

# Consultation response

## *Part 1: Your details*

**Original language of response:** English

**Name:** Mark Compton

**Country of residence:** United States

**Are you willing to let us publish your response publicly on the Global Tailings Review website?** Yes

**Please select which stakeholder group you are representing:** Professional organization (e.g. members of the International Association of Impact Assessment)

**If 'Other', please specify below:**

**Are you responding on behalf of an organization?** Yes

**Please give the name of the organization:** American Exploration & Mining Association

**Your level within the organisation:** Executive Management

## *Part 2: Your views on each of the Principles and Requirements in the Standard*

### *Topic I: Knowledge Base*

#### *Principle 1*

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 1 do your comments relate to?**

**Your comments on Principle 1**

#### *Principle 2*

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 2 do your comments relate to?**

**Your comments on Principle 2**

### *Topic II: Affected Communities*

### ***Principle 3***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 3 do your comments relate to?**

**Your comments on Principle 3**

## ***Topic III: Design, Construction, Operation and Monitoring of the Tailings Facility***

### ***Principle 4***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 4 do your comments relate to?**

**Your comments on Principle 4**

### ***Principle 5***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 5 do your comments relate to?**

**Your comments on Principle 5**

### ***Principle 6***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 6 do your comments relate to?**

**Your comments on Principle 6:**

### ***Principle 7***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 7 do your comments relate to?**

**Your comments on Principle 7**

### ***Principle 8***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 8 do your comments relate to?**

**Your comments on Principle 8**

## ***Topic IV: Management and Governance***

### ***Principle 9***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 9 do your comments relate to?**

**Your comments on Principle 9**

### ***Principle 10***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 10 do your comments relate to?**

**Your comments on Principle 10:**

### ***Principle 11***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 11 do your comments relate to?**

**Your comments on Principle 11:**

### ***Principle 12***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 12 do your comments relate to?**

**Your comments on Principle 12:**

### ***Principle 13***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 13 do your comments relate to?**

No

**Your comments on Principle 13:**

### ***Principle 14***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 14 do your comments relate to?**

**Your comments on Principle 14:**

## ***Topic V: Emergency Response and Long-Term Recovery***

### ***Principle 15***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 15 do your comments relate to?**

**Your comments on Principle 15:**

### ***Principle 16***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 16 do your comments relate to?**

**Your comments on Principle 16:**

## ***Topic VI: Public Disclosure and Access to Information***

### ***Principle 17***

**In your view, will compliance with this Principle and its Requirements contribute to the prevention of catastrophic failure of tailings facilities?**

Yes

**Which aspects of Principle 17 do your comments relate to?**

**Your comments on Principle 17:**

### ***Part 3: Your views on the Standard***

*Your view as to whether the content of the Standard meets your expectations*

**Your view as to whether the content of the Standard meets your expectations (closed question):**

2: Falls somewhat below my expectations

**Please summarize why you chose this option:**

See our letter and comments related to consideration of existing programs and initiatives.

*Your view on whether the Standard will create a step change for the industry in the safety and security of tailings facilities*

**Your view on whether the Standard will create a step change for the industry in the safety and security of tailings facilities (closed question):**

3: Will strengthen some but not all aspects of the safety and security of tailings facilities

**Please summarize why you chose this option:**

See our comment letter.

*Does the content of the Standard address all aspects of tailings facility management adequately?*

**Does the content of the Standard address all aspects of tailings facility management adequately (closed question)?**

No

**Please explain why and/or what is missing:**

It doesn't fully address specifics of how the standard could be reasonably implemented in practice.

### ***Part 4: Suggestions for topics to be included in the accompanying Recommendations Report***

**On which topics would you expect to have further clarification or guidance in this document?**

See our comment letter with specific comments related to existing programs and implementation.

## **Other information**

**Non-fitting response text (text submitted which did was not in response to one of the questions above)**

### **Background**

AEMA is a 124-year old, 1,800-member national association representing the minerals industry with members residing in 44 U.S. states, seven Canadian provinces or territories, and 10 other countries. AEMA is the recognized U.S. national voice for exploration and represents the entire mining life cycle, from exploration to reclamation and closure. Many of our mining company and consultant members are involved in the planning, design, permitting, construction, operation, and closure of new and existing tailings management facilities. Thus, we are significant stakeholders in the development of the Standard and all the ongoing international activities designed to prevent future catastrophic tailings dam failures.

We understand that the International Council on Mining and Metals (ICMM) is a co-convenor in the development of the Standard and has provided very detailed comments, including suggested revisions to the draft Standard language. A number of our members are also members of ICMM, and we also work closely with the National Mining Association on U.S. and international issues that affect our industry. As such, we are not providing specific comments on the Standard. However, we do have a number of general comments that directly relate to the process of finalizing the Standard and preparation and review of the accompanying report.

### **Recognition of Existing Program and Other Ongoing Initiatives**

The draft Standard appears not to fully recognize that many existing programs already are in place, and work well, to ensure the safe management of tailings and prevent catastrophic dam failures like those seen in other parts of the world. In the U.S., we have had no recent failures and dam stability and overall tailings management are highly regulated by existing Federal and State programs. In Alaska, for example, the State's Dam Safety Program includes guidelines that mirror many of the principles and requirements included in the draft Standard. Additionally, national groups like the Association of State Dam Safety Officials (ASDSO) are working on their own dam safety guidelines, with support from government agencies, consultants, and the mining industry. In its comments, we understand that the Mining Association of Canada (MAC) further addresses this issue by emphasizing the strengths of their tailings management programs as well as their Towards Sustainable Mining (TSM) initiatives. This work is integrated with related efforts by the Canadian Dam Association (CDA), which serves as the Canadian National Committee of the International Commission on Large Dams (ICOLD). The failure to fully recognize the strengths of such other programs is especially problematic because of the rigorous nature of many of the proposed tailings program and management requirements in the draft Standard. In AEMA's view, the final Standard must establish the concept of "functional equivalency," i.e., allow for adherence to other programs that serve the same purposes as the Standard.

The introduction to the draft Standard specifically states that:

*An accompanying report (the 'Report') will be issued along with the release of the Standard. In addition to proposing an implementation method, the Report will address matters relating to further refinement of the Standard, development of verification protocols, harmonization with existing assurance schemes, and good governance.*

The mining industry (as well as regulatory agencies) must have the opportunity to provide specific comments on proposed "harmonization" methods. Without proper consideration of these issues across the broad range of jurisdictions in which mines operate, mining companies could be required to implement one set of requirements imposed by regulatory agencies on a project while separately having to comply with the Standard requirements. Inevitably, this could lead to even more challenges in the already difficult environment of permitting and operating new and expanded mine projects.

### **Implementation**

The draft Standard acknowledges the need to address how it will be implemented; specifically, who will be responsible for tracking compliance (or as ICMM suggests, conformance). One of the guiding principles of the Global Tailings Review (GTR) is to establish "A system for credible and independent assurance of tailings facilities." Moreover, as indicated in the above cited paragraph, GTR says the accompanying report will "propose an implementation method." We can see how this could involve something comparable to the International Cyanide Management Institute overseeing implementation of the International Cyanide Management Code. However, given the detailed requirements in the draft Standard, this could be much more problematic than independently verifying compliance with cyanide handling and management requirements. Specifically, would an independent entity simply verify that a particular program element was being implemented or would it actually assess the appropriateness of hazard classification; management decisions; construction practices; ongoing operation and maintenance; monitoring; risk assessment, minimization, and mitigation; and public disclosure and consultation? An additional question is what level of accountability would "auditors" have?

If actual engineering and/or business practice certifications are required it could be difficult to find qualified and willing resources. Such evaluations could, in theory, lead to public and/or investor driven decisions on tailings management practices that could make projects undevelopable. AEMA suggests that GTR carefully consider MAC's recommendation to make the Standard less prescriptive but allow owners/operators to set specific performance metrics and establish their own approaches towards achieving them (with appropriate public disclosure). This could help address the implementation challenges. Regardless, the entire industry should play a significant role in determining the best approach to implementation. Further, implementation issues need to be identified and resolved prior to any detailed

engineering, corporate governance, and public disclosure requirements are finalized in the Standard.

### **Conclusion**

In summary, AEMA recognizes the international demand and need for industry-wide tailings standards to minimize the risk of major failures (and ensure appropriate response planning). However, in the U.S., this must be balanced with the strength of existing tailings dam safety and management programs and lack of any catastrophic failures in the recent past. As such, AEMA and its members stand ready to work with the GTR to help ensure that the final Standard and its implementation complement, rather than duplicate or conflict with, existing U.S. programs and other ongoing national initiatives.

### ***Attachment 1 reference (if applicable)***

ref:0000001150:Q83

### ***Attachment 2 reference (if applicable)***





# American Exploration & Mining Association

16201 E. Indiana Ave., Suite 3280  
Spokane Valley, WA 99216  
(509)624-1158 - [www.miningamerica.org](http://www.miningamerica.org)

December 30, 2019

Dr. Bruno Oberle  
Chair of the Global Tailings Review

## **Re: Comments of the American Exploration & Mining Association on the Global Tailings Standard, Draft for Public Consultation, November 2019**

Dear Dr. Oberle:

Thank you for the opportunity to provide these comments on the draft Global Tailings Standard (Standard) published in November 2019.

### **Background**

AEMA is a 124-year old, 1,800-member national association representing the minerals industry with members residing in 44 U.S. states, seven Canadian provinces or territories, and 10 other countries. AEMA is the recognized U.S. national voice for exploration and represents the entire mining life cycle, from exploration to reclamation and closure. Many of our mining company and consultant members are involved in the planning, design, permitting, construction, operation, and closure of new and existing tailings management facilities. Thus, we are significant stakeholders in the development of the Standard and all the ongoing international activities designed to prevent future catastrophic tailings dam failures.

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If you have any questions, please feel free to contact me at (509) 624-1158 or [mcompton@miningamerica.org](mailto:mcompton@miningamerica.org).

Sincerely,



Mark Compton  
Executive Director