

QUARTZ MINING ACT REVIEW: MINING CLAIM ADMINISTRATION



DECEMBER 2007

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1.0 Introduction

This paper describes proposed changes to the administrative regime under the *Quartz Mining Act* (QMA) and invites your input on these proposed changes.

In November 2007, EMR was given a mandate to begin targeted discussions on specific changes to the QMA. This review is taking place in two stages.

- 1) Stage one is focusing on changes to the claim administration process.
- 2) Stage two will focus on possible changes to the royalty provisions of the QMA.

This discussion paper deals only with Stage one - the claim administration process. Stage two will be conducted at a later date..

Neither the Stage one or Stage two reviews will affect the basic tenants of the free entry system or mineral tenure that is currently provided for in the QMA.

The proposed Stage one changes are intended to streamline claims administration, allow government to be more responsive to an evolving industry and encourage investment. Through this initiative, the Yukon government expects to facilitate cost savings to industry and government, while at the same time maintaining a competitive position in Canada's mining industry.

1.1 Background

The Department of Energy Mines and Resource's (EMR) mandate is to promote the growth and development of the natural resource sectors of Yukon's economy while also ensuring that development is sustainable and respects the values that Yukoners place on the physical, natural and cultural environment. The regulatory regime for quartz claim administration including staking, recording and renewals along with licenses, leases and royalties is administered by the Mineral Resources Branch. In conjunction with the claim administration, the branch also administers the mining land use regulations which provide land use control and mitigation for quartz mining activities on claims.

The sections of the QMA dealing with mineral title and claim administration have not changed substantially for 100 years. This has created problems when trying to interpret the legislation in light of current mining practices, evolving technology and changing public laws.

Mineral exploration and mining are high risk capital intensive industries. In the Yukon, as is the case elsewhere in the North, the risks of mining are compounded by remote locations, limited infrastructure and challenging climate and logistics. Mineral investment is an important source of revenue through investment taxation and economic spin-offs. The amount of spending by mineral exploration companies in the Yukon is projected at \$140 million for 2007; up from \$80 million in 2006.

Recent increases in staking and exploration activity has revealed that the process entails a large volume of administrative paperwork for Mining Recorders and claim holders. Yukon currently administers more than 80,000 active quartz claims throughout four mining districts.

The proposed changes to the legislation are administrative and will not affect the rights of claimholders or the basic tenants of the free entry system contained within the QMA. The

intent of the changes is to make the business of claim staking more efficient and less costly.

There were three initiatives in recent years that helped to identify some of the issues with the current administrative regime of the QMA. These include:

- 1) A review by the Mineral Rights Task Force. The Task Force, consisting of EMR and industry representatives, was created in 2004 to identify ways in which the administrative process of the QMA could be streamlined and simplified. The final Task Force Report was released in November 2004 and highlighted a number of administrative changes for government to consider.
- 2) A survey commissioned by the Yukon Chamber of Mines in the spring 2005. The Yukon Chamber of Mines commissioned Datapath Systems of Whitehorse to conduct a survey of their members with regard to seven of the issues identified in the Task Force Report.
- 3) EMR undertook a review in the summer of 2007 to identify administrative changes that could provide additional value.

The results of these initiatives form the basis of the changes being proposed in this report. Items being considered for amendment had to demonstrate a decrease in costs, increase in efficiency, and a reduction in administrative burden for industry and government. Changes to sections that were identified as substantive and could be considered to constitute a regime change are not included in this review of the QMA.

1.2 Review Process and How to Provide Your Input

Copies of the discussion paper are available on our website at www.yukonmining.com or at any of the four district Mining Recorder's offices.

The review process for this paper will involve the following steps:

- 1) Discussions with industry and environmental organizations, First Nation governments and individuals will occur in January and February.
- 2) A public open house is planned for Whitehorse in February. The specific date and time will be determined. Watch the local paper for the date, time and location.
- 3) Provision of written comments. A section has been provided at the end of the discussion paper where you can comment on the proposed changes. If you require additional space, please provide your comments on a separate piece of paper and note the section number beside your response.

Your comments may be dropped off at the Mining Recorder's offices, or at 400-211 Main Street, Whitehorse. Other ways to submit your comments are:

Email: mining@gov.yk.ca.

Fax: (867) 456-3899

Mail: Mineral Resources Branch K-9
Quartz Claim Administrative Review
Box 2703
Whitehorse, Yukon Y1A 2C6

**COMMENTS ON THE DISCUSSION PAPER WILL BE ACCEPTED UNTIL:
February 29, 2008.**

For more information about the review contact Bryony McIntyre, A/Manager, Mineral Planning and Development at (867) 667-3422.

Next Steps:

Review Period:	December 2007 through to February 29, 2008
Compilation of Comments:	March 2008
Revisions to and Development of Legislative Amendments	Spring 2008
Introduction of Amendments in Legislative Assembly	Fall 2008

2.0 Proposed Changes to the Quartz Mining Act Claim Administration

The following outlines the sections of the *Quartz Mining Act* (QMA) proposed for change, the current statutory requirement, as well as the implications of the proposed changes being discussed.

2.1 Forms and fees

Current Section(s):

Various forms are required under sections of the QMA. They are listed under Schedule 1 and Schedule 2 of the Act, and include:

- a) Form 1, Section 44 - Application for a Full Claim
 - Form 2, Section 44 - Application for a Fractional Mineral Claim
 - Form 3, Section 41 - Record of a Mineral Claim
 - Form 4, Section 56 - Application for Certificate of Work
 - Form 5, Section 56 - Certificate of Work
 - Form 6, Section 55 - Certificate to Group Claim for the Performance of Work
 - Form 7, Section 70 - Certificate of Improvements
 - Form 8, Section 70 - Notice
 - Form 9, Section 70 - Application for Certificate of Improvements
 - Form 10, Section 70 - Mining Record's Certificate
 - Form 11, Section 87 - Survey Notice
- b) The Schedule of Fees is contained within Schedule 2 (Section 104).

Proposed Changes:

- a) Remove Schedule 1 (which contains Forms 1-11) from the Act and require that similar forms are either prescribed by regulation or approved by the minister.
- b) Remove Schedule 2 Schedule of Fees from the Act and require that a similar form be prescribed by regulation.

Implications:

We are proposing to remove Forms 1-11 and the Schedule of Fees from the statute and either place them in a regulation or have them approved by the minister. This will simplify the process of updating or amending the forms or Schedule of Fees and allow government to be more responsive to client needs, new requirements and changing technologies (e.g. e-business). Placing the Schedule of Fees in a regulation will also allow this Schedule to be consistent with other government administrative fees. There are no plans to change the fee schedule at this time.

This change will require all sections of the QMA that refer to the forms to be amended to reflect either that the form will be prescribed by regulation or approved by the minister.

2.2 Size of posts

Current Section(s):

2. (1) In this Part,

“legal post” means a stake or post of any kind of sound timber of sufficient length so that when firmly planted in the ground in an upright position, not less than four feet of such post is above ground, and the post must be of such diameter that when squared or faced for eighteen inches from the top end, each face of the squared or faced portion is not less than four inches in width across the face for the full eighteen inches or, if a tree of suitable size is found in position, it may be made into a post by cutting the tree off not less than four feet from the ground and squaring and facing the upper eighteen inches each face of the portion so squared or faced to be not less than four inches in width, and, whether a post is planted or a stump of a tree is made into a post, a mound of stones or earth shall be erected around the base of the post, which mound of earth or stones shall be not less than three feet in diameter on the ground and not less than eighteen inches high, cone-shaped and well constructed;

Proposed Changes:

Change the size of the allowable post to provide for the use of 3.5” x 3.5” posts. This would enable the use of milled 4” x 4” posts.

Implications:

An issue that has been raised by various stakeholders is the use of a smaller post size for claim posts. However, smaller posts would not be large enough for legible inscriptions, they may be harder to locate, and they might deteriorate faster than 4 x 4 posts. Use of slightly smaller posts (3.5”x 3.5”) is a reasonable compromise and it will enable claim stakers to use lumber readily available at any lumber yard.

The use of lumber, purchased from a lumber yard, will reduce the costs of posts and reduce the need to custom build 4” x 4” posts.

2.3 Particulars of inscriptions

Current Section(s):

34. (1) Particulars of all inscriptions put on post No. 1 and post No. 2 shall be furnished by the locator of a mineral claim to a Mining Recorder in writing at the time the claim is recorded and shall form a part of the record of the claim.
- (2) The locator of a mineral claim shall submit with their application for recording the claim a plan in **duplicate** showing as clearly as possible the position of the location applied for in its relation to the prominent topographical features of the district and to the adjoining claims or any other known point and the position of the stakes by which the location is marked on the ground.

Proposed Changes:

- a) Remove the provision for submitting a claim plan in duplicate with the application to record a claim. A single copy of the claim plan would be submitted.
- b) Recommend that GPS coordinates be submitted with the plan; however this would not be included in the statute amendment.

Implications:

This change would require only one copy of a claim location map to be submitted to the Mining Recorder. This will eliminate unnecessary paperwork for both the client and the Mining Recorder.

2.4 Delays for recording mineral claims**Current Section(s):**

41. (1) Every person who locates a mineral claim shall record it with the mining recorder for the district in which the claim is situated within fifteen days after the location of it if it is located within ten miles of the office of the mining recorder.
- (2) One additional day shall be allowed for every additional ten miles or fraction for recording a claim under subsection (1).
- (3) The record of a mineral claim shall be made in a book to be kept for the purpose in the office of the mining recorder in which shall be inserted the name of the claim, the name of the locator, the locality, the direction and length of the line from post No. 1 to post No. 2, the date of the location and the date of record.
- (4) The record of a mineral claim shall be, as nearly as may be possible, in Form 3 of Schedule 1, which form, duly completed and signed, shall be given by the mining recorder to the locator or the locator's agent.
- (5) A mineral claim that has not been recorded within the prescribed period shall be deemed to have been abandoned and forfeited without any declaration of cancellation or abandonment on the part of the Commissioner.

Proposed Changes:

- a) Amend section 41 to lengthen the time limit for the recording of a claim from 15 days to a flat number of days (for example 30 days or some other amount).
- b) Delete subsection 41(2) from the statute.

Implications:

The Mining Recorders facilitate the recording of claims, renewal and payments through the use of fax and phone transactions. Clients can submit their records to any district office, and have the actual recording of the claim in the correct district.

Under the current system, the length of time to register a claim can range from 15 days up to 40 days. It is proposed that the length of time for submitting and recording a claim be

revised to a flat number of days and that Section 41(2), which provides for additional days for recording a claim based on the distance from the Mining Recorder's office, be removed.

The proposed changes would standardize the total number of days which would be allowed for a proponent to record a mineral claim at the appropriate Mining Recorder's office regardless of how far away the claim is from the Mining Recorder's office. It also recognizes that the requirement in the statute for traveling time is not required with current internet and other communication methods along with the use of modern transportation (cars/planes).

2.5 Emergency recorder

Current Section(s):

42. (1) Where a mineral claim is more than one hundred miles from the office of a mining recorder and situated where other claims are being located, the locators of the claims, not less than five in number, are authorized to meet and appoint one of their number an emergency recorder, who may receive applications for claims located in accordance with this Part.
 - (2) The emergency recorder appointed under subsection (1) shall note on each application the day on which each application was received and the amount of fees paid in respect of it.
43. (1) The emergency recorder shall, at the earliest possible date after their appointment, notify the mining recorder for the district in which the claims are situated of their appointment, and shall deliver to that mining recorder the applications that they have received for mineral claims and the fees that they have collected for recording those claims.
 - (2) The mining recorder shall grant to each person from whom the emergency recorder has accepted an application and the fee prescribed by this Part an entry for the person's claim in Form 3 of Schedule 1.
 - (3) Each entry granted under subsection (2) shall date from the day the emergency recorder accepted the application and fee.
 - (4) Where the emergency recorder fails, within four months, to notify the mining recorder of their appointment and to deliver to the mining recorder the applications for claims received and the fees collected, the mining recorder may refuse to grant entry for those claims.

Proposed Changes:

It is recommended that sections referring to the emergency recorder be repealed.

Implications:

The provision of an "emergency recorder" to serve as the office of the Mining Recorder is a holdover from the days when communication and transportation infrastructure in the Yukon was almost nonexistent. The emergency recorder provision was designed to allow claims to be applied for and registered in remote areas where it would be difficult or

impossible to get to the Mining Recorder's office within the time prescribed in the statute. Changes in communications technology and transportation infrastructure make this provision obsolete. This amendment removes redundant and obsolete sections from the legislation.

2.6 Accompanying affidavit

Current Section(s):

44. (1) No mineral claim shall be recorded unless the application for it is accompanied by an affidavit or solemn declaration made by the applicant in Form 1 of Schedule 1, or, if it is a fractional mineral claim, in Form 2 of that Schedule.
- (2) Each application for a mineral claim shall be filed in **duplicate** with a mining recorder.

Proposed Changes:

Remove the word duplicate from section 44(2) of the current statute to allow applications to be filed singly with the Mining Recorder's office.

Implications:

Eliminating this subsection of the statute would streamline the claim application process and reduce the amount of paperwork on file in the Mining Recorder's office.

2.7 Tagging of claims

Current Section:

48. (1) As soon as reasonably possible **after the recording of a mineral claim**, the holder of the claim shall affix or cause to be affixed securely to each of the legal posts of the claim a metal tag **plainly marked or impressed with the recorded number and letter or letters, if any, of the claim** and, in the event of default, a mining recorder may, after a hearing, cancel the entry for the claim on the application of any person who, in the opinion of the mining recorder, has been misled by the absence of the tags, and notice of the hearing together with a copy of the application shall be served on the recorded owner of the claim in the manner directed by the mining recorder at least thirty days before the date fixed for the hearing.
- (2) A mining recorder on application therefore shall supply the numbered tags mentioned in subsection (1) free of charge.

Proposed Changes:

- a) Change the current statute to allow a person applying for a mineral claim to obtain the claim tags before going to stake the claim, thus eliminating the need for a second trip to place claim tags on posts.
- b) Require a nominal charge for tags and replacement tags.

Implications:

To properly stake a mineral claim in the current regime, a person must make two trips to the field. The process is that a person stakes the claim, records the claim with the appropriate mining district and then returns to the field to place the tags on the claim posts after the claim is issued. Currently, the tags on the claim posts have the same tag number and the grant number. The original intent of requiring tags to be affixed to posts was to notify others of the grant number.

Issuance of tags prior to recording of the claim would mean that the claim holder would stake their claim with the tags they received from the Mining Recorder. The claim tag would not have the grant number on it. Once they filed the claim with the Mining Recorder, they would receive the grant number. This would result in one trip to the field for the claim staker and different tag and grant numbers for the claim.

The proposed changes to the statute would require changes to the current claim registration database (NMRS). The Mining Recorder's office will need to cross reference the tag number and grant number in the record for easy correlation. The tag and grant number would also have to be shown on the mining maps. Current mapping programs and computer technology provides the public and other interested parties with a much more accurate and immediate access to the information on a mining claim. In the past, when a person wasn't able to either get to the Mining Recorder's office in person, by phone, or other means of communication, the importance of having the recorded grant number on the post was more significant in terms of a person's knowledge about the right and how it would affect their activities.

A minimal charge is being contemplated for each claim tag prior to recording of the claim in order to reduce the number of claim tags that do not get used or get lost. This change is expected to offer an incentive to ensure claim tags are used appropriately.

Other jurisdictions that still have ground staking and provide tags prior to grant recording, charge a per tag cost up front. A charge for replacement tags would also be implemented. Current charges in other jurisdictions range from \$2.00 per set of four tags in NWT to \$6.50 for a set of four in Manitoba.

This amendment will result in a direct saving to clients and industry on transportation, manpower and time. The proposed changes may impact helicopter and staking companies who currently charge for this second trip. A recent report commissioned by Energy, Mines and Resources about on-line staking and the Yukon context indicated only 15-25% of all quartz claims are contract staked. It also indicated that most contract companies conducting staking are also involved in other aspects of mineral exploration, and that income from staking is a comparatively minor component of their overall income.

2.8 Number of adjoining claims that may be grouped

Current Section(s):

55. (1) Adjoining claims, not exceeding **sixteen** in number, may be grouped together for the performance of work by their owner or owners of it on filing with a mining recorder at any time before the recording of the work a notice of intention to group the claims and obtaining a certificate in Form 6 of Schedule 1.

- (2) The holder or holders of a certificate in Form 6 of Schedule 1 may perform on any one or more of the claims, in respect of which the certificate was issued, all or any part of the work required to entitle them to a certificate of work for each claim so held by them, but if the work is not done or if payment in lieu of it is not made as prescribed in section 59, the claims shall be deemed to be vacant and abandoned without any declaration of cancellation or forfeiture on the part of the Commissioner.
- (3) Claims in respect of which a certificate in Form 6 of Schedule 1 has been issued and claims within a mining district, owned by one person, may, on application by their owners, be made renewable on any one date.
- (4) A mining recorder shall charge, for each claim referred to in subsection (3), one dollar and a quarter for each three months less that it is necessary to extend the record to make claims renewable on the same date, and the work, or payment in lieu of it, required for the fractional part of the year for which each claim is extended shall be allowed at the rate of twenty-five dollars for each three months or fraction, and the payment or work shall be made or performed prior to the date on which all the claims are made renewable.

Proposed Changes:

To allow larger claim groupings but only allow a claim to be grouped once with a limit of (range to be discussed: 100 to 300) claims per grouping.

Implications:

The issue stems from apportioning yearly assessment work to claims for renewals. Currently, one claim can be grouped multiple times. The larger the grouping, the more claims that the dollars spent on a yearly program can be apportioned to. The number of adjoining claims allowed to be grouped is sixteen. This number is based on the individual miner having a certain number of claims and being able to do work on them in a group. At present, many large claims blocks are held by companies on a regional basis. This grouping method is not practical for modern exploration work or allocations of yearly assessment work structured under the QMA. The proposed changes would allow larger claim groupings but with restrictions.

The proposed change looks at a 'one claim – one grouping' system. This would mean that, once grouped, work done on a claim could not be applied in any other grouping per work program. This would eliminate the current practice of multiple claim grouping which requires both companies and the Mining Recorder to spend a lot of time and work on allocation of the grouping. The proposed change will simplify the process, reduce the administrative burden for both industry and government, and ensure future claim grouping is done in a way that reflects the intent of the Act.

In determining the appropriate number of allowable claims in a grouping, consideration should be given to ensuring excessive ground is not 'tied up' with no active work being done. This issue needs to be balanced with the ability to group claims and apportion costs of exploration work amongst the most appropriate number of claims. If 200 claims were allowed to be grouped and the size of a claim is approximately 20 hectares this could potentially involve 4,000 hectares of land.

The intent of the change is to reduce the amount of paperwork required by the client, which must then be submitted to the Mining Recorder and apportioned to each individual claim.

2.9 Timber

Current Section(s):

Part of Section 78 and Section 80 of the QMA set out conditions related to the disposition of timber on a mineral claim. Access to timber off claim is currently regulated through the Timber regulations, *Territorial Lands (Yukon) Act*.

78. (1) The holder of a mineral claim by entry or by lease, located on vacant territorial lands is entitled to:
- (b) the right to cut free of dues such of the timber on the claim or such portion of it as may be necessary for the working of the claim, but not for sale or traffic, except where the timber has been granted or disposed of prior to the date of entry.
- (2) A timber agent may permit any person to cut and remove from a mineral claim timber for their own use for mining purposes when the timber cannot otherwise be had within a reasonable distance, but no such permit conveys the right to cut or remove timber required by the holder of the claim for their mining operations actually in progress.
80. (1) The timber on a mineral claim shall, subject to the rights existing at the time of the application for the claim, be reserved until a mining recorder certifies that the timber is required for use in connection with mining operations actually in progress on the mineral claim, when the right to use the timber, or any portion of it, free of dues, may be given the holder of the mineral claim by a timber agent with the approval of the Minister.
- (2) The Minister may authorize a timber agent to issue a permit to any person to cut and remove from the mineral claim timber required by the person for their own use in mining operations when the timber cannot otherwise be obtained within a reasonable distance of the place of the mining operations.

Proposed Changes:

The language in these sections of the Act is overly complex. The proposed changes are not intended to change the intent of the Act, but to clearly delineate the rights of the claim holder with respect to the disposition of timber. The new sections would ensure the following conditions are met:

- a) The right to cut timber on the mineral claim, not otherwise acquired, for the working of the claim. The timber cut will be free of dues and not for sale or traffic.
- b) When the timber on a mineral claim is required by someone other than the mineral claim holder, it will be reserved to the holder of the claim if the timber is required for use in connection with the mining operations actually in progress on

the mineral claim, as verified by the Mining Recorder. If not required, then it could be made available to another party through issuance of a timber permit.

- c) If timber is required by claim holder for mining purposes off the claim, a timber permit is required.

Implications:

The provisions for the disposition of timber on a claim are very limited in scope. A claim holder has the right to use timber from the claim for miner-like purposes, but not for re-sale. However, through consultation with the claim holder, government can designate timber rights on a claim to a third party. The proposed changes to this section are intended to provide clarification regarding timber rights on and off claim, and to ensure a more consistent interpretation of the Act.

It should also be recognized that there are current regulations regarding the disposition of timber as well as land use controls through the mining land use regulation. Access to timber off claim is currently regulated through the Timber regulations, *Territorial Lands (Yukon) Act*.

2.10 Leases

Current Section(s):

98. (1) Leases of mineral claims, and renewals of them, shall be executed in **triplicate**, one copy to be forwarded to the lessee, one copy to the mining recorder for the district in which the claims are situated and one copy to be retained in the Department.
- (2) All transfers, assignments and other documents in any way affecting the title to a mineral claim, or an interest in a mineral claim, held under lease shall be presented to the mining recorder for the district in which the claim is situated in the manner required by section 95, but in **triplicate**, accompanied by the lessee's copy of the lease.
- (3) When any transfer, assignment or other document referred to in subsection (2) is duly registered, the mining recorder shall endorse on each of the copies of it the prescribed certificate of registration, return one of the copies of the document to the assignee, together with the lessee's copy of the lease, similarly endorsed and forward one copy to the Department and the remaining copy shall be retained in the office of the mining recorder.

Proposed Changes:

Change "triplicate" to "duplicate" in the statute.

Implications:

Only two copies of mineral claim leases and renewals are required. This will reduce the amount of time and paperwork needed to process quartz leases and streamline the administrative process.

3.0 Questionnaire

2.1 Do you support removing the prescribed forms and Schedule of Fees from the *Quartz Mining Act* and placing them into regulations?

(circle one) Yes No

Other Comments:

2.2 Do you support changing the allowable size for claim posts from a rough 4 x 4 inch post to include a 3.5" x 3.5" post?

(circle one) Yes No

Other Comments:

2.3. Do you support allowing only a single copy instead of a duplicate of a claim location map, with accompanying GPS coordinates to be submitted when recording a mineral claim?

(circle one) Yes No

Other Comments:

2.4. Do you support lengthening the time limit required to record a mineral claim from 15 to 30 days?

(circle one) Yes No

Other Comments:

2.5 Do you support removing the provisions for the emergency Mining Recorder from the *Quartz Mining Act*?

(circle one) Yes No

Other Comments:

2.6 Do you support allowing mineral claim applications to be filed singly instead of in duplicate with the Mining Recorders office?

(circle one) Yes No

Other Comments:

2.7 a) Do you support the Mining Recorders office issuing claim tags when a mineral claim is applied for rather than after the claim has been staked?

(circle one) Yes No

Other Comments:

b) Do you support charging a fee for original and renewal tags?

(circle one) Yes No

If yes, then what would you consider a reasonable fee to pay for a tag?

Other Comments:

2.8. Do you support allowing larger claim groupings?

(circle one) Yes No

If yes, what size of claim grouping would you support?

Other Comments:

2.9. Do you support revised provisions regarding the harvesting of timber on or off a claim site?

(circle one) Yes No

Other Comments:

2.10. Do you support reducing the number of copies of a Quartz lease submitted to the Mining Recorder from three to two?

(circle one) Yes No

Other Comments:

Name/Company (Optional):

You can submit this questionnaire to Mineral Resources Branch by February 29, 2008 by:

Email: mining@gov.yk.ca

Fax: (867) 456-3899

Mail: Attn: Minerals K-9
 Box 2703 Whitehorse
 Yukon Y1A 2C6

Drop off: 400-211 Main Street
 Whitehorse, Yukon