B.C.’s auditor general delivered a damning report Tuesday that concluded the province’s compliance and enforcement actions in the mining sector are not adequate to protect the environment.
The report’s chief recommendation is the creation of an independent and integrated compliance and enforcement unit outside the ministry of mines.

The recommendations add more impetus for the government to deliver on an existing promise of tougher mining safety rules and additional staff and resources.

Those B.C. Liberal government promises came in response to the 2014 catastrophic mine waste dam failure at Imperial Metals' Mt. Polley gold and copper mine in the B.C. Interior.

Provincial Mines Minister Bill Bennett on Tuesday immediately agreed to implement 16 of the auditor general’s 17 recommendations, but not necessarily move the enforcement unit outside the mines ministry.

While two earlier reports focused on the technical reasons for the dam failure and the company’s role, the auditor general’s examination was focused on the government’s role in compliance and enforcement for all mines in the province.

The two-year audit was aimed at both the Ministry of Environment and the B.C. Ministry of Energy and Mines.

“Almost all of our expectations for a robust compliance and enforcement program were not met. As a result, monitoring and inspections of mines were inadequate to ensure mine operators complied with requirements,” said auditor general Carol Bellringer.

Bellringer said the audit found a weakness in planning, a need for the two ministries to work together better, a need for more enforceable language in permits, and a lack of staff and inspections. She said there was a strong reliance on professionals hired by the companies, but no guide or policy on how government should provide oversight to those professionals.

An investigation by The Vancouver Sun last year found the province conducted only five geotechnical inspections of about 60 open and closed mines in 2010 and 2011. Inspections have increased since then.

In explaining the need to move enforcement, Bellringer said the role of the mining ministry to promote the industry creates an irreconcilable conflict within the ministry, an opinion to which Bennett took exception.

Bellringer pointed to other jurisdictions — in Queensland, Australia and in Ontario — where similar recommendations have been made.

The auditor general also found that some mining companies have not provided government with enough financial security deposits to cover potential reclamation costs if a mining company defaults on its obligations. That fund is underfunded by more than $1 billion, a liability that could potentially fall to taxpayers, concluded the report.

The auditor general team also examined the Imperial Metals’ Mt. Polley tailings dam failure, which happened in the midst of their two-year review.
Bellringer said their examination differed from other investigations as it did not focus on the mechanics of how the dam failed, but whether it was related to compliance and enforcement.

She said they determined the province’s regulators did not ensure the mine was built to design specification, noting an independent engineering panel appointed by the B.C. government found that had it been built to specifications, it would not have failed.

Bennett disagreed, pointing to the same investigation, which also found regulatory staff were well-qualified and that inspections would not have prevented the dam failure.

Bennett said they would examine moving compliance and enforcement out of the mines ministry by looking at other jurisdictions in North America and around the world. He said he was not convinced it was necessary, and senior ministry officials argued it made sense to keep permitting and enforcement in-house as it requires specific knowledge gained working within the ministry. Bennett noted work was already underway to create a board of senior officials from the environment and mines ministries, as well as the Environmental Assessment Office, to oversee compliance and enforcement.

Bennett said, however, he accepted the auditor’s report. “The message that I want to send to the people of the province today is that government agrees that business as usual is not good enough. Improvements are necessary, and significant improvements are underway,” said Bennett.

In an interview with The Vancouver Sun, mines ministry officials said that changes to beef up safety regulations were expected to be in place by the end of this year or early 2017.

Al Hoffman, B.C.’s chief inspector of mines, said new regulations will include measurable objectives that would include the need for protective sand beaches against dam walls in mine waste facilities and minimum requirements for slopes of dams.

Mining Association of B.C. president Karina Brino said there will be a cost to industry for the coming changes, but noted there is a cost for doing nothing if it increases risk.

Calvin Sandborn, legal director of the University of Victoria’s Environmental Law Centre, questioned why Bennett was not immediately agreeing to move enforcement outside the mines’ ministry given a “decade of neglect and lack of enforcement.”

ghoekstra@vancouversun.com
twitter/gordon_hoekstra