AN OVERVIEW REPORT

Federal-Provincial-Territorial

Review of Environmental Regulations Affecting Mining in Canada

JULY

1998

PREPARED BY

IGWG/Industry

Task Force on

Regulatory Reform

Executive Summary

At the July 1997 Mines Ministers' Conference (MMC), mines ministers charged the Intergovernmental Working Group on the Mineral Industry (IGWG) with preparing a government/industry report that reviews, in a cross-cutting way, federal-provincial-territorial regulations affecting mining, and proposing appropriate recommendations for their consideration at the 1998 MMC.

The purpose of the review was to identify opportunities to work cooperatively to improve existing regulatory regimes by enhancing the efficiency and effectiveness of regulations and related decision-making processes.

The core components of the review are:

- **federal environmental regulations and provincial and territorial mining and environmental regulations that affect exploration, development, mining and closure; and**

- **the relationship between relevant provincial/territorial and federal environmental regulations and related decision-making processes (e.g., matters related to the** *Canadian Environmental Assessment Act* **(CEAA)**, **the** *Fisheries Act*, **the** *Navigable Waters Protection Act* **(NWPA)**, **the Metal Mining Liquid Effluent Regulations (MMLERs), and relevant provincial and territorial regulations).**

Individual jurisdictions prepared reviews that were appropriate to their respective priorities, needs and circumstances. The results of the reviews were discussed at a national workshop held in Toronto on April 8 and 9, 1998.

Individual jurisdictional reports and the report on the national workshop served as the basis for the preparation of this overview report, which has been compiled by the IGWG/Industry Task Force on Regulatory Reform in consultation with relevant federal and provincial regulatory agencies and stakeholders.

The results of the review demonstrate general agreement on the need for:

- **increased efficiency and effectiveness of regulations, administration of regulations, and decision-making processes;**

- **better communication and cooperation within and between governments, and with interested stakeholders;**

- **better coordination within and between jurisdictions;**

- **clarification of responsibilities and requirements;**

- **relevant, easily accessible information; and**

- **greater transparency in decision-making processes.**

The review produced a wealth of suggestions/options that could be used to improve the Canadian environmental regulatory regime affecting mining, a significant number of which received broad support among jurisdictions and stakeholders.

A preliminary assessment suggests that most of these options/suggestions could be addressed by governments' and stakeholders' voluntary initiatives or commitments, administrative agreements, or the preparation of guidance documents. Few would require changes in acts or regulations.

As a next step, it is recommended that:

- **Mines ministers review the reports submitted by their jurisdictions and develop action plans, in cooperation with appropriate provincial and territorial agencies, for initiatives that fall within their jurisdictions; and**

- **Mines ministers instruct the IGWG/Industry Task Force to:**

  - **identify, in consultation with relevant government agencies, organizations and stakeholders, fora for reviewing and, if appropriate, acting on the options identified;**

  - **as appropriate, participate in these fora; and**

  - **monitor progress and report on it at the next Mines Ministers' Conference in 1999.**

Table of Contents

Executive Summary iii

Introduction
- Purpose 1
- Background 1
- Review Process 2

Progress on Regulatory Reform
- Provincial/Territorial Progress 5
- Federal Progress 6

Areas for Improvement
- National Workshop 9
- Identification of Issues 10
- Scope of Agreement on Specific Concerns 10
- Advancing Work on the Options 14

Conclusion and Recommendations 17

Tables

1. Types of Agencies and Organizations Consulted During the Individual Review Processes 4

2. Issues and Number of Specific Concerns in Relation to the Federal Acts and Regulations Covered by the Federal-Provincial-Territorial Review 10

3. Issues and Specific Concerns Identified in Relation to the CEAA 11

4. Issues and Specific Concerns Identified in Relation to the *Fisheries Act* and the NWPA 13

5. Issues and Specific Concerns Identified in Relation to the MMLERs 14

6. Preliminary Assessment of Possible Mechanisms for Implementing Options 15

Appendices

Appendix 1. Cooperative Approach Stages and Process Flow Chart 19

Appendix 2. List of Reports Used for the Preparation of this Overview Report 21

Introduction

PURPOSE

At the July 1997 Mines Ministers' Conference (MMC), federal and provincial/territorial mines ministers charged the Intergovernmental Working Group on the Mineral Industry (IGWG) with preparing a government/industry report that reviews, in a cross-cutting way, federal-provincial-territorial regulations affecting mining in Canada. This overview report has been prepared in response to that request.

The goal of the review is to foster the sustainable development of Canada's mineral and metal resources by providing responsible ministers, organizations and stakeholders with information and recommendations that might be used to improve regulatory efficiency while maintaining effective measures for meeting environmental protection objectives. The review also provided a timely opportunity to document the progress that has been made, identify opportunities for improvement, strengthen existing partnerships, and work towards a national consensus on environmental management in relation to minerals and metals.

BACKGROUND

The concerns of Canadians about their environment, and the fact that environmental management is a shared federal-provincial responsibility, have led both levels of government, in the last few decades, to strengthen their respective environmental regulatory regimes. These regulatory changes resulted in some duplication and overlap of activities, jurisdictional confusion, and uncertainty, unnecessary costs and delays in the related decision-making processes. Concerns about the effects of these outcomes on the mineral investment climate in Canada were documented in the *Final Report on Environmental Regulatory Concerns - The Canadian Mineral Investment Climate,* **an IGWG report that was tabled at the 1993 MMC.**

Governments, the mining industry, labour unions, Aboriginal people and the environmental community recognized that these and many other issues facing the industry could only be dealt with through partnerships and launched, in 1993, the multi-stakeholder *Whitehorse Mining Initiative* **(WMI). The WMI resulted in the 1994** *Whitehorse Mining Initiative Leadership Council Accord,* **which is based on the shared desire that mining continue to make an important economic contribution to Canada's well-being within the context of sustainable development. A number of the Accord's principles and goals focus on the environmental regulatory regime for mining.**

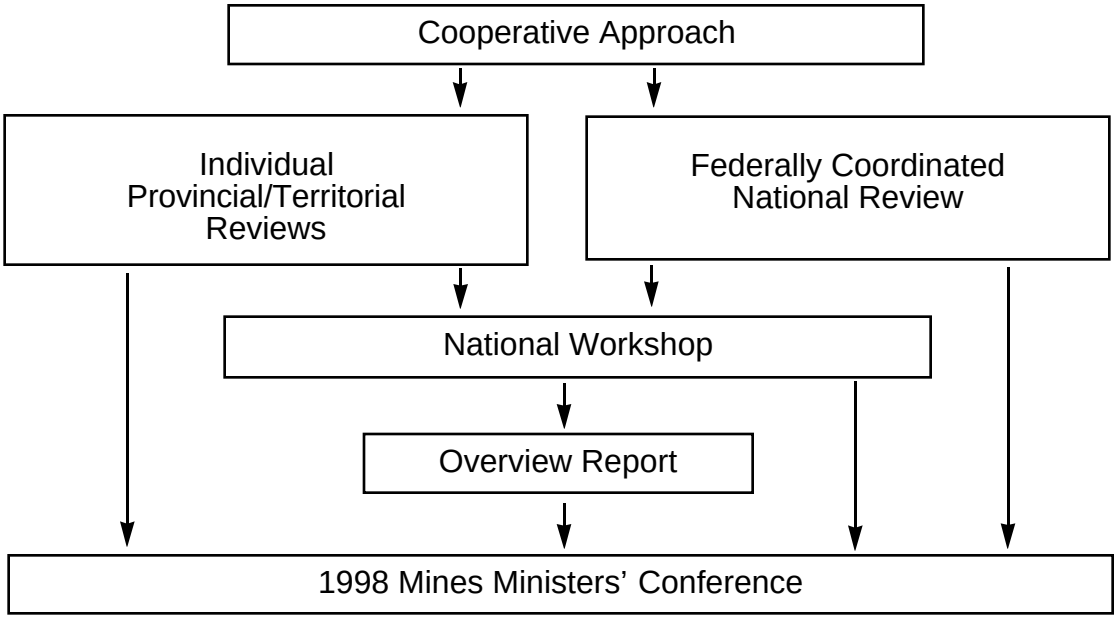
The federal, provincial and territorial governments continue to work with industry, Aboriginal people, the environmental community and others to implement the WMI's goals and principles and to improve the regulatory efficiency and effectiveness. At the federal level, these efforts focused on the regulatory reform initiatives set out in the Government's responses to the reports of the House Standing Committee on Natural Resources on streamlining environmental regulation for mining. Provinces and territories initiated their own reviews and have implemented a number of reforms.

Both levels of governments reported, at the 1997 MMC, on the results of these reviews in a report entitled *Regulatory Reform and the Canadian Minerals and Metals Industry***.**

To follow up on this review, mines ministers requested a federal-provincial-territorial cross-cutting review of regulations affecting mining. Ministers indicated that the review should involve relevant federal and provincial/territorial regulatory departments and interested stakeholders. They also identified the involvement of the Canadian Council of Ministers of the Environment (CCME) and other responsible ministers as an important element of this cooperative effort.

REVIEW PROCESS

An IGWG/Industry Task Force, co-chaired by representatives from provincial/ territorial governments, industry and the federal government, was established to coordinate the overall review process and the preparation of this report. The Task Force developed a framework (summarized below) for coordinating and synthesizing the results of the individual reviews to be undertaken by federal, provincial and territorial governments.



The framework, in part, provided that:

- **the core components of the review would be certain federal environmental regulations and provincial and territorial mining regulations that affect exploration, development, mining and closure;**

- **the federal environmental acts and regulations examined would be the** *Canadian Environmental Assessment Act* **(CEAA), the** *Fisheries Act,* **the** *Navigable Waters Protection Act* **(NWPA) and the Metal Mining Liquid Effluent Regulations (MMLERs);**[1]

- **the relationships between relevant provincial/territorial environmental regulations and the above-noted federal environmental regulations and related decision-making processes would be examined; and**

- **each jurisdiction would design and implement reviews appropriate for their respective priorities, needs and circumstances.**

Regional and national reviews were, for the most part, conducted from December 1997 through to the end of February 1998 (Appendix 1), although some consultations extended beyond that period. The provinces and territories conducted regional reviews that focused on their respective mining and environmental regulations, and on the interactions between provincial/territorial environmental regulations and the CEAA, the *Fisheries Act,* **the NWPA and the MMLERs. A national, federally coordinated review focused on the federal acts and regulations, but also considered interactions with provincial regulations.**

Issues, specific concerns and a broad list of possible options for improvements were brought forward during the Canada-wide federally coordinated review. That review included a month-long virtual workshop on the Internet in which some 130 participants, from all stakeholder groups and all regions of the country, registered and had the opportunity to provide comments on the environmental assessment and permitting processes for mining projects.

The virtual workshop was followed by a retreat attended by participants from federal, provincial and territorial departments, industry, Aboriginal groups and environmental organizations. Participants reviewed the information gathered during the virtual workshop and prepared a report, based on their personal views and perspectives, with the understanding that the report could serve as the basis for further discussions without implying that all participants endorsed all of the issues and options identified in the report.

The provinces and territories designed their own review processes. The resulting reports included success stories and areas of collaboration and good practices, identified problem areas, and recommended possible options for improvement. While most jurisdictions focused on gathering input from provincial/territorial agencies and industry, Alberta also consulted environmental organizations, and Newfoundland and the federal government consulted federal agencies, environmental organizations and Aboriginal groups. The national workshop (described on the next page) was used as a means of obtaining input from Aboriginal organizations, the environmental community

---

[1] **Other federal acts and regulations were considered within some of the provincial and territorial reviews. These include the** *Atomic Energy Control Act* **under the Atomic Energy Control Board, which regulates uranium mines in Saskatchewan, and the federal regulations related to mining north of 60° N. In addition, some federal legislative initiatives are being dealt with in other consultation processes. These include a review of the** *Canadian Environmental Protection Act* **(CEPA) and the development of the** *Canada Endangered Species Protection Act* **(CESPA).**

and labour. Table 1 illustrates the scope of consultations during the individual review processes.

The federally coordinated national review, together with the provincial and territorial reports (Appendix 2), served as the basis for discussion at the National Workshop on Environmental Regulations Affecting Mining that was held in Toronto on April 8 and 9, 1998. The results of these discussions are documented in the *Report on the National Workshop on Environmental Regulations Affecting the Mining Sector***.**

This overview report synthesizes the results of the reports from jurisdictions and the national workshop that relate to the interaction between provincial/territorial environmental regulations and the CEAA, the *Fisheries Act***, the NWPA and the MMLERs.**

The jurisdictions report that progress is being made. At the same time, they indicate the need for further improvements. The progress made and areas in need of improvement are discussed in the next two sections.

TABLE 1. TYPES OF AGENCIES AND ORGANIZATIONS CONSULTED DURING THE INDIVIDUAL REVIEW PROCESSES[1]

Groups Consulted	NF	NB	NS	ON	MN	SK	AB	BC	NT	YT	FE	NW
Mining industry and associations	x	x		x	x	x	x		x	x	x	x
Federal or provincial/territorial mining departments	x	x	x	x	x	x	x	x	x	x	x	x
Provincial environment departments or provincial/territorial environmental boards)	x	x	x	x	x	x	x		x	x	x	x
Federal Department of the Environment	x				x						x	x
Canadian Environmental Assessment Agency	x		x								x	x
Federal Department of Fisheries and Oceans	x										x	x
Other federal or provincial departments, boards or agencies	x			x		x	x		x		x	x
Non-governmental environmental organizations[1]	x						x				x	x
Aboriginal groups [1]	x										x	x
Consultants (environmental, legal, others)	x										x	x
Academics											x	
Labour organizations											*	x
Municipal organizations											*	*

NF: Newfoundland
NB: New Brunswick
NS: Nova Scotia
ON: Ontario
MN: Manitoba
SK: Saskatchewan
AB: Alberta
BC: British Columbia
NT: Northwest Territories
YT: Yukon Territory
FE: Federally Coordinated Review
NW: National Workshop

* Invited but did not participate.
[1] The option of consulting environmental organizations and Aboriginal groups was left to the discretion of provinces and territories, with the understanding that these groups would be represented at the national workshop.
Notes: The report prepared by Quebec does not cover the federal-provincial interactions and, for this reason, was not used in the preparation of this synthesis. Prince Edward Island did not participate in the review because of the lack of mining activities in that province.

Progress On Regulatory Reform

PROVINCIAL/TERRITORIAL PROGRESS

The jurisdictions report that progress is being made. Some highlights include:

- **Newfoundland and Labrador observes that some recent reform measures in the province, such as the creation of the Government Service Centre, appear to have had positive effects on information flow and coordination between government agencies.**

- **New Brunswick reports that the establishment of a Standing Committee on Mining and the Environment, comprised of representatives of the provincial Department of Natural Resources and Energy and the provincial and federal environment departments, has significantly enhanced the coordination of approvals for mineral development projects in that province.**

- **Nova Scotia has established a "one-window" process to facilitate an informed, timely and consistent review of new and existing mining projects in the province. The various departments involved in this process include the Nova Scotia departments of Natural Resources, Environment, and Labour; federal government representatives from the Agency, the Department of Fisheries and Oceans (DFO) and Environment Canada; and other municipal, provincial and federal departments and agencies on a project-by-project basis.**

- **In Ontario, Mineral Development Coordinators provide information on and assistance with permitting requirements for mining projects and coordinate communications between the mining industry, the public, and relevant government ministries and agencies. The province is also holding discussions with its federal counterparts on a bilateral agreement to cooperate on environmental assessment.**

- **Manitoba has already initiated discussions with the federal government regarding a new bilateral agreement on the harmonization of environmental assessment. The province also indicates that the principle of "one project, one assessment," as applied in Manitoba, demonstrates that the needs of the two levels of government can be met without diminution of standards and without duplication of effort on the part of the proponent.**

- **Alberta observes that harmonization initiatives may help streamline environmental impact assessment and other regulatory processes.**

- **Saskatchewan reports that a number of issues, such as defined timelines and streamlined review processes in relation to environmental legislation, are being addressed in the agreement signed by the CCME on January 29, 1998.**

- **British Columbia is confident that the recently signed Canada-B.C. bilateral agreement to cooperate on environmental assessments will result in greater coordination of efforts and improved use of resources.**

- **The Northwest Territories is undergoing a period of significant transition with the creation of Nunavut to occur on April 1, 1999. New regulatory bodies and regimes are emerging, established under the Nunavut claims legislation and the proposed** *Mackenzie Valley Resource Management Act.* **The Government of the Northwest Territories has also launched a major regulatory reform initiative aimed at increasing efficiency in regulatory programs, better input into federal regulatory decisions and processes, and the elimination of unnecessary barriers to economic growth and development.**

FEDERAL PROGRESS

The federal government reports that over 90% of the initiatives identified in its responses to the reports of the Standing Committee on Natural Resources on streamlining environmental regulation for mining have been, or are in the process of being, implemented. The major reforms delivered include:

- **the** *Canada-Wide Accord on Environmental Harmonization* **and related sub-agreements on environmental assessment, inspection activities and standards[2];**

- **the Federal Coordination Regulation and guidelines for panel review that establish timelines for various portions of the federal environmental assessment process;**

- **project-specific and bilateral agreements to cooperate on environmental assessments to ensure that new development projects are subject to a single environmental assessment process that meets the requirements of all jurisdictions;**

- **efficient integration of science and policy-making, including a consensus among stakeholders on recommendations for revision of the MMLERs; and**

- **the** *Guide to Information Requirements for Federal Environmental Assessment of Mining Projects in Canada,* **which is designed to help proponents with the preparation of study reports for submission to the federal environmental assessment process.**

Most jurisdictions report that the signing of the *Canada-Wide Accord on Environmental Harmonization* **and related sub-agreements on January 29, 1998, is an important step towards the rationalization of environmental regulatory regimes, and they are looking forward to their implementation. It was also suggested that the momentum gained by the signing of the Accord should be utilized to achieve coordinated and timely approval processes, particularly in light of the review of the Accord and sub-agreements to be conducted in two years.**

In addition, the Minister of Fisheries and Oceans recently made a commitment to proceed with the delegation of certain decision-making authorities under the *Fisheries Act* **to inland provinces. Furthermore, federal and provincial fisheries ministers recently announced their commitments to:**

---

[2] The objective of the Canada-Wide Accord is to improve the administration of the Canadian environmental management regime through administrative agreements between federal and provincial/territorial governments. Both levels of government retain their regulatory responsibilities with respect to the environment.

- **consult on a framework agreement for the delegation of freshwater fish habitat management responsibilities with the inland provinces; and**

- **begin discussions over the summer of 1998 on a preliminary list of prescribed projects.**

Areas for Improvement

NATIONAL WORKSHOP

The multi-stakeholder national workshop resulted in many helpful observations and comments on the CEAA, the *Fisheries Act*, the NWPA and the MMLERs. Workshop participants found common ground in many areas. For this reason, the workshop report can serve as a basis for further discussions without implying that all participants endorse all of the specific concerns and options identified in the report, or that all issues or specific concerns were identified. Many of the concerns heard at the workshop echoed those heard in the jurisdictions' reports. Areas where there was consensus include the need for:

- **increased regulatory efficiency and effectiveness in meeting environmental protection objectives;**
- **better communication and cooperation within and between governments, industry, environmental groups and Aboriginal communities;**
- **better coordination within and between jurisdictions;**
- **the clarification of responsibilities and requirements for environmental assessments, fish habitat compensation, and the permitting phases;**
- **relevant, easily accessible information; and**
- **greater transparency in decision-making processes.**

Among the areas where workshop participants were unable to achieve consensus, or where they felt that the issues were too complex to be dealt with in the current context, are:

- **adequacy of resources to meet environmental protection objectives and whether new resources or reallocation of existing resources are needed;**
- **the extent to which overlap and duplication has been, or remains to be, a problem following the implementation of various harmonization initiatives (some provinces felt that these initiatives may help streamline environmental assessment and other regulatory processes but do not address regulatory overlap); and**
- **early triggering of permitting and environmental assessment processes to cover exploration.**

Finally, while recognizing the need to address the issues of cumulative effects assessment, closure/reclamation and orphan mines, participants concluded that these issues should be considered by an independent industry/government/stakeholder review.

IDENTIFICATION OF ISSUES

By combining the results of the national workshop and the individual provincial/ territorial review reports, some 36 specific concerns have been identified in relation to the CEAA, the *Fisheries Act,* the NWPA and the MMLERs. In addition to these federal acts and regulations, Saskatchewan identified a concern that the new federal *Nuclear Safety and Control Act* (not yet in force) will have an impact on the environmental assessment of uranium mining projects in that province.

The specific concerns associated with each of the above-noted federal acts and regulations have been grouped under the following six issues associated with the regulatory process: predictability of process, process coordination and integration, meaningful participation, availability of relevant information, cost of decision-making, and accountability. As shown in Table 2, the majority of the specific concerns (25 of 36) relate to the CEAA and almost half (14 of 36) relate to predictability of process. Some relate to the *Fisheries Act* and the NWPA as CEAA triggers.

TABLE 2. ISSUES AND NUMBER OF SPECIFIC CONCERNS IN RELATION TO THE FEDERAL ACTS AND REGULATIONS COVERED BY THE FEDERAL-PROVINCIAL-TERRITORIAL REVIEW

	Number of Specific Concerns [1]			
Issue	*Canadian Environmental Assessment Act*	*Fisheries Act* and *Navigable Waters Protection Act*	Metal Mining Liquid Effluent Regulations	Total
Predictability of process	10	3	1	14
Process coordination and integration	4	2	1	7
Meaningful participation	2	1	1	4
Availability of relevant information	4	1		5
Cost of decision-making	1			1
Accountability	4	1		5
Total	25	8	3	36

[1] Numbers represent specific concerns identified during the national workshop (items numbered in Tables 3, 4 and 5) and additional concerns brought forward by the provinces and the territories.

SCOPE OF AGREEMENT ON SPECIFIC CONCERNS

Tables 3, 4 and 5 illustrate which of the various jurisdictional reviews and the national workshop identified a specific concern related to the CEAA, the *Fisheries Act,* the NWPA or MMLERs. A large checkmark indicates that the specific concern was identified in the respective report. A small checkmark indicates that a jurisdiction shares a specific concern although it was not identified in its report.

For the CEAA (Table 3), the broadest agreement on specific concerns, identified by at least seven jurisdictions and in the national workshop report, relate to:

- **the need to improve clarity with the interpretations of** *Fisheries Act* **triggers (1);**
- **the need to clarify responsibilities and requirements under environmental assessment and the permitting phase (6);**
- **the need to resolve uncertainty linked with timelines (7);**
- **the need to improve coordination between jurisdictions (8);**
- **the fact that the Canada-Wide Accord has been signed but not implemented (9);**
- **the need to improve communications within and between governments and with stakeholders (10);**
- **the need for information to be readily available (13); and**
- **concerns about cost recovery (17).**

In addition, the need to eliminate or reduce overlap and duplication of regulatory activities (refer to letter "a" in Table 3) has been identified by eight provinces and territories and their respective mining associations.

TABLE 3. ISSUES AND SPECIFIC CONCERNS IDENTIFIED IN RELATION TO THE CEAA
(SOME COMMON CONCERNS ARE ALSO LISTED UNDER *THE FISHERIES ACT* AND THE NWPA)

No.	CEAA	NF	NS	NB	ON	MN	SK	AB	BC	NT	YT	FE	NW
CONCERNS DOCUMENTED IN THE *REPORT ON THE NATIONAL WORKSHOP ON ENVIRONMENTAL REGULATIONS AFFECTING THE MINING SECTOR*													
Predictability of Process													
1.	Need to improve clarity with the interpretation of *Fisheries Act* triggers (refer also to no. 22)		√	√	√			√	√	√		√	√
2.	Need to reduce uncertainty with the use of community concerns/public interest to trigger a CEAA review								√			√	√
3.	Need to clarify the requirements for Cumulative Effects Assessments		√						√		√	√	√
4.	Need to better link environmental assessment and land-use decision-making							√				√	√
5.	Need to resolve uncertainty in relation to unsettled land claims	√								√		√	√
6.	Need to clarify the different responsibilities and requirements under EA and the permitting phase	√	√	√	√		√	√	√		√	√	√
7.	Need to resolve uncertainty linked with timeliness	√	√	√	√		√	√	√	√	√	√	√
Process Coordination and Integration													
8.	Need to improve coordination between jurisdictions	√	√	√	√		√	√	√	√	√	√	√
9.	A Canada-Wide Accord has been signed but not implemented	√		√	√	√	√	√				√	√

TABLE 3 (cont'd)

No.	CEAA	NF	NS	NB	ON	MN	SK	AB	BC	NT	YT	FE	NW
10.	Need to improve communications within and between governments, and with stakeholders	√	√	√	√			√		√	√	√	√
Meaningful Participation													
11.	Need to involve Aboriginal people in decision-making	√	√		√			√			√	√	√
12.	Need to address the concern that insufficient time, resources and information flow are barriers to fair and effective participation							√	√			√	√
Availability of Relevant Information													
13.	Need for information to be readily available	√	√	√	√					√	√	√	√
14.	Need for adequate baseline information	√	√	√	√						√	√	√
15.	Need to clarify the use of traditional knowledge		√								√	√	√
16.	Need to improve technical rigour in EA		√	√	√						√	√	√
Cost of Decision-Making													
17.	Concern about cost recovery	√		√	√		√	√			√	√	√
Accountability													
18.	Need to ensure monitoring, evaluation or compliance with established EA conditions		√	√	√				√			√	√
19.	Need for reporting to Aboriginal communities				√					√	√	√	√
20.	Need to ensure that resources and expertise needed to monitor and enforce environmental protection measures are available		√		√				√			√	√
ADDITIONAL CONCERNS IDENTIFIED BY PROVINCES AND TERRITORIES													
a.	Need to eliminate or reduce overlap and duplication of regulatory activities	√	√	√	√			√	√	√	√		
b.	Limit federal involvement to areas of federal responsibility							√	√				
c.	Resolve uncertainty linked with panel reviews							√		√			
d.	Sufficient cause should be required for raising issues late in the panel review process							√			√		
e.	Panel members should be knowledgeable			√	√		√	√			√		
f.	In the case of uranium mines, need to meet Saskatchewan's objective of a unified regulatory regime under provincial administration						√						

√: Concerns documented in individual reports.

√: Concerns identified by provinces and territories after revision of the report.

With respect to the *Fisheries Act* and the NWPA (Table 4), common concerns identified by more than seven jurisdictions and the report on the national workshop relate to:

- **the need to develop consistent standards and criteria (21);**
- **the need to resolve uncertainty with respect to triggering the CEAA (22);**
- **the need to ensure consistent application of the *Policy for the Management of Fish Habitat* (23); and**
- **the need to clearly define roles and responsibilities (24).**

TABLE 4. ISSUES AND SPECIFIC CONCERNS IDENTIFIED IN RELATION TO THE *FISHERIES ACT* AND THE NWPA
(SOME COMMON CONCERNS ARE ALSO LISTED UNDER THE CEAA)

No.	*Fisheries Act* and *Navigable Waters Protection Act*	NF	NS	NB	ON	MN	SK	AB	BC	NT	YT	FE	NW
CONCERNS DOCUMENTED IN THE *REPORT ON THE NATIONAL WORKSHOP ON ENVIRONMENTAL REGULATIONS AFFECTING THE MINING SECTOR*													
Predictability of Process													
21.	Need to develop consistent standards and criteria	√	√	√	√			√	√	√	√	√	√
22.	Need to resolve uncertainty with respect to triggering the CEAA		√	√	√			√	√	√		√	√
23.	Need to ensure consistent application of DFO's *Policy for the Management of Fish Habitat*	√	√	√	√		√	√	√	√	√	√	√
Process Coordination and Integration													
24.	Need to clearly define roles and responsibilities			√	√			√	√	√	√	√	√
Availability of Relevant Information													
25.	Need for regional baseline information	√	√		√						√	√	√
Accountability													
26.	Need to improve accountability	√		√						√	√	√	√
ADDITIONAL CONCERNS IDENTIFIED BY PROVINCES AND TERRITORIES													
g.	Need to delegate fish habitat management to provinces for "lesser impact" projects	√	√	√	√				√				
Meaningful Participation													
h.	Need to consult with communities in planning habitat compensation activities				√		√			√			

√ : Concerns documented in individual reports.
√: Concerns identified by provinces and territories after revision of the report.

Shared concerns in relation to the MMLERs (Table 5) are related to the need for a cooperative national environmental protection framework regarding mine effluents (27).

TABLE 5. ISSUES AND SPECIFIC CONCERNS IDENTIFIED IN RELATION TO THE MMLERs

No.	MMLERs	NF	NS	NB	ON	MN	SK	AB	BC	NT	YT	FE	NW
CONCERNS DOCUMENTED IN THE *REPORT ON THE NATIONAL WORKSHOP ON ENVIRONMENTAL REGULATIONS AFFECTING THE MINING SECTOR*													
Predictability of Process													
27.	Need for a cooperative national environmental protection framework regarding mine effluents	√			√					√		√	√
ADDITIONAL CONCERNS IDENTIFIED BY PROVINCES AND TERRITORIES													
Process Coordination and Integration													
i.	Provision for the reasonable and practicable management of drainage/deposits containing deleterious substances, yet having no significant environmental effects, should be incorporated within the updating of the MMLERs and the code of practice				√								
Meaningful Participation													
j.	Need for consultation in relation to anticipated changes to MMLERs that will see the regulation applied more broadly	√								√			

√ : Concerns documented in individual reports.
√: Concerns identified by provinces and territories after revision of the report.

ADVANCING WORK ON THE OPTIONS

During the review, more than 90 options were proposed to address the 36 specific concerns identified during the federal-provincial-territorial reviews. The options are identified in the *Report on the National Workshop on Environmental Regulations Affecting the Mining Sector* **and in jurisdictional reports. It should be noted that any individual option may not be supported by all relevant partners.**

In order to illustrate what might be required to advance consideration and, if appropriate, implementation of these options, Table 6 aggregates the number of options that might be addressed through governments' and stakeholders' voluntary initiatives or commitments, administrative agreements, a variety of guidance documents such as guides or codes of practices, or changes in acts or regulations.

This subjective assessment indicates that some 70% of these options can be addressed by governments' and stakeholders' voluntary initiatives or commitments (33%), or through administrative agreements (37%). Some 22% can be addressed by the preparation of guidance documents such as guidelines, standards or codes of practices, and 7% would require changes in acts or regulations.

TABLE 6. PRELIMINARY ASSESSMENT OF POSSIBLE MECHANISMS FOR IMPLEMENTING OPTIONS

Area of Concern and Number of Options Identified	Voluntary Initiatives/ Commitments	Administrative Documents	Guidance Documents	Change in Regulations or Acts
CEAA				
Predictability of process (22)	9	5	5	3
Process coordination and integration (10)	3	7		
Meaningful participation (7)	3	3	1	
Availability of relevant information (14)	4	7	3	
Cost of decision-making (4)		3	1	
Accountability (8)	6	1	1	
***FISHERIES ACT*/NWPA**				
Predictability of process (11)	3		7	1
Process coordination and integration (5)	1	2	1	1
Meaningful participation (1)	1			
Availability of relevant information (5)		5		
Accountability (3)		1	1	1
MMLERs				
Predictability of process (2)		1	1	
Process coordination and integration (1)				1
Meaningful participation (2)	1		1	
Total	31 (33%)	35 (37%)	21 (22%)	7 (7%)

Conclusion and Recommendations

The review provides a much clearer picture of the issues and specific concerns that are associated with the federal environmental acts and regulations reviewed and their interactions with provincial acts.

Many options to address the various specific concerns were identified. While not all of them enjoy the support of all partners, the process has resulted in a rich and diverse list of options (such as the preparation of guidance documents to clarify certainty of requirements) that might be given further consideration and, if appropriate, implemented.

The appropriate fora, mechanism or agency that could consider and, if appropriate, would have the authority to implement a particular option will vary. These could, for example, include Aboriginal/industry discussions on the need for early consultation with Aboriginal communities, or the CCME on issues related to the harmonization of environmental regimes.

The federal-provincial-territorial review has resulted in products that could serve as a very strong basis for further discussion between federal and provincial/territorial agencies and organizations. Many of the options for improvement brought forward during the review can be implemented through increased communication, collaboration and cooperation within and between governments, and with key stakeholders. It is a sound basis for further work.

As a next step, it is recommended that:

- **Mines ministers review the reports submitted by their jurisdictions and develop action plans, in cooperation with appropriate provincial/territorial agencies, for initiatives that fall within their jurisdictions; and**

- **Mines ministers instruct the IGWG/Industry Task Force to:**

  - **identify, in consultation with relevant governmental agencies, organizations and stakeholders, fora for reviewing and, if appropriate, acting on the options identified;**

  - **as appropriate, participate in these fora; and**

  - **monitor progress and report at the next Mines Ministers' Conference in 1999.**

Appendix 1. Cooperative Approach Stages and Process Flow Chart

Stages	Process	Date
1) Agreement on a cooperative approach	Task Force coordinates preparation of proposed cooperative approach	By end of Oct. 1997
2) Carrying out federal, provincial and territorial review processes	Individual reviews are conducted[1]	Nov. 1997 to Feb. 1998
	Submission of review reports to Task Force	By Mar. 10, 1998
3) Preparation of Overview Report and submission	Task Force prepares draft Overview Report	Mar. 10 to Apr. 3, 1998
	National workshop involving all participants and stakeholders	Apr. 8 and 9, 1998
	First version of the Overview Report complete	Apr. 30, 1998
	Report submitted to Mines Ministers by IGWG	July 1998
4) Development and implementation of action plans[2]	Mines ministers act on recommendations that fall within their responsibilities	1998-1999
	Follow-up by the IGWG/Industry Task Force in consultation with organizations and key stakeholders	1998-1999
	Report of the IGWG/Industry Task Force to the 1999 MMC	1999

[1] Some reviews extended beyond that date.
[2] Modified from the original cooperative approach to reflect recommendations presented in this report.

Appendix 2. List of Reports Used for the Preparation of this Overview Report

- *Review of Regulations Affecting the Mining Sector in Newfoundland and Labrador* **- March 1998.**
- *National Regulatory Review Report, New Brunswick* **- March 1998.**
- *Review of Environmental and Mining Legislation Affecting Mining in Ontario* **- March 1998.**
- *Review of Regulations Affecting the Mining Industry in Manitoba* **- March 1998.**
- *Regulatory Reform in Saskatchewan* **- March 1998.**
- *Draft Federal, Provincial and Territorial Review of Regulations Affecting the Mining Sector - Alberta Submission* **- March 24, 1998.**
- *Review of Regulations Affecting the Mining Industry in British Columbia* **- March 31, 1998.**
- *Yukon Territory - Federal-Provincial-Territorial Review of Regulations Affecting the Mining Sector for the Intergovernmental Working Group on the Mineral Industry* **- April 3, 1998.**
- *Report on a Federally Coordinated Review of Federal Environmental Regulations Affecting Mining in Canada.*
- *Report on the National Workshop on Environmental Regulations Affecting the Mining Sector, Toronto, Ontario, April 8 and 9, 1998.*

The report entitled *Allégement de la réglementation touchant l'industrie minière,* **submitted by Quebec, does not cover the federal-provincial interaction and has not been used for the preparation of this synthesis.**