

Modernizing Ontario's Mining Act



Ministry of Northern Development, Mines and Forestry

Overview - Plans and Permit Process

Fall 2010

Plans and Permitting Context

- Prior to the Modernization of the Mining Act there was no requirement for industry to notify or obtain authority from MNDMF for early exploration activities. This created some concerns.
 - First Nations, Métis and Surface Rights Owners wanted to understand and be informed of what was happening on the land.
 - Industry needs certainty in planning for their exploration activities
- Under Ontario's Modernized 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 early exploration activities.
- Exploration Activities will be classified according to the potential impact of the proposed activity on the land.
- Rules will be established on how these activities will be conducted and what rehabilitation will be required.

Provincial Perspective

350,000

of active claims in the Province

10 – 15

of closure plans filed annually in the Province

47

of producing mines in the province

Provincial Perspective

We anticipate, based upon previous years assessment work reports filed, receiving annually:

850 Plans*

300 Permits*

estimates

What We've Heard

- Based on input received to date, areas of common ground and points for further discussion have emerged including:

Areas of Common Ground

General

- Ensuring that proponents **consult** with Aboriginal communities early in the mineral development process.
- Administering the exploration plans and permits regime through an on-line system would be preferable and enhance transparency.
- Recognizing that most Aboriginal communities require support from the Crown to build capacity to participate in the mineral development process and access information.

Specific Activities that Require Specific Rules

- Activities such as uranium exploration, work around bodies of water and animal migration require specific rules

What We've Heard

Areas for Further Discussion

- Classifying exploration activities in the exploration plans and permitting regime to reflect impacts on Aboriginal communities and the environment.
- Clarifying specific terms or conditions that could be in scope under exploration permits.
- Clarifying appropriate Aboriginal consultation
- Determining mechanisms for dispute resolution.

Specific Rules or Conditions

- Industry prefers no duplication of existing regulations
- ENGOs recommend an approach consistent with the 'precautionary principle'
- First Nations and Métis want meaningful input and consultation on terms and conditions.

Length of Plan or Permit

- Some agreement between *Industry and ENGOs* that a plan or permit be valid between one to two years

Key Considerations

The Key Considerations of Plans and Permits include:

- Recognition and affirmation of Aboriginal and treaty rights;
- Maintain industry health and viability by establishing clear rules and clarity of timelines;
- Consideration of surface rights and other stakeholders' interest;
- Minimizing the environmental impact of mineral exploration activities;
- Minimizing the impact of mineral exploration activities on public health and safety; and
- Consultation should reflect the potential impact of early exploration activities on the land.

Potential Graduated Mining Sequence

Post-Staking

- Notice post-staking
 - Aboriginal Communities
 - SRO

Exploration Plans

(low potential impact activities)

- Providing Notice
 - Aboriginal Communities
 - SRO
 - MNDMF website (?)

Exploration Permits

(low/moderate potential impact activities)

- Consultation
 - Aboriginal Communities
 - SRO
 - Public (Environmental Registry)
 - MNDMF website (?)

Closure Planning

(for Advanced Exploration and Production)

- Enhanced Consultation

Potential Graduated Mining Sequence

Pre-Staking

- Minister consent to stake (Section 29)
- Lands not Open (Section 30)
- Withdrawals (Section 35)

Staking

- **First Nations Notification Tool**
- **Claimholder Letter**
- **SRO Notification**
- Southern Ontario Paper staking (near future)
- Map Selection (near future)

Plans

- **Notification**
- **Activities**
- **Activity Rules**
- Other federal or provincial regulatory requirements Restrictions (Section 51)
- MNDMF Facilitation of Questions
- Compliance and Enforcement

Permits

- **Consultation**
- **Activities**
- **Activity Rules**
- **Terms and Conditions**
- **Dispute Resolution**
- Other federal or provincial regulatory requirements
- Restrictions (Section 51)
- Facilitation of consultation
- Assessment Credit for consultation
- Compliance and Enforcement

Closure Plan

- **Enhanced consultation**
- **Dispute Resolution**
- Restrictions (Section 51)
- Assessment Credit for Consultations
- Other federal or provincial regulatory requirements
- Compliance and Enforcement

Education, Capacity Building, Awareness, Best Practices Guide,

Values Mapping supported by MNDMF

P&P Discussion Points

- **Activities** ~ Activities proposed for regulation in each section of the mining sequence.
- **Rules** ~ The rules that are proposed to regulate the execution of those prescribed activities.
- **Notification** ~ The proposed notification process that will occur at each stage.
- **Term & Scope** ~ The proposed duration of a plan or a permit.
- **Other Supporting Tools** ~ Reviewed in the next slide

What does this look like in a sequence?

Potential Impact →

Mining Sequence Potential Regulatory Matrix

Potential Impact	Exploration Plan (1)	Exploration Permit (6)	Closure Planning
Pre-Staking / Staking	The use of hand held & non-mechanized equipment without explosives	Requires the use of heavy mechanized equipment with the use of explosives	New or expanded mine infrastructure development
	Activities (2) <u>Low Potential Impact</u>	Activities (7) <u>Low to Moderate Potential Impact</u>	Moderate to High Potential Impact
	Plan Activity Rules (3)	Permit Activity Rules (8)	Advanced Exploration Rules
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Exploration Plans (Sec 78.2)

■ What is a Plan?

Plans are a document which allow a claim holder to carry out early exploration activities with a low potential impact.

■ Purpose?

- To inform FN & Métis Communities, Government, SRO and other stakeholders when low potential impact activities are occurring.
- To mitigate any potential impacts by applying standard rules (Prescribed Requirements) which apply to the activities no matter when or where they are carried out.

Exploration Plans (Sec 78.2)

When are they required?

When a claim holder proposes to carry out low potential impact exploration activities on their:

- Unpatented mining claim
- License of Occupation
- Mining Lease

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Exploration Plans

Prescribed Activities

What type of activities could be included in a plan?

Planned Activities have a low potential for impact with minimal intrusion on the land base. The activities are based on the use of hand held & non-mechanized equipment and do not require the use of explosives.

Planned Activities **for consideration** include:

- Ground based Geological Surveys
 - Hand Sampling
 - Ground Geophysical Surveys
 - Geochemical Surveys
 - Seismic Survey (no explosives)
- Cutting Gridlines or Baselines
- Drilling (drills <100kg)

Exploration Plans

Prescribed Activities

Ground based Geological Surveys



Electromagnetic Survey



Magnetometer Survey

Exploration Plans

Prescribed Activities

Hand Operated Rotary Drill



Non Prescribed Activities

Non prescribed Activities are those activities which do not require either a Plan or Permit from MNDMF.

In most cases, the activity is already regulated through another regulatory authority (e.g. MNR, MOE, MOH, NRCan, Federal Department of Transportation)

No Impact

Environmental Studies
Photography & Remote Sensing
Site access

Regulated through another authority

Camps
Trails
Road Construction
Explosives Use/Storage
Dewatering Pits and Trenches
Low level Airborne

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Exploration Plans

Prescribed Requirements

What is a prescribed requirement?

- The rules which apply to the submission process and to how activities are carried out.
- They are written right into the Regulations
- They can include:
 - submission information requirements
 - operating terms and conditions
 - reporting requirements
 - And rehabilitation requirements

Prescribed Requirements

Overall Scheme

PLANS	PERMITS
Prescribed General Rules applicable to all activities	
Rules specific to Planned Activities	Rules specific to Permit Activities
	Permit Specific Terms/Conditions if Necessary

General Rules

(for both plans and permits)

For Consideration:

Sensitive Features?

- Suspension of work when, for example, suspected archaeological, environmental or burial sites are discovered?

Site Condition?

- Keeping sites in a clean and tidy condition?
- Pack out what you pack in?

Other?

- Not interfering with existing access?

Exploration Plans

Prescribed Requirements

For Consideration:

Line Cutting?

- Maximum width (1.5m)?
- Use of hand held equipment (chainsaws, hand tools)?
- Any consideration given to shorelines (potential setbacks)?

Others?

- No use of explosives for Planned activities?

What does this look like in a sequence?

Mining Sequence Potential Regulatory Matrix

Potential Impact →

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Exploration Plans Notification (process for consideration)

Proposed Process for consideration

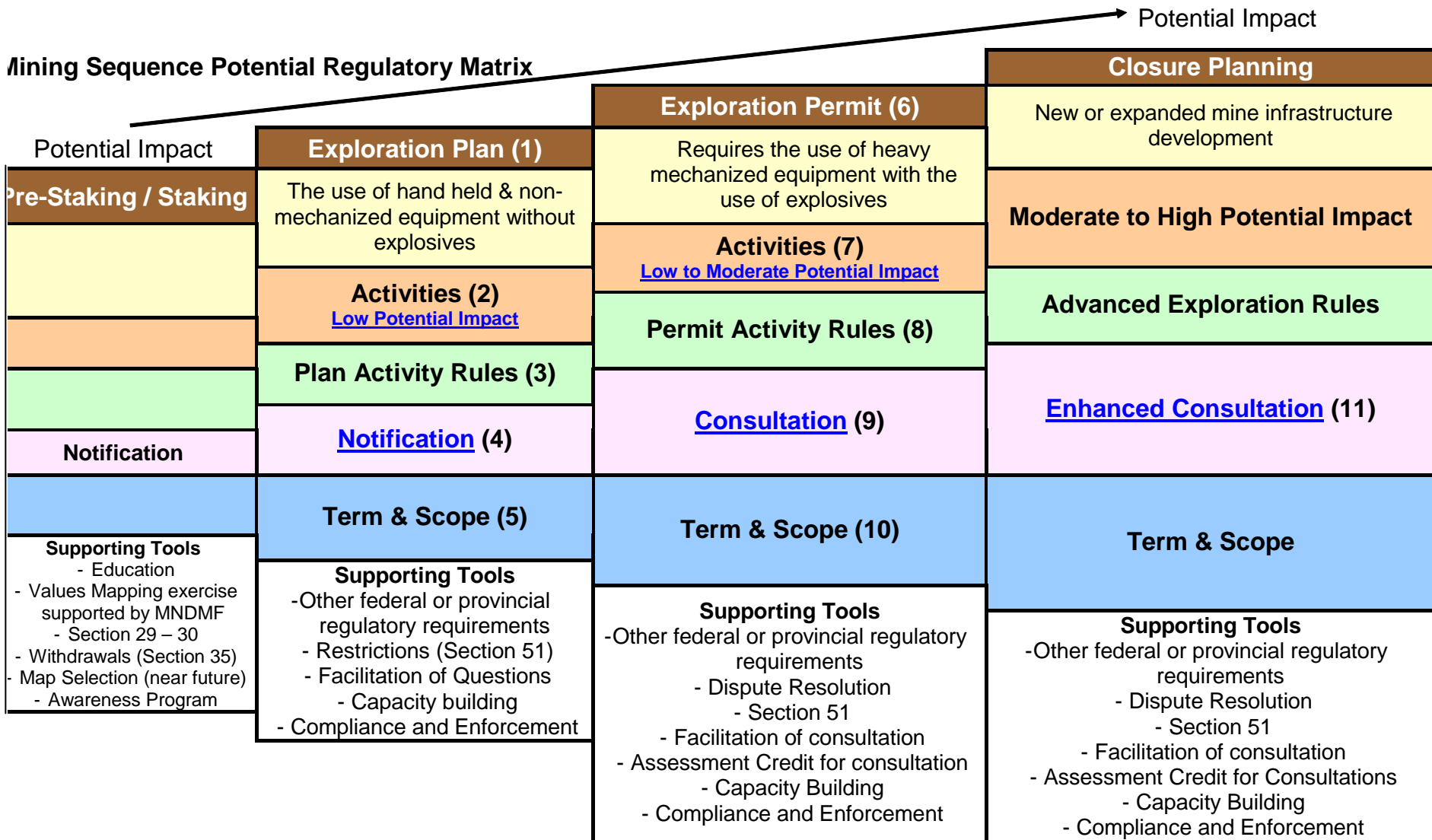
- Paper based process – filed with MNDMF

- Form of Plan to be in plain language, geared to non-technical audience
 - Proponents and/or MNDMF (?) to provide Plan to aboriginal communities, as identified by MNDMF, and Surface Rights Owners (?) at least 20 days (?) prior to commencement of activities subject to the Plan,
 - Plan summary posted on MNDMF Internet site (?) as information
 - Generic information sheets created by MNDMF to be available to further describe different types of exploration activities
 - Communities may address questions to project proponent or MNDMF

- Activities may commence after 20 day (?) notice period without further process, subject to standard prescribed requirements

Section 51, Restrictions, available to address sites of Aboriginal Cultural Significance and other values

What does this look like in a sequence?



Exploration Plan Term and Scope

The duration of a plan should reflect:

- the interests of local Aboriginal communities, surface rights holders and other stakeholders
- the operational requirements of industry

Options for Consideration:

- Short duration for specifically identified activities
- Longer duration for a range of activities

What does this look like in a sequence?

Potential Impact

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Exploration Permits (Sec 78.3)

■ What is a Permit?

Permits are an instrument which allow a claim holder to carry out early exploration activities with a low to moderate potential impact.

■ Purpose of requiring a permit?

- To consult on low to moderate potential impact activities with FN & Métis Communities, SRO and the Public (Environmental Registry).
- To mitigate any potential impacts by applying standard rules (Prescribed Requirements) which apply to the activities no matter when or where they are carried out.
- To mitigate any additional potential impacts, identified through the consultation process, by applying site specific rules (Terms & Conditions).

Exploration Permits (Sec 78.2)

Link #6

When are they required?

When a claim holder proposes to carry out low to moderate potential impact exploration activities on their:

- Unpatented mining claim
- License of Occupation
- Mining Lease

What does this look like in a sequence?

Potential Impact →

Mining Sequence Potential Regulatory Matrix

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Exploration Permits Activities

Activities requiring a permit have low to moderate potential for impact and may have more of a presence on the land base than planned activities. The activities may require the use of heavy mechanized equipment and may require the use of explosives.

Permittable activities **for consideration** include:

- Mechanized drilling (drills >100kg)
- Power stripping (<10,000 sq. metres or cubic metres/<2,500 sq. metres or cubic metres within 100 metres of a water body)
- Seismic Surveys (explosives)
- Test Pitting and Trenching (<1000 tonnes)

Exploration Permits Activities

Overburden Stripping

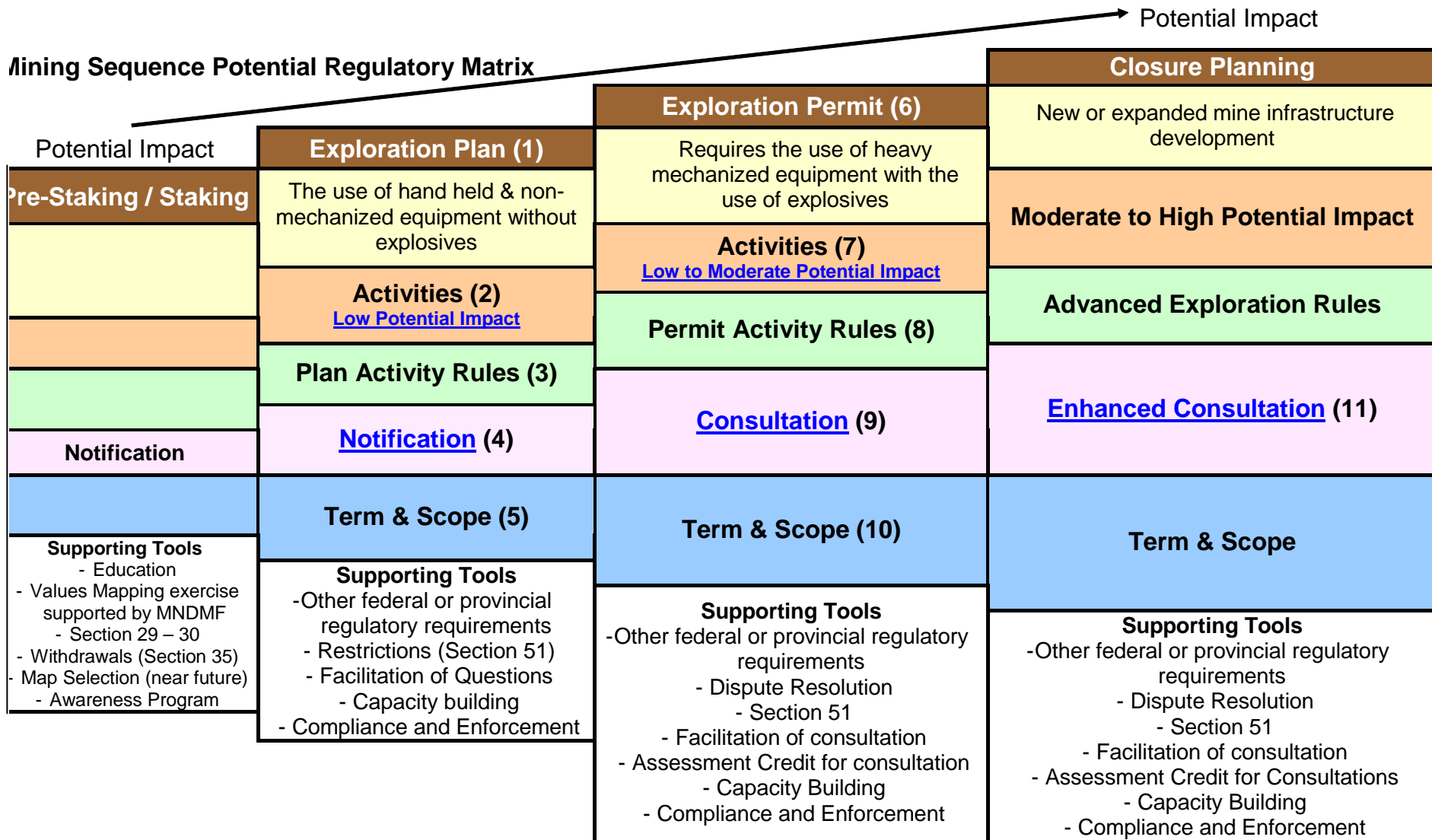


Exploration Permits Activities

Drilling



What does this look like in a sequence?



Exploration Permits

Prescribed Requirements

What is a prescribed requirement?

- The rules which apply to the submission process and to how activities are carried out.
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- They can include:
 - submission information requirements
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 - And rehabilitation requirements

Prescribed Requirements

Overall Scheme

PLANS	PERMITS
Prescribed General Rules applicable to all activities	
Rules specific to Planned Activities	Rules specific to Permit Activities
	Permit Specific Terms/Conditions if Necessary

General Rules

(for both plans and permits)

For Consideration:

Sensitive Features?

- Suspension of work when, for example, when suspected archaeological or burial sites are discovered?

Site Condition?

- Keeping sites in a clean and tidy condition?
- Pack out what you pack in?

Other?

- Not interfering with existing access?

Exploration Permits Prescribed Requirements

For Consideration:

Drilling?

- Sealing and capping drill holes?
- Storage and handling of core?
- Volumes of overburden that may be moved/disturbed for drill rig set up?
- Drill hole identification?
- Uranium?
- Restrictions on handling drilling waste by-products?

Exploration Permits Prescribed Requirements

For Consideration:

Drilling continued?

- Above ground drill hole surface casings be removed to a specified depth or cut off at surface?
- Sealing by grout all drill holes under lakes, streams, muskeg, artesian conditions or seasonally inundated areas?
- Sealing drill holes with a uranium content greater than a specified amount (e.g. the entire length of the mineralized zones; not less than a specified distance above and below each mineralized zone)?

Exploration Permits Prescribed Requirements

For Consideration:

Rehabilitation Requirements?

- Stockpiling materials for future use and rehabilitation?
- Store all overburden and waste rock at a stable slope?
- Reduction of rock faces or sloping of pit walls greater than three metres in height?
- Restoration and contouring of the disturbed area using waste rock, stockpiled overburden and topsoil?

Exploration Permits Prescribed Requirements

For Consideration:

Rehabilitation Requirements continued?

- Re-vegetation of restored and contoured areas?
- The rehabilitation work be completed within a specified time frame after completion of the work?

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Exploration Permit

Consultation

(process for Consideration)

Consultation

- Communities will be consulted on low to moderate potential impact activities

Process for consideration

- Paper-based process (moving to online delivery) – application submitted to MNDMF
- Application form to be in plain language, geared to a non-technical audience, with illustrations and maps as may be appropriate

Exploration Permit

Consultation

(process for consideration)

- Application process to take maximum of 60 days (?) from submission of application to date of decision to issue or refuse permit (a minimum of 35 days is needed to address EBR posting requirements)
 - MNDMF screen application for completeness (3-5 days?)
 - Once complete, MNDMF to forward application to aboriginal communities, SRO as identified, and post the proposal on the Environmental Registry
 - Plan summary posted on MNDMF Internet site (?) as information
 - Generic information sheets created by MNDMF to be available to further describe different types of exploration activities
 - Aboriginal communities/SRO requested to respond, in writing and copied to both MNDMF and the applicant proponent, within 30 days (?) of receipt, with concerns they may have about the potential adverse affects of proposed activities on their aboriginal or treaty rights
 - Mandatory 30 day Environmental Registry posting for all other stakeholder comments

Exploration Permit

Consultation

(process for consideration)

- Application process to take maximum of 60 days (?) continued
 - Prior to the expiry of the 30 days (?), proponents (?) will contact aboriginal communities/SROs who received the application to answer questions, or provide additional information that may be requested, in order to facilitate communities/SROs preparing their written responses.
 - If after 30 days (?) a written response is not received from one or more aboriginal communities/SRO or other stakeholders (ER), applicant proponents will contact MNDMF for further direction
 - Once responses received (or otherwise as directed by MNDMF), applicant proponents will submit a Consultation Report ? to the MNDMF, in a form to be directed by MNDMF, detailing the consultation process and their proposals to mitigate concerns raised, if any.

Exploration Permit Consultation (process for consideration)

- Application process to take maximum of 60 days (?) continued
 - Applicant proponents' Consultation Reports, containing their mitigation strategies, must be received at least 10 days prior to the decision deadline
 - Within 60 days (?), MNDMF will decide, upon consideration of all comments received, to issue or refuse a permit with the appropriate terms and conditions if required
 - If permit is refused on grounds related to consultation, reasons for the decision will be provided to the applicant proponent.

Exploration Permit Consultation (process for consideration)

- The application process may be suspended at the request of the applicant proponent at any time to allow further time to consider mitigation strategies or for any reason the applicant chooses. The process may be recommenced at the request of the applicant and resumes at the point in the process that it was suspended.
- Applicant proponents may request assistance or further direction from MNDMF with regard to responses received, or the process generally, at any point in the process
- Aboriginal Communities, SROs and other stakeholders may request assistance or information from MNDMF at any point in the process

Exploration Permit

Consultation

(process for consideration)

- Applications that are submitted with documentation of consultation that occurred prior to the submission of the application will be considered accordingly and may be eligible, at the MNDMF's discretion, for a decision prior to the usual 60 days (?).
- Applications received with documentation pertaining to any arrangements that may have been reached between applicant proponents and aboriginal communities/SROs will also be given due consideration and may be expedited through the process.
- The ER process (30 days + time to reconcile comments) will still be the minimum timeline in the case of an expedited process.

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Exploration Permit Term and Scope

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Options for Consideration:

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Closure Plans

Enhanced Consultation (process for consideration)

Pre Staking/Staking → Plans → Permits → **Closure Planning**



Advanced exploration and mine development



Potential for more significant impacts

Closure Plans

Enhanced Consultation (process for consideration)

- In advance of preparing a Plan for Consultation, proponents will confirm what aboriginal communities MNDMF identifies for consultation in the circumstances
- Proponent to file a proposed Plan for Consultation, in a form to be approved by MNDMF, ideally prepared in dialogue with aboriginal communities as identified by MNDMF, at time of filing Notice of Project Status (minimum 120 days prior to filing Closure Plan (?)).
- Are considerations the same for advanced exploration versus mine development?

Closure Plans

Enhanced Consultation (process for consideration)

- MNMDF will *provide guidance or set out guidelines* on sufficiency of proposed *Plan for Consultation?* – at a minimum, the Plan for Consultation will document:
 - How the proponent will inform aboriginal communities about the nature and details of the project (written materials, open houses, meetings);
 - How the proponent will gather information and feedback from aboriginal communities, particularly with regard to community concerns about adverse affects on their treaty or aboriginal rights (written responses, meetings, studies to be commissioned);
 - How the proponent proposes to advise and/or involve MNMDF throughout the process;

Enhanced Consultation (process for consideration)

- The Plan for Consultation may incorporate and document consultation that may have occurred prior to the filing of the Plan for Consultation and Notice of Project Status.
- The Plan for Consultation may incorporate elements of local aboriginal community protocols, as may be appropriate to the particular circumstances.
- The Plan for Consultation may refer and relate to other permitting consultation processes contemplated through One Window Planning.
- Once the Plan for Consultation has been reviewed by MNDMF and further direction provided, if any, proponents will carry out their Plan for Consultation, seeking further guidance or direction from MNDMF as may be appropriate as issues arise.

Closure Plans

Enhanced Consultation (process for consideration)

- At the conclusion of the process, and on or before the date of submitting the certified closure plan, proponents will file a *Consultation Report*, in a form to be directed by MNDMF, documenting the consultation process and mitigation strategies proposed.
- Draft *Consultation Reports* may be provided to MNDMF for review and further advice or direction prior to filing.
- MNDMF will review the *Consultation Report* and assess the sufficiency of the consultation, and accommodation/mitigation measures proposed, having due regard for any arrangements that may have been reached between the proponent and aboriginal communities potentially affected by the project.

Closure Plans

Enhanced Consultation (process for consideration)

- Proponents or consulted communities may seek advice, further direction, or facilitation from MNDMF at any point in the process, prior to the Director's decision to "file" the closure plan or earlier?
- Proponents or consulted aboriginal communities may request dispute resolution assistance, as contemplated by s. 170.1, at any point in the process, prior to the Director's decision to "file" the closure plan or earlier? MNDMF will assess that request and refer the dispute to a third party, in appropriate circumstances.
- Closure plan amendments will be assessed case-by-case and appropriate direction given to proponents as to consultation that may be required.

What does this look like in a sequence?

Potential Impact →

Mining Sequence Potential Regulatory Matrix

Potential Impact	Exploration Plan (1)	Exploration Permit (6)	Closure Planning
Pre-Staking / Staking	The use of hand held & non-mechanized equipment without explosives	Requires the use of heavy mechanized equipment with the use of explosives	New or expanded mine infrastructure development
	Activities (2) <u>Low Potential Impact</u>	Activities (7) <u>Low to Moderate Potential Impact</u>	Moderate to High Potential Impact
	Plan Activity Rules (3)	Permit Activity Rules (8)	Advanced Exploration Rules
	Notification (4)	Consultation (9)	Enhanced Consultation (11)
Notification	Term & Scope (5)	Term & Scope (10)	Term & Scope
Supporting Tools <ul style="list-style-type: none"> - Education - Values Mapping exercise supported by MNDMF - Section 29 – 30 - Withdrawals (Section 35) - Map Selection (near future) - Awareness Program 	Supporting Tools <ul style="list-style-type: none"> - Other federal or provincial regulatory requirements - Restrictions (Section 51) - Facilitation of Questions - Capacity building - Compliance and Enforcement 	Supporting Tools <ul style="list-style-type: none"> - Other federal or provincial regulatory requirements - Dispute Resolution - Section 51 - Facilitation of consultation - Assessment Credit for consultation - Capacity Building - Compliance and Enforcement 	Supporting Tools <ul style="list-style-type: none"> - Other federal or provincial regulatory requirements - Dispute Resolution - Section 51 - Facilitation of consultation - Assessment Credit for Consultations - Capacity Building - Compliance and Enforcement

What does this mean to you?

Explorationists

Plans

Answer

1. Submit completed MNDMF form outlining your intended activities.
2. Notification is provided to identified FN/Métis Communities & SRO (where applicable).
3. Activities can commence *20(?) days* after notice.

Permits

Answer

1. Engage in early consultations as a best management practice.
2. Submit completed form to MNDMF outlining your intended activities.
3. Participate in consultation activities.
4. Provide additional information on project to interested parties.
5. Consider and incorporate input, where possible.
6. Comply with the terms and conditions of the Permit.

What does this mean to you?

First Nations & Métis

Plans

Answer

1. Receive and share notice, as appropriate.
2. Request clarification or additional information from proponent or MNDMF, if required.
3. Activities can commence *20(?) days* after notice.

Permits

Answer

1. Receive and share project information.
2. Participate in consultation activities.
3. Identify concerns relating to potential impacts on Aboriginal and/or treaty rights.
4. Work with proponent & MNDMF to mitigate potential impacts, as appropriate.

What does this mean to you?

Surface Rights Owners

Plans

Answer

1. Receive notice.
2. Request clarification or additional information from proponent or MNDMF, if required.
3. Activities can commence *20(?) days* after notice.

Permits

Answer

1. Receive project information.
2. Identify project concerns relating to their specific property interests to proponent & MNDMF.
3. Participate in dialogue with proponent and MNDMF with regards to any concerns identified.

Discussion Questions ~ Plan

1. What are the must have activities which should be included on the list of Plan Activities? **Why?**
2. Given the proposed activities are nil to low potential impact, what are the must have rules we need to consider? **Why?**
3. Given the proposed scheme for nil to low level potential impact activities, what information needs to be included in a Plan submission so it is meaningful while still providing industry flexibility?

Discussion Questions ~ Permit

1. What are the must have activities which should be included on the list of Permit Activities? **Why?**
2. Given the proposed activities are low to moderate potential impact, what are the must have rules we need to consider? **Why?**
3. Given the proposed scheme on low to moderate potential for impact activities, is it reasonable and sufficient for the application to identify areas of potential activity and areas of non activity?
If so, what size should the areas be?
 - hectares?
 - Claim Unit?
 - Other?