



An Overview of Policy Intentions That Will Guide the Drafting of Regulations for the *NWT Mineral Resources Act*

Un aperçu des objectifs stratégiques qui
guideront l'élaboration des règlements pour la
Loi sur les ressources minérales des TNO

DECEMBER / DECEMBRE 2022

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French

Kīspin ki nitawihtīn ē nīhīyawihk ōma ācimōwin, tipwāsinān.

Cree

Tlıchö yatı k'èè. Dı wegodi newo dè, gots'o gonede.

Tłóż

?eriht'ís Dëne Sųłiné yati t'a huts'elkér xa beyáyatı thepä ?at'e, nuwe ts'ën yólti.

Chipewyan

Edi gondı dehgáh got'je zhatié k'éé edat'eh enahddhę nide naxets'é edahłí.

South Slavey

K'áhshó got'ıne xədə k'é hederi ɬedıhtı'lé yeriniwę nídé dúle.

North Slavey

Jii gwandak izhii ginjìk vat'atr'ijahch'uu zhit yinohthan jì', diits'at ginohkhii.

Gwich'in

Uvanittuaq ilitchurisukupku Inuvialuktun, ququaqluta.

Inuvialuktun

Inuktitut

Hapkua titiqqat pijumagupkit Inuinnaqtun, uvaptinnut hivajarlutit.

Inuinnagtun

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Executive Summary

The development of “policy intention papers” is an important next step in the ongoing process to develop the regulations that will allow the *Mineral Resource Act (MRA)* to come into force.

These papers capture the intent and rationale of the regulations that are being proposed and are intended to be a guide in the legal drafting process of regulations.

This document provides an overview of the key themes reflected in the policy intention papers prepared by the Intergovernmental Council of the Northwest Territories and its technical working group under the NWT’s first of its kind Legislative Development Protocol.

Goals and objectives have been summarized and consolidated under five over-arching themes:

CLAIMS

It is intended that proposed regulations will set out clear requirements on what must be done in order to obtain a claim. They will require individuals intending to stake a claim to meet requirements under the regulations (like holding a valid Prospector’s Licence). Other regulations are also explored, like the ability for the Supervising Mining Recorder to have the authority to address staking disputes.

A core goal of regulations around claims is to promote engagement with Indigenous governments early and often. The regulations will implement new processes like notification of application to record. These notifications will advise Indigenous governments and organizations directly of claims staked in their respective traditional territories. The Mining Recorder will issue notifications for claims.

The claim will also see an extension in maximum time life from 10 to 30 years. This change is necessary for industry to have time to meet the new lease issuance requirements and recognize the modern lifecycle needs of a project

Additionally, when a proponent is planning to conduct work, under proposed regulations, will be required to submit a notice of intended work; and file a work assessment once they are done. The definition of “work” will be expanded to include Indigenous engagement costs.

General work requirements will move from a flat work requirement structure to an escalating work requirement. This change will enable the work system to optimize the collection of public geoscience as work requirements will increase as a project advances.

Meanwhile, regulations are also intended to set new rules for claim or lease holders, such as the requirement for a proponent to acquire permission in order to remove minerals from the land and export minerals from the NWT prior to production.

LEASES

It is intended that the new regulations will change the NWT’s temporal tenure system to a merit-based system. A merit-based system requires the interest holders to meet different milestones to progress through the tenure lifecycle.

The regulations will introduce an evidence of deposit technical report to validate the existence of a defined mineral deposit; and require applicants for leases to meet specific eligibility requirements.

Under new regulations, the Mining Recorder’s Office will notify Indigenous governments and organizations when it receives a lease application, as well as issue a notification once the Mining Recorder issues the lease. Lease rental rates will increase to match competitive rates in comparable jurisdictions. A lease will be eligible for renewal for a term of 21 years provided requirements are met; and surveys will need to meet certain legal requirements laid out in the *Canada Lands Survey Act*.

BENEFITS

The Act and regulations will require Benefit Agreements and Socio-Economic Agreements where a project is above a specific threshold of benefits (costs or person-years of employment).

Benefit Agreements are agreements between proponents and Indigenous governments to ensure benefits from a project flow to the appropriate groups. Benefit Agreements will largely be private agreements (such as current Impact Benefit Agreements), with some supports within the Act and regulations, in order to maintain Indigenous autonomy over their rights.

Socio-Economic Agreements are agreements between proponents and the GNWT to ensure benefits from a project flow to the entire NWT. Proposed regulations will strengthen existing SEAs by creating firm deadlines and enhanced reporting requirements for Socio-Economic Agreements. Policy documents that accompany the proposed regulations would also indicate which Indigenous governments a proponent would need to hold a BA with to meet the requirements in the regulations.

PRODUCTION LICENCES

It is intended that regulations define what is production under a Production Licence and the ability for an owner/operator to sell minerals to a third party. They will describe what needs to be in place in order to issue a Production Licence.

Regulations will also introduce statistical returns as a requirement of a Production Licence. Statistical returns are reports on production data from the mine. This data is standard information that mines would already collect, but that is not currently reported to the GNWT or readily available to the public.

MINERAL RIGHTS REVIEW BOARD (MRRB)

It is intended that regulations will establish the MRRB to replace the current Ministerial review process; and describe its roles, responsibilities and membership. The reforms create a body that is arms-length, merit-based, independent and multi-person.

An appendix is included at the end of this overview with a comparison of the most notable changes and advances between the legislation that exists today and the *Mineral Resources Act* that has been created to carry the NWT mineral exploration and development sector into the future.

NWT residents wishing to provide specific input or a formal presentation or paper to share in response to the policy intentions in this document are encouraged to contact the GNWT's MRA Implementation Unit at MRA_Implementation@gov.nt.ca; and to be a part of the exciting and historic opportunity represented by the MRA to establish a uniquely northern approach to mining that is respectful and inclusive of NWT interests and reflects the vision and priorities of NWT residents for their future.

Sommaire

La rédaction de documents d'objectifs stratégiques est une étape importante dans le processus continu d'élaboration des règlements qui permettront l'entrée en vigueur de la *Loi sur les ressources minérales*.

Ces documents, qui reflètent l'intention et la raison d'être des règlements proposés, guideront le processus de rédaction juridique.

Le présent document donne un aperçu des thèmes principaux qui transparaissent dans les documents d'objectifs stratégiques rédigés par le Conseil intergouvernemental des Territoires du Nord-Ouest (CITNO) et son groupe de travail technique en vertu du protocole d'élaboration de lois, le premier en son genre aux TNO.

Les objectifs ont été synthétisés sous cinq thèmes généraux :

CLAIMS

Il est prévu que les règlements proposés fixent des exigences claires quant aux choses à faire sur le terrain pour obtenir un claim minier. Les personnes ayant l'intention de jalonner un claim devront donc répondre aux exigences imposées (comme le maintien d'un permis de prospection valide). D'autres règlements sont également à l'étude, comme un règlement qui donnerait la possibilité au registraire minier en chef de régler les différends relatifs au jalonnement.

L'un des principaux objectifs de la réglementation relative aux claims est de promouvoir un dialogue précoce et fréquent avec les gouvernements autochtones. La réglementation mettra en œuvre de nouveaux processus comme l'avis de demande d'enregistrement. Ces avis informeront directement les gouvernements et les organisations autochtones des claims jalonnés sur leurs territoires traditionnels respectifs. Le registraire minier émettra des avis pour les claims.

La durée de vie maximale du claim sera également prolongée de 10 à 30 ans. Ce changement est nécessaire pour que l'industrie ait le temps de répondre aux nouvelles exigences en matière de délivrance de baux et pour reconnaître les besoins modernes en matière de durée de vie d'un projet.

De plus, lorsqu'un promoteur souhaite effectuer des travaux, il devra, en vertu des règlements proposés, soumettre un avis de travaux et déposer un rapport d'évaluation des travaux une fois ceux-ci terminés. La définition du terme « travaux » sera élargie pour inclure les coûts liés à la participation autochtone.

Les exigences de travail générales passeront d'une structure d'exigences de travail fixes à une structure d'exigences de travail en escalade. Ce changement permettra au système de travail d'optimiser la collecte des données géoscientifiques publiques, car les exigences de travail augmenteront au fur et à mesure de l'avancement d'un projet.

Les règlements visent également à établir de nouvelles règles pour les détenteurs de claims ou de baux, comme l'obligation pour un promoteur d'obtenir une autorisation afin de retirer des minéraux de la terre et d'exporter des minéraux hors des TNO avant la production.

BAUX

Il est prévu que les nouveaux règlements modifient le régime foncier temporel actuel pour passer à un régime foncier basé sur le mérite. Un système fondé sur le mérite exige des titulaires qu'ils franchissent différentes étapes pour progresser dans le cycle de vie du régime foncier.

Les règlements prévoient également l'application d'une exigence de soumission d'un rapport technique de preuve pour valider l'existence d'un gisement minéral. Les demandeurs de baux devront, eux, répondre à des critères d'admissibilité spécifiques.

En vertu des nouveaux règlements, le Bureau du registraire minier informera les gouvernements et les organisations autochtones lors de la réception d'une demande de bail, et émettra un avis une fois que le registraire minier délivrera le bail. Les tarifs de location des baux augmenteront pour s'aligner sur ceux des provinces et des autres territoires.

Un bail pourra être renouvelé pendant un maximum de 21 ans, à condition que les exigences soient respectées et les relevés devront répondre à certaines exigences légales, conformément à la *Loi sur l'arpentage des terres du Canada*.

AVANTAGES

La Loi et les règlements exigeront des ententes sur les avantages et des accords socio-économiques lorsqu'un projet dépasse un seuil spécifique d'avantages (coûts ou années-personnes d'emplois).

Les ententes sur les avantages seront des ententes entre les promoteurs et les gouvernements autochtones afin de s'assurer que les avantages d'un projet profitent aux groupes appropriés. Les ententes sur les avantages seront en grande partie des ententes privées (comme les ententes sur les répercussions et les avantages en vigueur), avec certains appuis dans la Loi et les règlements, afin de maintenir l'autonomie des Autochtones sur leurs droits.

Les accords socio-économiques sont des accords conclus entre les promoteurs et le GTNO pour garantir que les avantages d'un projet profitent à l'ensemble des TNO. Les règlements proposés amélioreront les accords socio-économiques existants en créant des délais fermes et des exigences de rapport renforcées pour ceux-ci. Les documents de politique qui accompagnent le projet de règlement indiqueront également les gouvernements autochtones avec lesquels un promoteur devrait détenir une entente de principe pour satisfaire aux exigences du règlement.

LICENCES DE PRODUCTION

Il est prévu que les règlements définissent ce qu'est la production aux fins d'une licence de production, ainsi que la capacité d'un exploitant à vendre des minéraux à une tierce partie. Les règlements devraient également fixer des exigences relatives à la délivrance d'une licence de production.

Les règlements introduiront également les rapports statistiques dans les exigences des licences de production. Les rapports statistiques sont des rapports sur les données de production de la mine. Ces données sont des informations normalisées que les mines collectent déjà, mais qui ne sont pas actuellement communiquées au GTNO ou facilement accessibles par le public.

COMITÉ DE RÉVISION SUR LES DROITS MINIERS

Il est prévu que les règlements instaurent un Comité de révision sur les droits miniers pour remplacer le processus d'examen ministériel actuel; ils définiront aussi sa composition, ses rôles et ses responsabilités. Cette réforme permettra de créer un organisme indépendant, fondé sur le mérite et pluripersonnel.

À la fin de ce document, vous trouverez une annexe présentant les changements et les progrès majeurs qui différencient la législation actuellement en vigueur de la Loi sur les ressources minérales, élaborée pour propulser le secteur de l'exploration et de l'exploitation minière ténois vers l'avenir.

Nous invitons les résidents des TNO souhaitant fournir des commentaires précis, effectuer une présentation officielle ou partager un document en réponse aux objectifs stratégiques à communiquer avec le Service de mise en œuvre de la loi sur les ressources minérales du GTNO à l'adresse MRA_Implementation@gov.nt.ca. Vous pourrez ainsi saisir l'occasion historique de contribuer à l'élaboration de la Loi sur les ressources minérales et nous aider à développer une approche typiquement nordique de l'exploitation minière; une approche respectueuse et inclusive qui reflète les ambitions et les priorités des Ténois pour leur avenir.

Introduction

The passage of the *NWT Mineral Resources Act (MRA)* in 2019, by the 18th Legislative Assembly of the Northwest Territories, marked the first step in the establishment of a made-in-the-NWT approach to governing mineral development in the NWT.

Regulations are now needed to bring the *MRA* into force. Once these regulations are in place, the *MRA* will take effect administering all aspects of mineral tenure; from the exploration and discovery of minerals, through the development, construction and operation of a mine – and to its eventual closure and remediation.

The development of “policy intention papers” is one of the final steps in the process of developing these regulations. These papers capture the intent and rationale of the regulations that are being proposed and will serve to guide the legal drafting process of the regulations.

This document has been prepared to provide an overview of the key themes and reasons reflected in the policy intention papers. This additional opportunity for input has been included due to the extent of new regulations being proposed; and the exciting and historic opportunity represented by the *MRA* to establish a uniquely northern approach to mining that is respectful and inclusive of NWT interests and reflects the vision and priorities of NWT residents for their future.

All legislation (laws) is made up of two parts. First, an Act that broadly lays out the intent and purpose of the law and gives the government the authority to determine how it will be interpreted; and then regulations that detail and interpret the law and provide context to explain and enforce its intentions.

Background

THE NWT MINERAL RESOURCES ACT

Work to introduce the *NWT Mineral Resources Act (MRA)* has been underway since 2016 when it was first proposed by the 18th Legislative Assembly of the Northwest Territories.

Its development has included a number of “firsts” for NWT and Indigenous governments and organizations; as well as businesses, organizations and individuals involved or impacted by the NWT’s mineral development industry.

The *NWT Mineral Resources Act* and its regulations will be the first-ever legislation governing mineral resources to be drafted in the NWT.

The collaborative approach taken in the development of the *Act* (which was completed in 2019) and its regulations (which are ongoing today) is the result of an historic partnership between territorial and Indigenous governments and organizations; and guided by mutually shared goals to:

1. regulate mineral interests efficiently, effectively and in a transparent manner;
2. support the economy of the NWT;
3. realize benefits from mineral development for Indigenous governments and organizations, communities and the people of the NWT;
4. ensure that wealth generated by mineral resources will be used for

the benefit of present and future generations of the people of the NWT;

5. encourage positive relationships between proponents, Indigenous governments and organizations, communities and the Government of the NWT;
6. respect Indigenous and treaty rights;
7. complement the systems for collaborative management of land and natural resources;
8. improve geological knowledge; and
9. recognize sustainable land use.

INTERGOVERNMENTAL COUNCIL OF THE NORTHWEST TERRITORIES

One of the key features of the 2014 Devolution Agreement, in which the NWT assumed the management and administration for its own lands and resources, was the establishment of an Intergovernmental Council (IGC) to allow public and Indigenous governments and organizations to cooperate and collaborate on matters related to lands and resource management.

The IGC provides a forum for northern leaders to address matters of land and resource management, while respecting the autonomy and authority of each government over its own lands. Its goal is to work together and explore ways to coordinate respective land and resource management practices, share capacity, and avoid duplication.

The IGC is established by the Northwest Territories Intergovernmental Agreement on Lands and Resources Management.

The members of the Intergovernmental council are:

- Government of the Northwest Territories (GNWT)
- Inuvialuit Regional Corporation
- Gwich'in Tribal Council
- Sahtú Secretariat Incorporated
- Northwest Territory Métis Nation
- Tłı̨chǫ Government
- Acho Dene Koe First Nation and the Fort Liard Métis Local #67
- Salt River First Nation
- Deníin Kujé First Nation
- Kátł'odeeche First Nation

Given the significance of the Mineral Resources Act (MRA) and its regulations, an invitation was extended to Indigenous governments and organizations not party to the Devolution Agreement to participate as part of an IGC-established technical working group on the MRA. The technical working group is composed of representatives and technical experts from each IGC member government.

CO-DEVELOPMENT PROTOCOL

Perhaps the most important “first” realized in the development of the MRA’s regulations was the introduction of their co-development.

The commitment to co-development was formalized in December 2020 in a Legislative Development Protocol developed and adopted by the Intergovernmental Council. The protocol is the first agreement of its kind in Canada.

Consistent with the Northwest Territories Intergovernmental Agreement on Lands and Resources Management, it provides a mechanism for collaboration and consensus-building designed to respect the jurisdictions and authorities of Indigenous governments and organizations as well as the GNWT.

As IGC partners today work to design and put in place the regulations needed to complete the *Mineral Resources Act* and bring it into force, the protocol is - for the first time in history - being applied.

PUBLIC ENGAGEMENT

Work to draft the *Mineral Resources Act* began more than five years ago with a territory-wide public engagement.

It included community “drop-in” events in Fort Smith, Fort Simpson, Hay River, Inuvik, Norman Wells, Behchokǫ, and Yellowknife. The events were opportunities for residents to express and address their concerns, questions, comments, or recommendations regarding the *MRA* with GNWT representatives and subject-matter experts.

Similar small-group meetings were held by request with municipalities, industry, regulatory boards, and non-government organizations. In addition, the GNWT solicited and received comments in person and via comment cards, email, phone, surveys, the *MRA* engagement website, Twitter and Facebook.

In all, 516 submissions were received from stakeholders during that initial 120-day public engagement period.

Key themes identified in this early engagement included:

- The Northwest Territories needs jobs and economic growth.
- The benefits of mining—including jobs and economic growth—need to be experienced by local communities in the Northwest Territories; this requires ongoing capacity building, education, and social programs, and capturing economic benefits on a local level.
- The *Act* should promote greater transparency.
- Protecting wildlife, the environment, and other natural resources is valuable to people in the Northwest Territories.
- It is important that the *Act* do as much as possible so that mines are not abandoned and left for GNWT to clean up. The *Act* should support requirements for remediation and mine closure, and ensure adequate financial assurance for mine closure.

AN OVERVIEW OF POLICY INTENTIONS THAT WILL GUIDE THE DRAFTING OF REGULATIONS FOR THE NWT MINERAL RESOURCES ACT

These themes have been carried forward through the entire *MRA* development process; and are further reflected in the goals and objectives identified by the IGC to guide the development of proposed regulations.

Starting in July 2022, as the GNWT conducted targeted face-to-face engagements with leaders, stakeholders and organizations most involved and impacted by mining in the NWT, NWT residents were again invited to engage on a range of regulatory topics provided by contacting the GNWT directly to meet or submitting a formal presentation or paper.

(Separately, public engagement on *MRA* regulations concerning resource royalties was initiated with a Royalty Review Discussion paper that was co-drafted with the IGC and released publicly in February 2022. The feedback received during the Royalty Review engagement process will be summarized and made public with the release of a “*What We Heard*” report).

It is important to note that public engagement described in this section differs from Consultation. The GNWT has a legal obligation to consult with Indigenous governments and Indigenous organizations whenever it is considering an action that might adversely affect Indigenous and/or treaty rights. Indigenous and treaty rights, are recognized and affirmed by section 35 of the Constitution Act, 1982. In addition to any engagement that has been completed on the MRA’s regulations, a period of Consultation will need to be completed before they can be finalized.

THE REGULATION DEVELOPMENT PROCESS

The development of the *Mineral Resources Act (MRA)* and its regulations has been a complex and enormous undertaking.

For the past two years, the Intergovernmental Council has worked through a series of processes to understand and identify all of the regulations that will be required by the new *Act*.

Guided by subject-matter experts, best practices from other jurisdictions, research and analysis, the intent, approach and direction for each identified regulation has been developed, evaluated and refined.

Numerous meetings and discussions have taken place to inform this process; with NWT leaders, industry stakeholders and organizations involved and impacted by mining in the NWT as well as self-identifying members of the public.

In particular, a detailed digital engagement was developed specifically for those registered and working in the NWT’s exploration or mining field.

All of the information gathered and received has been organized and analyzed using nine discussion topics:

- Land access in prospecting and exploration
- Mineral tenure
- Indigenous engagement and consultation
- Revenues
- Socio-economic benefits
- Transparency, public accountability and ministerial authority
- Online map staking
- Inspections, monitoring and auditing
- Rehabilitation and closure

A series of policy intention papers have been developed as the foundation from which required regulations will be drafted.

In addition to the values and priorities first identified by NWT residents and the guiding goals and objectives identified by the IGC, the intentions captured in these papers also consider the input of industry as well as Indigenous governments and organizations who have helped to confirm that the regulations are also “realistic” and “do-able” in the political and economic environment of today’s NWT.

Once fully drafted and agreed upon by the Intergovernmental Council, Section 35 consultation will take place on the regulations that are proposed. A final public posting of the regulations will need to occur before they are adopted and the *NWT Mineral Resources Act* is brought into force.

LEGACY TREATMENT

One of the challenges to introducing new regulations is determining how existing interests will fit under the newly established system. While the new legislation becomes the rule, the interests that preceded it must still be considered.

In the case of mineral development in the NWT, interests issued under the NWT Mining Regulations (existing) will need to be accommodated under the *MRA* and its regulations.

“Grandfathering” is a common approach in these instances and would allow existing interests to be maintained according to the existing regulations even while the new *MRA* and its regulations are put in place.

The “grandfathering” approach, however, may conflict with the *MRA*’s purpose statements and counter

desired modernization by keeping projects and holdings tied up in outdated systems.

For each potential regulation, a number of factors and considerations must be balanced to determine appropriate legacy treatment. They include:

- Legal factors relating to existing interests
- Indigenous considerations
- Losses, such as monetary losses, opportunity costs, and impacts on relations

- Technical considerations
- Effects on other regulations
- Inter-jurisdictional considerations
- Investment influences

Legacy mineral interests (existing mineral claims & mineral leases under the NWT Mining Regulations) will be brought under the *MRA* to the extent possible, balancing the factors and considerations noted above.

What are Policy Intentions?

This document is not intended to be an indicator of the exact number or nature of the regulations that will result from the IGC’s process. It is, instead, a summary of the intents or rationale that will be communicated to legal drafters tasked with creating the regulations that are required.

For the purpose of this document, the goals and objectives from each of the public intentions papers prepared by the IGC have been summarized and consolidated under the following over-arching themes:

- Claims
- Leases
- Benefits
- Production licenses
- Mineral Rights Review Board

Under each theme, a brief rational highlights the approach or thinking that is driving the proposed regulations.

The individual or key points of consideration for each theme are then identified in point form.

This document concludes with a comparison (Appendix A) of the most notable changes and advances that are proposed between the legislation that exists today and the *Mineral Resources Act* that has been created to carry the NWT mineral development sector into the future.

If you have questions, want to provide specific input, or have a formal presentation or paper that you would like to have considered in response to these policy intentions, you are encouraged to contact the GNWT’s *MRA* Implementation Unit at: MRA_Implementation@gov.nt.ca.

Claims

It is typical for mineral tenure to start with a claim that is staked, followed by geological work, with the claim eventually being converted to a lease. The current system under the NWT Mining Regulations requires that a claim be converted to a lease at the 10-year anniversary of the claim. This time-based model (also known as a 'temporal system') is being changed to a merit-based system under the proposed regulations, where a claim holder would prove that there is an existing deposit on their claim by presenting the geological work being done on that claim. Based on past and current data, NWT producing mines and all active advanced exploration projects have to meet the technical requirements to acquire a lease under or around the 15-year mark, being five years more than the current 10-year mark. The average maximum claim life in Canada for comparable merit-based systems is 30 years.

The general structure for dealing with staking disputes is already in the *Mineral Resources Act* which was carried over from the NWT Mining Regulations.

The core focus of regulatory work on land access is to encourage early, positive relationships between proponents and IGOs. In order to engage early and often, to create

awareness of possible benefits, as well as knowing which proponents are doing work in various regions, a notice of intended work is being introduced. This will inform Indigenous governments of proposed activities in or around their traditional lands, raise awareness for explorers of any specific sensitivities, and identify opportunities to contribute to exploration activities using local employees or businesses.

Work assessment reports and reporting requirements are a key component of the mineral tenure system. Work collected under these reporting regulations is a key mechanism for collecting and increasing geoscientific knowledge for the NWT to contribute to the public database. Under the proposed regulations, work requirements are being modernized. For example, the current flat rates of work required over claim life are changing to escalating rates of work required over claim life. The new regulations introduce removal of minerals (ie: bulk samples). It is a permission-based system with new mandatory reporting requirements. The Supervising Mining Recorder will issue a notification of approval for samples larger than 100 tonnes prior to the program commencing.

The Mineral Resources Act (MRA) includes a public registry which identifies the types of documents that must be made publicly accessible. The Mining Recorder's Office will be responsible for maintaining the public registry, which will be posted on a website or another online electronic publication that is available in the NWT. Information that is to be included on the registry includes appointments, delegations, authorizations, orders, or waivers made under certain sections of the Act. It will also include information related to the issuance of prospector's licences, claims recorded, and leases issued, including any renewals, suspensions, or cancellations of mineral interests. Decisions made and written reasons required will also be posted on the public registry. Additional information may also be posted on the registry as required under the Regulations.

Policy Intentions for Claims

Under the broad category of Claims, regulations are proposed to meet the following objectives or intentions:

Applying For a Claim

Changes to claim application under the *MRA* are intended to provide early notification to Indigenous governments and organizations when a proponent declares their intent to begin work on a new claim. For a proponent to submit an application, they will need to obtain a Prospector's Licence, which involves education for prospectors about the unique and complex political, cultural, ecological, and regulatory considerations within the Territory. Policy intentions being considered by the GNWT around applying for a claim include:

PROSPECTOR'S AWARENESS COURSE AND PROSPECTOR'S LICENCE

- Require individuals intending to stake a claim and complete select tenure transactions in the Northwest Territories to hold a valid Prospector's Licence.
- Improve the Prospector's Licence to include a new five-year validity period and issuance in three categories: corporation, individual or resident individual.
- Create a prerequisite for a Prospector's Licence in the form of the Prospector's Awareness Course. Two individuals from a company will need to complete the Prospector's Awareness Course. These can include one with ownership in the company, a senior company official, the person(s) in charge of exploration in NWT, or a professional geoscientist or engineer.

APPLICATION TO RECORD

- The process to record a claim is made up of four components: Ground staking; application form to record the claim; Notification of the application to Indigenous governments and organizations; and issuing the claim.
- After a prospector has completed staking, they will have 60 days to submit an application to record the claim to the Mining Recorder.
- The Mining Recorder will record the claim within 31 days after the notification for the application to record the claim was sent out to Indigenous governments and organizations. This allows for Indigenous governments

and organizations to be informed of mineral claim applications directly in their respective traditional territories.

- On the day that the notification for the application to record is sent, a 30-day dialogue period will begin during which the notified IGOs and the applicant can reach out to each other to build relationships, share information, or identify any potential concerns with exploration in the area. If any concerns are identified during this period, the applicant can choose to withdraw their application for a full refund.
- The public will be able to access information on staked claims by identifying the areas in which they are interested; and to view active and pending mineral tenure online.

DISPUTES FOR RECORDED CLAIMS

- Prescribe that if a person wishes to dispute a recorded claim, a notice of protest may be filed within one year after the day the disputed claim was recorded.
- Require a copy of the notice of protest to be sent to the IGOs originally notified by the notification of the application to record.
- The Supervising Mining Recorder will be a decision-making body for staking disputes. The Supervising Mining Recorder will be able to summon and examine witnesses; compel the production of documents; and do all things necessary to provide a full and proper inquiry to decide on a dispute. Once a decision is made, the Supervising Mining Recorder will provide written reasons for their determination to the Mining Recorder and the parties to the dispute; and make them accessible also in the public registry.

Maintaining a Claim

Changes to claim maintenance under the *MRA* are intended to ensure a longer achieved claim life, effectively restructure the work system for claim holders, and encourage engagement with Indigenous governments and organizations in the claim area early and often. Allowances have been built into the work system so that Indigenous engagement on a claim can be submitted as a portion of work on that claim. Claim maintenance also considers requirements for grouping, transferring, and limitations on claims. The policy intentions under consideration for maintaining for a claim include:

CLAIM LIFE AND RENEWAL

- Once recorded, a mineral claim is valid for a period of two years and that the maximum length a claim may be maintained is 30 years.

REQUIRED WORK ON A RECORDED CLAIM

- “Work” on a mineral claim will be clearly defined. Activities considered “work” can include surveying, excavation and sampling.
- At the end of the initial first term, there is a requirement to a work assessment report representing at minimum \$10/hectares of work; and that each subsequent year the work value is determined by claim life.
- A Notice of Intended Work submission is required annually, and that the notice will be shared with IGOs whose settled or asserted traditional territory overlaps the claims and leases on which work is being done.
- The Notice of Intended Work will generally be required, with exceptions, for most mineral claims and some leases.
- There are occasions when a Notice of Intended Work will not be required, for example: where the IGO is the claim or lease holder and there are no other IGOs who have settled or asserted traditional territory overlapping the claim, or where the applicable IGO(s) has provided written support for the waiver.
- A detailed Notice of Intended Work form will be created for proponents, providing information such as timing, location, and basic details of the planned exploration work. The notification is intended to keep IGOs informed, create transparency, and helps to serve as a tool for early engagement with Indigenous Governments.
 - The Notice of Intended Work form will be simplified for proponents with an existing land use permit for the work area.

- The Notice of Intended Work is to be filed with the Mining Recorders Office at least 30 days in advance of the work commencing; and amendments are to be submitted seven days before work starts or if the work gets cancelled.
- After work has been completed, the proponent will need to file a Work Assessment report.
- To protect commercial interests, once a report is filed, it will be confidential for a maximum period of three years or until:
 - The holder of the mineral claim consents to the report being made publicly available;
 - The information is publicly available;
 - All mineral claim(s), which are the subject of the report are cancelled; or
 - Three years have passed since the report was submitted.
- If a claimholder does not meet the minimum work requirements, they can submit a cash deposit in place of outstanding required work. A short-term extension will be allowed for filing of requirements and the cash deposit.
- Allow the amount of the deposit to be reduced if there is existing work credit that can be applied to the work requirements, and is refundable for an equivalent value of work.
- Allow a claimholder to submit a work assessment report to obtain a full or partial refund of an approved amount up to 10 years from the date of receipt of the deposit.
- In addition to geological data, Indigenous engagement credits are being introduced that allow Indigenous engagement to be considered as work conducted under a claim. In the work report, the claim holder can qualify for up to 20 percent of the total amount of work per claim by submitting one of two options:
 - Written verification from an Indigenous governments and organization that indicates a relationship has been established, or
 - Documented evidence of engagement expenditures where the claimholder conducted eligible engagement activities as defined by policy.

GROUPING AND TRANSFER OF CLAIMS

- The new regulations will continue to allow for grouping of claims that are adjacent, not exceeding 6,500 hectares of total area.
- In order to support the clear and transparent transfer of claims or leases, the following regulations are being proposed:
 - Following the approval of the application of transfer, the Mining Recorder will issue a notice of transfer to Indigenous governments.
 - A Notice of Transfer will also be issued when there is a change in name of a corporation.
 - The Notice of Transfer and recording of a transfer will happen in parallel, as the claim would have already been vetted under the Application to Record process.
- To facilitate a modern tenure system, the regulations will move the submission of applications for the Mineral Administration and Registry System (or MAARS) online to further streamline the process, reduce the administrative burden to both proponents and the government, create transparency of process, and create awareness for Indigenous governments and organizations. This change will occur once development of the MAARS is completed.

LIMITATIONS AND SUSPENSIONS

- When there are defaults, claim holders will be given 30 days to rectify most issues, but the Mining Recorder can extend this or offer the claim holder an opportunity to propose an appropriate period of time to address the issue to provide due notice and fair opportunity.
- Disqualifying a tenure holder from applying for a Prospecting Permit, Claim, or Lease in the same area that they have cancelled for a period of one year.

Advancing a Claim

Changes to claim advancement under the *MRA* are focused on the ability of claim holders to remove minerals from their claim for testing and analysis purposes. This work is essential for claims to progress to mineral leases, from which the proponent will be able to acquire a production licence to sell minerals. The policy intentions under consideration for advancing a claim include:

APPROVAL TO REMOVE MINERALS

- The holder of a claim (or lease without a Production Licence) must apply to the Supervising Mining Recorder for permission to remove minerals from the claim or lease for testing and analysis purposes. This will require applying 90 days before the program commences for approval to remove minerals.
- Removal will only be allowed to begin only after the Supervising Mining Recorder has issued the notification of approval.

APPROVAL TO SELL MINERALS

- The mineral claim holder, when approved to remove minerals, to submit a payment to the GNWT that is equal to any proceeds of the sale or disposition which exceed specified acquisition costs.
- Prescribe that a submission must be accompanied by the amount of the proceeds from selling the product or mineral produced from the extracted mineral-bearing substance and the value verified by the Supervising Royalties Director along with any other information that may be required as a term of the disposition permission.

BULK SAMPLE REPORTING

- Require the permit holder to submit a certified report, in an approved form, to the Mining Recorder by the date specified in the bulk sample permission.
- Prescribe that the removal of minerals reporting requirements be determined by the analysis schedule, program dates, and technical evaluation but generally remain confidential for three years from the date the report was submitted.

Leases

Mineral Leases are granted where there is a high likelihood of the project becoming a future producing mine. A legal survey provides the definitive measure of the area of the claim and helps secure the mineral tenure offered by a lease.

The Canadian average duration for a mineral lease term is 20.83 years. It was determined that maintaining and mirroring of the current 21-year lease life was appropriate and consistent with the cross-jurisdictional analysis, and aligned with the pan-Canadian average.

In the current tenure system, there is no requirement to report on exploration activities that occur on a lease and therefore geological knowledge and where exploration was conducted is not known, so the public record is not complete.

The proposed regulations see lease rental notifications being issued well ahead of the lease rental due date. Meanwhile, lease rents have been adjusted based on other comparable jurisdictions.

Policy Intentions for Leases

Under the broad category of mineral leases, regulations are proposed to meet the following objectives or intentions:

- Exploration companies will have 30 years to work their claim and prove that the presence of a mineral deposit that has potential to be economical to produce.

Applying for a Lease

Changes to lease application under the regulations are focused on creation of a technical report process to approve a lease application. The intent is to prove that a claim has a proven deposit prior to becoming a mineral lease, and to ensure key technical information is shared with the GNWT and Indigenous governments and organizations. The policy intentions under consideration for lease application include:

STRUCTURE OF LEASE APPLICATIONS

- The application process will include a three-step process:
 1. Evidence of Deposit Technical Report
 2. Survey
 3. Lease Application

This sequence ensures that only mineral claims eligible to become a lease are conducting surveys.

EVIDENCE OF DEPOSIT TECHNICAL REPORT

- The regulations will introduce the requirement of an evidence of deposit technical report as a formal way for claim holders to validate the existence of a defined mineral deposit in order for a claim to become a lease.
 - Evidence of deposit will use the development stage of a standard pre-feasibility study as key eligibility criteria for a lease and as the basis of its evidence of deposit.
 - Allowances would be made for a report which meets the defined requirements of a prefeasibility study to be accepted as evidence of deposit where there is otherwise no public requirement to file such a report.
- The regulations will build in flexibility knowing that all deposits are not created equal and that small-scale mines are different. To address this, the regulations will allow an eligible small-scale mine to submit a simplified evidence of deposit technical report, in place of a full report.
 - The simplified report would be required to follow the reporting requirements contained in a defined schedule including a mine and geological description, a mine plan, human resources plan, operational and capital expenditures estimate, and an estimate of the mineral value to be mined.

SURVEYS

- Allow a claim holder who intends to apply for a mineral lease to file a plan of survey for their claim. This will only be allowed after a certified evidence of deposit technical report is recorded on that claim and before the application for a lease.
- Prescribe that surveys must meet the legal requirements as laid out in the *Canada Lands Survey Act*. Real and geometric changes need to be communicated and shared. Evidence of this communication must be on file before the Mining Recorder can proceed with the survey process.

LEASE APPLICATIONS

- Require applicants for leases to meet specific eligibility requirements including:
 - A valid Prospector's Licence.
 - An evidence of deposit technical report on the relevant claims.
 - The lease applies to the entire area of the corresponding claim.
 - A valid legal survey recorded prior to the lease application.
 - All claims must be in good standing, with no requirements outstanding.
 - Providing of the legal survey to all adjacent claim holders.
- Prescribe that when the Mining Recorder's Office receives a lease application, it will issue a Notification of the Lease Application to Indigenous governments and organizations. When the Mining Recorder's Office approves a lease application, it will issue a Notification of Lease to Indigenous governments and organizations.
 - A targeted dialogue period will be required where feedback is received and considered as part of application processing.

Maintaining a Lease

The changes to lease maintenance under the *MRA* are focused on the payment of lease rent and adding new reporting requirements before issuing a Production Licence. This includes reporting requirements for exploration expenditure, and that lease rent is competitive with other jurisdictions. The policy intentions under consideration for lease application include:

EXPLORATION EXPENDITURE REPORTING

- Make the annual lease exploration expenditure report due on or before the Date of Requirements.
 - Filing the annual reporting for exploration expenditures on a lease will require that the mineral leaseholder hold a valid Prospector's Licence.
 - Limit only exploration expenditures, reported through the lease annual exploration expenditures report, as eligible for deductions to offset royalty payments.
 - Confidentiality of annual exploration expenditure reports will be determined by specified criteria.
- Where the leaseholder has failed to file a lease exploration expenditure report, the Mining Recorder will notify the leaseholder that they have 30 days to comply with the regulations before an enforcement process begins.

LEASE RENTAL RATES

- Increase lease rental rates to \$10 per hectare regardless of the term. At renewal, they will be based on the prevailing rate. This aligns the NWT with similar Northern jurisdictions.

RENEWAL REQUIREMENTS

- A lease is eligible for renewal provided the renewal requirements are met. If, before the existing lease ends, the lessee pays the rent for the first year of the renewal, the Minister shall issue the renewal for 21 years. There is no limit on renewals, as long as the renewal requirements are met.

Benefits

The *Mineral Resources Act* allows the GNWT to set benefit requirements related to mining projects, which includes Benefit Agreements (BAs) and Socio-Economic Agreements (SEAs).

Benefit Agreements will be agreements between proponents and Indigenous governments to ensure benefits from a project flow to the appropriate Indigenous groups, similar to the current day Impact Benefit Agreement. Benefit Agreements will largely be private agreements, with some supports within the Act and regulations, in order to maintain Indigenous autonomy over their rights. Socio-Economic Agreements are agreements between proponents and the GNWT to ensure benefits from a project flow to the NWT.

Benefit Agreements and Socio-Economic Agreements are based on what is already in place and has been standard practice in the NWT since 1996. The GNWT currently has six Socio-Economic Agreements in place with mineral projects.

The proposed regulations will have thresholds for mining projects to require Benefit Agreements and a Socio-Economic Agreement. Mines that exceed the threshold will need to negotiate and sign agreements to obtain permission to sell

minerals. In addition, the proposed regulations will include provisions for renegotiation of these agreements if the mine undergoes a material change that changes the level of benefits received from the mine.

Negotiation and potential renegotiation of Benefit Agreements will be supported by a dispute resolution board intended to only hear cases regarding negotiation of Benefit Agreements. This will offer the ability to resolve negotiation disputes and ensure that Indigenous governments and organizations and proponents always have a path to a fair and reasonable agreement.

Legislative support for Socio-Economic Agreements is meant to improve their function and increase the retention of benefits in the NWT. Legislation will require enhanced reporting, basic requirements, and enforcement options.

Firm reporting deadlines will improve the ability of the GNWT to hold meetings with IGOs, mines, and other stakeholders, improve management of Socio-Economic Agreement performance and allow for the earliest possible publication of the annual reports.

Policy Intentions for Benefits

Benefit Agreements

THRESHOLD FOR BENEFIT AGREEMENTS

Benefit Agreements will be required when cumulative total estimates of a mine project are more than 250 person-years of labour or where more than \$75 million (in 2021 dollars) will be spent over the course of a project's life. Under the Act and regulations, proponents are required to produce benefits estimates at the time of the evidence of deposit technical report (to be issued a claim), when applying for a production licence, and then regularly after a production licence is issued. Benefit Agreements will need to be completed with Indigenous governments and organizations where cumulative estimates are above the threshold before a production licence can be issued.

WHICH INDIGENOUS GOVERNMENTS AND ORGANIZATIONS WILL REQUIRE BENEFIT AGREEMENTS

The GNWT will identify the applicable Indigenous governments and organizations where Benefit Agreements will be required for each mining project at the time a mineral lease is issued. A proponent will need to provide proof that Benefit Agreements have been completed with a verification letter from each applicable Indigenous government and organization confirming an agreement has been reached.

However, a production licence may be issued where Benefit Agreements have been completed by negotiation with required Indigenous governments and organizations, and for any outstanding Benefit Agreements that have not been completed by negotiation, the proponent has completed dispute resolution and accepted the outcome set by the dispute resolution panel.

MATERIAL CHANGE FOR BENEFIT AGREEMENTS

Benefit Agreements will need to be renegotiated when a material change to a project is declared under the Act. The GNWT will monitor benefits estimates and real numbers, and declare a material change if a significant change to benefits occurs. Declarations will include a timeline (maximum of one year) and any other information relevant to renegotiation. Both proponents and Indigenous governments and organizations may apply for a declaration of material change when there has been a quantifiable change to benefits.

When a material change is declared, it is the mineral leaseholder's responsibility to complete renegotiation of associated Benefit Agreements within an appropriate period of time.

A production licence will remain in good standing if, at the end of the timeline set in the declaration, that proponent completes renegotiations or is engaged in dispute resolution of outstanding Benefit Agreements.

A proponent may be subject to suspension and cancellation of their production licence if they do not complete all renegotiations or enter dispute resolution for outstanding Benefit Agreements within the timeline set in the declaration.

Benefit Agreement Dispute Resolution

BOARD AND MEMBERS

A dispute resolution board will be created with the specific purpose of arbitrating Benefit Agreements when, and if, negotiations might fail. To fill the board with members, an open call for nominations would be sought to establish the board and fill vacancies when they arise. There will be eight members of the board, with four of those members coming from the nominations of Indigenous governments and organizations.

QUALIFICATIONS FOR BOARD MEMBERS

Nominations will be selected to participate on the board based on the following qualifications:

- meaningful practical experience in Indigenous issues;
- context of the NWT mining industry;
- context of consensus decision making in the NWT; and
- arbitration or dispute resolution, with or without formal designations.

BOARD POWERS

The dispute resolution board will be empowered to fulfill its function, both administratively and for effective dispute resolution, including: training for board members, procedural rules for hearing disputes, screening of disputes, allowing more time for negotiations, setting terms of a Benefit Agreement, or deciding a project can proceed without a particular Benefit Agreement.

Socio-Economic Agreements

THRESHOLD FOR SOCIO-ECONOMIC AGREEMENTS

Socio-Economic Agreements will be required when estimates of a mine a cumulative total of more than 250 person-years of labour or for which more than \$75 million (in 2021 dollars) will be spent in operating and capital costs over the course of a project's life. Under the Act and regulations, proponents are required to produce benefits estimates at the time of the evidence of deposit technical report (to be issued a mineral lease), when applying for a production licence, and then regularly when a production licence is issued. A Socio-Economic Agreement must be completed with the GNWT where estimates are above the threshold before a production licence is issued.

SOCIO-ECONOMIC AGREEMENT REQUIREMENTS

The regulations will require that Socio-Economic Agreements include some type of commitment to address the following general areas, but will be negotiated on a case-by-case basis:

- Employment Practices
- Human Resources and Development
- Business Development
- Social Wellbeing
- Cultural Wellbeing
- Adaptive Management & Advisory Body
- Legacy Projects
- Indigenous Government and Organizations Participation
- Net Effect on Government
- Sustainable Development
- Dispute Resolution
- Material Change

The regulations will also set an annual reporting deadline for all Socio-Economic Agreements, creating a firm standard for when proponents must provide information on benefits. Mines will also be required to offer meetings to address Socio-Economic Agreement performance, with different rights holders or stakeholders on a quarterly or annual basis.

AN OVERVIEW OF POLICY INTENTIONS THAT WILL GUIDE THE DRAFTING OF REGULATIONS FOR THE NWT MINERAL RESOURCES ACT

PRIORITIZATION OF SOCIO-ECONOMIC AGREEMENTS

The Minister will also have the authority to determine the demographic prioritization of each Socio-Economic Agreement on a case-by-case basis, first based on geography and then on other connecting socio-economic factors.

MATERIAL CHANGE FOR SOCIO-ECONOMIC AGREEMENTS

Unless otherwise stated in the Socio-Economic Agreement, Socio-Economic Agreements must be renegotiated when a material change is declared under the regulations. The GNWT will monitor benefits estimates and real numbers, and declare a material change after a period of engagement with Indigenous governments and organizations and the proponent. Declarations will include a timeline (maximum one year) and any other information relevant to

renegotiation. Both proponents and Indigenous governments and organizations may apply for a declaration of material change when there has been a quantifiable material change to benefits.

When a material change is declared, it is the mineral leaseholder's responsibility to complete renegotiation of a Socio-Economic Agreement.

A production licence will remain in good standing if, at the end of the timeline set in the declaration, that proponent completes renegotiation or is engaged in dispute resolution of a Socio-Economic Agreement.

A proponent may be subject to suspension and cancellation of their production licence if they do not complete renegotiation or enter dispute resolution for the Socio-Economic Agreement within the timeline set in the declaration.

Production Licences

Production Licences grant the authority to sell minerals. The Production Licence has been developed to streamline reporting requirements and to improve the GNWT's administrative capacity to manage these authorities and verify compliance.

The introduction of Production Licences under the *MRA* requires the creation of procedures for application and

maintenance, as well as clarifying the linkages between Production Licences and Benefits. This includes how statistical-return reporting will be done for all Production Licence holders, and how annual reports will be made public and provide all stakeholders access to production data for mines operating within the Northwest Territories. This would be new reporting to identify and close reporting gaps under the *Mineral Resources Act*.

Policy Intentions for Production Licences

Under the broad category of production licences, regulations are proposed to meet the following objectives or intentions:

Applying for a Production Licence

Applying for a production licence under the *MRA* is focused on what prerequisites need to be in place for the licence to be issued. The policy intentions under consideration for Production Licence application include:

- Describe requirements that will need to be in place in order to issue a Production Licence including:

- All necessary licences and permits in good standing;
- Mineral lease (s) of mine footprint in good standing;
- All application reporting in place; completed BAs with relevant IGOs where required; and completed SEAs with the GNWT where required.

- Set the timeframe to review an application for completeness at approximately 45 days (proposed).

Maintaining a Production Licence

Maintenance of a Production Licence under the *MRA* is generally focused on reporting requirements under the licence, as well as the function of a licence. The policy intentions under consideration for Production Licence maintenance include:

FUNCTION OF A PRODUCTION LICENCE

- Define production under a Production Licence and the ability for an owner/operator to sell minerals to a third party.
- Require Proponents to report information to the GNWT including benefits under Benefit Agreements or Socio-Economic Agreements and reporting related to royalties.
 - Require Production Licence Holders to share identified reporting data with the GNWT annually and within prescribed timelines.
 - Describe requirements for standardized reporting forms.

MAINTENANCE REQUIREMENTS

- Outline requirements to maintain a Production Licence including:
 - Maintain good standing on the underlying lease
 - Ensure all permits and approvals needed to acquire the Production Licence are in good standing
 - Comply with the *Act* and regulations
 - Meet reporting requirements under the Production Licence and statistical returns
 - Maintain Socio-Economic Agreement-based benefit reporting and Socio-Economic Agreement priorities for employment and procurement
 - Comply with royalties reporting, payments, inspections, and audits
- Require reporting on the benefits of a project where Benefit Agreements and Socio-Economic Agreements have been signed and are in force.
 - An ‘early warning system’ for the GNWT to notify appropriate IGOs that a project may soon cross the threshold for Benefit Agreements may be instituted.
- Establish statistical returns as a requirement of a Production Licence; and for maintaining an active Production Licence in good standing.

- Establish two reporting requirements: production data; and exploration expenditures for the Production Licence area, that must be prepared by a professional engineer or geoscientist and will be made public subject to certain confidentiality provisions.
- Set the format for filing statistical returns in electronic form using the mineral tenure online user interface.
- Prescribe that failure to submit the required statistical returns may result in Production Licence suspension.

Transfer or Suspension of a Production Licence

Like with other tenure instruments, there are some reasonable instances where a Production Licence could be transferred to a new licence holder or suspended in some circumstances. The policy intentions will need to outline what the appropriate procedures and allowances of transfer and suspension are. The policy intentions under consideration for Production Licence transfer and suspension include:

TRANSFER OF A PRODUCTION LICENCE

- Establish rules for maintenance/suspension of a Production Licence in the event of a death.
- Permit the transfer of Production Licences provided: all fees/rents and claims reporting are in good standing; there are no applications for other mineral tenure actions in play; and the new holder agrees to assume responsibility for all relevant Benefit Agreements and Socio-Economic Agreements.

SUSPENSION OF A PRODUCTION LICENCE

- Allow voluntary suspension of a licence by a Production Licence holder after any necessary consultation, with approval from the Minister in specific identified circumstances, and actions required from a proponent to reverse a suspension.
- Allow the Minister or a delegate to suspend a Production Licence when there is: failure to comply with the *Act*, regulations, or a related order; offences under the *Act* or regulations; fraud or misrepresentation in an application; insolvency, bankruptcy, or dissolution of the corporate entity; where no production has occurred for more than 10 years, and the holder of the Production Licence has no intent to enter production within the next 12 calendar months.
 - Enable the Minister, in specified circumstances, to revoke the Production Licence at his/her discretion.

Mineral Rights Review Board

The MRRB is an arms-length panel empowered to review disputes related to the *MRA*. An advisory body will ensure greater accountability and input into the selection process while not undermining the Minister's power under the *MRA* to make appointments.

Requiring a solicitation of expressions of interest ensures a transparent process to identify qualified candidates. It is normal to empower dispute resolution bodies to make their

own procedures and will prompt them to create rules of procedure for clarity and fairness. The annual report should provide transparency around who the Board is, what costs are associated with it, and what the Board has done.

A limitation period is required for requests, otherwise interests could be left uncertain for unknown amounts of time.

Policy Intentions for the Mineral Rights Review Board

Under the broad category of Mineral Rights Review Board, regulations are proposed to meet the following objectives or intentions:

Operation and Purpose of the Board

To allow the MRRB to function under the *MRA*, regulations will need to establish the purpose and powers of the board, as well as operating procedures that allow for appointment of board members and dispute resolution. The policy intentions under consideration for the construction and powers of a Mineral Rights Review Board include:

PURPOSE OF THE BOARD

- Establish the Mineral Rights Review Board to replace the Ministerial Review process.

OPERATION OF THE BOARD

- The Mineral Rights Review Board will be comprised of at least four members, each with specialized experience in one or more of the following areas: mineral resources; royalties administration; law; and/or mineral rights and issuance of mineral interests under the *MRA*.
- Set out additional details including:
 - The Minister is required to do a solicitation of expressions of interest before making appointments to the Mineral Rights Review Board.

- An advisory body will assist the Minister in selecting persons to be appointed. The advisory body must comprise:
 - An Indigenous representative
 - An industry representative, and
 - Minister's delegate.
- The MRRB is empowered and required to create their own rules of procedure.
- A request for review must be filed by 45 days from the decision made or action taken or omitted to be taken under the *MRA* or its regulations.
- The panel is entitled to make any remedial order to give effect to the determination.
- An annual report will include the composition of the MRRB, terms of appointments, remuneration and expenses, number of requests received, and a summary of results.
- Prescribe that disputes will be decided by a panel of three members selected from the MRRB.

Appendices

MINERAL RESOURCES ACT – PUBLIC ENGAGEMENT
Appendix A – Comparison of Northwest Territories Mining Regulations vs *Mineral Resources Act*

MINERAL RESOURCES ACT – PUBLIC ENGAGEMENT

Appendix A – Comparison of Northwest Territories Mining Regulations vs *Mineral Resources Act*

Current Northwest Territories Mining Regulations	Proposed Regulations under the <i>Mineral Resources Act</i>
The Basics	
Administrative Provisions Electronic and Paper based system	Administrative Provisions <ul style="list-style-type: none"> Force majeure provision added Provisions for technical issues with online user interface and impacted clients Moved to Online User Interface with electronic submission for all activities within the regulations. Applications and documents, with the exception of reports of work and royalty returns and their supporting documents, are submitted online
Prospector's Licence <ul style="list-style-type: none"> Valid for up to one year (expires annually on March 31) Must be 18 years of age or older Two categories: individual or corporation 	Prospector's Licence <ul style="list-style-type: none"> Must complete Prospector's Awareness Course before eligible to obtain licence Valid for five years from date of issuance Must be age of majority (19 years) under the <i>MRA</i> Three categories: individual, individual resident, or corporation
Prospecting Permits	
<ul style="list-style-type: none"> Issued once each year, as soon as practicable after January 31st Application period is open from February 1 until November 30 (or last business day in November) of a given year <ul style="list-style-type: none"> Priority 1 applications are those received in person at the Mining Recorder's Office on November 1 Priority 2 applications are those received between February 1 and November 1, except for Priority 1 applications Priority 3 applications are those received after November 1 but before the end of the last business day in November Valid for 3 years if located south of 68 degrees North latitude Valid for 5 years if located north of 68 degrees North latitude 	Pause the issuance of new prospecting permits at the coming into force of the <i>MRA</i> until regulations for Zones under section 25 of the Act are in place and a further review can be done to evaluate the need for prospecting permits, subject to resource and self-government agreement considerations

MINERAL RESOURCES ACT – PUBLIC ENGAGEMENT

Appendix A – Comparison of Northwest Territories Mining Regulations vs *Mineral Resources Act*

Mineral Claims																																								
General <ul style="list-style-type: none"> • Ground staked claims • Must hold valid Prospector's Licence to stake and select activities • Maximum duration of 10 years • Gives the claimholder rights to the minerals • May not exceed 1,250 ha in size • Rules for size, shape and legal post requirements for staking claims outlined in regulations • Application to Record must be submitted within 60 days from completion of staking • Claim is recorded as soon as practicable after the 60th day after staking was completed 																																								
General <ul style="list-style-type: none"> • Ground staked claims (in phase 1, before online map staking) • Must hold valid Prospector's Licence to stake and meet all maintenance requirements • Maximum duration of 30 years • The recording of a claim does not confer upon the holder any right, title, interest or claim other than the exclusive right to perform assessment work under the <i>MRA</i> • Must not exceed 1,250 ha in size • Rules for size, shape and legal post requirements for staking claims maintained from Mining Regulations • Application to Record must be submitted within 60 days from completion of staking • New Notification of Application to Record (NAR) issued to Indigenous Governments, which begins a 30-day Dialogue Period during which Indigenous Governments and the applicant may contact one another • Claim is recorded as soon as practicable after the 30-Day NAR dialogue period 																																								
Information Sharing Notification of Application to Record currently implemented through policy					Information Sharing <ul style="list-style-type: none"> • Incorporates information-sharing elements for key milestones and activities in a claim life. Regulations include: <ul style="list-style-type: none"> • Notification of Application to Record • Notice of Intended Work • Notification of Transfer • Evidence of Deposit technical Summary Report 																																			
Work Requirements and Extensions <ul style="list-style-type: none"> • Minimum Work Requirements: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Year</th><th>2</th><th>3-4</th><th>5-9</th><th>10-14</th><th>15-19</th><th>20-24</th><th>25-29</th></tr> </thead> <tbody> <tr> <td>Required Work (\$/ha)</td><td>\$10</td><td>\$5</td><td>\$5</td><td>N/A</td><td>N/A</td><td>N/A</td><td>N/A</td></tr> </tbody> </table> <ul style="list-style-type: none"> • May apply for extension by paying deposit in lieu of work • Must submit work report or application for extension no later than 90 days after the anniversary date • A simplified report may be submitted if the report only deals with excavation, sampling or the examination of outcrops and surficial deposits, and may not report more than \$10 per hectare per claim in the report 					Year	2	3-4	5-9	10-14	15-19	20-24	25-29	Required Work (\$/ha)	\$10	\$5	\$5	N/A	N/A	N/A	N/A	Work Requirements and Extensions <ul style="list-style-type: none"> • “Indigenous Engagement” added to the definition of “work” • Claimholder must submit Notice of Intended Work prior to beginning a field program. This serves as a notice that will be shared with Indigenous Governments and is not an approval-based notice • Minimum Work Requirements: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Year</th><th>2</th><th>3-4</th><th>5-9</th><th>10-14</th><th>15-19</th><th>20-24</th><th>25-29</th></tr> </thead> <tbody> <tr> <td>Required Work (\$/ha)</td><td>\$10</td><td>\$5</td><td>\$10</td><td>\$20</td><td>\$25</td><td>\$30</td><td>\$35</td></tr> </tbody> </table> <ul style="list-style-type: none"> • May apply for extension by paying deposit in lieu of work • Must submit work report or application for extension by the anniversary date (no grace period) • May apply for a Short-term Extension to be granted a 90-day extension from the anniversary date to submit a work report • A simplified report may be submitted if the report only deals with excavation, sampling or the examination of outcrops and surficial deposits, or the new allowance of Very Low Frequency (VLF) and magnetic surveys and may not report more than two years' worth of work according to the new escalating work structure 				Year	2	3-4	5-9	10-14	15-19	20-24	25-29	Required Work (\$/ha)	\$10	\$5	\$10	\$20	\$25	\$30	\$35
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MINERAL RESOURCES ACT – PUBLIC ENGAGEMENT

Appendix A – Comparison of Northwest Territories Mining Regulations vs *Mineral Resources Act*

Claim Grouping and Allocation <ul style="list-style-type: none"> Claims must be contiguous Maximum total area of all claims in group may not exceed 5,000 ha (up to four full-sized claims) No Allocation Maximum 	Claim Grouping and Allocation <ul style="list-style-type: none"> Claims must be contiguous Maximum total area of all claims in group may not exceed 6,250 ha (up to five full-sized claims) Allocation Maximum of 10 years
Reduced Area Claims, Subdivided or Amalgamated Claims <ul style="list-style-type: none"> Claims may be reduced in area if at least \$10/ha of work is completed No allowance for subdivided or amalgamated claims 	Reduced Area Claims, Subdivided or Amalgamated Claims <ul style="list-style-type: none"> Claims may be reduced in area if at least \$10/ha of work is completed Claims may be subdivided or amalgamated if at least \$10/ha of work is completed Reduced area claim should be 25 ha in size or greater
Reopening of Lands After Cancellation <ul style="list-style-type: none"> Lands reopen for prospecting and staking at noon on the day following the first business day after the date the claim was cancelled 	Reopening of Lands After Cancellation <ul style="list-style-type: none"> Lands reopen for prospecting and staking at noon on the day following the 30th day after the date the claim was cancelled
Removal of Minerals/Bulk Sampling <ul style="list-style-type: none"> No person may remove minerals or processed minerals whose gross value exceeds \$100,000 from a recorded claim that is not subject to a lease unless the removal is for the purposes of assay and testing to determine the existence, location, extent, quality or economic potential of a mineral deposit within the claim 	Removal of Minerals/Bulk Sampling <ul style="list-style-type: none"> The holder of a claim or mineral lease must apply for permission to remove minerals over 100 tonnes and up to 10,000 tonnes. For samples in excess of 10,000 a business case must be submitted for approval. Applications will be required 90 days before the sample program begins There will be reporting requirements post bulk sampling program
Requirements prior to Lease Issuance <ul style="list-style-type: none"> Must have at least \$25/ha work completed (5 years of work) before eligible to submit application No Evidence of Deposit Technical Report required Plan of Survey required and can be submitted at any time Application for lease can be submitted at any time after minimum work requirements are met Must pay application fee (\$25) and first year's rent (\$2.50/ha) 	Requirements prior to Lease Issuance <ul style="list-style-type: none"> Must have at least \$70/ha work completed (9 years of work) Must submit Evidence of Deposit Technical Report (EDTR) or Simplified Evidence of Deposit Technical Report (SEDTR) for certification Plan of Survey required but may not be submitted until after EDTR is certified Application for Lease must be submitted within two years of EDTR certification Must pay application fee (TBD) and first year's rent (\$10/ha)
Mineral Leases	
General <ul style="list-style-type: none"> Valid for term of 21 years; renewable for multiple terms Allows for the sale of minerals 	General <ul style="list-style-type: none"> Valid for term of 21 years; renewable for multiple terms Grants the lease holder an interest in minerals
Lease Rent <ul style="list-style-type: none"> Must pay annual rent at the following rates: <ul style="list-style-type: none"> \$2.50/ha in first term \$5.00/ha in subsequent terms 	Lease Rent <ul style="list-style-type: none"> Must pay annual rent at the following rate: <ul style="list-style-type: none"> \$10.00/ha for all terms
	Information Sharing <ul style="list-style-type: none"> Notice of Lease Application Notice of Lease Issuance
Lease Reporting Requirements <ul style="list-style-type: none"> None 	Lease Reporting Requirements <ul style="list-style-type: none"> Every year, a report must be submitted with either: <ul style="list-style-type: none"> A table of exploration expenditures, or A declaration that no exploration work was done

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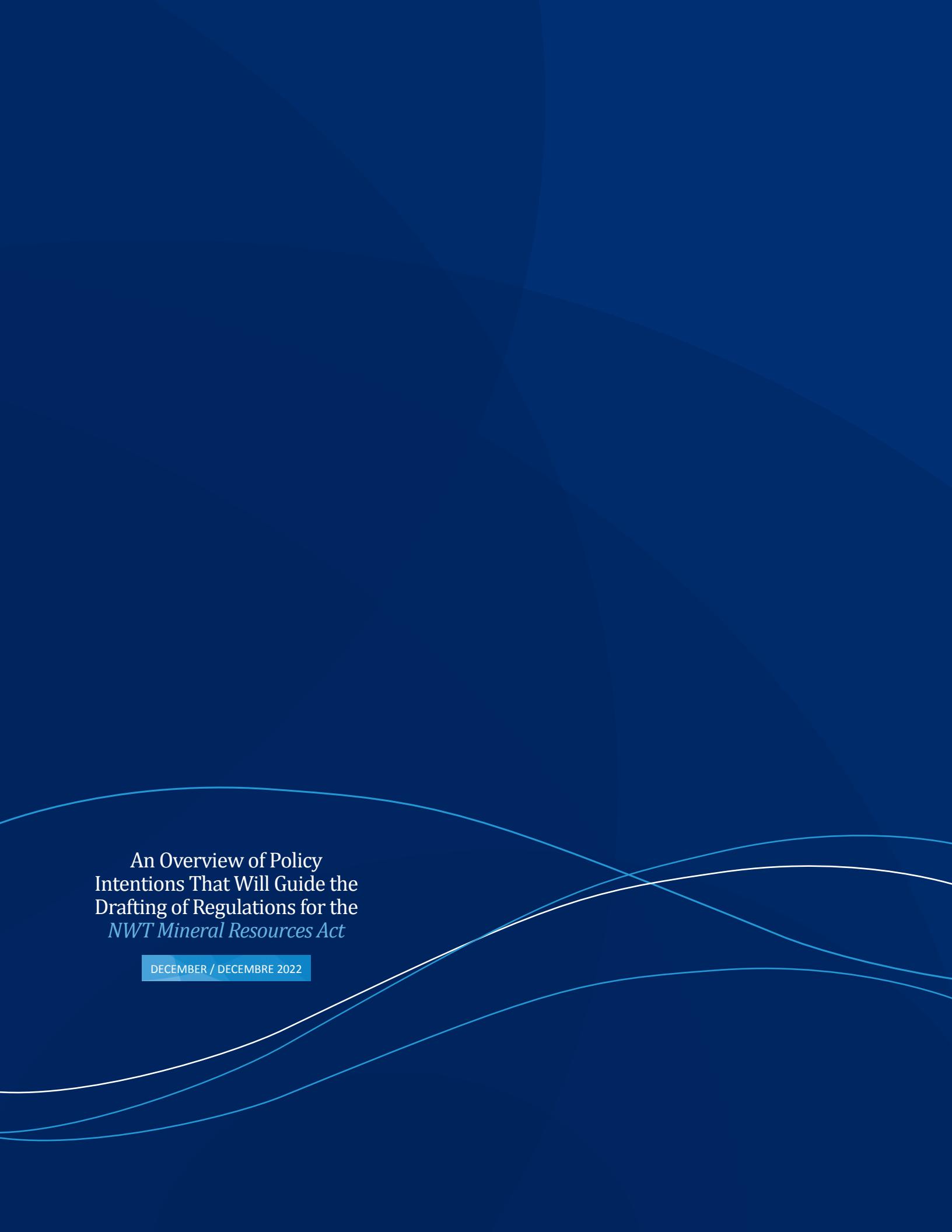
Appendix A – Comparison of Northwest Territories Mining Regulations vs *Mineral Resources Act*

<p>Reduced Area Leases, Subdivided or Amalgamated Leases</p> <ul style="list-style-type: none"> • At the time of application for lease, a perimeter survey may be obtained to amalgamate multiple claims into a single lease • Leases may be reduced in area – requires a new Plan of Survey and takes effect upon renewal of the lease • No allowance for subdivided or amalgamated leases after the lease is issued 	<p>Reduced Area Leases, Subdivided or Amalgamated Leases</p> <ul style="list-style-type: none"> • At the time of application for lease, a perimeter survey may be obtained to amalgamate multiple claims into a single lease • Leases may be reduced in area – requires a new Plan of Survey and takes effect on the next anniversary date of the lease • Leases may be subdivided or amalgamated after issuance with a new Plan of Survey; amendment takes effect on the next anniversary date of the lease
Benefit Agreements (BA) and Socio-Economic Agreements (SEA)	
<p>Socio-Economics Agreements</p> <ul style="list-style-type: none"> • No requirement for Socio-Economic Agreements 	<p>General</p> <ul style="list-style-type: none"> • Benefits (part 5 of the <i>MRA</i>) will be supported by an implementation guide that explains the process and rationale for benefits publicly • Benefits are defined broadly allowing for almost anything, but do not include impact-mitigation or compensation for impacts <p>Socio-Economics Agreements</p> <ul style="list-style-type: none"> • An SEA is an agreement between GNWT and mine proponent • Agreements are required for projects above the threshold of benefits, and have required thematic elements • Agreements prioritize benefits for different demographics, focusing first on geography, then other connecting socio-economic factors • If a material change is declared under the <i>Act</i>, renegotiation of an SEA can be required • The timeline for SEA reporting is set in the regulations • An advisory body is required, with participation by the GNWT, the mine, and relevant IGOs, to create a forum to discuss SEA performance and address any issues
<p>Benefit Agreements</p> <ul style="list-style-type: none"> • No Requirement for Benefit Agreements 	<p>Benefit Agreements</p> <ul style="list-style-type: none"> • BAs between mine proponent and Indigenous governments with Indigenous rights to land and resources where the mine is located • Agreements are required for projects above the threshold for benefits. The GNWT requires proof of agreements. • If a material change is declared under the <i>Act</i>, renegotiation of all BAs may be required
Production Licence	
<p>Production Licence</p> <ul style="list-style-type: none"> • No requirement for Production licence 	<p>General</p> <ul style="list-style-type: none"> • Licence is associated with existing mineral lease(s) • Allows for the sale of minerals • Required for all producing mines • Subject to Benefit Agreements and Socio-Economic Agreement requirements
<p>Production Licence Reporting Requirements</p> <ul style="list-style-type: none"> • None 	<p>Duration</p> <ul style="list-style-type: none"> • A production licence shall last for the lesser of mineral lease life or life of mine at the time of application

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Appendix A – Comparison of Northwest Territories Mining Regulations vs *Mineral Resources Act*

New Element under the <i>MRA</i>	<p>Acquisition</p> <ul style="list-style-type: none"> • All necessary licences and permits are in good standing • Mineral lease (s) must be in good standing • Application reporting • If above benefits threshold, completed BAs with the relevant Indigenous governments • If above benefits threshold, a completed SEA with the GNWT
	<p>Maintenance</p> <ul style="list-style-type: none"> • Maintain good standing on the underlying mineral lease • All permits and approvals must be in good standing. • Comply with the Act and regulations • Meet reporting requirements • Maintain SEA-based benefit reporting and SEA priorities for employment and procurement • Comply with royalties reporting, payments, inspections, and audits
	<p>Reporting Requirements</p> <ul style="list-style-type: none"> • Statistical returns will collect production information for the purpose of sharing the status of the NWT mineral resource sector • Reporting related to benefits under BAs or SEAs • Royalty reporting



An Overview of Policy
Intentions That Will Guide the
Drafting of Regulations for the
NWT Mineral Resources Act

DECEMBER / DECEMBRE 2022