

Licensing

Licences are required at many stages of the mineral development cycle, and the review and approval of project applications (i.e., licensing) is a key function of the regulatory regime. For instance, a proponent must obtain a licence prior to conducting activities like drilling and trenching that are required to prove up a mineral deposit. We want to strengthen and improve the effectiveness, efficiency and transparency of this aspect of the regime.

To do this, we also need to consider how a new regime works with other legislation and make sure requirements and processes are coordinated and streamlined.

We recognize the distinctions between the quartz and placer sectors in the Yukon. And although we don't always identify different potential approaches for each sector below, we know that a consideration of the differences between the quartz and placer sectors for licensing will be important as we determine which approaches to pursue.

Interests

Alignment of permitting with level of impacts

Licensing requirements should reflect the scope and scale of a project and help to identify and address potential impacts.

Improved efficiency and coordination

New legislation should enable coordination of the requirements and processes with other related assessment and regulatory processes like those involving Yukon Environmental and Socio-economic Assessment Board and Yukon Water Board.

Expanded tools, authorities and ability to monitor projects

New legislation should improve our ability to monitor projects and the effectiveness of mitigations, and enable regulators to respond to issues throughout the term of the licence.

Improved transparency of the regulatory process

Information about regulatory outcomes should be transparent.



Proposed approaches

Types of licences – current approach

The *Placer Mining Act* and the *Placer Mining Land Use Regulations* set out licensing requirements and the processes for review and approval of placer operations, while the *Quartz Mining Act* and *Quartz Mining Land Use Regulations* speak to quartz exploration programs. The *Quartz Mining Act* also specifies that a licence is required prior to development and production activities.

Both laws establish class criteria. The criteria categorize exploration programs and placer land-use operations into four classes. Classes 1 through 4 identify a range of activities, with increasing potential to cause adverse environmental impacts proceeding from Class 1 to Class 4. The classes are strictly activity-based and make no reference to socioeconomic, cultural or heritage factors. Some of the activities that are currently used to distinguish classes include number of person-days per camp, volume of fuel stored, volume of trenching, and the establishment of new roads.

Based on the class of activities, the legislation prescribes the application requirements as well as the process the Yukon government must undertake in reviewing applications, including timelines, parties to be consulted and potential outcomes of the review of applications for the proposed mining activity. These requirements and processes are further supported by policy (i.e., more information is required from proponents than what is specified in legislation).

Types of licences – potential new approaches

We're considering continuing the use of the class system, but revising the thresholds so that each one is clear and measurable. We're also considering ways to consider the nature and location of a project.

Current legislation does not recognize the considerable distinctions between small- and large-scale placer operations. A new regime could maintain a single type of placer mining licence, or establish licences that distinguish between small and large operations. Regardless of their scale, most placer mines will still require a water licence, based on thresholds established by the *Waters Act* and its regulations.

For advanced exploration programs, we could introduce specific information and process requirements for advanced exploration activities, like bulk sampling.



For quartz mines, we want to make it clear when a quartz mine licence for production is required, and expect that licence applications would be subject to their own specific information and process requirements.

The structure of this part of the new regime will help with identifying the different requirements and processes for each type of licence. Generally, we want to align these requirements and processes with the scope, scale and impact of proposed projects.

Duration of licences

We are also looking at the duration, or term, of licences. Right now, Class 1 and 2 licences can be issued for up to one year, while Class 3 and 4 licences can be issued for up to 10 years. There is no term limit for quartz mine production licences, but most mining projects require a water licence, and these are valid for a maximum of 25 years.

One option is to continue to have some type of defined term for a licence. Alternatively, the duration of a licence could be determined by the project proposal instead of a maximum length in legislation (i.e., a case-by-case determination).

If licences are issued for longer periods of time, there might be a greater need for periodic reviews of projects, in addition to inspections. One option is to establish a periodic review of projects and provide some details as to what this review involves.

Application requirements

As discussed above, one of the interests for the new legislation is to improve the efficiency and coordination of the assessment and regulatory phases. New legislation should enable coordination of the requirements and processes with other related or overlapping assessment and regulatory processes like those involving Yukon Environmental and Socio-economic Assessment Board and Yukon Water Board.

When a proponent applies to carry out a project, we need the right information and the right level of detail to understand and evaluate the project. The information needed to support the licensing process under the minerals legislation can also be used to support the assessment and water licensing processes – processes carried out under the *Yukon Environmental and Socio-economic Assessment Act* and the *Waters Act*, respectively.

One option is to prescribe information requirements and include the ability to establish additional information requirements as needed. This would include the ability to establish baseline information requirements. Another option is to have a mechanism that allows us to set out different information requirements for specific activities or projects in certain areas.



We could also require proponents to engage with affected Indigenous governments, communities and stakeholders prior to submitting their application to Yukon government. The Yukon Environmental and Socio-economic Assessment Board already requires this for quartz mining project assessments. For other projects, some proponents choose to do this but it is not currently a requirement.

Review process and outcomes

New legislation needs to describe both how applications are reviewed and the responsibilities of the regulator during the review period. These might look different depending on the application and the type of licence required.

Right now, the regulator must consider any potential adverse effects on Indigenous rights. We are considering expanding this to include consideration of Indigenous interests as well. The regulator must also currently consider the adverse environmental and socio-economic effects of a project. We're considering an approach that would provide more specificity on what types of environmental or socio-economic effects should be considered. The regulator could also consider positive effects or benefits.

We are also considering updating review and decision timelines, and providing authority to extend timelines in certain circumstances. There is an interest in revising timelines to provide greater clarity on how long processes will take. Current timelines often do not align with those needed to fulfill Yukon government's obligations to consult with affected Indigenous governments.

With respect to the outcomes of a review, we are considering keeping the ability to approve a project, subject to conditions, or refuse a project. However, we are considering a new requirement that the regulator provide reasons for its decisions on some or all types of projects.

Regulatory reporting and oversight

Current legislation does not require reporting associated with licences, however reporting for some licences is required through policy. We are considering changing this to require annual reporting for some or all projects. There could also be a requirement to make reports publicly accessible.

Another option to improve accountability and transparency is to require the regulator to report on both active and expired licences. This might be more important for sites that are of public interest, or in relation to specific activities like reclamation and closure.



We are also thinking about adding tools to address either inadequate reporting or issues observed through reporting like reclamation failures. This would provide the regulator with the ability to direct a proponent to address these types of matters.

We are also considering the ability to cancel a licence if it has remained inactive for a certain period, or if it is in the public interest (similar to provisions in the Waters Act).

Amendments

Often, approved project activities need to change throughout the term of the licence due to unforeseen project requirements. When this happens, a proponent needs to apply and receive approval for a licence amendment before changing their activities. Sometimes such changes also require a new assessment under the *Yukon Environmental and Socio-economic Assessment Act*.

We are considering setting out a process for amendments. We are also considering establishing criteria for minor amendments that do not trigger an assessment to provide a more effective tool in legislation for minor project changes.

Costs associated with the licence applications and reviews

Right now, there are fees associated with applications for Class 3 and 4 licences, but there are no fees for Class 1 and 2 licences or quartz mine licence applications. We could make fees consistent for all licence applications. In addition, we could enable cost recovery for project reviews that require significant resources or that involve the use of third-party experts to reduce costs to government.

Other tools

We are also considering revising the tools we have to support the licensing process.

Legislation could provide a tool to help address specific concerns in specific geographic areas. For example, if an area is particularly sensitive for environmental or cultural reasons, project activities in that area could be controlled or limited to minimize adverse impacts. This could improve clarity for proponents by providing information in advance about the conditions they will have to follow. Criteria could be developed to guide how these areas are identified. This type of tool could also support the implementation of land use plans.

Another option is to provide the ability to combine licences. Currently, different licences are required when the operations are not right beside each other. In some circumstances, like a placer proponent working several claim blocks close together in a single watershed, having a



single licence for all these operations might provide some efficiencies for both the proponent and the regulator.

Background

Links between the assessment and regulatory processes

The process for licensing Class 3 and 4 projects and quartz mines occurs after assessment and concurrently with other regulatory processes like water licensing. The *Yukon Environmental and Socio-economic Assessment Act* and regulations set out the assessment process while the *Waters Act* and regulations set out the water licensing process.

Class 1 projects are low level exploration projects and do not trigger the requirement for assessment under the *Yukon Environmental and Socio-economic Assessment Act*. Class 2 projects do require an assessment but are rarely used due to their short length of licence.

Assessment phase

The assessment phase is initiated when a proponent submits a project proposal to the Yukon Environmental and Socio-economic Assessment Board for assessment under YESAA. The Yukon government, Indigenous governments and the public can all participate in the assessment. The Yukon government initiates consultation with affected Indigenous governments during this phase.

A project assessment concludes with a report and recommendation to the decision body or bodies, which are those governments or agencies with the power to issue a licence in relation to a project. The decision body responds to the recommendation with a decision document. The Yukon government consults affected Indigenous governments on recommendations before issuing a decision document. If there are multiple decision bodies (i.e., Yukon government and a federal department and/or an Indigenous government), the decision bodies meet to discuss and either agree to issue one consolidated decision document, or each decision body issues its own decision document.

Regulatory phase

The regulatory phase includes the Yukon government's review of a project application and determination of how a project may proceed. The Yukon government consults affected Indigenous governments and engages the operator prior to issuing a licence. In the case of Class 4 placer operations, the Yukon Water Board drafts and issues the licence through a delegation from the Yukon government.



If an exploration or mining project requires a water licence, a proponent must also submit an application for a licence to the Yukon Water Board. This process provides for participation of the Yukon government, Indigenous governments and the public. The Yukon Water Board considers the application and information received through the public process, and is responsible for issuing the water licence.

Questions

4.1 Do you think the approaches we're considering will:

- create opportunities to streamline processes
 - lead to better licensing outcomes
 - help to identify and mitigate project impacts
- Please explain.

4.2 Do you have any thoughts or concerns about the approaches we're considering for licensing and regulatory alignment, or additional things that you think we should consider?

4.3 How important are the following to you:

- establishing different licensing requirements for small-scale and larger-scale placer operations
 - allowing longer term authorizations
 - an ability to manage project activities differently in some areas
- Please explain.

