

***Mines Act* Permit Regulation: Deemed Authorizations and Permit Exemptions**

Questions & Answers

1. Why did government add this regulation?

Some coal and mineral exploration activities pose a very low impact to health, safety and environmental protection, provided that the requirements of the *Mines Act* and the Health, Safety and Reclamation Code for Mines in British Columbia (“Code”) are followed. These activities are routinely exempt from the permitting process by Mines Inspectors on a case-by-case basis.

By authorizing some of these activities in the regulation, we can streamline the permitting processes to focus Ministry resources on activities that are higher impact. The regulation allows proponents who currently hold a *Mines Act* permit to go ahead with these additional activities without having to go through a formal permit revision process.

2. How does the regulation work?

The regulation authorizes proponents to undertake certain additional activities if they hold a valid *Mines Act* permit. Before undertaking an activity, proponents must provide 30-day advance notice to a Mines Inspector with information requested by the Chief Inspector of Mines. The information is then referred by the Province to First Nations. A Mines Inspector can also determine that the regulation may not apply in any specific instance, in which case the proponent would need to apply for a permit revision.

3. How many fewer permit applications for coal and mineral exploration are expected as a result of the regulation?

The Ministry anticipates an annual reduction of up to 15 per cent in coal and mineral exploration permit applications.

4. How does the government know what is going on if the activities do not require a permit revision? How does the government ensure these activities are carried out according to the Code?

Prior to undertaking an activity, proponents must notify and provide required information to a Mines Inspector. The activities are subject to requirements under the *Mines Act* and the Health, Safety and Reclamation Code for Mines in BC, and Inspectors can conduct inspections if they deem it necessary. Inspectors also have discretion to determine that an exemption does not apply in any specific instance, including cases where further First Nations consultation is required.

5. Are First Nations consulted on activities within their traditional territories?

First Nations will continue to be notified and provided with information by the Province prior to the activities taking place. If a Mines Inspector has concerns about impacts of the proposed activity they have the ability to order that the regulation does not apply and that the proponent must proceed through the standard process to revise their existing *Mines Act* permit.

6. How are health and safety maintained?

Mining and mineral exploration is one of the safest heavy industries in B.C. Only activities that are low impact in nature were considered for inclusion in the regulation. Proponents will still be required to comply with all conditions and requirements of the existing permit, the *Mines Act* and the Health, Safety and Reclamation Code for Mines in BC. Activities are subject to inspection.

7. How is the environment protected?

Proponents are required to meet all of the conditions and requirements of the existing permit, *Mines Act* and Code, including requirements for environmental protection and reclamation. In addition, Mines Inspectors have the ability to order that the regulation does not apply and that the proponent must apply for a revision to their existing *Mines Act* permit. The Inspector could then add conditions to ensure environmental protection in the specific circumstances. Authorized activities are subject to inspections and compliance and enforcement.

8. How did the government determine which activities were low impact?

Government considered the health and safety record and record of environmental impact to determine whether or not activities posed a negligible impact to health, safety, the environment or cultural heritage resources.

9. How does this help reduce the backlog of exploration permits?

By removing these applications from the permitting system, Mines Inspectors can focus their resources on higher impact activities and inspections. By reducing the administrative burden on Mines Inspectors, the Ministry can increase the amount of time spent in the field conducting inspections and ensuring compliance.

10. Were First Nations and the public consulted?

A 30-day public consultation was held on the Ministry's Discussion Paper from November 22 to December 24, 2012. A discussion paper was made available on the Ministry website along with an electronic feedback form. In developing the list of exempt activities for this broad consultation, the Ministry sought input from the First Nations Energy and Mining Council, the Association for Mineral Exploration British Columbia and the Mining Association of BC. The Ministry received 37 comments from the public, First Nations, and industry during the consultation period, and, based on feedback, developed the final list of activities and conditions for inclusion in the regulation. First Nations in particular identified a strong preference for notification of activities from the Province, not proponents, and this has been included in the regulation.

11. What's different between the Discussion Paper and the regulation?

Proposed administrative name changes in the Discussion Paper were not included in the regulation. These can be dealt with through procedural policy. As well, under the regulation, exploration drill programs can only be carried out within the area of disturbance of a producing, operating mine. In order

to address concerns raised by First Nations during Discussion Paper consultation, notification will come from the Province to First Nations, not from proponents.

12. How does this link to the mineral claims issue on Pender Island? Could claims holders undertake these activities on those private lands?

A *Mines Act* permit is required before any of the allowed activities under the regulation would apply. Part of the review of a *Mines Act* permit application involves consultation with potentially affected landowners. Mines Inspectors would consider and address potential impacts to landowners before issuing a permit.

13. How does the regulation address the issues raised in the Ross River Dena v Government of Yukon decision?

In order for an activity to be authorized under the regulation, a proponent must already hold a *Mines Act* permit for which consultation with First Nations was conducted. Notification to First Nations must also occur prior to the activity being undertaken, and First Nations can raise any issues or concerns directly with Mines Inspectors. Mines Inspectors can determine that the regulation does not apply in any specific instance, in which case the proponent will be required to apply for a permit revision.

14. Why was the Ministry of Transportation and Infrastructure given an exemption from permitting in the regulation? What mining do they undertake, and how will health, safety and environmental protection be ensured?

Under the regulation, aggregate mines that are operated exclusively by or on behalf of the Ministry of Transportation and Infrastructure will be exempt from the requirement to hold a *Mines Act* permit, except in cases where an environmental assessment is required. These mines – typically involving removal of sand, gravel and rock – provide the material needed to construct and maintain highways and other provincial transportation infrastructure. The aggregate may also be used in cases of provincial emergencies, such as flooding. The Ministry of Transportation and Infrastructure will continue to be subject to all of the requirements of the *Mines Act* and the Code, and be subject to inspections.

15. Why was the aggregate exemption not included in the Discussion Paper?

Because the aggregate exemption was only provided for Ministry of Transportation and Infrastructure aggregate mines, the Ministry consulted directly with MOTI. The exemption does not change any of the requirements for consultation with First Nations or stakeholders on the creation of land reserves for these mines.

16. What work did the Ministry do to prepare for the regulation in-force date of September 1, 2013?

The Ministry worked with the Ministry of Forests, Lands and Natural Resource Operations to ensure proponents could provide all of the necessary information through Virtual FrontCounter BC. The Ministry worked with the Ministry of Aboriginal Relations and Reconciliation to ensure all First Nation participants in strategic engagement agreements with the Province are aware of the regulation and how engagement will be conducted. Written information and guidance for industry and the public has also been developed.