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Mining Act

ONTARIO REGULATION 45/11

GENERAL

Consolidation Period: From November 1, 2012 to the [e-Laws currency date](#).

Last amendment: O. Reg. 306/12.

This is the English version of a bilingual regulation.

INTERPRETATION

“Mine”

1. For purposes of the definition of “mine” when used as a noun in section 1 of the Act, a prescribed substance is any discharge or waste produced as a result of washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on a mineral or mineral bearing substance. O. Reg. 45/11, s. 1.

ANNUAL RENTS

Annual rent, s. 41 of Act

2. The annual rental for a licence of occupation under section 41 of the Act is \$5 per hectare. O. Reg. 45/11, s. 2.

Annual rent, ss. 81, 82 and 83 of Act

3. The annual rental for a lease or renewal lease under sections 81, 82 and 83 of the Act is \$3 per hectare whether the lease is of both mining rights and surface rights or of mining rights only. O. Reg. 45/11, s. 3.

Annual rent, s. 84 of Act

4. The annual rental for a lease or renewal lease of surface rights under section 84 of the Act is \$3 per hectare. O. Reg. 45/11, s. 4.

RATE OF INTEREST AND TAX

Rate of interest

5. Where the Act provides for interest to be charged on rentals, taxes or on amounts that the Commissioner has ordered to be paid pursuant to subsections 181 (2) and 196 (1) of the Act, the rate of interest for each calendar year is the rate of interest on January 1 of that calendar year, calculated in accordance with Ontario Regulation 310/97 (Rates of Interest) made under the *Land Transfer Tax Act* for amounts payable by a person under that Act.

O. Reg. 45/11, s. 5.

Mining tax re s. 187 of Act

6. The mining land tax payable under section 187 of the Act is \$4 per hectare per year.
O. Reg. 45/11, s. 6.

FILING DOCUMENTS

Filing documents by fax or other electronic means

7. (1) Documents may be filed at the Provincial Recording Office, or at such other office as may be specified in accordance with subsection 15 (2) of the Act, by fax or by other electronic means. O. Reg. 45/11, s. 7 (1).

(2) Documents filed by fax or other electronic means that are received in the appropriate office after 4:30 p.m. on any business day for that office, or received on any day when the office is not open for business, are deemed to have been filed at 8:30 a.m. on the next day that the office is open for business. O. Reg. 45/11, s. 7 (2).

Deemed time of filing, general

8. (1) The time of filing a document filed by fax is deemed to be the time the transmission is completed in the Provincial Recording Office, or at such other office as may be specified in accordance with subsection 15 (2) of the Act, as evidenced by the time shown on the last page of the transmission as printed in the appropriate office. O. Reg. 45/11, s. 8 (1).

(2) Documents filed by fax during a period referred to in subsection 7 (2) are deemed to have been filed in the order in which they were received in the office, as evidenced by the time shown on the last page of each transmission as printed in the appropriate office. O. Reg. 45/11, s. 8 (2).

(3) The time of filing a document by other electronic means is deemed to be the time the document is received in the Provincial Recording Office, or at such other office as may be specified in accordance with subsection 15 (2) of the Act, as evidenced by the time indicated by the receiving system in the appropriate office. O. Reg. 45/11, s. 8 (3).

(4) Documents filed by other electronic means during a period referred to in subsection 7 (2) are deemed to have been filed in the order in which they were received in the office, as evidenced by the time indicated by the receiving system in the appropriate office. O. Reg. 45/11, s. 8 (4).

Deemed time of filing, fees

9. If fees are required to be paid to a recorder in respect of the filing of a document that is being filed by fax or other electronic means, the time of filing is deemed to be the later of the time of filing determined under sections 7 and 8 and the time the fees are received in the appropriate office. O. Reg. 45/11, s. 9.

PERMISSION TO EXTRACT, TEST MINERAL CONTENT AND DISPOSE OF MINERALS

Interpretation

9.1 In sections 9.2 to 9.9,

“applicant” means the recorded holder of a mining claim who has applied for bulk sample permission or disposition permission under section 52 of the Act and includes,

(a) directors, officers, employees and authorized agents of the applicant,

- (b) partners, subsidiaries or affiliates of the applicant,
- (c) contractors or subcontractors of the applicant, and
- (d) successors and assigns of the applicant; (“demandeur”)

“bulk sample” means a quantity of mineral bearing substance extracted from an unpatented mining claim that exceeds the thresholds set out in section 9.2; (“échantillon en vrac”)

“bulk sample permission” means the Minister’s written permission to mine, mill or refine mineral bearing substance from an unpatented mining claim for the purpose of testing mineral content, pursuant to subsection 52 (1) of the Act; (“autorisation de prélever un échantillon en vrac”)

“disposition permission” means the Minister’s written permission to sell or dispose of the end product of mining, milling and refining of mineral bearing substance, pursuant to subsection 52 (4) of the Act; (“autorisation d’aliéner”)

“extraction” means the removal of material from the ground by any method, except if the removal is by the use of a drill which creates a hole not greater than 15 centimetres in diameter; (“extraction”)

“material” has the same meaning as in subsection 3 (2) of Ontario Regulation 240/00 (Mine Development and Closure Under Part VII of the Act) made under the Act; (“matières”)

“mineral bearing substance” means that part of the extracted material that is to be subjected to testing; (“substance contenant des minéraux”)

“permission holder” means an applicant to whom a bulk sample permission has been granted and includes an applicant who, in addition to a bulk sample permission, has been granted a disposition permission. (“titulaire d’autorisation”) O. Reg. 306/12, s. 1.

Thresholds

9.2 (1) Subject to subsection (2), extraction is a bulk sample subject to section 52 of the Act where the amount of mineral bearing substance extracted exceeds 100 tonnes. O. Reg. 306/12, s. 1.

(2) Where the mineral bearing substance is being extracted to test for lapidary stones, semi-precious stones or precious stones, other than diamonds, the extraction is a bulk sample subject to section 52 of the Act where the amount of mineral bearing substance extracted exceeds 100 kilograms. O. Reg. 306/12, s. 1.

Application for permission

9.3 (1) An applicant shall make an application for a bulk sample permission in the approved form. O. Reg. 306/12, s. 1.

(2) If the applicant proposes to sell or dispose of the end products of the mining, milling or refining of the bulk sample, the applicant shall include with the request for a bulk sample permission, a request for a disposition permission. O. Reg. 306/12, s. 1.

Conditions

9.4 (1) A bulk sample permission is subject to the following conditions:

1. The quantity of mineral bearing substance extracted must not exceed the quantity set out in the bulk sample permission.

2. The permission holder must comply with all requirements of the Act and its regulations and the terms and conditions of the bulk sample permission, including any deadlines for completion of the sampling project or for providing reports to the Minister.
3. The permission holder must comply with any applicable requirements for exploration plans and exploration permits under the Act with respect to the activity of extracting the bulk sample, including rehabilitation requirements.
4. The permission holder must comply with the requirements of Part VII of the Act, including the requirements for an advanced exploration closure plan pursuant to section 140 of the Act, if the extraction meets the threshold for advanced exploration. O. Reg. 306/12, s. 1.

(2) Where the bulk sample permission is with respect to the extraction of mineral bearing substance to test for diamonds and the amount of material being extracted does not exceed 1,000 tonnes, the permission may exempt the operator, as defined in subsection 154 (1) of the Act, from the requirements of subsection 14 (1) of Ontario Regulation 323/07 (Royalty on Diamonds) made under the Act, subject to the condition that the certified report required under section 9.6 includes the additional information specified in subsection 9.6 (2). O. Reg. 306/12, s. 1.

Disposition permission

9.5 Where a bulk sample permission includes a disposition permission, the permission holder shall comply with any terms and conditions that the Minister requires as part of the disposition permission, in addition to any terms and conditions that apply to the bulk sample permission. O. Reg. 306/12, s. 1.

Certified report

9.6 (1) The permission holder shall, by the date specified in the bulk sample permission, submit a certified report in the approved form to the Minister. O. Reg. 306/12, s. 1.

(2) If the bulk sample permission is with respect to diamonds, the certified report shall include the following additional information:

1. The date the bulk sample was shipped to the laboratory or other processing facility and the full name and address of the laboratory or facility.
2. The total number of diamonds recovered from the bulk sample.
3. The total weight in carats and the number of diamonds for each sieve size.
4. A description of the characteristics of each individual diamond, including,
 - i. stone dimensions,
 - ii. weight, colour and clarity,
 - iii. percentage preservation, and
 - iv. morphology. O. Reg. 306/12, s. 1.

(3) Where the bulk sample permission includes a disposition permission, the permission holder shall provide the following additional information in the certified report:

1. The amount of the proceeds from the sale of the product or mineral that is produced from the extracted mineral bearing substance.

2. The total cost of the bulk sampling project, including the costs of extracting, mining, milling, refining, testing, transporting and evaluating the bulk sample and the costs of any required rehabilitation for the extraction activity.
3. Any other information that may be required as a term of the disposition permission.
O. Reg. 306/12, s. 1.

Extensions

9.7 (1) A permission holder may make a request to extend a bulk sample permission or the deadline for submitting the required certified report in writing to the Minister at least 10 days before the expiry of the permission or the deadline for submitting the certified report. O. Reg. 306/12, s. 1.

(2) The Minister may grant an extension on such conditions as the Minister determines are reasonable in the circumstances. O. Reg. 306/12, s. 1.

Transition, applications

9.8 (1) Sections 9.1 to 9.7 do not apply to applications for a bulk sample permission that are received before the day section 1 of Ontario Regulation 306/12 comes into force. O. Reg. 306/12, s. 1.

(2) Applications for a bulk sample permission that are received on and after the day section 1 of Ontario Regulation 306/12 comes into force shall comply with sections 9.1 to 9.7 and the extraction of the bulk sample shall be done in compliance with Ontario Regulation 308/12 (Exploration Plans and Exploration Permits) made under the Act. O. Reg. 306/12, s. 1.

Transition, financial assurance

9.9 Despite the revocation of Ontario Regulation 192/06 (Permission to Test Mineral Content) made under the Act, if any financial assurance was provided for a bulk sample permission under that Regulation and the financial assurance is still held by the Minister on November 1, 2012, section 4 of that Regulation, as it read immediately before its revocation, is deemed to continue to be in effect until the earlier of,

- (a) the date when all of the financial assurance has been returned to the permission holder or has been applied to rehabilitate the project site; or
- (b) the first anniversary after November 1, 2012. O. Reg. 306/12, s. 1.

Sites of Aboriginal cultural significance

9.10 (1) Land, with a surface area of 25 hectares or less, may be considered as a site of Aboriginal cultural significance for the purposes of the Act if the following criteria are met:

1. It is strongly associated with an Aboriginal community for social, cultural, sacred or ceremonial reasons, including because of its traditional use by that community, according to Aboriginal traditions, observances, customs or beliefs.
2. It is in a fixed location, subject to clear geographic description or delineation on a map.
3. Its identification is supported by the community, as evidenced by appropriate documentation. O. Reg. 306/12, s. 2.

(2) In determining whether a site of Aboriginal cultural significance should be the subject of a withdrawal order or an order to restrict the right to the use of portions of the

surface rights of a mining claim, the Minister may consider whether other mechanisms are available and appropriate to protect the site. O. Reg. 306/12, s. 2.

MISCELLANEOUS

Notice of intention re s. 183 (2) of Act

10. (1) A person who files a notice of intention to retain an interest in surrendered mining lands under subsection 183 (2) of the Act shall, within 120 days after the filing of the notice, stake and record or cause to be staked and recorded mining claims on the lands in which an interest is to be retained. O. Reg. 45/11, s. 10 (1).

(2) The person who files the notice of intention shall ensure that the claims are staked and recorded in the size, form and manner specified under the Act. O. Reg. 45/11, s. 10 (2).

Conditions re partial abandonment

11. The following conditions apply with respect to the partial abandonment of a mining claim under subsection 70 (2) of the Act:

1. Before the notice of partial abandonment is filed, the first prescribed unit of assessment work for the claim must be completed and the report of assessment work must be filed and approved.
2. The holder of the mining claim shall file the notice of partial abandonment at least 60 days before the next anniversary date of the claim.
3. The portion of the claim remaining after partial abandonment must be contiguous.
4. Any assessment work performed on the portion of the claim being abandoned lapses upon the filing of the notice of partial abandonment unless the report of assessment work for that work has been filed and approved.
5. The amount of assessment work credits applied to the claim shall be reduced by the proportion that the area of the portion of the claim being abandoned bears to the total area of the claim. O. Reg. 45/11, s. 11.

Criteria re s. 35.1 (9) of Act

12. The following are the additional criteria for consideration by the Minister under subsection 35.1 (9) of the Act:

1. The size of the land.
2. The existing and proposed use of the surface rights. O. Reg. 45/11, s. 12.

Land open for staking under s. 35.1 (11) of Act

13. When lands in Northern Ontario have been opened for staking under subsection 35.1 (11) of the Act, the opening shall occur in the following manner:

1. The lands described in the Minister's opening order are open for prospecting, staking, sale and lease as of when the order is signed.
2. The Minister's opening order will be posted in the Provincial Recording Office and on the Ministry's website.
3. The applicant will be notified when the opening order has been signed.
4. The applicant will be notified in writing of the reasons for refusal, if the Minister does not order the lands open for staking. O. Reg. 45/11, s. 13.

Notification required under s. 189 (1.2) of Act

14. A notification by a land owner as required under subsection 189 (1.2) of the Act shall be made in writing and submitted not less than 30 days before the date of the intended change of use. O. Reg. 45/11, s. 14.

Publication of defaulters' list

14.1 (1) For the purposes of subsection 197 (2) of the Act, the Deputy Minister shall cause the second notice of default in the payment of mining land tax to be published,

- (a) by publishing it in one issue of *The Ontario Gazette*; and
- (b) by posting it on the Ministry website or on another Government website established for the posting of notices. O. Reg. 306/12, s. 3.

(2) In addition to publication under subsection (1), where the Deputy Minister considers it expedient, the second notice of default may be published in one issue of a newspaper published in the district, upper-tier municipality or local municipality in which the property is located. O. Reg. 306/12, s. 3.

Prescribed prospector's awareness program

14.2 (1) For the purposes of sections 19 and 21 of the Act, the Ministry program known as the Mining Act Awareness Program is the prescribed prospector's awareness program. O. Reg. 306/12, s. 3.

(2) The reference in subsection (1) to the Mining Act Awareness Program is a reference to the Program as it is amended from time to time. O. Reg. 306/12, s. 3.

Renewal of prospector's licence, transition

14.3 (1) If a prospector's licence would otherwise expire on the day that subsection 8 (1) of the *Mining Act Amendment Act, 2009* comes into force or within 60 days after that day, the licence is deemed to remain in effect for 60 days after the day subsection 8 (1) of that Act comes into force. O. Reg. 306/12, s. 3.

(2) A prospector's licence is deemed to be renewed as of the day following the original expiry day if,

- (a) the prospector whose licence is deemed to remain in effect under subsection (1) successfully completes the Mining Act Awareness Program and applies for a renewal of the licence before the expiry of the 60-day period the licence is deemed to remain in effect; and
- (b) the licence is renewed. O. Reg. 306/12, s. 3.

(3) A prospector's licence that is deemed to remain in effect under subsection (1) expires at the end of the 60-day period if the prospector does not successfully complete the Mining Act Awareness Program within the 60-day period. O. Reg. 306/12, s. 3.

15. Omitted (revokes other Regulations). O. Reg. 45/11, s. 15.

16. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 45/11, s. 16.

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