

Energy, Mines and Petroleum Resources  
Mines Health, Safety and Enforcement Division  
**Chief Inspector of Mines**  
**Section 7 *Mines Act* Investigation Policy**

---

POLICY NAME

Version [version number of policy here]

Original effective date: February 24, 2019

Latest update: February 19, 2020

# CHIEF INSPECTOR OF MINES INVESTIGATIONS

## BACKGROUND

On the direction of the Chief Inspector of Mines (Chief Inspector) an inspector must investigate and report on an incident that has caused or had the potential to cause, serious personal injury, loss of life or property or environmental damage.

Under s.1 of the Mines Regulation, an inspector may, during the exploration, development, operation, closure or abandonment of a mine, investigate any matter relating directly or indirectly to the health and safety of any person or the public, including an investigation with respect to:

- Death or injury,
- Accidents,
- Dangerous or unusual occurrences, or
- Complaints or allegations relating to health or safety.

## CLARIFYING STATEMENT

There is potential overlap between s.7 *Mines Act* and s.1 Mines Regulation investigations. Overlap will be addressed generally through this operational policy document subject to the following:

- All investigations into fatalities will be conducted under s.7 of the *Mines Act* and all s.7 investigations will be led by the Mines Investigation Unit (MIU).
- All staff assigned to assist a Section 7 Investigation will, for the purposes of their work on that investigation, report to the Senior Director, Investigations.

## INVESTIGATION INITIATION PROCEDURES

Referrals for the initiation of an investigation will generally be considered in the following circumstances:

**1. Emergency/Immediately post-accident or incident:** Investigation referral is considered immediately following accident or incident, concurrent with mine emergency response as established in the Mine Emergency Management Plan (MEMP).

Inspector will make a referral as set out in the Referral Process for any situation that triggers a level 1, 2, or 3 response under the Mine Emergency Response Plan.

**2. Non-Emergency or past accident/incident/matter:** Investigation referral is considered after becoming aware of past or repeat or significant non-compliance that does not/did not trigger the Mine Emergency Response Plan. This could include information regarding any of the following:

- An accident or incident that caused serious personal injury, loss of life or property or environmental damage, or
- Any matter relating directly or indirectly to the health and safety of any person with respect to:
  - Death, injury or accidents
  - Dangerous or unusual occurrences, or
  - Serious complaints or allegations relating to health or safety.

When the Chief Inspector determines that a Section 7 Investigation is warranted, the Chief Inspector will immediately contact the Executive Director, Compliance, Audits and Enforcement (CAE) and(or) Senior Director Investigations. As soon as practicable, the Chief Inspector will also put this in writing to the Senior Director of Investigations. Each member of the MIU that carries the Mines Inspector designation as well as any other inspector the Chief Inspector identifies is (from the time of determination) authorized to use all the powers conferred under *Section 8 of the Mines Act* to assist them in their investigation.

## REFERRAL PROCESS

Upon becoming aware of an accident, incident or matter that the inspector believes may trigger an investigation, the inspector must notify their Director (e.g. Regional Director or Executive Director) who will consult with the Executive Director CAE and the Senior Director of Investigations.

All investigations into fatalities will be conducted under s. 7 of the *Mines Act* and all s. 7 investigations will be led by the MIU.

Where the incident is non-fatal, the Director and the Senior Director of Investigations (in consultation with the Executive Director CAE) will decide whether to:

1. Provide a joint recommendation to the Chief Inspector that the matter warrants a s.7 investigation and therefore will be led by MIU;
2. Have the inspector conduct a s.1 Mines Regulation investigation; or
3. Recommend that no further investigation by the Ministry of Energy, Mines and Petroleum Resources (EMPR) is warranted at this time (note that investigations may be undertaken by the mine or Joint Occupational Health and Safety committee as required by law or voluntarily).

In the event of disagreement between the Director and the Senior Director of Investigations on the above, the matter will be referred to the Executive Director CAE and the Chief Inspector for decision.

Not every incident referred will be investigated and some investigations may be initiated without referral.

## RESPONSIBILITIES OF FIRST ON-SCENE INSPECTORS IN A S.7 INVESTIGATION

Section 7 investigations, including all fatalities, will be led by the MIU and all staff will report to the Senior Director, Investigations on all investigation-related activities.

Any inspector may be called on to attend an incident (First On-Scene Inspector). Responsibilities of First On-Scene Inspectors are different than those of an investigator but are important to the integrity of the investigation.

Inspectors of Mines will be required to attend incident scenes as First On-Scene Inspectors, and when a MIU investigation is initiated, will often arrive before the MIU. In this scenario, some initial tasks will be directed by MIU until an investigator arrives on the scene. Investigative tasks (such as obtaining witness names and contact information, issuance of orders for the production of documents and records) may continue with the First On-Scene Inspectors in consultation with the MIU during early stages of an incident response.

First On-Scene Inspectors mobilized to an accident scene as per the MEMP, will:

1. Establish jurisdiction (noting other agencies such as police or coroner may also be present)
2. Ensure Scene Security and Safety
3. Protect evidence
4. Provide **written** orders as appropriate to protect safety (workers, public and environment)
5. Identify all witnesses
6. Take comprehensive notes

First On-Scene Inspectors responding to an incident will *refrain* from interviewing, photographing, and writing orders (outside those necessary to protect persons or the environment) unless directly tasked to do so by the MIU.

An exception to this is if the incident scene will be altered by emergency personnel. First On-Scene Inspectors should attempt to document the incident scene by photographs and comprehensive notes if emergency actions will alter the incident scene.

Under no circumstances will any joint investigative activities be undertaken alongside mine management.

Joint activities may be undertaken alongside other regulatory bodies or police agencies and this will be determined by the Senior Director, Investigations.

## **BOTH ENFORCEMENT AND NON-ENFORCEMENT CASES**

### **CONDUCT OF INVESTIGATION BY MIU**

The primary purpose of all MIU investigations is to identify the cause of the incident, including contributing factors, so that similar incidents can be prevented in the future. In order to complete investigations in a timely and thorough manner, and unless otherwise directed by the Senior Director, Investigations, the MIU will investigate in accordance with the MIU business rules in effect at the time of the incident.

### **EARLY REPORTING OF INCIDENT AND INVESTIGATION**

Unless considered prejudicial to the investigation and consistent with the overarching EMPR goal of prevention, the MIU will prepare for the Executive Director CAE a one-page incident bulletin summary as soon as practicable. This bulletin will contain:

- Event Synopsis (region and type of mine)
- Contributing conditions/factors (only those factually confirmed)
- *Mines Act* non-compliances identified (with caveat that there may be more or may change)
- Immediate Prevention Alerts (Hazard Alerts can be considered at any stage of the investigation; however, recommendations for comprehensive Hazard Alerts are usually made at the conclusion of the investigation)
- 

Upon receipt of the summary document, the Executive Director CAE may determine that the summary be made public.

### **ONGOING REPORTING AND FILE MANAGEMENT**

Once assigned to MIU the management of the file will remain the exclusive responsibility of the Senior Director of Investigations who will report as required to the Executive Director CAE. In order to preserve the integrity of the investigation no additional reporting out will occur unless approved by the Executive Director CAE.

### **CONFIDENTIALITY**

Once a Section 7 investigation is initiated, integrity of the investigation must be preserved. All questions must be directed to the Senior Director of Investigations. All investigation team members will redirect any incoming questions to the Senior Director of Investigations.

### **RECEIPT OF INFORMATION AND EVIDENCE**

If a person seeks to share information relating to any aspect of a Section 7 investigation, this person must be referred to the Senior Director, Investigations. Do not take receipt of information yourself.



Persons who fail to adhere to this policy may impede the investigation and may inadvertently put themselves in the position of being in a conflict-of-interest and/or witnesses to a case. Under no circumstances must the Chief Inspector receive information or evidence relating to an incident that is the subject of a Section 7 investigation from any person. The Chief Inspector must direct the person to the Senior Director and report this to the Executive Director CAE and the Senior Director, Investigations. This process is required to maintain investigative integrity and ensure the CIM remains impartial to review final investigative findings.

## NON-ENFORCEMENT CASES ONLY

### REPORT OF FINDINGS – PREPARATION OF CHIEF INSPECTOR OF MINES INVESTIGATION REPORT

In the case of a Section 7 investigation where the MIU **does not recommend** either an Administrative Penalty (AMP) or a Criminal Prosecution, the Lead Investigator MIU will prepare a report detailing the investigation, the findings of the investigation and whatever recommendations the MIU consider appropriate. These reports will be entitled Chief Inspector of Mines Investigation Report and will be submitted to the Senior Director of Investigations who will forward a reviewed copy to the Executive Director CAE and to the Chief Inspector.

### REPORTING OF FINDINGS – VERBAL PRESENTATION TO THE CHIEF INSPECTOR OF MINES

The Chief Inspector will be verbally briefed by the MIU investigation team members regarding the investigation contained within the Chief Inspector of Mines Report. The briefing will be considered confidential to the Chief Inspector and to the Executive Director CAE and the Senior Director, Investigations both of whom may be present during these briefings. During the verbal briefing the Chief Inspector may question the MIU team members regarding the conclusions drawn during the investigation.

At the conclusion of the verbal briefing by MIU, any questions or further information requirements will be addressed, and the report will be submitted to the Chief Inspector.

### TRANSMISSION OF CHIEF INSPECTOR OF MINES REPORT TO SUBJECT OF INVESTIGATION

Prior to final acceptance of the Chief Inspectors Report, the Chief Inspector may share a FOIPPA-compliant copy of the report with the subject of the investigation for the purpose of allowing the subject of the investigation to comment and/or to provide contextual clarity to Compliance Orders issued to the subject.

### PUBLICATION OF THE CHIEF INSPECTOR OF MINES REPORT

Within thirty (30) days of final acceptance of the Chief Inspectors Report the Chief Inspector will cause a FOIPPA-compliant copy of the report to be published on the EMPR website.

### PUBLICATION OF HAZARD OR INCIDENT ALERTS

Upon final acceptance of the Chief Inspectors Report the Chief Inspector may publish any recommended Hazard or Incident Alerts relating to the subject matter of the incident reported upon.

## CLOSING THE SECTION 7 INVESTIGATION

In **non-enforcement cases** the Section 7 Investigation into the incident giving rise to the initiation of the investigation will end upon the communication by the Chief Inspector to the Executive Director CAE and the Senior Director Investigations of the Final Acceptance of the Chief Inspectors Report by the Chief Inspector.

After consultation with the Executive Director CAE, the Senior Director of Investigations may recommend to the Chief Inspector that the section 7 investigation be closed prior to Final Acceptance of the Report to the Chief Inspector by the Chief Inspector.

Once initiated, and absent a recommendation from the Senior Director, Investigations to close the investigation, the Chief Inspector may not close the Section 7 investigation until such time as the Final Acceptance of the Chief Inspectors Report by the Chief Inspector.

## ENFORCEMENT CASES ONLY

The investigation of incidents that give rise to either referrals to the EMPR Statutory Decision Maker (SDM) for consideration of an Administrative Monetary Penalty (AMP) or to Crown Counsel for charge approval will be the subject of either a Report to Statutory Decision Maker In Recommendation of Administrative Hearing or a Report To Crown Counsel.

In enforcement cases the Section 7 investigation into the incident giving rise to the initiation of the investigation will in the case of the award of an AMP end upon the expiry of any appeal period or, in the case of a prosecution end upon notification by Crown of the expiry of any applicable appeal period.





---

**APPROVED AMENDMENTS:**

Effective Date:	Summary of Changes:
yyyy-mm-dd	<i>If the policy is being amended indicate the amendment date in the column to the left and a brief description of amendment here. Don't forget to update the footer as well. Example (1) Revised to clarify criteria on when permits are required, and process on where permits are not required. Example (2) Policy updated to address academic and investigative research activities and considerations for adjudication of permit applications.</i>