

## MINING ACT MODERNIZATION

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The Mining Amendment Act, 2009, (Bill 173) was enacted by the Ontario Legislature in October 2009. Immediate changes to the Mining Act (Ontario) included the deemed withdrawal of mining rights, including prospecting and claim staking on private land in Southern Ontario. Other amendments have been implemented over a phased-in approach as the relevant regulations and policies have been developed by the Ministry of Northern Developments and Mines ("MNDM" or the "Ministry") following stakeholder consultation.

**Phase 1.** Implemented in 2011, Phase 1 amendments focused on private landowners, requiring notice of claim staking and, in Northern Ontario, the ability for a surface rights holder to apply to have lands withdrawn from prospecting, staking, sale or lease. In addition, map staking of claims was permitted in Southern Ontario.

**Phase 2.** Implemented in 2012 and 2013, Phase 2 amendments introduced new requirements for exploration plans and exploration permits for early stage mineral exploration, clarified the requirements for Aboriginal consultation, provided for the withdrawal from staking of locations meeting the criteria for sites of Aboriginal cultural significance and implemented the Mining Act Awareness Program as a requirement for prospector's licenses and for those supervising early exploration projects.

In addition, effective in November 2012, all applications to record ground staked mining claims in unsurveyed territory must include Global Positioning System (GPS) georeferencing data. This requirement only applies to ground staked mining claims on lands that are unsurveyed (not surveyed into lots and concessions). This is a step towards clarifying claim locations in advance of the planned move to fully electronic, on-line map staking. The Ministry has emphasized that every effort should be made to obtain accurate GPS georeferencing data for mining claims as these coordinates may be used to delineate the location of the claim after the transition to mandatory online map staking (see Phase 3 below).

**Phase 3.** Proposed Phase 3 amendments to the *Mining Act* were announced by the Ministry in May 2015. These amendments are expected to be enacted in the fall of 2015. Pursuant to the Phase 3 amendments, the Province of Ontario is proposing to implement an online mining claim acquisition process, whereby ground staking of unpatented mining claims will be eliminated and replaced by an online registration system. It is proposed that all existing mining claims in Ontario will be converted over a 120-day period, tentatively scheduled to occur in the summer of 2017.

Under the proposed new system, a prospector would go online to select predefined cells on a provincial grid map and register specific



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mining claims from those cells. The MNDM has provided a demonstration grid map on its website, although it is noted that the map is for display purposes only, is not official and is subject to change. The proposed amendments to the *Mining Act* would need to be enacted before the government could put in place a final, official version of the provincial grid.

The MNDM has stated that it will provide assistance to clients in converting existing mining claims throughout the transition period, including providing training sessions and other assistance.

The Ministry recommends that geo-referencing work should be completed on existing mining claims to guarantee the location of such mining claims upon conversion. The Ministry has expressed confidence that its georeferencing standards provide the required level of accuracy (5 meters) if properly followed by claim holders.

Potential issues resulting from the proposed conversion process may include additional assessment work requirements, if two or more existing (legacy) mining claims are located in one cell on the provincial grid map. The Ministry is aware of this problem and is considering a potential solution were assessment work requirements would be limited to \$400 per cell, which would have the effect of reducing assessment work, especially on larger claim blocks. The conversion process will require owners of unpatented mining claims to review any agreements (such as joint venture agreements) in place and consider whether additional assessment work will be required.

The Ministry has announced that there will be a four month staking hiatus during the conversion process. Industry participants have expressed concern that the hiatus period will be too long as it would restrict the ability to stake adjacent ground if a discovery occurs, which could impact on disclosure rules for reporting issuers. The staking hiatus may also impede other transactions such as transfers, assessment, distribution and new leases. The Ministry has stated that it will continue to study these issues to determine what transactions can continue during the hiatus period.