

Mineral tenure – maintenance

Mineral tenure maintenance refers to the rules for keeping or losing mineral tenure once it has been acquired. These rules include the work requirements for maintaining claims, and how tenure may be transferred, lost or relinquished. The current system could be improved to create a more efficient, effective, and transparent regime that reflects the realities of the exploration and mining sectors, while reducing their impacts on other land uses.

Because mineral tenure underpins the mineral exploration and mining sectors, we want the tenure maintenance regime to be clear and consistent, and strike an appropriate balance between the needs of these sectors and competing land uses.

Interests

Keeping tenure in good standing

The rules and requirements to keep mineral tenure in good standing, like acceptable types of work, should reflect current practices and technologies.

Renewals and length of tenure

Clarify the rules for how long mineral tenure can be held, and the process for renewals.

Reporting requirements

Align reporting requirements with those in other parts of the regime.

Transfer, relinquishment and lapsing of tenure

Clarify the rules around transfer, relinquishment and lapsing of mineral tenure to ensure that outstanding liabilities and obligations are addressed.

Compliance

Establish appropriate tools and authorities for the regulator to address non-compliance issues related to tenure maintenance (e.g., work done without the proper permits cannot be used to maintain claims).

Expropriation and compensation

Establish rules relating to expropriation, regulatory-taking and compensation.



Potential approaches

Many of the approaches we're considering seek to address some fundamental considerations related to mineral tenure. We anticipate that the rules around mineral tenure in the new regime will seek to strike a balance between providing industry with the tenure required to advance projects while also:

- recognizing and protecting other land uses and values, some of which may be incompatible with mining;
- enabling fair competition among industry participants for access to finite mineral resources; and
- considering the public benefits of mineral development.

Many of the approaches we're considering may be characterized as modifications or improvements to the current regime, while other approaches we're considering would be a more significant change from the current regime. More significant changes would require more detailed analysis to understand the implications and consequences before pursuing such approaches, as well as carefully thought-out transition plans.

Keeping tenure in good standing

We're considering updating the rules for maintaining mineral tenure. Generally speaking, the rules should be as straightforward and consistent as possible, while also allowing for some flexibility to adapt to changing circumstances and to encourage the use of more efficient and lower-impact technologies. We also may need to distinguish approaches to mineral tenure between the placer and quartz industries.

We could continue to have work requirements stay the same every year or we could have work requirements that escalate the longer a claim is held.

There are also a number of rules and approaches that relate to keeping tenure in good standing like the type and value of work that can be applied to keep a claim in good standing, the ability to group claims, "bank" work credits, making payments instead of working, and applying for relief from working or making payments. We're interested in your input on maintaining or modifying these approaches.

Renewals and length of tenure

Currently, mineral tenure can be renewed indefinitely, with no limits on the maximum length of time that the tenure can be held. We're considering keeping the same approach or if tenure



should have a maximum length. We're also considering whether we should continue to require an annual renewal of tenure or move to a different length of renewal (e.g., multiple years).

Reporting requirements

We're considering aligning and standardizing the reporting requirements for maintaining tenure with those reporting requirements related to licences. The goal is to reduce red tape and increase efficiency for all involved.

Transfer, relinquishment and lapsing of tenure

The current legislation doesn't always ensure that the responsibility for unfinished reclamation is properly assigned when mineral tenure lapses or is transferred or relinquished. We're considering changes to ensure that outstanding liabilities and obligations are addressed in the event of transfer, relinquishment or lapsing.

Compliance

Under the current regime, regulators have limited tools to address non-compliance issues related to mineral tenure maintenance. To address this, we're considering a number of approaches to strengthen the tools and authorities available to address non-compliance, including:

- Specifying that only work done with the proper permits can be used to keep claims in good standing;
- Enabling the regulator to request additional information to verify the work done;
- Allowing the regulator to consider a claimholder's compliance history as a grounds to refuse work or take other actions; and
- Ensuring that mineral tenure is being used for purposes directly related to exploration or mining.

Expropriation and compensation

The current legislation doesn't address expropriation (e.g., taking a mineral claim for public use) or regulatory taking (e.g., government regulation that deprives a claimholder of the economic benefits of the claim without taking away the claim, such as restrictive land use designations that prevent a claimholder from working their claims). Existing law doesn't address whether compensation is owed in these circumstances. We're considering whether to establish rules for this issue in new legislation, or alternatively, whether to continue to rely on other legislation and the courts to settle these issues when they arise.

Questions



New minerals legislation

3.1 Do you have any thoughts or concerns about the approaches we're considering for mineral tenure maintenance, or additional things that you think we should consider?

3.2 How important is it to establish clear rules for expropriation and compensation of mineral tenure?

