

Key Issues for New Mining Legislation

General

- Having quartz and placer mining in one piece of legislation is problematic. They are different activities, conducted in different ways. Putting them together will create confusion and misunderstanding. Responses to the NML survey will likely differ depending on whether the question relates to placer or quartz mining.
- Lumping closure and abandonment in the same section of legislation perpetuates current misunderstandings about mining processes.

Mineral Tenure – Disposition and Acquisition

- Tenure must be a non-discretionary legal right when claims are staked correctly. Security of tenure is paramount.
- Staking needs to be for miner-like purposes and not for land speculation.
- Land should be open for exploration activity purposes, unless there is a specific sensitivity in an area that requires protection.
- The stages of a mining project (exploration and prospecting through production and closure) are often conducted by different parties because granting tenure in stages can jeopardize the value of the resource for potential future parties.

Mineral Tenure – Maintenance

- Type of work and rates should have the goal of encouraging new technology and best practices that are environmentally and socially acceptable by Yukoners.
- Industry would prefer that limits are not applied to duration of tenure or credits, however if they are, then limitations should be developed in coordination with industry with clear and objective supporting rationale so as to not discourage investment, but rather foster a healthy and competitive mining industry.
- The ability for the regulator to provide relief from requirements will support industry should there be another 'pandemic' like situation.
- Establishing clear rules for expropriation (including acts of regulatory taking and alienation) and compensation of mineral tenure is extremely important. The process needs to be transparent, and the creation of the rules should involve industry.

Licensing and Regulatory Alignment

- There may be some merit to changing the Class system, however industry would need to be very involved.
- Processes for expedited renewals or extensions of authorizations when authorized activities have not yet occurred would be a positive change.
- Information requirements for licences should not be enshrined in legislation, as these should evolve over time to reflect modern and current best practice. However, clear guidance and requirements for applications, and standard terms and conditions for common activities via policy documents, information bulletins, and the like, would be positive actions.
- Where the Crown has a duty to consult, they should be doing it earlier in the process so as not create timeline delays in instances where proponents have already met the community or First Nations' expectations for proponent-led consultation and engagement activities.

Compliance, Monitoring and Enforcement

- There needs to be a fully understood and supportive outcome-based adaptive management approach adopted for reclamation and monitoring activities, and environmental standards, etc.
- There is support for more tools and escalating responses, including escalating penalties for bad actors.

Financial Security

- Determination of security should be transparent and predictable and enable completed progressive reclamation to be credited.
- The security component for the various mining stages needs to remain competitive.
- Offsets should be considered when calculating security.

Royalties

- Any royalty regime must ensure Yukon can remain competitive in Canadian and global markets, taking into consideration the increased costs involved in exploration and mining in the North.
- Net Profits Royalty is preferred for Quartz as it provides for clear calculations, it is competitive with other jurisdictions, and it allows for flexibility and accounts for costs and rising inflation rates through allowable deductions.
- A royalty regime must look at how royalties are part of a larger picture of financial and other implications for operators and take into consideration the benefits mining brings to communities and governments, through employment, taxes, investments, etc.
- A royalty regime should be flexible, in order to change with markets or identified priorities (e.g., critical minerals).

Reclamation

- Reclamation of abandoned sites should be considered in a stand-alone section.
- Reclamation (including revegetation) objectives, criteria and indicators should be established.
- There must be a clear process for crediting/refunding financial security when activities outlined in the current reclamation and closure plan (RCP) are completed, which will incentivize early completion.

Closure and Abandonment

- Closure and abandonment are not the same thing and should be in separate sections.
- Monitoring and reporting requirements should be site-specific (i.e., generic timelines/frequencies should not apply).
- Clearer guidance is needed on Certificates of Closure, the closure of specific types of infrastructure and the changing technology being used in the Yukon, and on risk management, temporary closure, and adaptive management approaches.
- YG and the Water Board need to be aligned on RCP requirements and associated security, with YG having final approval.
- Once in production, RCPs should be updated when necessary to reflect changes from project-specific developments or conditions in the approved plan.

Resource Revenue Fund

Yukon should investigate whether to develop a Resource Revenue Fund. There are many examples from other jurisdictions on aspects that have or have not been effective.

Decisions, disagreements, public involvement, and transparency

- Processes must be implemented that are time bound and do not cause undue financial hardship on industry and stakeholders (including investors, project partners), while waiting for outcomes and decisions to advance a project.

Mining Agreements

- The decision to enter into agreements needs to be at the discretion of individual parties, without any legal requirement.
- Both industry and First Nations have legitimate interests in keeping these agreements confidential, should they choose to.

Socio-economic Considerations

- Socio-economic issues are fundamental to the YESAA process, and as a result socio-economic management plans can be identified in the QMA for major mines.
- Governments need to gather and publicly report on current socio-economic information for use by proponents when undertaking project planning and design.