



# Mining and Metallurgical Society of America

P.O. Box 271794 • Littleton CO 80127  
Phone: 720-203-2380 • Web site: [www.mmsa.net](http://www.mmsa.net)  
Email: [contactMMSA@mmsa.net](mailto:contactMMSA@mmsa.net)

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## **Compliance with NI 43-101 – The Regulators Observations on Ongoing and Emerging Challenges – The Good, The Bad, and the Ugly**

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Regulatory staff at the BCSC, and in other CSA jurisdictions, continue to see qualified persons failing to comply with the requirements of NI 43-101 and the Technical Report Form (43-101F1) in a number of areas. Some are long standing observations, while others are emerging with the renewed enthusiasm in mining capital markets. The brief presentation and subsequent Q & A will be underscored by a core principle of NI 43-101, the role of the qualified person acting as a 'gatekeeper' on behalf of the investing public and in upholding the integrity of the mining capital markets.

### **Presenters include:**

#### **Victoria Yehl, P. Geo. Senior Geologist, British Columbia Securities Commission**

Victoria (Vicki) joined the BCSC as a Senior Geologist in mid-2016 after over 20 years with Teck Resources Limited. While at Teck, Vicki worked around the world as part of the Exploration, Energy (Oil Sands), Exploration Business Development and Corporate Development teams on a wide range of projects and commodities. She spent time as an underground production geologist at the Polaris Zinc Mine, led Teck's global diamond exploration strategy, helped establish the oil sands group, and participated in multiple property evaluations, partnerships, acquisitions and farm-outs. Prior to working for Teck, Vicki worked for a junior diamond and gold explorer in South America and for the Ontario Geological Survey (OGS).

Vicki holds a Bachelor of Science degree from University of Toronto, a Master's of Science degree from Queen's University, and a Graduate Diploma in Business Administration (Mining) from Simon Fraser University. Vicki is also past Chair of the Vancouver MEG, a past Chair of AME's Mineral Exploration Roundup and has recently completed two terms as a Councillor for the Geological Association of Canada (GAC) and is a Past President of the GAC. Finally, Vicki is also a registered professional geoscientist with APEGBC.

#### **Chris Collins, P. Geo. Chief Mining Advisor, British Columbia Securities Commission**

Chris has over 25 years in the mineral exploration and development industry. He worked with Noranda Mining for 17 years in base metal exploration and mining operations in Eastern Canada. He spent three years deployed internationally on projects in Brazil, Chile and Norway. He joined the ALS Laboratory Group as Director of Eastern Canada Operations in 2004, with oversight of laboratories in Mississauga, Val d'Or, Timmins, Thunder Bay, Sudbury and Burlington. He joined Gold Eagle Mines Ltd. in 2007 as Vice President of Exploration, focused on the Bruce Channel Deposit in Red Lake, Ontario. He

joined Apogee Silver in 2009 as President and led teams advancing the Pulacayo project in Bolivia. He joined the British Columbia Securities Commission as the Chief Mining Advisor in April 2014.

Chris has Bachelor of Science Degree from Memorial University of Newfoundland and a Masters of Business Administration from Saint Mary's University in Halifax, Nova Scotia. He is a registered professional geoscientist with APEGBC and PEGNL

### **Compliance with NI 43-101 – Chat and Questions**

During the presentation and Question and Answer period, the following comments and questions were submitted by the attendees.

(Note: the following questions are not in time order because some are from Chat and some are from Questions. Minor edits were made.)

**Anonymous** - Does an MMSA QP need to also be a P. Geo or P. Eng certification to sign a report for a Canadian issuer under 43-101? Is the location of the project relevant? Has this changed depending on Province? Isn't best practice standards too high a minimum standard? Industry accepted practices would be more reasonable.

**Jaye Pickarts** - If a company has a dual listing, SEC and BC, will the BC Securities accept the S-K1300 technical report format or do we need to prepare 2 separate reports?

**Terre Lane** - Thank you Chris and Victoria.

**Donald Cameron** - A company acquires another and wants/needs to issue a technical report on a property that hasn't had any work for 20 years. Does the discussion of the historical drilling have to be constrained to Section 6 or can it also be discussed with cautions and disclaimers in Section 10, pointing out that the issuer has not drilled? Section 6 can get pretty bloated if all historical exploration and drilling are discussed only there.

**Robert Johansing** - Many developing countries are inherently risky from a political perspective. These risks may be apparent or, in many cases, are cyclic following political winds. How deep must the QP go? What are the responsibilities of the investor?

**Hamid Samari** - Does the 43-101 Technical report differ from the form of 43-101F1? **Answer:** NI 43-101 applies to all disclosure and is part of Canadian Securities Law, Form 43-101F1 is the required form of a technical report under NI 43-101.

**Anonymous** - What are your thoughts on the use of "Qualifying Properties" and their permanent roll as such? **Answer:** This is a construct of "exchange policy" we don't evaluate the merit of project.

**Anonymous** - Please comment on companies reporting resources using equivalents, and what metallurgical study and/or criteria (ex. actual production data) are acceptable and not. Thanks.

**Terre Lane** - Nice presentation, it seems you have been more specific in your requirements this year.... I am not whining, we have been trying to catch up. I hope we are making progress. One area that caught me by surprise was the new requirements for section 12. All QP's now have to provide an opinion of data accuracy. It seems metallurgical test work completed by independent labs or mine planning and design is hard to provide an opinion on data validity. **Answer:** Been part of the form (12d) since at least 2011 - feel free to give us a call, Terre.

**Anonymous** - Can I sign as a QP for Technical Report, reporting for a TSX company if I have a QP MMSA designation, I meet the requirements (except for provincial professional status) and project is in Mexico or Chile. **Answer:** First pass answer - yes, it appears so :-).

**Xavier Ochoa** - There is recurring confusion about mineral occurrences (not resource estimates) having to be added to the "Adjacent Properties" section of a TR if they are not controlled by the discloser.

**Nick Tintor** - Is there a requirement for a brokerage/bank to use an independent QP to review and sign off on the issuer's 43-101 study? Or can they rely on the issuer's QP and the author of the report?

**Anonymous** - Thanks Victoria.

**Nick Tintor** - Thanks!

### Chat Questions and Comments

From Betty Gibbs To Everyone:

This link takes you to a pdf from BCSC that gives information about Mining disclosure.  
<https://www.bpsc.bc.ca/-/media/PWS/New-Resources/Industry/Issuer-Regulation/Guidance-by-Sector/Mining/AME-Roundup-Short-Course-2021.pdf>

From Helio Darlan Araujo To All Panelists:

Good afternoon, can you please expound on the common practice of using the Chapter 24 for other relevant studies, such as PEAs, or PFSs? For instance, the TR is on a Mineral Resources Update and add a relevant study in the chapter 24. Cheers.

From Walter Weing To All Panelists:

Chris mentioned that private companies can be subject to 43-101 disclosure requirements. How is that evaluated and enforced?

From Nick Tintor To All Panelists:

Continuous disclosure has become more difficult to manage with the growing use of social media, Twitter, Facebook, LinkedIn etc. What can the issuer and QP do to make sure all these sites are compliant with continuous disclosure?

From Victoria Yehl To Everyone:

Hi Walter - with private companies we see lots of social media or website disclosure, if we see non-compliant disclosure we will send a comment letter and explain the necessity to comply.

From Walter Weing To All Panelists:

Thanks Victoria

From Xavier Ochoa To Everyone:

Victoria, if a foreign private co. is disclosing privately technical information to someone who is a public company discloser, who has to prepare the 43-101 compliant documents - the private "seller" or the public "buyer"?

From Victoria Yehl To Everyone:

Hi Xavier - a less focused answer - "it depends" but likely the publicly listed purchaser

From Xavier Ochoa To Everyone:

Thanks you very much. Very informational!

From Richard Cook To Everyone:

Thank you!