

Policy for Implementing Deemed Authorizations

Mines Act Permit Regulation

Introduction

The *Mines Act* Permit Regulation approved and ordered by Cabinet on March 7, 2013, establishes that certain mining exploration activities are deemed authorized under an existing *Mines Act* permit.¹ These include:

- Induced polarization (IP) surveys using exposed electrodes where an exploration permit is held;
- Mineral or coal exploration drill programs and IP surveys in the permitted area of disturbance of a producing mineral or coal mine that is currently operating; and,
- Extending the term of mineral or coal exploration activities by up to two years.

The purpose of the regulation is to allow these activities to proceed without the need to obtain a further *Mines Act* permit or permit amendment because the proposed activities pose a very low health, safety or environmental risk when carried out under an existing *Mines Act* permit. Removing these activities from the permitting process will:

- Concentrate Mines Inspector resources on higher-impact activities with respect to health, safety, environmental and cultural heritage resource protection;
- Reduce the regulatory burden on proponents of low-impact exploration activities;
- Maintain the Province's exemplary health and safety record for mining activities by ensuring high quality information, including the location and duration of these activities, is known for inspection and compliance purposes as per the *Mines Act* and the Health, Safety and Reclamation Code for Mines in British Columbia (Code).

Policy for Implementing Deemed Authorizations

Purpose of the policy:

This Ministry of Energy and Mines (Ministry) policy provides guidance and establishes procedures for implementing the *Mines Act* Permit Regulation. The policy is meant to ensure high quality consistent information is received by the Ministry from proponents across the province for purposes of referral to First Nations and *Mines Act* inspection and compliance.

Notification requirements in the regulation:

Under the regulation, proponents may undertake activities referred to in the regulation after notifying the Chief Inspector of Mines in the form and manner, and with the necessary information, required by the Chief Inspector. These requirements can be found in the Chief

¹ For more information, please refer to the *Mines Act* Permit Regulation.

Inspector of Mines' Directive on Information and Notification Requirements for Deemed Authorizations. All proponent notifications must be submitted electronically through Virtual FrontCounter BC.

General Limits on Deemed Authorizations

The part of the regulation that deems certain activities to be authorized does not apply to the holder of a permit who is subject to an order made under section 35 of the *Mines Act* (Enforcement of Act, regulations, code, permit or order) or enforcement proceedings under section 37 of the *Mines Act* (Offence and penalty).

Notification Procedure for Deemed Authorizations:

- All proponent notifications of deemed authorizations must be submitted electronically through Virtual FrontCounter BC. Once a notification is submitted, the proponent will receive an automated confirmation message.
- Proponents must submit notifications according to the timelines in the regulation (see "30 Day Notification Period" below). A notification will not be accepted through Virtual FrontCounter BC where insufficient notice is given.
- Notifications will be reviewed by regional inspections staff to ensure the information requirements have been met. This review may include confirming the appropriate geo-reference file has been provided, that the area of the existing permit and the activities that will be undertaken are within the area of the permit, etc.
- If there are quality issues with a notification (the information is incomplete, invalid, etc.), regional inspections staff may advise the proponent to submit a new notification with the required information.
- Once a notification is confirmed by regional inspections staff it will be referred to First Nations at least 15 business days (21 calendar days) prior to the end of the 30 day notification period. The referral to First Nations will include contact information for a regional Mines Inspector
- Each Ministry regional office is responsible for referring the notification to First Nations and responding to any questions raised by First Nations. If required, Mines Inspectors will provide a written response to First Nations.
- Unless a proponent has heard from a regional Mines Inspector to the contrary, the proponent may consider their notification complete and at the end of the notification period may begin the activity on or after the start date indicated in their notification.

30 Day Notification Period:

The 30 calendar day notification period begins the day a notification is received through Virtual FrontCounter BC. If a Ministry administrative review finds information deficiencies with the notification, the proponent will be advised that they need to submit a new notification with the correct information. Once submitted, the notification period will restart.

Proponents must submit notifications at least 30 days before starting an activity, or for term extensions, at least 30 days prior to the end date of the permit. If a proponent is unable to

meet the 30 day requirement, they may apply to a regional Mines Inspector for a revision to their permit instead of relying on a deemed authorization under the regulation.

Overturing Deemed Authorizations:

The Chief Inspector of Mines, including delegates, may order that a deemed authorization does not apply in respect of a particular permit if the Chief Inspector considers the order necessary to protect health, safety, the environment or a cultural heritage resource.

In making this determination, Mines Inspectors may consider various matters such as:

- specific conditions in the existing permit to protect health, safety, environmental and cultural heritage resources;
- the size, scope or location of the activity in relation to land use, wildlife or other plans;
- environmental or cultural areas or interests identified by First Nations or stakeholders during consultation on the existing permit;
- any information from provincial First Nations consultation staff; and
- potential adverse effects of the activity on treaty rights or claimed or proven Aboriginal rights or title that require further consultation and accommodation.

Where an order is made that a deemed authorization does not apply, a proponent will be required to apply for a new permit or a permit revision in order to conduct the activity. By requiring this, Mines Inspectors can ensure that where necessary, additional conditions beyond those for deemed authorizations can be required of a proponent.

An order by the Chief Inspector or delegate may be exercised at two different points:

- 1) On issuing a new permit under the *Mines Act*; or
- 2) Within 30 days of receiving a proponent's notification to carry out an activity that is deemed authorized.

Compliance with the *Mines Act*, Code and Other Legislation:

All activities deemed authorized under the regulation remain subject to the requirements of the *Mines Act* and the Health, Safety, and Reclamation Code for Mines in British Columbia, including other required reports and notifications and being subject to inspections and enforcement. Each activity becomes a component of the existing *Mines Act* permit and is subject to all conditions of the permit including any reclamation security requirements. Compliance with all other applicable statutes and regulations is also required.