

# Departure from Approval Guidance For Major Mines

March 2023  
Version 2.0



Ministry of  
Energy, Mines and  
Low Carbon Innovation

PROVINCE OF BRITISH COLUMBIA  
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Departure from Approval – Guidance for Major Mines  
Version 2.0  
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# Departure from Approval Guidance for Major Mines Version 2.0

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# 1. Purpose

This document presents the British Columbia (BC) Ministry of Energy, Mines, and Low Carbon Innovation (EMLI) standard practices for the identification of “substantial” and “non-substantial” departures from an approved mine plan and outlines procedures that mines can follow to demonstrate compliance with Part 10.1.18 of *the Health, Safety, and Reclamation Code for Mines in B.C.* (the Code).

The Departure from Approval Guidance for Major Mines (the Guidance) has been prepared to:

- Guide Mine Managers in distinguishing between “substantial” and “non-substantial” Departures from Approval through a self-assessment process;
- Provide guidance to Mine Managers for the self-assessment and documentation of Departures from Approval;
- Provide a tool for Mine Managers to complete site-specific self-assessments to identify “non-substantial” departures subject to existing permit conditions and applicable standards and regulations; and
- Improve the clarity, consistency, and overall quality of Departure from Approval applications for those activities which are self-assessed by the Mine Manager to be potentially “substantial” departures under Part 10.1.18 of the Code.

This Guidance does not supplant requirements specified in provincial, federal, or municipal legislation, Code requirements, or project-specific permit conditions. Notwithstanding this guidance, it remains the Mine Manager’s responsibility to ensure compliance with Part 10.1.18 of the Code and any other applicable legislation.

Mine Managers are encouraged to seek advice from Qualified Professionals and to engage with EMLI as necessary. It is EMLI’s expectation that Mine Managers classifying proposed departures will:

- Uphold values such as integrity, honesty, and trustworthiness;
- Safeguard human life and welfare, and the environment;
- Provide an opinion on a subject only when it is founded upon adequate knowledge and expertise; and
- Obtain the input and support of Qualified Professionals as appropriate or required.

Use of the Guidance requires Mines Managers to:

- Comply with all applicable legislation and permit conditions;
- Ensure that the mine is free of potentially hazardous conditions or that corrective actions are in place to alleviate and effectively control potentially hazardous conditions;
- Have appropriate permits and authorizations in place;
- Have and maintain approved mine and reclamation plans on-site; and
- Maintain management plans that are current and that incorporate the recommendations of Qualified Professionals as necessary.

## 2. Introduction

Part 10.1.18 of the Code states:

*“The owner, agent or manager shall notify the chief permitting officer in writing of any intention to depart from the mine plan and reclamation program authorized under sections 10.1.1 or 10.1.2 of this code to any substantial degree, and shall not proceed to implement the proposed changes without the written authorization of the chief permitting officer.”*

This Guidance provides context around activities that are considered "substantial" and “non-substantial.” A self-assessment tool is provided to assist Mine Managers in determining if site-specific activities can be classified as “non-substantial” and can proceed without any need for written approval from the Chief Permitting Officer.

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## 3. Substantial and Non-Substantial Activities

**Substantial** activities include those activities that could result in a negative impact on human health and safety and/or environmental values and which were not fully considered and assessed under the mine plan approved in the *Mines Act* Permit. These activities require authorization by the Chief Permitting Officer.

**Non-substantial** activities include those activities that were considered and assessed under the mine plan approved in the *Mines Act* Permit or which would not be expected to have a negative impact on human health and safety and/or environmental values.

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## 4. Substantial and Non-Substantial Activities

Once the permittee has completed a preliminary determination of the scope of the departure, they should conduct a self-assessment using the attached “Departure from Approval Self-Assessment Process Flowchart” (Appendix A) and the “Departure from Approval Self-Assessment Form” (Appendix B). A “Drilling and Test Pitting Regulatory Guidance Table” (Appendix C) is referenced within Appendix B and provides additional information specific to drilling and test pitting.

The self-assessment requires Mine Managers to:

- Prepare a project summary and identify applicable legislation and site-specific permit conditions that are related to the proposed activities (Appendix B, Step 1).
- Evaluate the proposed project against EMLI’s criteria for potentially “substantial” departures (Appendix B, Step 2) and submit a Notice of Departure (NoD) application or permit amendment application for projects meeting those criteria.
- Evaluate the proposed project against EMLI’s criteria for “non-substantial” departures (Appendix B, Step 3). If the proposed activity is identified within EMLI’s criteria for “non-substantial” departures, Mine Managers are able to proceed with the “non-

substantial” departure without written notification to or authorization from the Chief Permitting Officer, provided that the proposed activity adheres to existing permit conditions, the Code, and all applicable standards, regulations, and legislation.

In general, EMLI considers the activities identified in Step 2 of Appendix B to be classified as potentially “substantial”, which require review by EMLI to determine if they are “non-substantial” or “substantial”.

In general, EMLI considers activities identified in Step 3 of Appendix B to be classified as either non-departures (i.e. activities expected in the normal course of mining and contemplated under the existing permit) or “non-substantial” departures provided that site-specific factors do not render the activity to be “substantial”. It is explicit that all requirements of the Mines Act, other legislation, the Code, the site’s *Mines Act* Permit, and approved management plans must be followed.

Notwithstanding the criteria identified in Step 3 of Appendix B, site-specific factors may result in differing levels of risk associated with a proposed departure at one site in comparison with a similar departure at another site. The responsibility rests with the Mine Manager to assess the site-specific risks and impacts associated with a proposed departure. Where there is uncertainty, Mine Managers should err on the side of assuming a proposed departure may be potentially “substantial” and submit a NoD application to EMLI. Mine Managers are encouraged to engage with EMLI where uncertainties remain following completion of the self-assessment form.

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## 5. Documentation and Reporting

When completing a self-assessment, the Mine Manager must document the rationale for classifying a proposed Departure from Approval as “non-substantial” (Appendix B, Step 4). Documentation of proposed “non-substantial” departures should include a completed self-assessment form and should clearly outline the following:

- How the proposed “non-substantial” departure adheres to existing and applicable legislation and authorizations;
- The decision process, and the results of analyses used to assess the site-specific classification of a “non-substantial” change, and where appropriate; and
- A description of engagement with regulatory bodies, Indigenous nations, and any relevant stakeholders.

Additionally, any designs, reports, plans or other information, including information provided by a Qualified Professional, used to support a “non-substantial” determination should be included with the documentation (Appendix B, Step 4).

For “non-substantial” departures, Mine Managers must sign the declaration in Step 5, retain associated documentation on-site, report any associated disturbances in Annual Reclamation Reports, and make the self-assessments available to any Inspector of Mines upon request.

## 6. Compliance and Enforcement

EMLI may ask to review self-assessments for “non-substantial” Departures from Approval. Mine Managers are expected to file self-assessments on-site and to make them available to any Inspector of Mines upon request. EMLI personnel will make their determination in keeping with this Guidance document.

The Mine Manager may be required to provide additional information, implement additional mitigations, or seek written authorization for the departure. If mitigations are inadequate or work related to the Departure from Approval is found to be non-compliant with the regulations or permit, compliance actions may be taken in accordance with EMLI’s Compliance and Enforcement Policy.

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## 7. NoD Determination Process

### 7.1. Application Submission

For Departures from Approval that are not clearly “non-substantial” nor clearly “substantial”, the Mine Manager may request that EMLI make a determination through the submission of a NoD application.

At a minimum, a NoD application should include relevant information identified within the Departure from Approval Self-Assessment Form (Appendix B), a location map, and any other relevant information related to the proposed work.

The NoD application must be submitted through a mine’s MineSpace portal.

Alternatively, if a mine site does not have a MineSpace account, it can be submitted or via email to EMLI’s inbox at [PermRecl@gov.bc.ca](mailto:PermRecl@gov.bc.ca) and clearly identified in the subject line as a “Notice of Departure Application”.

### 7.2. Technical Review

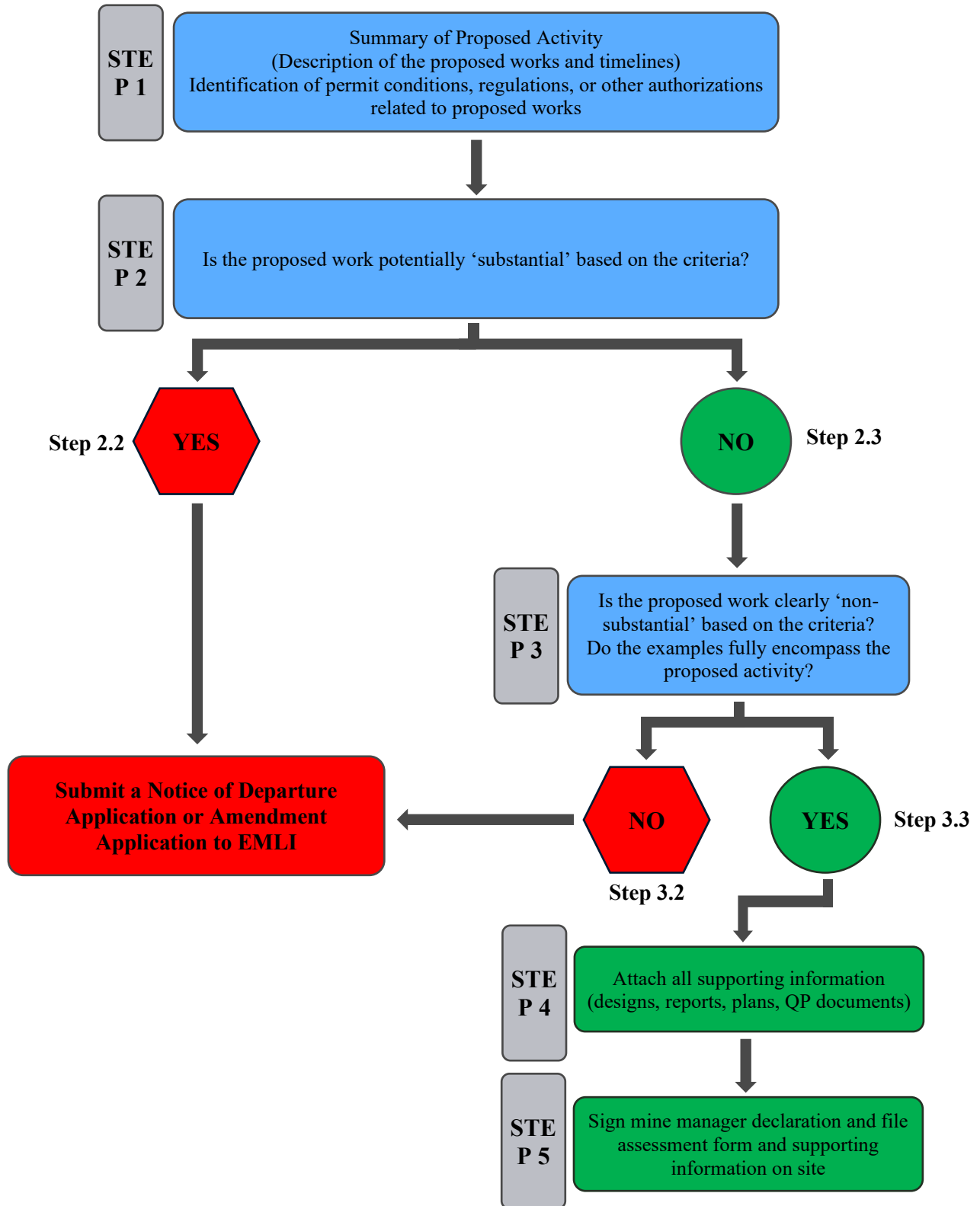
Upon receipt, EMLI staff will assess the information provided within the NoD application. EMLI may ask clarifying questions about the proposed departure, and it is expected that the proponent and their Qualified Professionals will provide comprehensive responses to technical questions raised by EMLI reviewers and address any outstanding items as soon as practicable.

### 7.3. Determination

EMLI will inform the proponent in writing if the proposed work has been determined to be “non-substantial” or “substantial”, through a NoD Determination Letter.

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## Appendix A: Departure from Approval Self-Assessment Flowchart





## Appendix B: Departure from Approval Self-Assessment Form

(See separate appendix document)

Appendix C: Drilling and Test Pitting Regulatory Guidance Document

1.0 Inside the C or M Permit PMA

ID #	Activity	Type	Pre-disturbance Survey Required	Non-substantial	NoD Submission Required	NoW/MYAB Submission Required	Permit Amendment Required	Reporting Required
1.1	<b>Drilling or Test Pitting in an area that has previously been disturbed</b>	Exploration Drilling <sup>A</sup> Geophysical Surveys <sup>A</sup> Groundwater monitoring Geotechnical drilling Test pitting Dewatering	N	Y	N	N	N	Not Required
	Special Considerations: <ul style="list-style-type: none"> <li>For drilling in an area that has been reclaimed refer to ID #1.2 or #1.3 as appropriate.</li> <li>Does not negate the need for approvals that may be required for changes to water management or water quality monitoring plans.</li> <li>EoR must supervise invasive work such as test pitting, CPT, drilling and backfilling, on or below a dam or TSF (including on tailings beach).</li> <li>Design details and configuration of extraction, monitoring and injection wells may be required in a separate application to request approval to operate these types of wells.</li> </ul>							
1.2	<b>Drilling or test pitting in an area that has not been previously disturbed but is permitted for disturbance</b>		Y	Y	N	N	N	N
	Special Considerations: <ul style="list-style-type: none"> <li>Where Construction Environmental Managements Plans (CEMPs) are required under the Mines Act Permits, these must be fulfilled prior to start of drilling.<sup>B</sup></li> <li>Use this row for drilling in an area that has been reclaimed and where the province holds the reclamation security bond for the footprint, as the land is considered not disturbed, but is considered permitted for disturbance.</li> <li>Does not negate the need for approvals that may be required for changes to water management or water quality monitoring plans.</li> <li>Design details and configuration of extraction, monitoring and injection wells may be required in a separate application to request approval to operate these types of wells.</li> </ul>							
1.3	<b>Drilling or test pitting in an area that has not been permitted for disturbance:<sup>C</sup></b>	Y	N	Y	N	Determined by EMLI	Annual Reclamation Report	
	Special Considerations: <ul style="list-style-type: none"> <li>Use this row for drilling in an area that has been reclaimed and where the reclaimed area has been released back to the province, as the land is considered not permitted for disturbance.</li> <li>Where work is completed without notification (per Note C below), separate approvals may be required for changes to water management dewatering, pit pumping plan, or water quality monitoring plans.</li> <li>Where work is completed without notification (per Note C below), design details and configuration of extraction, monitoring and injection wells may be required in a separate application to request approval to operate these types of wells.</li> </ul>							

## 2.0 Outside the C or M Permit PMA

ID #	Activity	Type	Pre-disturbance Survey Required	Non-substantial	NoD Submission Required	NoW/MYAB Submission Required	Permit Amendment Required	Reporting Required
2.1	Groundwater drilling to support regional programs. <sup>D</sup>	Groundwater Monitoring	Y	Y	N	N	N	Regional Groundwater Report
2.2	Exploration work to support mine development or new construction and investigative drilling that is not associated with mineral exploration work. <sup>E</sup>	Exploration Drilling Geophysical Surveys Groundwater monitoring Geotechnical drilling Test pitting	Y	N	N	Y	Y	Annual Summary for Exploration Activities and/or Annual Reclamation Report

### NOTES

<b>A</b>	A Notice of Deemed Authorization is not required for exploration drilling or IP surveys within the C or M-Permit boundary where this work was contemplated by the existing permit, or where the work is considered to be non-substantial with respect to HSRC 10.1.18.
<b>B</b>	Permit conditions relating to CEMPs (or any other relevant conditions) must be fulfilled prior to starting work, but a subsequent approval for the drilling activity is not required.
<b>C</b>	Please contact EMLI to discuss drilling contemplated in this category. A NoD or permit amendment application (depending on the nature and extent of disturbance) will be required for work where disturbance is assessed to be substantial. If drilling or test pitting can be conducted without the construction of new access roads, and where the contemplated disturbance does not impact sensitive habitat, EMLI may determine the work to be non-substantial.
<b>D</b>	Regional programs are those programs required to support a regional understanding of groundwater and not to support specific development activities of a mine. Approvals may be required from other agencies.
<b>E</b>	A NoW should first be considered for any drilling outside of the Permit boundary; however, a Permit Amendment may be considered where drilling is proximate to the permit boundary, where it is related to longer term activities, or where additional mining related work will be completed in the area in the near term (5 years).
<b>F</b>	This document is intended to serve as general guidance only and site-specific considerations may necessitate that mine operators take a different approach to the ones offered above. Nothing in this document supersedes or nullifies any legislation, regulation, HSRC requirement, permit condition or third-party contract.



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