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**Prepared for:** First Nations Leadership Council (FNLC)

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**Topic:** Update regarding the upcoming recommended revisions for 2022 Amendments to the Health, Safety and Reclamation Code for Mines in BC

**Introduction and Background:**

The Code Review Committee (Committee) has been in place since June 2019, with the first set of revisions moving forward as an Order in Council in January 2021. Since that time, the Committee has been working on additional revisions to address the use of autonomous and semi-autonomous mining systems (ASAMS), updating the requirements for dangerous occurrence incident reporting and the removal of gender-specific language in the Code.

In January 2021, the Ministry of Energy, Mines and Low Carbon Innovation and the First Nations Energy and Mining Council began engaging on the importance of aligning the Code and the work of the Code Review Committee with the Declaration Act and the United Nations Declaration for the Rights of Indigenous Peoples (UN Declaration). These discussions resulted in an agreement to Co-Chair a newly established UN Declaration Sub-Committee that will provide review and input into future Code revisions, and provide joint briefings to the FNLC on Code changes.

The above noted revisions are being recommended to be moved forward through an Order in Council (OIC) this fall. In recognition of EMLI's agreements with FNEMC and FNLC, and because this work was completed while the UN Declaration Sub-Committee was being formed, the Code Review Secretariat in partnership with FNEMC, has prepared this briefing note to inform the FNLC about the revisions that are coming forward. In future, the UN Declaration Sub-Committee will be involved in development of recommended revisions with a view to improving alignment of the Code with the Un Declaration.

The revisions to dangerous occurrence incident reporting provisions, inclusion of provisions for ASAMS, and removal of gender-specific language from the Code are drafted and have undergone engagement with the Code Review Committee's constituents which includes Indigenous communities, labour, and industry. All feedback that was received has now been addressed. A letter signed by all Committee members indicating their unanimous support for the proposed revisions is being prepared for the Minister of Energy, Mines and Low Carbon

Innovation. Following the Minister’s review, the proposed revisions will be prepared to move forward through the legislative process.

## **Overview of Proposed Code Revisions**

The Code Review Committee is putting forward the following revisions to the Minister:

1. Autonomous and Semi-Autonomous Mining Systems (completed in 2021)

This addition to the Code, based on a recommendation from the Emerging Technology and Automation Sub-Committee, introduces the regulation for the use of autonomous and semi-autonomous machine systems on B.C. mine sites. The new section establishes the requirement for a Project Management Plan (PMP) and codifies the key sections for inclusion in a successful PMP. By putting this requirement into the Code, companies wishing to introduce this equipment will be required to submit their PMP to the Chief Inspector.

The Committee has also developed a guidance document to provide support to proponents when developing a PMP.

2. Dangerous Occurrences (completed in June 2022)

This recommendation for revision was developed by the Code Review Committee to full revise the section in the Code that addresses dangerous occurrence incident reporting. Revisions rearrange the Code sections and create a definition for reportable incidents that aligns with WorkSafeBC. The section includes updates to the list of incidents, provides a timeline and required sections for investigative reports and introduces a requirement to engage with potentially affected Indigenous Nations regarding reportable incidents to establish an understanding of desired communication.

Guidance is under development to provide additional information on the revision.

3. Gender Neutral Language (completed in June 2022)

Aligning with the government initiative for Better Regulations for British Columbians, this is the removal of all gender-based language within the Code. It also creates one of the first regulatory requirements for mines to have a universal washroom facility. This recommendation was developed by the Code Review Committee with supporting research from the Code Review Secretariat.

## **Engagement Process**

Engagement for these three topics is now complete. The Code Review Committee’s constituent groups of Indigenous Nations, industry and labour engaged with their constituent members to obtain feedback and comment on all of the proposed revisions. This process started in March 2022 and provided briefing materials and presentations on the proposed revisions.

Committee members presented their constituent feedback which has now been addressed for all the proposed revisions. The next step in the process is the administrative work required for the legislative Order-in-Council process, which is anticipated to move forward in Fall 2022.

### **UN Declaration Sub-committee**

The UN Declaration Sub-Committee will be involved in future revisions that are contemplated, and will operate under the Terms of Reference attached to this briefing note. Committee membership is included in the Terms of Reference.

The UN Declaration Sub-Committee held its initial kick off meeting on June 9<sup>th</sup>, 2022. The first piece of work for the UN Declaration Sub-Committee is to develop and define its process for reviewing and providing input to draft Code revisions for the Code Review Committee and the other technical sub-committees. An informational Forum on UNDRIP and other relevant topics is being held in September to share knowledge and understanding of the UN Declaration, the Declaration Act and Action Plan.

### **Summary**

The Code Review Committee has developed recommended revisions to the Code related to ASAMS, dangerous occurrence incident reporting and gender neutral language, to move forward in Fall 2022. The UN Declaration Sub-Committee has been established in partnership with the First Nations Energy and Mining Council to provide expertise within the Code Review Committee processes to increase the alignment of the Code Review Committee's work with the UN Declaration and the Declaration Act. This sub-committee will be involved in all future revisions.

### **Attachments**

Attachment 1: UN Declaration Sub-Committee Terms of Reference.