p>Coordinated Regulatory Approach</p> <p>Joint Mining C&E Strategic Plan published February 2017 establishes a common vision for ENV, EMPR and EAO:</p> <p><i>“Achieving enhanced protection of the environment, human health and public safety through an integrated risk-based approach to mining oversight.”</i></p> <p>The joint 2018/19 Operational Plan and 2017/18 Annual Report is complete and includes:</p> <ul style="list-style-type: none"> • Commitment to 10 coordinated inspections of mines with EA certificates; • Enhanced coordinated training opportunities; • Coordinated post EAC meetings; • Joint compliance management framework; • Development of Compliance Management Plans through Major Projects Coordination Committee with EMPR, EAO & ENV; and • Development of joint Mining Risk Framework. <p>Ongoing operational collaboration between the three agencies is enhanced through staff level committees (the Mining C&E Steering Committee and the Major Projects Coordination Committee).</p> <p>2020 update: Fully or Substantially implemented</p> <p>The common vision for ENV, EMPR and EAO remains as published in the Joint Mining C&E Strategic Plan. ENV, EMPR and EAO are currently assessing strategic priorities for upcoming years given recent structural and functional changes such as the organizational changes at EMPR (creation of two mining related divisions) and the new Mine Audits and Effectiveness Unit.</p>

² For each recommendation, the audited organization should state whether or not they have accepted the recommendation and plan to implement it fully by typing either “Yes” or “No” under the number of the recommendation.

³ Target date is the date that audited organization expects to have “fully or substantially implemented” the recommendation. If several actions are planned to implement one recommendation, indicate target dates for each if they are different.

⁴The Select Standing Committee on Public Accounts (PAC) will request that the audited organization provide a yearly update (i.e completed “Assessment of Progress and Actions Taken” column) until all recommendations are fully implemented or otherwise addressed to the satisfaction of the PAC. This is for the APPA update.

⁵ This action plan and the subsequent updates have not been audited by the OAG. However, at a future date that Office may undertake work to determine whether the entity has implemented the recommendations. The results of that work will be reported in a separate report prepared by the OAG.

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1.2 Yes	<p><u>Permit language:</u> We recommend that government ensure historical and current permit requirements are written with enforceable language.</p>	<p><u>Original published response</u> The ministries agree that permits must be written with measurable and enforceable requirements. Both ministries will develop policy to ensure enforceable and measurable requirements are used in all new and amended permits.</p>	<p><u>2019 Update: Partially implemented</u> Enforceable Permit Condition Policies</p> <ul style="list-style-type: none"> • ENV and EAO have policies on writing permits with enforceable language. • EMPR has developed a draft policy for <i>Mines Act</i> decision makers on writing permits with enforceable language that is consistent with those of ENV and EAO. This will be finalized by March 31, 2019. <p>Enforceable Permit Conditions for Historical Permits</p> <ul style="list-style-type: none"> • ENV initiated a permit refresh project in September 2016 targeting all permits that had not been amended since September 14, 2010 (43 mines met criteria). To date, approximately half of these 43 mines have been refreshed. Most major mines have had their permits updated as a result of mines requesting permit amendments. • EMPR has commenced a targeted permit amalgamation project to consolidate and update permits for operating major mines, including consideration of where condition language can be made more enforceable. <p><u>2020 update: Fully or Substantially implemented</u> EMPR is implementing a policy for <i>Mines Act</i> decision makers on writing permits with enforceable language that is consistent with those of ENV and EAO. This policy is based on ensuring that SMART principles are used when establishing permit conditions (i.e., permit conditions must be Specific, Measurable, Achievable, Relevant, and Time bound). EMPR is also developing a permit condition internal review process with EMPR staff to help ensure the policy is fully implemented and that new and revised permit conditions are enforceable. Work is ongoing on permit amalgamation and review of historical permit conditions. Consistent with its mandate, the Mine Audits and Effectiveness Unit may examine permit conditions in the course of its audits and make recommendations to EMPR to support further improvements. ENV has now updated 40 of the 43 mines permits as part of its permit refresh project initiated in September 2016. The last three permits are undergoing other amendment processes for operational reasons so the permit refresh/update will be conducted at the same time as the amendment.</p>

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1.3 Yes	<p>Security – adequate coverage:</p> <p>We recommend that government safeguard taxpayers by ensuring the reclamation liability estimate is accurate and that the security held by government is sufficient.</p>	<p>Original published response</p> <p>As seen in the 2014 Chief Inspector’s Annual Report, “In the past few years, the value of security deposits has increased to reflect more closely the true costs of reclamation. The total value of securities held by the Province has risen from \$10 million in 1984 to more than \$773 million by the end of 2014.”</p>	<p>2019 Update: Partially implemented</p> <p>Building on the reports by Stantec Consulting Ltd (available here) and Ernst & Young (available here), EMPR has contracted a consultant to recommend a risk based approach that provides reasonable assurance that government funds will not be required in the case of default. In addition to the public comment period that ran from October 11 – November 8, 2018, the consultant is further engaging with stakeholders in preparation of the recommended policy approach.</p> <p>In 2018, a Regional Reclamation Security Calculator was introduced to increase accuracy and consistency of reclamation securities calculated for regional mines.</p> <p>2020 update:</p> <p>EMPR has developed a draft reclamation policy that is currently under review. The draft policy incorporates recommendations made by Ernst and Young and was informed by in-depth consultation with the public, environmental organizations, the BC First Nations Energy and Mining Council and the Mining Association of British Columbia.</p> <p>EMPR anticipates that the draft policy will be made available to Indigenous groups, industry, the public and non-government organizations for review and comment in summer 2020.</p> <p>EMPR continues to reassess the amount of reclamation security it holds. As of Dec 31, 2019, EMPR held \$1,868,775,812.</p>

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1.4 Yes	<p><u>Security – catastrophic events:</u></p> <p>We recommend that government review its funding mechanisms to ensure taxpayers are safeguarded from the costs of an environmental disaster.</p>	<p><u>Original published response</u></p> <p>Environmental disasters, like the one seen as a result of the Mount Polley tailing facility breach, can result in damage both on and off a mine site. It is the responsibility of the mine operator to ensure sufficient environmental liability insurance is held to meet the risk of such disasters.</p> <p>The <i>Environmental Management Act</i> contains authority for spill response actions and cost recovery to require persons in possession or control of any polluting substance to prepare contingency plans and to implement those plans at their expense in the event of a spill. The Act also provides for the recovery of costs should action to respond to a spill be declared by the Minister.</p> <p>This Act is being amended to proactively require potential polluters to pay into a spill preparedness and response organization. These amendments are due for introduction to the Legislature this year.</p>	<p><u>2019 Update: Partially implemented</u></p> <p>Both ENV and EMPR regulations and policies are based on the polluter pay model.</p> <p>In the context of mining, amendments recently made to the <i>Environmental Management Act</i> strengthened the ability to recover costs of environmental clean-up, clarified requirements for environmental restoration, and added new penalties for incomplete restoration.</p> <p>In addition, the <i>Environmental Management Act</i> still maintains the provision, that if the minister certifies that money is required for immediate response to an environmental emergency, the amount the minister certifies to be required may be paid out of the consolidated revenue fund without an appropriation other than this section.</p> <p><u>2020 Update: No further update at this time.</u></p>
1.5 Yes	<p><u>Environmental Management Act waste discharge fees:</u></p> <p>We recommend that government review its fees under the <i>Environmental Management Act</i> and ensure that the fees are effective in reducing pollution at mine sites.</p>	<p><u>Original published response</u></p> <p>The Ministry of Environment is committed to reviewing the fee structure for waste discharges under the <i>Environmental Management Act</i>. Work has already been initiated to assess current fees, as well as conduct a cross-jurisdictional scan of fees imposed by other provinces and territories.</p>	<p><u>2019 Update: Fully or Substantially Implemented</u></p> <p>Fee Review</p> <p>ENV conducted an <i>Environmental Management Act</i> waste discharge fee review and annual contaminant (waste discharge) fees were increased by 21% on April 1, 2018. This was the first fee increase since April 1, 2006 and is in line with the polluter pay principle.</p> <p>The fee increases funded additional internal capacity and builds on previous investments in increasing resources in Regional Operations Branch.</p>

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1.6 Yes	<p><u>Cost recovery:</u> We recommend that government adopt a cost recovery model for permitting and compliance verification activities that is consistent across all ministries in the natural resources sector.</p>	<p><u>Original published response</u> The Ministry of Environment recognizes that other natural resource sector ministries, including the Environmental Assessment Office, have begun imposing fees on industry for permitting and compliance verification activities. The ministry will be examining the imposition of fees for these activities.</p> <p>Effective April 1, 2015 permit fees were introduced under the <i>Mines Act</i> and the existing inspection fees were raised. This enabled a budget increase of approx. \$9.3M to the Ministry of Energy and Mines in Budget 2016.</p>	<p><u>2019 Update: Partially implemented</u> EMPR and ENV increased permit fees in 2018 enhancing cost recovery from industry:</p> <ul style="list-style-type: none"> • EMPR increased permit fees in 2018 for gravel pits and quarries to more accurately reflect cost. • In April 2018, EMA permit application fees increased from \$200 to \$400 and base annual charges for permit or approval increased from \$100 to \$200. The Sustainable Environment Fund which is funded based on application, approval and discharge fees pays for a large portion of the salaries of staff responsible for authorizations and compliance. <p>EMPR and ENV will explore opportunities to increase consistency where possible.</p> <p><u>2020 update: Fully or Substantially implemented</u> EMPR and ENV increased permit fees in 2018 to enhance cost recovery from industry. EMPR's regional mine permit fee increases implemented in 2018 increased permit fee revenue from regional mines from approximately \$400,000 per year before the increase, to more than \$1.5M in 2019/20. EMPR and ENV continually analyze permit fee performance to ensure appropriate cost recovery from industry.</p>
1.7 No	<p><u>Decision making – Use of section 137 of the Environmental Management Act</u> We recommend that government be transparent to the public as to its rationale for granting a permit under section 137 of the <i>Environmental Management Act</i>. Specifically, information should include how factors such as economic, environmental, and social attributes were considered in the determination of public interest.</p>	<p><u>Original published response</u> As provided for in Section 137 of the <i>Environmental Management Act</i>, Cabinet may consider factors that are in the public interest and beyond those that a ministry director may consider. Discussions underlying the approval of an OIC are a matter of Cabinet confidentiality. However, the results of Cabinet decisions, when they are issued in the form of OICs, are published on the BC Laws website.</p>	<p><u>No action taken</u> Action is outside of the purview of the Ministries. Recognizing that Cabinet confidences are not subject to disclosure and the Ministries have no authority to require Cabinet to disclose those discussions when making decisions under section 137 of the <i>Environmental Management Act</i>, unless Cabinet is to change their disclosure practices, there is no further action that the Ministries are able to take.</p>

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1.8 Yes	<p>Reclamation guidance: We recommend that government develop clear and comprehensive reclamation standards and guidance for industry.</p>	<p>Original published response Internal work has begun on developing additional guidance materials on a range of reclamation aspects, including erosion and sediment control plans, closure management manuals, reclamation security, etc.</p>	<p>2019 Update: Partially implemented ENV and EMPR have established joint Application Information Requirements for permitting including for reclamation. EMPR has secured a contractor to develop additional clear and comprehensive reclamation standards and guidance for industry. A draft report is under review.</p> <p>2020 update: Fully or Substantially Implemented Working with a contractor, EMPR has developed draft reclamation guidance for industry and is engaging with stakeholders. Publication is targeted for mid-2020.</p>

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<p>1.9 Yes</p>	<p><u>Incentives:</u> We recommend that government create effective incentives to promote environmentally responsible behavior by industry.</p>	<p><u>Original published response</u> The ministries agree that it is useful to consider incentives as part of the compliance and enforcement regime governing mines and will continue to consider additional opportunities to recognize and reward good environmental performers. Furthermore, it is expected that expanded public reporting of compliance and enforcement activities will serve as a very effective incentive for promoting environmentally responsible behaviour.</p>	<p><u>2019 Update: Partially implemented</u> To date, ENV and EMPR have focussed on indirect compliance incentives as opposed to direct financial incentives. Actions to date that provide incentives to maintain compliance include:</p> <ul style="list-style-type: none"> • Public reporting of C&E actions: <ul style="list-style-type: none"> ○ Enforcement actions such as orders and the imposition of administrative monetary penalties are made public in part to motivate industry to maintain compliance ('social licence' to operate). ○ Sources of public information, including inspection reports: BC Mine Information Website, ENV's annual Compliance Reports, Natural Resources Compliance and Enforcement Database, Natural Resource Environmental Compliance Twitter account • Consideration of compliance history may lead to less severe C&E response: <ul style="list-style-type: none"> ○ When selecting the most appropriate C&E action, staff at ENV and EMPR have C&E Policies that take into account the likelihood of achieving compliance when enforcement actions are selected. A good compliance history may reduce the severity of the enforcement action taken. ○ Statutory decision makers at ENV and EMPR consider compliance history when determining the amount of an administrative monetary penalty. A good compliance history and evidence of proactive measures to correct and prevent future non-compliance may reduce the monetary penalty amount. • EMPR and ENV will continue to explore strategies to encourage responsible behaviour and assess the effectiveness of those strategies. <p><u>2020 update: Partially Implemented</u> ENV and EMPR continue to focus on compliance promotion and on compliance incentives reported in 2019 as opposed to direct financial incentives. EMPR's Mine Audits and Effectiveness Unit may comment on EMPR's compliance promotion and compliance incentives in the course of its audits. In addition, the unit will provide an additional, indirect incentive for industry to operate in an environmentally responsible manner by ensuring all of its audit reports are publicly available. The unit's final audit reports will generally include information about the mining sector's compliance, safety and environmental performance in the relevant topic area.</p>
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			<p>ENV and EMPR have also been key to driving improvements to the Natural Resources Compliance and Enforcement Database. A project is currently underway to significantly improve the timeliness of reporting, as well as adding new reporting functionality.</p>
<p>1.10 Yes</p>	<p><u>Risk-based approach:</u> We recommend that government develop a risk-based approach to compliance verification activities, where frequency of inspections are based on risks such as industry’s non-compliance record, industry’s financial state, and industry’s activities (e.g., expansion), as well as risks related to seasonal variations.</p>	<p><u>Original published response</u> Compliance verification activities conducted by the ministries are founded on a risk-based approach; however, the ministries commit to review policies in this regard. The annual compliance and enforcement planning that will take place at the Mining C&E Board, established under recommendation 1.1, will also be risk-based to optimize the capacity and effectiveness of the ministries’ collective compliance and enforcement resources.</p>	<p><u>2019 Update: Partially implemented</u> ENV, EAO and EMPR have collectively undertaken work that will serve as a foundation for more detailed risk-based compliance verification planning and activities. The three agencies adopted a common Risk Management Framework for Mining in BC in 2018 (available here). The agencies are also coordinating compliance verification activities and inspection plans through the Major Projects Coordination Committee chaired by the EAO. The coordinated inspection planning applies the Risk Management Framework for Mining in BC. ENV has formalized inspection planning through its Compliance Verification Policy and has fully implemented this recommendation. Establishing a similar policy is a next step for EMPR in fiscal 2019/20 - status remains as “partially implemented” until that time.</p> <p><u>2020 update: Partially implemented</u> EMPR will be updating its Compliance & Enforcement Policy (2018) to reflect the proposed <i>Mines Act</i> amendments (if passed), and to clarify the risk-based approach to compliance verification and enforcement activities. This update is anticipated to be published shortly after the <i>Mines Act</i> amendments are brought into force. EMPR is also working with a contractor to develop risk-based inspection planning tools that can be used by all groups within the mines inspectorate. These tools are anticipated to be piloted for 2020 and formalized for the 2021 inspection season.</p>

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1.11 Yes	<p><u>Systematic compliance verification</u></p> <p>We recommend that government systematically monitor and record compliance with high-risk mine permit requirements.</p>	<p><u>Original published response</u></p> <p>As with recommendation 1.10 above, a risk-based approach to compliance and enforcement workforce planning will uncover poor performers for closer scrutiny.</p>	<p><u>2019 Update: Partially implemented</u></p> <ul style="list-style-type: none"> • ENV and EMPR systematically monitor and record compliance with all mine permit requirements. • The Major Projects Coordination Committee has been established and is collaboratively developing risk-based compliance approach for active mines with staff from across Natural Resource agencies. • The ministries are continuing to explore where monitoring and recording compliance with permit conditions can be more efficient. For example, EMPR is overhauling its mines data system to allow improved compliance monitoring. • The Manager, Tailings Storage Facilities position was created in 2017 and is responsible for tracking compliance with regulatory requirements associated with tailings storage facilities, viewed as higher risk. <p><u>2020 update: Partially implemented</u></p> <p>EMPR has engaged a contractor to develop and formalize a risk-based inspection planning framework. These tools are anticipated to be piloted for 2020 and formalized for the 2021 inspection season.</p> <p>EMPR tracks the compliance performance of operators based on inspections and considers this performance history in annual inspection planning.</p> <p>Mines Digital Services is developing CORE to enable the issuance and tracking of permit conditions in 2020, which will include consideration of the ability to identify high-risk mine permit requirements.</p> <p>ENV now publicly posts the results of all inspections performed under the <i>Environmental Management Act</i>, including the outcomes, on the Natural Resources Compliance and Enforcement Database (NRCED). EMPR administrative monetary penalties and EAO orders are currently available on NRCED. Both agencies are exploring the possibility of adding additional information to NRCED in the next phase of NRCED development.</p>

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<p>1.12 Yes</p>	<p><u>Qualified professionals:</u></p> <p>We recommend that government establish policies and procedures for the use and oversight of qualified professionals (QP) across the natural resources sector. These policies and procedures should have the following:</p> <ul style="list-style-type: none"> • Guidance for staff that outlines the specific nature and amount of oversight expected of a QP’s work; • Updated guidance for staff for recognizing and responding to misconduct by a QP; • Controls in place to ensure that there is no undue influence on the QPs by industry; and <p>Controls in place to ensure that recommendations by QPs are adhered to.</p>	<p><u>Summary of original published response</u></p> <p>The Code Review currently underway is considering specific matters such as the need for a qualified individual designated as a mine dam safety manager to oversee all work associated with a tailings storage facility and will clarify the roles and responsibilities of the Engineer of Record at a mine. In addition, the Ministry of Forests, Lands and Natural Resource Operations has established a Qualified Persons in the Natural Resource Sector Framework that guides the development and implementation of Qualified Persons policies and procedures.</p> <p><u>Action Plan Update [29/11/2017]</u></p> <p>The mandate letter of the Minister of Environment and Climate Change Strategy reflects government’s commitment to reviewing the professional reliance model.</p>	<p><u>2019 Update: Partially implemented</u></p> <ul style="list-style-type: none"> • In response to recommendations from a review of the professional reliance model in the natural resource sector, the Professional Governance Act (the Act) received Royal Assent on November 27, 2018. • This legislation strengthens the governance of professionals who work in B.C.’s NR sector and other sectors. The Act is being implemented over several years starting in spring 2019. • The Act establishes an Office of the Superintendent of Professional Governance (Office) in the Ministry of Attorney General to support government oversight of the regulatory bodies who govern engineers, geoscientists, biologists, agrologists, applied science technologists and technicians, and foresters. The Office will administer and enforce the Act, develop policy on professional governance, and administer the existing governance statutes of the professions in scope until they are repealed and replaced by regulations under the Act. The Office will work closely with the regulatory bodies and across government to ensure a smooth transition. • The Act will introduce changes that affect professional registrants (members of the regulatory bodies within scope) and employees across several ministries who interact with them, as well as employees currently involved in administering the five existing professional acts and NRS statutes. <p><u>2020 update: Fully or Substantially Implemented</u></p> <p>In response to recommendations from a review of the professional reliance model in the natural resource sector, EMPR conducted a review of the recommendations that related to the <i>Mines Act</i> and the Health, Safety and Reclamation Code for Mines in BC that resulted in the following actions: four recommendations referred to the Standing Code Review Committee for consideration in 2020, one recommendation addressed through proposed changes to the <i>Mines Act</i>, and one recommendation that required no action at this time as a determination was made that the recommended authority already exists.</p> <p>ENV has implemented a Professional Accountability Policy requiring disclosures of any conflicts of interest and declarations of competency for qualified professionals working under ministry legislation. EMPR is reviewing ENV’s Professional Accountability Policy and will consider adoption of a similar policy for the ministry, to support consistency in the natural resources sector.</p> <p>ENV is also leading a cross-ministry project to implement recommendation 28 of the report (make natural resource information more consistently available).</p>
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Rec. # Accepted? Yes / No ²	OAG Recommendations	Actions Planned & Target Date(s) ³	Assessment of Progress to date ⁴ and Actions Taken ⁵ (APPA update)
1.13 Yes	<p>Mine design: We recommend that government adequately review mine designs to ensure that they meet government standards, and that government ensure that mines, as constructed, reflect the approved design and standards.</p>	<p>Original published response This recommendation is presented at the conclusion of the Audit Report section on the Mount Polley TSF breach.</p> <p>There had been nine design stages over the life of the TSF at Mount Polley Mine. All stages, including the design stage in place at the time of the breach had been prepared by the design engineer; a qualified professional. MEM reviewed and authorized permit amendments for each stage of the TSF. Each stage of construction was certified by the Engineer of Record in the as built reports. The failure of the TSF was not an enforcement issue.</p> <p>Through legislation like the <i>Engineers and Geoscientists Act</i>, government has created technical bodies to formalize accountability and protect the public interest. As appropriate in their role, in response to the Expert Panel findings on Mount Polley the Association of Professional Engineers and Geoscientists BC is developing professional practice guidelines for dam site characterization assessments. Government is also undertaking a review of the Mining Code with labour, First Nations and industry representatives to determine how best to implement the expert panel findings.</p>	<p>2019 Update: Fully or Substantially Implemented</p> <ul style="list-style-type: none"> • Budget lifts in 2017 and 2019 provide further resources for the full cycle of regulatory oversight from plan review, approval to compliance verification and enforcement. • Increased resources have allowed EMPR to increase the number of technical staff available to review mine designs. • EMPR has created the position of Manager, Tailings Storage Facilities (TSF). This position is dedicated to the coordinated regulatory oversight of tailings dams in the Province and has a role in relation to ongoing policy development, technical review, and inspection capacity as it relates to tailings impoundments. • Government enhanced and clarified mine design standards in relation to TSFs. The Health, Safety and Reclamation Code for Mines in BC now includes design standards for TSFs including: <ul style="list-style-type: none"> ○ TSF design requirements for the steepness of downstream slopes. ○ A minimum static factor of safety. ○ New seismic and flood design criteria. • EMPR supported the Engineers and Geoscientists BC in its development of the Professional Practice Guidelines – Site Characterization for Dam Foundations in BC. This standard of practice provides a framework for adequate site characterization for dam foundations, to improve dam safety. <p>2020 Update: No further update at this time</p>

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<p>1.14 Yes</p>	<p><u>Policies, procedures and tools:</u> We recommend that government develop policies, procedures and enforcement tools for responding to non-compliances when industry does not meet the timeline specified by the ministry.</p>	<p><u>Original published response</u> The ministries agree on the importance of clear policies, procedures and tools to aid in their compliance and enforcement activities. The ministries will review these in light of the recommendations. The establishment of the Mining C&E Board, under recommendation 1.1, will serve to further inter-ministry collaboration and sharing of best practices. Government will also introduce amendments to the <i>Mines Act</i> to provide for Administrative Monetary Penalties in the spring 2016 legislative session.</p>	<p><u>2019 Update: Partially implemented</u> ENV and EMPR work collaboratively to share policies, procedures and insights gained to enable a more consistent regulatory approach. The ministries also collaborate to develop joint approaches where possible (e.g., Risk Management Framework)</p> <p><u>Policies and Procedures</u></p> <ul style="list-style-type: none"> • EMPR and ENV have policies in place that provide for an escalating enforcement approach when non-compliance is not addressed as directed, including where non-compliance is not addressed within a specified time frame, if applicable. • For example, both EMPR’s C&E Policy and ENV’s Compliance and Enforcement Policy and Procedure outline escalating enforcement policy including the use of different tools as the risk of non-compliance increases. <p><u>Tools</u></p> <ul style="list-style-type: none"> • EMPR and ENV are now using a digital inspection system (Natural Resource Inspection System) that enhances compliance data tracking. NRIS allows staff to monitor responses to more easily flag non-compliance for follow up and ensure non-compliance is rectified. • The use of NRIS will enable further compliance data tracking including mine compliance status and trend analysis through alignments with EMPR’s overhaul of its mines information management system that is underway. • The use of NRIS, as well as its Compliance Verification Policy, has allowed ENV to ensure that all non-compliances are addressed in a timely manner and that the information also informs the frequency of re-inspection. • Administrative Monetary Penalties (<i>Mines Act</i> and <i>Environmental Management Act</i>) are now operational giving an additional response option where non-compliance is not addressed as directed. • EMPR is continuing to develop additional procedures and training for inspectors to increase consistency and enforceability of actions to address non-compliance. <p><u>2020 update: Fully or Substantially Implemented</u> Proposed legislative amendments will provide additional compliance and enforcement tools to help ensure that all mines meet their environmental and regulatory obligations. These changes include strengthening investigation authorities, clarifying offence provisions, and increasing the limitation period from three to five years in both the <i>Mines Act</i> and the <i>Environmental Management Act</i>.</p>
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Rec. # Accepted? Yes / No ²	OAG Recommendations	Actions Planned & Target Date(s) ³	Assessment of Progress to date ⁴ and Actions Taken ⁵ (APPA update)
			<p>EMPR is updating its Compliance & Enforcement Policy (2018) to reflect the proposed <i>Mines Act</i> amendments, and to clarify the risk-based approach to compliance verification and enforcement activities. This update is anticipated to be published shortly after the <i>Mines Act</i> amendments are brought into force.</p> <p>In addition to C&E policy guidance, EMPR has overhauled its mine information management system through the development of a new mine information system that allows EMPR to track and assess mine site compliance including open orders. The new mine information system works with NRIS so that inspection report data (including the status of compliance with orders) can be tracked making trend analysis more efficient.</p> <p>ENV has recently updated its policy guidance on the issuance of orders under EMA to include new spill-related powers and authorities. ENV is now in a better position to use orders to impose requirements for spill response and spill recovery.</p>

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1.15 Yes	<p><u>Evaluation and adjustment:</u></p> <p>We recommend government regularly evaluate the effectiveness of their promotional, compliance verification, and enforcement activities and tools and make changes as needed to ensure continuous improvement.</p>	<p><u>Original published response</u></p> <p>Annual compliance and enforcement planning and reporting will provide a means to evaluate the effectiveness of the program, to ensure ongoing improved targeting of areas of concern and recognition of strong performers. The ministries will address this recommendation through the establishment of a Mining C&E Board under recommendation 1.1.</p>	<p><u>2019 Update: Partially implemented</u></p> <ul style="list-style-type: none"> • The restructuring and significant investment announced in Budget 2019, including the new Audit and Effectiveness Monitoring function and standing Code Review Committee, will ensure that EMPR has both the mandate and resources needed for continuous improvement. • The ministries produced a joint C&E operational plan highlighting operational objectives, compliance promotion activities, targets and key milestones and report on those plans annually. Over time the focus of the plan and reporting will shift from development and implementation to evaluation and adjustment. • ENV has a compliance promotion team responsible for developing and evaluating compliance promotion efforts and evaluating effectiveness. ENV Regional Operations' business model is premised on the principle of 'set, check, evaluate' (permitting, promotion activities and compliance efforts are continually evaluated). <p><u>2020 update: Partially Implemented</u></p> <p>EMPR has established a Mine Audits and Effectiveness Unit, which will play a critical role in ensuring the continuous improvement of the ministry. The unit will conduct audits to assess the effectiveness of the regulatory system for mining in B.C. in protecting workers, the public and the environment. The conclusions and recommendations of each audit will help ensure that mining regulation remains effective and aligned with global best practice.</p> <p>ENV is planning to conduct a program evaluation of its Administrative Penalties Program in the 2020/2021 fiscal year. The evaluation will seek to assess the efficiency of the program, as well as determine the effectiveness of administrative penalties in changing behaviour.</p>

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Rec. # Accepted? Yes / No ²	OAG Recommendations	Actions Planned & Target Date(s) ³	Assessment of Progress to date ⁴ and Actions Taken ⁵ (APPA update)
1.16 Yes	<p>Public reporting:</p> <p>We recommend that government report publicly:</p> <ul style="list-style-type: none"> • The results and trends of all mining compliance and enforcement activities; • The effectiveness of compliance and enforcement activities in reducing risks and protecting the environment; and • The estimated liability and the security held for each mine. 	<p>Original published response</p> <p>The ministries support public reporting and have been making progress in this area. ENV has been reporting its enforcement actions for many years through published reports and an online searchable database. It reports all of its enforcement actions including orders, administrative sanctions, administrative monetary penalties, violation tickets and court prosecutions. ENV will work with MEM to explore including their enforcement actions in the reporting.</p>	<p>2019 Update: Partially implemented</p> <p>The ministries continue to enhance transparency through public reporting and have made considerable progress in this area:</p> <ul style="list-style-type: none"> • Joint EAO, EMPR, ENV BC Mine Information Website includes authorizations, inspection reports, dam safety inspections, emergency response plans and related documents. • ENV reports compliance and enforcement actions, as well as inspection reports under the <i>Environmental Management Act</i>, on the Natural Resources Compliance and Enforcement Database • Natural Resource Environmental Compliance Twitter account that highlights key activities and accomplishments. • ENV continues to provide an ‘Overview on the Mining Sector’ in annual EMA Compliance Reports (2015, 2016 published, 2017 forthcoming). This provides three years⁵ of data to inform trends. • Under the Mining C&E Strategic Plan the ministries publish an annual operating plan and annual report on progress. • EMPR publishes estimated liability and the security held for metal and coal mines in the Chief Inspector of Mines’ Annual Reports. <p>2020 update: Partially implemented</p> <p>EAO, EMPR and ENV continue to update the BC Mine Information Website. EMPR now posts all administrative monetary penalties and court prosecutions on the BC Mines Information Website. EMPR is exploring opportunities to expedite the addition of new mines and additional information to the website through the use of the new mine information system.</p> <p>EMPR’s newly established Mine Audits and Effectiveness Unit will publicly report its audit findings and conclusions. The unit will also publish an Audit Plan each year outlining its priority audit topics. These and other supporting documents will be made readily available on the unit’s public-facing webpage.</p> <p>ENV and EMPR have also been key to driving improvements to the Natural Resources Compliance and Enforcement Database. A project is currently underway to significantly improve the timeliness of reporting, as well as adding new reporting functionality.</p>

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