

Ontario's Modernized Mining Act

Mineral Exploration and Development

Timing of Changes

In effect at royal assent:

A revised purpose clause that encourages prospecting, staking and exploration for the development of mineral resources, in a manner consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the Constitution Act, 1982, including the duty to consult, and to minimize the impact of these activities on public health and safety and the environment.

Automatic withdrawal of Crown mineral rights under privately held surface rights in Southern Ontario.

Updated provisions for offences under the Mining Act.

Updated provisions for administering diamond royalties.

In effect after regulations are developed:

Within 1 Year

Introduction of paper staking in Southern Ontario

Criteria for application to withdraw Crown mineral rights under privately held surface rights in Northern Ontario

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Ontario's new Mining Act ensures that Ontario will continue to enjoy a vibrant minerals industry that will help many northern, rural and Aboriginal communities realize their economic and social aspirations.

At the same time, the legislation will make significant strides forward in Aboriginal consultation, provide clearer rules for industry and help reduce environmental impacts from early stage mineral exploration.

The legislation passed third reading on October 21, 2009 after extensive review through hearings held by the Standing Committee on General Government. The resulting Mining Amendment Act, 2009 received royal assent on October 28, 2009.

Ontario's modernized Mining Act introduces a graduated regulatory approach for exploration activities in Ontario.

Through this approach:

- Filing of exploration plans or permits will be required for prescribed exploration activities
- Consultation requirements will be outlined
- Environmental rehabilitation may be required for some exploration activities.

EXPLORATION PLANS AND PERMITS

Under Ontario's new Mining Act, there will be provisions requiring explorationists to either submit a plan or apply for a permit prior to accessing land to conduct prescribed exploration. Exploration will be classified according to the impact of the proposed activities on the land. This will apply to both plans and permits. The Ministry of Northern Development, Mines and Forestry will be consulting on an appropriate classification system.

This graduated regulatory system for exploration activities will be designed to accommodate Aboriginal consultation and environmental reclamation and to address the interests of private surface right owners.

Before exploration work begins, prospectors and mining companies wanting to undertake lower impact activities will submit exploration plans and abide by related rules set out in regulations. For higher impact activities, an exploration permit may be required for some or all of the activities associated with the project, through the Ministry of Northern Development, Mines and Forestry.

The government will ensure that information regarding proposed planned or permitted exploration activities will be shared with potentially affected Aboriginal communities before exploration begins. Aboriginal communities will have an opportunity to provide input as to how these activities might impact their Aboriginal and treaty rights. Exploration permits may include specific terms and conditions so that the proposed work takes into account site specific circumstances, including impacts on Aboriginal or treaty rights, potential impacts on the environment and considerations for work on privately owned surface rights.

Most other Canadian jurisdictions use some form of exploration plan or permit to regulate exploration activities.

ENHANCED WITHDRAWALS

The new amendments to Ontario's Mining Act are part of the ministry's modernization framework. By reducing or removing some of the main points of friction, this new approach will foster enhanced relationships between mineral exploration companies and both Aboriginal communities and private land holders.

For instance, the approach provides for the withdrawal of sites of Aboriginal cultural significance from claim staking. In Southern Ontario, the government has withdrawn Crown mining rights where surface rights are privately held, while respecting existing claims and leases. In Northern Ontario, private land holders can apply for such withdrawals.

MAP STAKING

The modernized Mining Act includes the introduction of map staking, anticipated over the next three to five years – starting with paper staking in Southern Ontario and moving to an online system throughout the province. This will allow claims to be staked without entering onto or disturbing the surface of the land, as well as provide equal access to land across the province for both prospectors and companies. The expertise and knowledge of prospectors together with the continued need for on-the-ground assessment work, means that investments in prospecting and exploration will remain within the local community and will continue to be a vital part of Ontario's successful approach to mineral development.

ASSESSMENT WORK

Ontario will also review its assessment work requirements to modernize allowable activities for assessment credit and find a more balanced and streamlined approach to the maintenance of mining claims within the province. This includes consulting with the industry with respect to the eligibility of payments-in-lieu of assessment work. The intent is not to do away with actual assessment work, but to consider the use of these payments selectively. Most other Canadian jurisdictions, allow for this provision which accounts for less than five to 10 per cent of total annual assessment reporting requirements.

Ontario will also allow expenses incurred for Aboriginal consultation to qualify for assessment credits to reflect today's costs of doing business. This has already been recognized by the Canada Revenue Agency, which permits certain community consultation expenses that are incurred by mining companies at the exploration stage to qualify as Canadian exploration expenses for tax purposes.

PROSPECTOR AWARENESS

To ensure that prospectors are versed in what is required under the new legislation, Ontario will become the first Canadian jurisdiction to require a prospector awareness program to obtain or renew a prospector's licence. To be clear, it is not a test or a certification program, but will be designed, with stakeholder input, to ensure that prospectors are aware of the new provisions of the Mining Act, including Aboriginal consultation requirements, as well as new regulations.

In addition, Ontario is the first Canadian jurisdiction with mining legislation that enables a dispute resolution process for Aboriginal-related mining issues.

CONTINUING THE DIALOGUE WITH STAKEHOLDERS

In developing a modernized Mining Act, we listened. We respected the input from stakeholders, and reflected that input in our amendments.

Our consultation process has not ended. As we develop regulations, the ministry will continue to provide opportunities for further input from stakeholder groups, Aboriginal organizations and the public to ensure balance achieved in the legislation is reflected in the regulatory framework for the minerals industry in Ontario. Different sections of the amended act will be proclaimed in force as relevant details are developed.

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A revised list of lands not open to claim staking and exploration.

Updated provisions to allow surface rights on claims to be used for other purposes such as renewable energy projects and protecting sites of Aboriginal cultural significance.

Within 2 to 3 Years

Exploration plans and permits that regulate earlier stages of exploration to ensure that exploration activities will be carried out with the appropriate considerations for Aboriginal consultation, private landowners' interests and remediation of disturbances to the land. Aboriginal consultation will be introduced throughout the mining sequence.

An awareness program for holders of prospectors' licences, to inform prospectors of their obligations and best practices under the new Mining Act. This will include information on requirements regarding aboriginal engagement and consultation, reclamation of exploration sites, and rules for staking claims and exploring for minerals on private lands.

Within 3 to 5 Years

Online map staking regime that maintains a competitive system for acquiring mining claims in Ontario.

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