



## Proposed Amendments to Federal Metal Mining Effluent Regulations

By [Julie Abouchar](#), Partner and Certified Environmental Law Specialist  
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April 2, 2014

*Mining companies and Aboriginal communities should note the upcoming Regulations Amending the Metal Mining Effluent Regulations. The proposed amendments would allow the Detour Lake Gold Mine to use four water bodies for tailings impoundment when the capacity of existing tailings and waste rock disposal areas is reached beginning in 2019. The proposed amendments were published in the Canada Gazette Part I on February 8, 2014, for a 30-day public comment period, which ended on March 10, 2014.*

*Also noteworthy are Environment Canada's plans to streamline the approvals process for metal mines with Tailings Impoundment Areas by exempting future requests to add water bodies to Schedule 2 of the Metal Mining Effluent Regulations from publication in Part I of the Canada Gazette.*

### Context

Detour Lake Gold Mine is an open pit gold mine and ore milling facility located approximately 145 km northeast of Cochrane, Ontario, and 8 km west of the Ontario-Quebec border. The mine is located within the overlapping traditional territories of the Moose Cree First Nation, the Taykwa Tagamou Nation, the Wahgoshing First Nation and the Métis Nation of Ontario.

Detour Gold Corporation proposes a fish habitat compensation plan that would construct a pond in a nearby wetland to preserve attributes and ecosystem functions similar to the infilled habitat. The proposed amendments are required if the mine is permitted to develop as planned.

### Applicable Legislation

The Metal Mining Effluent Regulations (MMER) under the federal *Fisheries Act* came into force on December 6, 2002. The MMER require mining operations to limit the concentrations of specified deleterious substances in effluent and to prohibit the discharge of effluent that is acutely lethal to fish. They also permit Fisheries and Oceans Canada to approve the use of natural water bodies frequented by fish for mine waste disposal. This is done by adding the identified water bodies to Schedule 2 of the MMER by amendment. The proponent of a successful amendment must also develop, implement and monitor a fish habitat compensation plan to offset the resulting habitat loss, and submit an irrevocable letter of credit to cover the plans implementation costs.

### Amendments Sought

Detour Gold Corporation seeks to add to Schedule 2 of the MMER four natural water bodies in Ontario that are frequented by fish

- ◆ one pond and a portion of a creek for expanded tailings disposal and
- ◆ the portions of two other creeks for expanded waste rock disposal.

It also proposes a fish habitat compensation plan that would result in a 0.13 hectare gain in fish habitat through the construction of a pond in a nearby wetland.

## **Assessment**

The Canadian Environmental Assessment Agency conducted a comprehensive study of the proposal and its alternatives as part of the federal environmental assessment process under the former *Canadian Environmental Assessment Act*. Other options for both tailings and waste rock disposal were considered, but were considered not viable due to disadvantages including increased hauling distances, higher dams and water management infrastructure needs.

## **Streamlining TIA Approvals**

Note that Environment Canada proposes to streamline the Approvals Process for Metal Mines with Tailings Impoundment Areas (TIA). Environment Canada plans to exempt future requests to add water bodies to Schedule 2 from publication in Part 1 of the Canada Gazette if the federal government has concluded that, based on an environmental assessment and taking into account mitigation measures, the project is not likely to cause significant adverse environmental effects.

Conditions for exemption would also include

- ◆ public and stakeholder comments on the water body listed
- ◆ an assessment of alternatives to the proposed TIA
- ◆ considering costs and public comments
- ◆ consultations on the fish habitat compensation plan
- ◆ any other information considered relevant to facilitate the regulatory process, and
- ◆ Aboriginal consultation.

***Julie Abouchar is a partner at Willms & Shier Environmental Lawyers LLP in Toronto and is certified as a Specialist in Environmental Law by The Law Society of Upper Canada. She can be reached at 416-862-4836 or by e-mail at [jabouchar@willmsshier.com](mailto:jabouchar@willmsshier.com).***

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