

**MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES
BRIEFING NOTE FOR INFORMATION**

I PREPARED FOR: Honourable Michelle Mungall, Minister of Energy, Mines and Petroleum Resources

II ISSUE: Next steps in establishing independent oversight unit for mines

III BACKGROUND:

The Minister of Energy, Mines and Petroleum Resources (EMPR) has a mandate to: *Develop an improved and properly resourced approvals process to assess mining applications, and increase industry safety by establishing an independent oversight unit.*

Two phases are proposed to fully implement both aspects of the mandate direction.

With respect to independent oversight, the attached discussion paper (Appendix 3) reflects the results of a review of the organizational structure of other natural resource agencies in BC, other mining jurisdictions, as well as extensive engagement with the mines inspectorate. The paper presents the views of representative senior mines inspectors, regional directors and the Chief Inspector's office on how to establish an independent oversight unit. The discussion paper sets out four options. Engagement with industry, indigenous communities and environmental non-governmental organizations (ENGOS) would occur during phase 2 outlined below.

IV DISCUSSION:

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Appendix 3: Options for an Independent Oversight Unit

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Appendix 3: Options for an Independent Oversight Unit

Executive Summary

The Ministry of Energy, Mines and Petroleum Resources (EMPR) has been mandated to “increase industry safety by establishing an independent oversight unit.” This discussion paper reflects the views of a selection of senior mines inspectors and regional directors tasked with considering how this mandate commitment could be achieved through organizational restructuring. At the staff level no unanimous agreement on the optimal structure and functions for an independent oversight unit was reached based on this work.

The establishment of an Independent Oversight Unit is a partial response to the concerns raised by the Office of the Auditor General regarding the effectiveness of the compliance and enforcement of the mining sector and the risk of regulatory capture. The establishment of an Independent Oversight Unit would be one of multiple actions taken by the Ministry to address these concerns.

Reviews of other agencies and other jurisdictions showed that all organizations have separate permitting and compliance and enforcement (C&E) functions within the same agency. None of these organizations also have a health and safety mandate. All agencies note it is critical that the permitting staff and compliance staff are well integrated and work together to ensure successful regulatory oversight.

EMPR and the Health Safety and Permitting Branch has a unique function within the natural resource sector agencies of the Province, that being the regulatory oversight for health and safety of workers in the industry. Currently all Mines Inspectors within the branch, regardless of their specialty, have a duty to consider health and safety and this makes a significant contribution to the fact that mining is one of the safest heavy industries in the province.

Discussions within the Ministry have focused on the implications of the changing roles of inspectors, particularly if there is separation of permitting and compliance and enforcement roles. It raises concerns as to the effectiveness of permitting decisions and the efficient use of staff. Changes to roles and responsibilities and structure require a well-planned and deliberated change management approach.

Options and high level implications are shown in the table below. The report provides additional background, discussion and more fulsome descriptions of the pros and cons of the options. The Appendices also provide initial high level organization charts for each option that show reporting relationships of the various functions. This is to help visualize the potential future organization and the level of change from the current state.

Staff recommends a staged change approach to implementation of the independent oversight unit.

Overview of Options

Option	Independent Oversight Provided by:	Core Functions of C&E Unit (bold text indicates addition of function from previous option)	Positive Aspects	Risks
1	Compliance and Enforcement Unit within the Health Safety and Permitting Branch	C&E policy direction Training, quality assurance and control Risk-based compliance verification planning Investigations <i>Note: no change in roles/responsibilities of inspectors</i>	Least disruptive and allows EMPR to expedite benefits of ongoing improvements in staffing, training and operational policies Strengthened quality assurance within the Branch.	Requires organizational discipline and resources to keep appropriate balance between authorizations and C&E Does not appear as an independent unit to external parties
2	Compliance and Enforcement Branch under direction of a separate Executive	C&E policy direction Training quality assurance and control Risk-based compliance verification planning Investigations High priority or reactive inspections Compliance specialist support for inspectors Complex C&E issues management <i>Note: no change in roles/responsibilities of existing inspectors</i>	Separate executive provides additional accountability and responsibility for C&E functions in the Ministry Includes specialist staff focussed on compliance verification activities Provides separation of serious/complex enforcement actions from permitting decision makers	Executive responsible for C&E is not responsible for all C&E staff. Change management is required
3	Staff dedicated to compliance and enforcement separate from staff assigned to permitting. Branches renamed in new structure.	All functions from Options 1 and 2 above. All mine inspections and C&E activities <i>Note: dual role of inspectors completely eliminated</i>	Allows predetermined allocations of resources to each function Staff have a narrower scope of duties allowing them to remain focussed on core priorities and expertise required	Less efficient use of staff Requires more intensive change management with staff Will take longer to realize benefits May require legislative changes
4	A Mining Commission established to regulate the industry based on legal and regulatory requirements set by government	Full regulatory spectrum shifted from EMPR to commission <i>*requires definition of internal structure</i>	Increased options for funding, governance and structure Regulatory oversight distinctly separate from the Ministry responsible for the promotion and policy functions	Cost recovery from industry can be perceived as creating obligation to industry Large change effort that would take a long time to implement Significant supporting legislation changes required

Background

The mandate direction and the options considered in this discussion paper are in part due to the concerns raised by the Office of the Auditor General in 2016 regarding the effectiveness of the compliance and enforcement of the mining sector and the risk of regulatory capture. The establishment of an Independent Oversight Unit would be one of multiple actions taken by the Ministry to address these concerns.

A number of actions have been taken since the Office of the Auditor General's (OAG) report was released in May 2016 including:

- Increased staffing of the Mines Inspectorate and the establishment of a C&E Branch with dedicated policy, coordination and investigative roles;
- Developing C&E policy, guidance and training for staff;
- Introducing a new Administrative Monetary Penalties (AMP) regime; and
- Increasing transparency of mining oversight including making applications, permits and inspection reports available on a joint website for major mines with Ministry of Environment and the Environmental Assessment Office.
- Involvement of EMPR in the wider Aboriginal Liaison Committee initiative, to formalise the pilot programs;
- Established joint inspection pilot programs with selected First Nations, thus increasing levels of scrutiny, transparency and accountability to external parties;
- Commissioned Ernst and Young, a leading auditing firm with experience and knowledge of the mining industry worldwide, to undertake an in-depth examination of reclamation securities practices.

These actions are addressing the indicators and risk of regulatory capture, as outlined by the OAG. Work is ongoing to ensure these risks are addressed.

These actions have improved EMPR's systems and capacity to oversee the sector and mining remains one of the safest heavy industries in BC¹.

These actions have improved EMPR's systems, transparency and capacity to oversee the sector.

Staff Engagement related to Independent Oversight Unit

Senior staff within the Health, Safety and Permitting Branch and Compliance and Enforcement Branch were engaged in the development of background information and assessment of options for structuring of an independent oversight unit. This includes the Chief Inspector of Mines, Deputy Chief Inspectors, Regional Directors, managers and senior inspectors. From this engagement, each team put forward a representative to participate in a small working group to further discuss and define the pros and cons of each option.

The paper reflects four options for implementation of an independent unit. Within each option there are a number of organizational structures that could be implemented. The working group did not reach a

¹ In 2016, the injury rate for mining (based on the number of claims per 100 estimated person-years of employment) was 0.8 compared to 4.9 for forestry and 3.5 for heavy construction. The WorkSafe provincial average was 2.2.

unanimous decision on a preferred option or on a preferred structure within the options, as such there are no organizational charts or recommendations included in this paper.

Existing Organizational Structure

There are currently three Branches within the Mines and Mineral Resources Division of EMPR that provide for industry regulatory oversight. Each are described below with consideration of how their functions could be adapted to varying models of independent oversight.

Health, Safety and Permitting Branch (HSP Branch)

The HSP Branch is responsible for all aspects of regulatory oversight of the mining and mineral exploration industry as set out in the *Mines Act*. Regulatory oversight includes: ensuring protection of health and safety of workers, public and the environment by setting conditions of authorizations (permits), conducting permitting and compliance requirements education to industry, compliance verification and enforcement when non-compliance is found.

The Health, Safety and Permitting Branch (HSP Branch) is led by the Chief Inspector of Mines (Chief Inspector) who is designated by the Minister of Energy and Mines pursuant to Part 3 of the *Mines Act*.

Staff within the HSP Branch maybe appointed as Inspectors of Mines (Inspectors) by the Chief Inspector of Mines. Currently, Inspectors are broadly separated into disciplines related to health and safety and those related to environment. Some disciplines cross these categories (i.e. geotechnical engineering). Regulatory oversight functions are separated by provincial specialists who work across the whole province and regional experts who focus on one of EMPR's five regions.

Unique Function related to Health and Safety Regulatory Oversight

EMPR and the Health Safety and Permitting Branch has a unique function within the natural resource sector agencies of the Province, that being the regulatory oversight for health and safety of workers in the industry. Currently all Mines Inspectors within the branch, regardless of their specialty, are expected to consider and address concerns related to health and safety when they are observed. This makes a significant contribution to the fact that mining is one of the safest heavy industries in the province.

Inspectors who specialize in health and safety are focused on compliance promotion, compliance verification and enforcement actions. These specialists provide technical review of very specific components of permit applications to ensure that mine plans will be compliant with regulatory requirements.

Impacts to the capacity to regulate industry health and safety will need to be considered in all options, especially if there is shift to separate permitting and C&E functions.

Dual Role of Permitting and Compliance and Enforcement

Many Inspectors have a dual function of permitting and compliance and enforcement (C&E) under the *Mines Act*. They balance their time between application reviews for permitting, compliance verification (inspections and document review) and enforcement activities (issuance of orders, recommendation of administrative penalties).

Mines Act permitting involves setting mine-site specific regulatory standards (i.e. permit conditions) established through detailed technical review of applications. The dual function approach provides the

benefit that those technical experts drafting the permit conditions have the context behind a given condition when verifying compliance. As well, the field C&E component provides the ability to observe and understand the development of the activity that the Inspector has permitted, since projects are not static, they develop over time and require continual regulatory control of new activities through permit amendments. Both First Nations and industry recognise and support the importance of a decision maker being familiar with the physical and cultural landscape in which the activities are happening.

Compliance and Enforcement Branch (C&E Branch)

The C&E Branch is currently structured to provide overall C&E related policy direction, complex non-compliance issues management and tracking, increased interagency coordination, quasi-criminal investigations and training to the mines inspectorate. This branch was established in mid-2016 and its structure and core function continues to be under development. Currently the C&E Branch does not provide for increased compliance verification, instead focussing on ensuring that the HSP Branch has the tools and support needed to conduct that activity.

Mineral Titles Branch

The Minerals Title Branch is responsible for all aspects of regulatory oversight of the mining and mineral exploration industry as set out in the *Mineral Tenure Act*. This branch has two Mineral Tenure Inspectors, who are also cross-appointed as Inspectors of Mines. The inspectors in this branch provide field-based compliance verification for a small proportion of the overall mineral tenures issued by the province. This branch conducts a number of office-based administrative regulatory oversight functions such related to reporting requirements for tenure holders.

The Mineral Titles Branch is led by the Chief Gold Commissioner, who is the statutory decision maker for decision, including enforcement actions, under the *Mineral Tenure Act*.

Jurisdictional Scan of C&E for Mining Industry Regulatory Oversight:

All organizations reviewed have separate permitting and C&E functions within the same agencies (Appendix 1). For example, in Ontario, the Ministry of Northern Development and Mines has a Mineral Exploration and Development Section that issues permits and a Mine Rehabilitation, Inspection and Compliance Section that undertakes C&E. The two sections are accountable to different managers that report to a Director. Quebec's Environment Ministry (which authorizes mine construction and operation) separates the functions at a high seniority-level with an ADM of Environmental Evaluations and Authorizations (permitting) and an ADM of Environmental Control and Dam Safety (C&E). The BC Oil and Gas Commission (OGC) separates the functions at the Executive Vice President level.

Operationally, regardless of the organizational level at which the separation between permitting and C&E occurs, all agencies note it is critical that the permitting staff and compliance staff are well integrated and work together to ensure successful regulatory oversight. Key collaboration approaches include ongoing discussions between permitting and compliance staff at all project phases, the ability to have permitting staff present during inspections, involvement of both groups in compliance planning and strategy meetings. Currently the OGC is undertaking a project to better ensure integration of regulatory oversight activities across its business areas, in recognition that complete separation or silos for permitting, compliance and enforcement, does not lead to the most effective outcomes.

Risk of Regulatory Capture

The OAG indicated that EMPR may be at risk of regulatory capture based on eight risk factors. These factors require a number approaches to ensure the risk is mitigated including organizational structure as well as clear legislation, adequate resourcing and clear policies, procedures and training for staff. The organizational structure will not, on its own, address the risk of regulatory capture.

Discussion

Options for establishing an independent oversight unit

Option 1: HSP Branch includes C&E operational support

In this option independent oversight exists in the structure of the HSP Branch as a C&E unit. This unit provides clear support and expertise related to compliance and enforcement component of regulatory oversight under the existing structure of the Mines Inspectorate.

Within the current structure, the Health, Safety and Permitting (HSP) Branch houses the Mines Inspectorate. Inspectors are responsible for the full spectrum of regulatory oversight in accordance with internal training, policies and procedures, regulations and legislation that guide their work. Specific responsibilities include First Nations engagement, setting regulatory requirements through permitting, compliance verification (inspections) and enforcement, and education for industry and First Nations. Inspectors are technical experts in disciplines related to health, safety and the environment. Inspectors in this branch are responsible for compliance verification activities informed by risk-based planning.

The C&E unit within the HSP Branch provides internal policy direction for C&E activities, training for the Mines Inspectorate, risk-based planning of compliance verification activities, and internal quality assurance for the Mines Inspectorate. This unit would be expanded to include compliance specialists who are technical experts with Inspector authority that are responsible for ensuring trend analysis informs risk-based planning across the Mines Inspectorate, as well as providing expertise in relation to complex C&E related issues. This unit houses an expert quasi-criminal investigations team that is responsible for conducting investigations under the *Mines Act*. This unit ensures that inspection findings and enforcement actions are reported publically.

Pros:

- This structure results in the least amount of disruption from current duties for staff, allowing them to continue to focus on permitting and compliance.
- More efficient use of financial and human resources by avoiding separate field trips for staff involved in permitting, compliance verification and early stage enforcement,
- Specialist technical staff involved in permitting then use detailed knowledge of permit conditions for compliance verification. Ensures specific resourcing and specialized expertise for investigations under the *Mines Act*.
- Implementation of this option could begin immediately

Cons:

- Retains the same vulnerability as current structure in terms of de-emphasizing C&E when resources are stretched (same staff still undertaking permitting and C&E and forced to prioritize).
- May not address OAG concerns regarding the potential conflicts that arise with dual permitting and C&E functions.
- May not meet mandate letter commitment to establish independent oversight unit

- No clear separate accountability at Director level for permitting and inspection functions.
- The C&E unit does not have direct accountability for industry compliance because the focus of this unit is support to the HSP Branch.
- Leaves BC out of step with other jurisdictions

Option 2: Separation of executive reporting lines

In this option the independent oversight unit is located outside of the Health, Safety and Permitting Branch as the Compliance and Enforcement Branch within the Mines and Mineral Resources Division to ensure structural separation from permitting decisions.

This option creates a separation between the C&E function and the Chief Inspector of Mines. The Health, Safety and Permitting (HSP) Branch houses the Mines Inspectorate. Inspectors remain responsible for the full spectrum of regulatory oversight. The Compliance and Enforcement (C&E) Branch provides internal policy direction for C&E activities, training, risk-based planning of compliance verification activities, and internal quality assurance for the Health, Safety and Permitting Branch.

This unit would include compliance specialists who are technical expert inspectors, whose core responsibilities include risk-based planning to inform inspection priorities of the HSP Branch, conduct of high priority and reactive inspections, expertise to address complex C&E issues referred from the Mines Inspectorate. This branch also has the expertise to conduct quasi-criminal investigations, provide internal quality assurance and continuous improvement reviews of the HSP Branch, and ensures inspection findings and enforcement actions are reported publically.

The key difference between option 1 and 2 is that the C&E Branch functions as a separate branch and has a direct accountability for compliance verification and enforcement activities. This structure creates executive director level accountability. This structure includes inspectors in both branches and maintains the dual function of permitting and compliance verification in the HSP branch.

Pros:

- This structure increases organizational focus on C&E as a critical component of regulatory oversight and ensures that some staff have compliance verification as their core job function.
- This organizational structure establishes senior staff-level accountability for oversight activities.
- Supports an increased focus and priority on inspection follow-up to ensure that outstanding and long-term compliance concerns are proactively addressed.
- A centralized quality assurance function would allow for internal assessment and continuous improvement.
- Efficiencies in financial and human resources remain in place as some inspectors keep their dual role of permitting and compliance verification.
- Provides for increased independence from permitting decisions by separating accountabilities for planning and conducting C&E activities.
- This structure is more similar other Natural Resource agencies and supports increased coordination of compliance activities.
- Ensures specific resourcing and specialized expertise for investigations under the *Mines Act*.
- This structure results in relatively minimal disruption for current staff.
- Implementation could begin quickly following confirmation of budget.

Cons:

- Retains a vulnerability that C&E could be reduced when resources of permitting staff are stretched (same staff still undertaking permitting and C&E).

- May not fulsomely address OAG concerns regarding the potential conflicts that arise with dual permitting and C&E functions.
- May not meet mandate letter commitment to establish independent oversight unit if the intent is complete separation from permitting.
- Legislative change could be required to establish full independence from the statutory authority of the Chief Inspector of Mines.
- Leaves BC out of step with other jurisdictions and BC natural resource agencies.

Option 3: Functional and Organizational Separation of Roles

In this option the existing structure is reorganized to establish both functional and organizational separation of accountabilities between permitting and C&E. Independent oversight is achieved through full separation of the job functions at the staff level. The dual role currently held by permitting inspectors is eliminated. There would be multidiscipline dedicated staff who perform regulatory control through authorizations (for both Regional and Major Mines) and multidiscipline dedicated staff that ensure compliance with the Mines Act, Code and permits (i.e. compliance verification and enforcement).

This functional separation of roles results in a number of options for organizational structure. The key changes for the HSP branch are that the staff responsible for permitting now have that as their core job function. Permitting staff are no longer attending mines for the purposes of inspection, but they do require authority to conduct pre-permitting site visits. These staff require strong technical expertise and knowledge of the mining industry to support review and decision making for permits. The function of health and safety inspectors remains the same.

Pros:

- Separate dedicated resources for permitting and compliance verification and enforcement to ensure that all functions are resourced to meet predetermined risk-based goals.
- Dedicated C&E staff will not be asked to reprioritize to focus on permitting as this is not part of their role.
- Strongly supports clarity of roles.
- Supports an increased focus and priority on inspection follow-up to ensure that outstanding and long-term compliance concerns are proactively addressed.
- Easier to explain to public and stakeholders how post approval regulatory oversight is independent from permitting
- Supports continuous improvement in establishing clear, enforceable permit condition as C&E inspectors can provide feedback on the adequacy and enforceability of the conditions
- Permitting staff could have more time for engagement with First Nations and stakeholder when making permitting decisions if needed.
- This does not preclude permitting staff from participating in field visits or inspections with C&E Inspectors to ensure provision of specific technical expertise is continued.
- Is consistent with other jurisdictions that separate permitting and C&E
- Separation of permitting and C&E would likely be seen as going further than options 1 and 2 in addressing OAG concerns

Cons:

- Separating the ministry's permitting and C&E functions would require more staff, all having the same technical knowledge to ensure knowledge of mining operations currently held by permitting inspectors can be transferred to C&E inspectors.
- May reduce permitting staff ability to conduct field visits, leading to a reduction in understanding of mine operations and conditions.
- Delays in resolution of time sensitive health and safety and environmental issues may occur if these are identified during field visits by permitting inspectors who lack authority for issuing orders which is considered a compliance and enforcement function
- Risk of silos and insufficient communication between permitting and C&E staff could lead to reduction of effective regulatory oversight.
- Negative impact on staff morale for those who become solely focussed on permitting due to loss of job variability. This could impact delegated authorities and pay.
- Loss of experienced technical staff due to poor job satisfaction will reduce regulatory capacity.

Option 4: Mining Commission (combined with Oil and Gas Commission)

In this option contemplates creation of a Mining Commission established to regulate the mining industry based on legal and regulatory requirements set by government and which is distinctly separate from the Ministry (EMPR) responsible for the promotion of the industry.

The integration of a Mining Commission with the existing Oil and Gas Commission could be a cost effective option to develop a commission based mining regulatory system. The combined BC Oil, Gas and Mining Commission (Commission) would be an independent, single-window regulatory agency with responsibilities for overseeing oil, gas and mining operations in British Columbia, including exploration, development, operation, and reclamation. The Commission's core roles would include reviewing and assessing applications for industry activity, consulting with First Nations, ensuring industry complies with provincial legislation and cooperating with partner agencies, such as the Environmental Assessment Office (EAO).

This would leverage the OGC existing corporate structure and support services while aligning with similar regulatory functions, such as authorizations and compliance activities. The development of the internal organizational structure would require input and detailed discussions with OGC prior to a decision. Significant supporting legislation changes would be required to enable integration into the Oil and Gas Commission or the creation of a separate Mining Commission at a later date.

Pros

- Most clearly addresses OAG recommendation for separation of C&E from the Ministry.
- Separation of authorizations and compliance and enforcement can occur at the Vice President level, enabling a clear accountability at a senior level for those activities.
- Could also achieve the Ministers mandate to "Develop an improved and properly resourced approvals process to assess mining applications" because the approvals function would also be part of a commission.
- Independent technical agency, separating the promotion of the industry from its regulation.
- Fiscally responsible, as various funding mechanisms can be applied including an industry levy.

- The budget and resourcing can better reflect the industry risk and activity level, and not compete with fiscal budgetary decisions on social requirements such as health care and education
- The combined Commission will be able to assign resources to where they are needed most to better weather cycles and seasonality in both sectors
- Headquarters staff will be able to manage tracking and external reporting requirements for both sectors more efficiently than possible for separate organizations
- Leverage existing OGC IT systems
- Leverage OGC union agreement to allow for higher wages and overtime wages better aligned with the industry that the Commission regulates
- More efficient regulatory regime that minimizes duplication
- Improved ability to engage directly with First Nations on mining activities, rather than relying on partner ministries to provide this function as is done currently
- The experience gained in each sector may be applied to create solutions in the other sector

Cons

- Legislative changes required for the Mines Act as well as legislated delegation to make decisions under many different legislations (Environmental Management Act, Forest Act, Water Sustainability Act, Heritage Act, Lands Act, Agricultural Land Commission Act)) this is a challenging multi-party process that could take several years.
- Set up and transition costs, as well as loss in productivity during the transition
- Change of funding mechanism to a levy could be seen as negative by both public and the industry.
- Recognizing that the activities of the Commission will be funded by the two sectors, it will be necessary to track the allocation of shared resources closely for reporting purposes
- The mining/exploration industry has a significant proportion of small scale operations, many of which in the mining/exploration industry would view a Commission levy prohibitive to small operations and grass roots exploration.
- The general public does not necessarily understand that a commission is removed from the politics of government.
- May create pressure to remove health and safety aspects from Ministry mandate to be consistent with OGC approach – OAG does not regulate health and safety.
- First Nations consultation and ever evolving legal obligations is more complicated for the Non-Treaty FN's across the Province than for the Treaty 8 FN's. Also, the current OGC model uses a significant portion of the resources from fees collected from Proponents to pay for consultation agreements with FN's which increase every time they are renegotiated. FN's now across the entire province would expect this level of financial contribution if they are engaging with the a new OGC/Mining Commission.

Implementation

The four options presented above require substantially different levels of effort and resources to implement. While significant effort and resources are required to implement Option 2 or 3, this work can begin immediately. Option 4 requires substantial additional research, legislative change, policy development and consultation prior to implementation. This option also requires that the internal organizational structure be defined such that the work of Option 2 or 3 is still required.

In consideration of the above, it is suggested that implementation of an independent oversight unit within EMPR is an appropriate step following a decision on the available resources. It is recommended that the effectiveness of this unit be assessed following time for implementation including hiring and training of new staff as well as at least one inspection season. This would also allow time to review legislation, consult with industry and First Nations, and further research a commission structure. Following the effectiveness assessment, it may then be appropriate to consider a more drastic change such as moving regulatory oversight of the mining sector into a commission or other structure.

Change Management

Discussions within the Ministry have focused on the implications of changing the roles of inspectors, particularly if there is separation of permitting and compliance and enforcement roles. This would be a significant change in how Mines Inspectors view their role and how authorities under the Mines Act are distributed. It raises concerns regarding the effectiveness of permitting decisions if there is a lack of operational and site knowledge and at the same time is there an efficient use of staff, if there are multiple staff having to travel to a site to carry out their duties. It also raises concerns about the collective capacity to inspect and address the health and safety requirements, especially on smaller regional mine sites.

If the decision is to make a significant structural change, it requires a well-planned and deliberated change management approach and recognition that it will impact performance levels for a period of time. As with most major change initiatives, certain staff will embrace it and others will be dissatisfied to the point of choosing to leave the organizations. This is particularly difficult to manage when there has been a significant and ongoing change in the organization that is recognized to lead to change fatigue.

APPENDIX 1: Review of permitting and compliance relationship in other jurisdictions

Agencies reviewed

- BC agencies
 - BC Ministry of Environment and Climate Change Strategy,
 - BC Environmental Assessment Office, and
 - BC Oil and Gas Commission
- Nova Scotia (mining)
- Ontario (mining)
- Quebec (mining)
- Canada National Energy Board (energy)
- US Environmental Protection Agency (environment)
- Queensland (mining)

Findings:

- In all cases, the permitting/authorizing agency is also responsible for ensuring compliance with the permit/authorization it issues (Same ministry or department)
- Unlike EMPR, all agencies reviewed have separate accountabilities for the permitting/authorizing function and the compliance and enforcement function.
 - Some separate the accountabilities at the manager level (a manager of permitting and a manager of compliance reporting to same director)
 - Some separate at the executive level (ADM of permitting and an ADM of compliance)
- Agencies reported that communication/collaboration between the permitting staff and the compliance staff was effective in addressing possible compliance gaps
 - Collaboration approaches included:
 - Informal discussions between permitting and compliance groups, including pre-authorization,
 - Ability of compliance staff to request attendance of permitting staff on inspection
 - Ongoing general meetings between permitting and compliance staff to ensure effective process
 - Key deliverables:
 - Review process for draft permit/authorization (review by compliance group prior to issuance),
 - Compliance plans prepared by permitting group to aid compliance activities.

Examples of permitting and C&E structure in other agencies

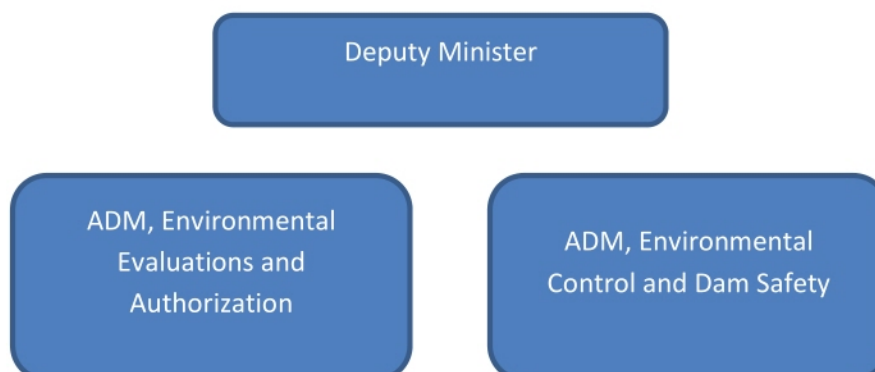
BC (*Oil and Gas Commission*)

BC Oil and Gas Commission permitting takes place under the Vice President, Applications. C&E activities fall under the Vice President, Operations.



Quebec (*Ministry of Sustainable Development, Environment and the Fight against Climate Change*)

Quebec's environment ministry authorizes mine construction and operation. The ministry separates the permitting function and the C&E function at a senior level with an ADM of Environmental Evaluations and Authorizations (permitting) and an ADM of Environmental Control and Dam Safety (C&E).



Ontario (*Ministry of Northern Development and Mines*)

The Ministry of Northern Development and Mines has a Mineral Exploration and Development Section that issues permits and a Mine Rehabilitation, Inspection and Compliance Section that undertakes C&E. The two sections are accountable to different managers that report to the same director

