***11 comments that the CCFMS feels are critical to the Ontario Hobby Mineral Collecting Guide***

***General Comment***

* A revision to the policy in the original 1990s Mineral Collecting in Ontario booklet was begun due to a change made in 2009 as part of “modernizing” the [Mining Act](https://www.ontario.ca/laws/statute/90m14).
* As part of the “modernization” process, all mining rights where the surface rights were privately held in Southern Ontario, including the Bancroft and Haliburton areas where hobby mineral collecting is a significant contributor to the local economies, were withdrawn from staking under Section 35.1 of the *Mining Act*.
* This withdrawal had the unintended impact of meaning that hobby mineral collectors could not collect anywhere in Southern Ontario where the surface rights were privately held and the mining rights were held by the Crown – even if the surface rights holder gave collectors their permission to collect on their properties.
* The whole purpose of redoing the guide was to enable mineral collecting on privately owned surface rights affected by this withdrawal if the owners of the surface rights gave their permission. This was consistent with the policy in the original 1990s Mineral Collecting in Ontario booklet.
* The CCFMS recommends as strongly as possible that the critical section in the 2014 draft reviewed by the CCFMS that addressed this, and enabled hobby mineral collecting to go on in these areas be reinstated.
* It reads “*However, in the case of mining rights withdrawn under section 35.1, and consistent with the intent and nature of the withdrawals and the purpose of this Policy, the Ministry will exercise enforcement discretion with hobby mineral collectors who are carrying out their activities as described in this Policy on lands withdrawn pursuant to section 35.1*.”
* The CCFMS addresses this again in its comment (below) under the heading “*Page 5, Where hobby mineral collecting can not be done*.”

***Page 3, Background***

* The third paragraph ends with the following: “…*the ministry will not enforce the requirements of the Act and its regulations where a person is hobby mineral collecting in accordance with this guide on lands where the mining rights are open for mining claim registration. These guidelines are further described below*.”
* The CCMFS recommends that this section be ***abbreviated*** to read “…*the ministry will not enforce the requirements of the Act and its regulations where a person is hobby mineral collecting in accordance with this guide.*”
* The CCFMS further recommends that a section that was included on the second page of the draft Mineral Collecting Policy reviewed by the CCFMS in 2014, which explains there are two rights in land (i.e., surface rights and mining rights) be added to the Guide to Hobby Mineral Collecting.
* Many – or perhaps most – people do not realize that there are two rights in land. Adding this explanation will provide context that will help readers better understand the direction provided by the Guide.

***Page 3, About hobby mineral collecting – third bullet***

* This bullet states “*the collector has no intention of selling, and does not sell, the minerals collected*.”
* In the version reviewed by the CCFMS in 2014, the equivalent clause reads *“the collector has no intention of selling, and does not sell* ***commercially****, the minerals collected*.” The word “commercially” has been dropped from the current version.
* Later in the section on hobby mineral collecting (page 4), the guide states that “*the exercise of enforcement discretion also include(s) the practice of swapping minerals collected as part of building a collector’s personal collection*.”
* This practice can include the sale of a self-collected specimen to one collector so that the money so acquired can be used to purchase a self-collected specimen from another collector, even though neither collector intended to, or did sell self-collected specimens commercially.
* The CCFMS asks that the word ***commercially*** be returned to the third bullet.

***Page 4, About hobby mineral collecting***

* The 2014 draft of the Hobby Mineral Collecting Policy reviewed by the CCFMS included the clause “*For the purpose of this Policy, the terms “panning” and “fossil collecting” are interchangeable with, and mean the same thing as hobby mineral collecting*.”
* The draft Hobby Mineral Collecting Guide posted on the Environmental Registry makes no reference to either panning or fossils.
* The CCFMS recommends that – for the sake of clarity – the clause indicating ***hobby mineral collecting is consistent with and interchangeable with panning and fossil collecting*** be added to the current Guide.

***Page 4, About hobby mineral collecting – examples of tools***

* There is a bullet that states “*examples of hand tools can include crowbars, picks, axes, shovels, sledge and small hammers*.
* Axes are never used in support of mineral collecting, and may represent a danger to collectors and those around them.
* “Small hammers” may be interpreted to mean carpenter’s hammers or other such tools. It can be dangerous to use a carpenter’s hammer when mineral collecting because the steel is not designed for such use.
* The CCFMS recommends that this be revised to read “*examples of hand tools can include crowbars, picks, shovels,* ***sledgehammers, geological hammers, and chisels***.”

***Page 4, Where hobby mineral collecting can and cannot be done***

* The first sentence under each of these headings states that “*hobby mineral collecting can only be done on lands where the mining rights are open for mining claim registration*.”
* The foregoing statement appears to be inconsistent with the information in the two bullets at the top of page 6.
* Both bullets indicate that hobby mineral collecting CAN be done where the mining rights are held by third parties (i.e., are not open for mining claim registration because the mining rights have already been registered) if the holder(s) of the mining rights and the surface rights, where applicable, give their permission.
* The CCFMS asks that ***this inconsistency be resolved*** – perhaps by changing the words “*open for mining claim registration*” both here, and elsewhere in the draft Guide.

***Page 5, Where hobby mineral collecting cannot be done***

* The second bullet at the top of the page indicates that hobby mineral collecting cannot be done “*when lands have been withdrawn from prospecting, mining claim registration, sale or lease under the Act*.”
* The whole purpose of redoing the policy in the original Mineral Collecting in Ontario booklet was to introduce a provision that would resolve the unintended consequences of *Mining Act* modernization when the mining rights of properties in Southern Ontario where the surface rights were privately held were withdrawn from staking – thereby, making them off limits to hobby mineral collecting.
* The 2014 version of the Mineral collecting policy reviewed by the CCFMS included the following critical statement. “*However, in the case of mining rights withdrawn under section 35.1, and consistent with the intent and nature of the withdrawals and the purpose of this Policy, the Ministry will exercise enforcement discretion with hobby mineral collectors who are carrying out their activities as described in this Policy on lands withdrawn pursuant to section 35.1*.”
* This provision is missing from the version of the draft Mineral Collecting Guide posted on the Environmental Registry.
* The CCFMS maintains that the missing provision is an essential part of Ontario’s direction to hobby mineral collectors, and asks in the strongest possible terms that it be included in the final version of the Hobby Mineral Collecting Guide.

***Page 6 – Respecting landowners’ rights when hobby mineral collecting***

* This section indicates that “*hobby mineral collecting opportunities may exist on lands other than lands where the mining rights are open for mining claim registration*.” It goes on to list several instances where third-party interests may exist.
* One thing that is missing in the draft Hobby Mineral Collecting Guide is an indication that where there are no landowners (i.e., both the ***mining rights and surface rights are vested in the Crown***) no permissions are required for hobby mineral collecting.
* The CCFMS recommends the foregoing information be added somewhere in the Hobby Mineral Collecting Guide.

***Page 6 – Respecting landowners’ rights when hobby mineral collecting***

* The last clause states “*Any arrangements reached between the hobby mineral collector and the third-party interest holder regarding access, timing, extraction methods, and otherwise are considered private as between them, and the ministry has no regulatory control or involvement*.”
* This clause would seemingly allow hobby mineral collectors to use collecting methods (e.g., power saws and micro-blasters) where the surface rights are privately held and the third party holding the surface rights agrees, even where the mining rights are held by the Crown. In other words, it would seemingly allow mineral collectors to use collecting methods held that would not be allowed under the provisions listed on page 2 under “About hobby mineral collecting.”
* The CCFMS recommends that this ***inconsistency be reconciled*** to avoid confusion on the part of hobby mineral collectors.

***Page 6 – Contact***

* The fourth paragraph of the Offences and penalties section states “*It is the hobby mineral collector’s responsibility to confirm their legal obligations*.’ The “*Contact*” section that follows provides only a very general direction to contact Mining Lands Section.
* This direction may result in the ministry receiving many annoying calls from people who don’t know what is available to them, or what to ask for.
* The CCFMS recommends that an updated version of the informative ***“Where to Find Information” section*** that was included in the 2014 draft Mineral Collecting Policy ***be added*** to the Hobby Mineral Collecting Guide to assist collectors, and to minimize the number of public inquiries that the ministry will have to handle.

***Page 7 – Terms and definitions***

* There are a number of ***definitions*** in this section, most of which have been copied directly from the *Mining Act*.
* The CCFMS recommends that – for clarity – the references to “*subsection 38 (2)*” and “*section 38.2 or 38.3*” be modified to read “*subsection 38 (2) under the Mining Act*” and “*section 38.2 or 38.3 of the Mining Act*” to differentiate them from the later references to the *Aggregate Resources and Mining Modernization Act, 2017*.
* The CCFMS also recommends that definitions of patented and unpatented land be added to this section for clarity.
* These were included in the 2014 draft of the Hobby Mineral Collecting Policy reviewed by the CCFMS.