



Bulletin

Extending Exclusions of Time for Claim Holders Due to COVID-19

The COVID-19 outbreak and related public health requirements are special circumstances that have created challenges for all claim holders in Ontario. Given the present uncertainty over when current health and safety measures will ease, we acknowledge that some claim holders may still be having difficulty planning or executing work programs.

The Ministry of Energy, Northern Development and Mines (ENDM) understands that exclusions can help promote public safety, particularly in remote areas, by reducing the need for travel into those areas for exploration purposes. As a result, we will continue to offer claim holders a streamlined process for processing requests for COVID-19-related exclusion of time orders under Ontario's Mining Act and for all claim holders with claim anniversary dates on or before **October 31, 2021**. We anticipate that this will be the final extension of the streamlined process for exclusion of time requests, and suggest that claimholders plan their work programs accordingly.

Claim holders with claim anniversary dates on or before **October 31, 2021**, will be given an exclusion order if they make a brief request via email citing COVID-19 as the reason the exclusion order is requested. There is no cost for COVID-19 related exclusion requests. The exclusion orders will remove the requirement to perform and file assessment work for a period of time of up to 12 months.

We ask that claim holders only apply through this streamlined process if they are experiencing issues completing assessment work due to the effects of COVID-19 and the enhanced public health and workplace safety measures currently in effect for all of Ontario.

To obtain an exclusion order, claim holders or their authorized agents must email the Provincial Recording Office at pro.ndm@ontario.ca no earlier than the 30th day before the anniversary date of your claim and no later than the anniversary date.

This email must:

- Request a specific exclusion of time period (of up to 12 months) that best suits your needs
- List the claims included in your request

In addition, to reduce the number of applications that must be submitted, your request may include claims that are due outside the 30-day window, but due on or before **October 31, 2021**, if both of the following criteria are met:

- Claims are contiguous to eligible claims due within 30 days of the request
- Assessment work credit for work that will be performed in the future is intended to be distributed to all claims listed in the request.

Important: if you have already submitted an application for a COVID related exclusion already and have claims that were not included in that application that fall within the expanded window for relief, you cannot amend that application. Instead, you must email a new request at the appropriate time.

The eligible claims you list in your request will be automatically protected from forfeiture until the ministry has processed your request. After the ministry processes your request, you will receive a copy of your exclusion order which will set a new anniversary (due) date for your claim(s) and the transaction will be entered onto the mining claim abstract(s).

Example of Email Requesting Exclusion of Time for Assessment Work

Subject Line: Request for Exclusion Due to COVID-19

Email: As claim holder/authorized agent of the claim holder, I would like to request an exclusion of time for [choose a period of time of up to 12 months] months for the following claims: [list all claims included in the request].

For more information:

Please contact the Provincial Recording Office at pro.ndm@ontario.ca or 1-888-415-9845 at extension 5742. Voicemail messages left after hours will be returned the next business day.

Other Resources:

- [Ontario Mining Act](#)
- [ENDM Policies](#)
- [ENDM Directives](#)
- [ENDM Information Bulletins and Fact Sheets](#)
- [Ontario ONE-key login to access the Mining Lands Administration System](#)

Additional information is available in the following Question and Answer

Q&As for Applications for a Minister's Order for an Exclusion of Time Due to the COVID-19 Outbreak and Related Public Health Requirements

1. What is an Order for an Exclusion of Time?

A Minister's order for an Exclusion of Time removes the requirement to carry out and report assessment work for a period of time, sets a new due date for the claim, and may set a new anniversary date.

Example: Claim 123456 is a single-cell mining claim with a due date of May 1, 2021. One unit, being a total of \$400, of assessment work credits are required to be performed and reported by May 1 every year. An order is granted for an Exclusion of Time for one year for this claim. The due date for the claim is set one year ahead to May 1, 2022, and, since the exclusion is for a one-year period, the May 1 anniversary date remains unchanged. (Note: if an order for an exclusion of time is granted for a period other than one year, a new anniversary date may be set to align the anniversary date with the due date for the claim). One unit is now due on or before the due date for the claim, May 1, 2022.

For more information, please refer to the ministry's [Exclusion of Time Policy](#) available on our website.

2. How is an order for an Extension of Time different from an order for an Exclusion of Time?

A Recorder's order for an Extension of Time grants the claim holder additional time to perform the annual required units of assessment work or file reports on such work for the applicable assessment year. The work still must be performed but the claim holder has more time to submit it. The anniversary date of the claim does not change. Extensions of Time must not be for a period of more than one year.

Example: Claim 123456 is a single-cell mining claim with a due date of May 1, 2021. One unit, being a total of \$400, of assessment work credit is required to be performed and reported by May 1 every year. An order is granted for an Extension of Time for one year for this claim. The due date for the claim is set one year ahead to May 1, 2022 and the anniversary date remains unchanged as May 1 each year. Two units, being a total of \$800, of assessment work credit are due on or before the extended due date for the claim, May 1, 2022, as \$400 of work had been due on the claim's original due date of May 1, 2021, and an additional \$400 is due for the 2021-22 assessment year.

For more information, please refer to the ministry's [Exclusion and Extension of Time Policies](#).

3. How do claim holders apply for an order for an Exclusion of Time as a result of impacts from the COVID-19 outbreak? Is there an application form?

There is no prescribed application form to apply for an order for an Exclusion of Time.

To apply, a claim holder or their authorized agent must email the ministry's Provincial Recording Office (PRO) at pro.ndm@ontario.ca requesting an exclusion of time for a period of up to 12 months and list the claims to be included in the application.

The Exclusion of Time Policy provides a recommended set of supporting information that claim holders typically must submit in order to show there are "special circumstances" that warrant an exclusion. The ministry considers COVID-19 to qualify as "special circumstances" and is simplifying the Exclusion of Time application process. No further supporting information is required at this time.

4. When can claim holders apply?

Applications for an order for an Exclusion of Time relating to the COVID-19 outbreak and related public health requirements will be accepted under section 67(4) of the Mining Act. As required by the Mining Act, **an application may only be submitted within 30 days prior to the anniversary date of the claim(s)**. In the interest of keeping land packages together, claims that are due outside of the 30-day window, but are due on or before **October 31, 2021**, may also be included if both of the following are true:

- Claims are [contiguous](#) to eligible claims due within 30 days, and;
- Assessment work credit obtained for future work is intended to be distributed to all claims listed in the application.

Complete applications must be received by the ministry's Provincial Recording Office at pro.ndm@ontario.ca no later than 4:30 p.m. on the due date of at least one of the claims in the application (see above note on contiguous claims due on or before **October 31, 2021**). Applications received after 4:30 p.m. or on a non-business day are deemed to have been received on the next business day. Applications, including claims with a due date on a non-business day, must be received no later than 4:30 p.m. on the preceding business day.

If an application is received after the due date of any of the claims listed in the application, such claim will already have been forfeited under the *Mining Act* and the claim holder will need to request relief from forfeiture. Any such requests will be evaluated in accordance with the Mining Act and [policies](#) in place at the time the request is received.

5. Are claims due within 30 days required to be contiguous to one another?

No. Claims due outside of the 30-day window that are due on or before **October 31, 2021**, are required to be contiguous to claims that are due within the 30-day window. This may result in several small groupings of claims that are contiguous within the group but not contiguous to one another as a whole. This is expected and acceptable.

Please refer to the [Assessment Work Regulation](#) (O. Reg. 65/18) for more information about requirements for contiguity.

6. Is there a fee to apply for an order for an Exclusion of Time?

There is no fee to apply.

7. How much time will be excluded in an order for an Exclusion of Time?

Claim holders may request an exclusion of time for a period of up to one year. A Minister's Order for an Exclusion of Time removes the requirement to carry out and report assessment work for a period of time, sets a new due date for the claim(s) and may set a new anniversary date.

The due date may be set to a later date up to, but not exceeding, the number of days that have been excluded. The new due date for the claim(s) will, therefore, be set up to one year ahead of the current due date.

8. Can claim holders apply for an order for an Exclusion of Time for claims due later than October 31, 2021?

At this time, the ministry is offering a simplified application process for Exclusion of Time requests on claims due on or before **October 31, 2021**. For claims with due dates on or after **November 1, 2021**, a claimholder may apply under the ministry's regular exclusion policy and the request will be reviewed accordingly. The ministry is monitoring the current public health situation and its implication for claim holders.

9. Can claim holders with limited access to a computer submit a written request through regular mail or fax instead of email?

While applications may be submitted via fax, regular mail, in person, or electronically to pro.ndm@ontario.ca, the ministry recommends electronic submissions for these and other time-sensitive requests and applications.

Ministry staff are following the physical distancing recommendations of public health officials and working remotely wherever possible. Therefore, there are limited staff in the Provincial Recording Office to receive and process paper applications. The Provincial Recording Office email, pro.ndm@ontario.ca, is monitored by several ministry staff members between 8:30 a.m. and 5 p.m. each business day who will review and process requests and applications as they are received.

10. Is there a limit on the number of claims that can be included in one application?

There is no limit on the number of claims.

Claims may be included in one application as long as they are:

1. All held by the same claim holder(s) in the same percentage
2. Have due dates within, or are contiguous to claims with due dates within, the required time frame described in [Question # 4](#)

11. Is an individual required to be an authorized agent to apply on a claim holder's behalf?

Yes. The submitting agent must have the required agent authorization permissions in the Mining Lands Administration System (MLAS) to submit a request for an order for an Exclusion of Time on a claim holder's behalf.

For information on how to complete the Manage Agent module in MLAS, please refer to the ministry's [directives](#) available on our website.

12. Are claims in danger of cancelling while an application for an order for an Exclusion of Time is being reviewed by the ministry?

No. Once an application is received by the ministry, claims will not be in danger of cancelling. Under the Mining Act, if a claim holder applies for a Minister's exclusion order within the required time, the holder's interest in the mining claim shall not cease.

Once a complete application has been received by the ministry's Provincial Recording Office at pro.ndm@ontario.ca staff will review the application for completeness. If there are no revisions or corrections required to the application, all claims listed in the application will be placed on a protective "hold" status to prevent the claims from cancelling once they surpass the due date.

The claim holder or the submitting agent (where applicable) will receive an email from the ministry confirming when this step has been completed and claims have been protected. Claims will remain in this protective status until an order has been issued.

Important Reminder: Complete applications must be received by the ministry's Provincial Recording Office at pro.ndm@ontario.ca no later than 4:30 p.m. on the due date of at least one of the claims in the application (see [Question #4](#) for a note on contiguous claims due on or before **October 31, 2021**).

13. Will an application for an order for an Exclusion of Time affect a claim holder's ability to perform or report assessment work?

Submitting an application for, and receiving an order for, an Exclusion of Time due to the COVID-19 outbreak and related public health requirements will not affect a claim holder's ability to perform assessment work.

Assessment work may only be reported on claims that are in good standing. Claim holders will not be able to report assessment work for claims that have passed their due date until the ministry has granted an order for an Exclusion of Time and set a new due date and anniversary date (where applicable) for the claims.

Claim holders and the submitting agent (where applicable) will receive an email from the ministry when this has been completed. At that time, they may take any necessary action for the claims in the Mining Lands Administration System (MLAS).

Important: Claim holders may submit reports of assessment work, pending distributions, and distributions of approved credits for claims that are on "hold." However, if doing so results in a change to the due date(s) of the claim(s), this may impact the claim holder's eligibility, as outlined in [Question #4](#), to receive a Minister's order for an Exclusion of Time.

14. Will an application for, or an order for, an Exclusion of Time affect any other transactions (e.g. transfers) in MLAS?

When an application for an Exclusion of Time is accepted and under review by the ministry, the applicable claims will show as being on a “hold” status in MLAS. The following transactions cannot be completed in MLAS when an application for an Exclusion of Time is pending review:

- Merge boundary claims
- Amalgamate mining claims
- Submit a notice of claim abandonment
- Submit a payment in place of assessment work

Claim holders who need to take actions which are permitted under the Mining Act but not possible in MLAS while an application is pending review should contact the ministry at pro.ndm@ontario.ca for assistance

Important: Claim holders are not able to complete any transactions in MLAS for claims that have surpassed their due date(s).

15. How will claim holders know that an application has been received and accepted?

The claim holder or the submitting agent (where applicable) will receive a generic email from the pro.ndm@ontario.ca account and then from the Technical Services Unit when the application has been reviewed and accepted. If the application is incomplete and requires corrections before it can be accepted, the claim holder or the submitting agent (where applicable) will receive an email from the ministry, requesting that a revised application be submitted to pro.ndm@ontario.ca.

16. Will claim holders be notified when an order for an Exclusion of Time has been granted?

Yes. The ministry will send an email to the claim holder(s) and the submitting agent (where applicable), including a letter and a copy of the order confirming that the Exclusion of Time has been granted and setting out the new due date and anniversary date (where applicable) for the claim(s).

At that time, the claims will be returned to an active status, a new due date and anniversary date (where applicable) will be set for the claims based on to the minister’s order, and a transaction will be entered onto the mining claim abstract(s).

Important: Emails from the ministry are sent to the email addresses listed in the claim holder's and agent's Client Profile in MLAS. Please ensure the contact information in the Client Profile(s) is up to date. For information on how to complete this function in MLAS, please refer to the ministry's [directives](#) available on our website.

17. How long will it take to receive an order for an Exclusion of Time?

While the ministry is unable to guarantee a timeframe within which an order will be granted, ministry staff will contact the claim holder or the submitting agent (where applicable) by email if any additional information is required from them before an order can be granted.

As noted above, the claim(s) for which valid applications are made will not forfeit while the application is pending review.

18. Will claim holders still receive automatic “Notice of Impending Forfeiture” emails from MLAS for claims that have been placed on a “Hold” status?

Yes. These emails are automatically generated and sent 30-days and 10-days before the due date of a claim.

If you have received confirmation that your application for exclusion has been accepted and your claims are on hold, you should disregard these emails and be assured your claims are protected.

19. Can a claim holder receive an order for an Exclusion of Time for a claim that has already been included in an order for an Extension of Time for the current Assessment Year?

Yes. Claim holders that are having difficulty meeting assessment work obligations due to the COVID-19 outbreak and related public health requirements may apply for an order for an Exclusion of Time within the required time frame described in [Question # 4](#).

20. Can a claim holder apply for an order for an Exclusion of Time if they have recently applied for, but not yet received, an order for an Extension of Time?

Claim holders who wish to obtain an order for an Exclusion of Time rather than an Extension of Time may send an email to the ministry's Provincial Recording Office at

pro.ndm@ontario.ca to retract the application for Extension of Time. If the claims listed in the application have not yet surpassed their due date(s), the claim holder may then submit a written request to the ministry for an order for an Exclusion of Time.

If a claim holder chooses to retract an application for an Extension of Time for claims that have surpassed their due date(s), claims that are past due will cancel when the application for an Extension of Time is retracted, and will require a Minister's order for Relief from Forfeiture under section 185(1) of the Mining Act to be reinstated.

If/when an order for Relief from Forfeiture is granted, the claim holder may apply to the ministry for an order for an Exclusion of Time within 30 days before the extended due date(s) for the claims.

21. If a claim holder has already submitted a COVID related exclusion application, can the application be amended to add contiguous claims that are due on or before October 31, 2021?

No, if a claim holder has already submitted an application, it cannot be amended; please submit a new application for those claims due after July 31, 2021 to and including October 31, 2021 at the appropriate time.