



Guide to the new Mining Regulations for the Northwest Territories

This information is provided as a summary of the main sections of the *Mining Regulations*, R-018-2014 as amended (Regulations). This document is a guide only and is not a substitute for the Regulations. Please refer to the Regulations for definitive requirements on how they may apply to you.

How Will My Business Change?

The Government of the Northwest Territories (GNWT) has administration and control over the disposition of lands and waters in the Northwest Territories and has had such since April 1, 2014.

The majority of the mineral tenure processes remain the same, but clients are advised to read through the Regulations and pay close attention to the new sections describing what must be done, and particularly the timeline to do so, in order to acquire and maintain their mineral rights. The Regulations have been streamlined to provide more certainty and predictability. Timelines and requirements are clearly laid out and discretion has been removed as much as possible. While this increases transparency, there is less room for error by the applicant.

Licence to Prospect (Prospector's Licence)

Any person at least 18 years old or a legally registered company under the Business Corporations Act (NWT or Canada) can obtain a license which must be renewed annually. Only a licensee or an individual acting on behalf of a licensee may acquire mineral rights and engage in mining activities under the Regulations, so it is important that the licence remains valid at all times. The person or company that physically erects the legal posts, boundary posts and witness posts (when necessary) to stake a claim for a licensee does not have to be a licensee themselves.

Honorary licences will no longer be issued, but a person who already holds an honorary licence is still entitled to renew the honorary licence each year under the Regulations.

Relevant Sections of the Regulations: ss 3-4

Area of Application

The Regulations apply to all lands where the Commissioner of the GNWT has administration and control in the NWT, but does not include lands that have been excluded and are listed in Schedule 4 of the NWT Devolution Agreement. The agreement is available for download at: <http://devolution.gov.nt.ca/>. The *Northwest Territories Mining Regulations* (federal) will apply

to federally administered and controlled lands by Aboriginal Affairs and Northern Development Canada that are situated in the NWT.

Where can I Stake and Prospect?

A licensee can stake and prospect on lands administered by the Commissioner, except those listed in section 5 of the Regulations. Please refer to this section for the detailed descriptions of the prohibitions.

For lands whose surface rights have been granted or leased by the Crown or Commissioner, staking and prospecting are still allowed. However, entry on the surface lands to prospect or stake a claim requires consent of the holder of the surface rights or an order authorizing entry from a competent tribunal. Compensation to the surface rights holder may be ordered by the tribunal.

Relevant Sections of the Regulations: ss 5-6

Prospecting Permits

Terminology

The term exploratory work has been repealed. Only the terms “work” and “cost of work” are now used. The activities that are considered “work” are defined in section 1 of the Regulations. The expenditures that can be considered “cost of work” are also defined in section 1.

A deposit is now called a “charge”. Payment of a charge means payment of a deposit. Remission of a charge” means the refund of the charge.

The NWT is divided into prospecting permit zones, each consisting of one quarter of the area shown on a claim staking sheet and designated as the northeast, southeast, southwest, or northwest quarter. See section 8 for a detailed description of permit zones.

Prospecting Permits

Application Process

Section 9 of the Regulations describes the application process to apply for prospecting permits. Applications for prospecting permits can now be submitted any time between February 1 and the last business day of November before the year in which it is to commence. If two or more applications for a prospecting permit are made in respect of a prospecting permit zone, priority will be given in the following order:

- First, to applications presented in person at the office of the Mining Recorder on the first business day of November in the order of their receipt;

- Second, to applications received before the second business day of November in the order of their drawing from a lottery of all those applications;
- Third, to other applications received after the first business day of November in the order of their receipt (and if this cannot be determined, then in the order of their drawing from a lottery).

Relevant Sections of the Regulations: ss 8-11

Zones Excluded

Section 10 of the Regulations describes zones where a prospecting permit will not be issued. This is determined by the following evidence of mineral exploration activities occurring prior to and including the last business day of January in the year the permit is to be issued:

- Recorded claims or leased claims or applications to record claims in that zone and the total area covered by those claims or leased claims exceeds 1,250 hectares; or
- Recorded claims or leased claims in that zone and the total area covered by those claims is 1,250 hectares or less and in the five years preceding, either of the following has happened:
 - o work has been done with respect to any of the recorded claims and has been reported on; or
 - o there has been a recorded transfer of a majority of the interest of the recorded claim or lease to a person who was not recorded as a holder of the claim or lease and who is not related to anyone that was.

Relevant Section of the Regulations: s 10

Deposits / Charges

A deposit is now called a “charge”. Section 14 of the Regulations describes the charge that must be paid for a prospecting permit and when the charge is due.

For example, the following charges apply to a prospecting permit zone north of the 68° North latitude:

- A charge equal to the number of hectares in the permit area multiplied by \$0.25 must be paid before the close of business on the last business day of November in which the application for the permit is made;
- A charge equal to the number of hectares in the permit area multiplied by \$0.50 must be paid before the start of the third year of the permit; and
- A charge equal to the number of hectares in the permit area multiplied by \$1.00 must be paid before the start of the fifth year of the permit.

Prospecting Permits south of 68° North latitude are valid for three years and the charge is \$0.25 per hectare in the first year; \$0.50 per hectare in the second year; and \$1.00 per hectare in the third and final year.

Prospecting Permits cannot be renewed.

Relevant Section of the Regulations: s 14

Work and Remission of the Charges

Apart from the requirement to pay a charge, there is no separate requirement to do work in order to maintain a prospecting permit. However, in order to obtain remission of the charges, work of an equivalent amount must have been done and submitted no later than 60 days after the expiry of the permit. Section 15 describes in detail how work must be reported to obtain a remission.

Additionally, a permittee may only apply to record a claim wholly or partially within the permittee's prospecting permit zone if work equal to or greater than the number of hectares in the permit area multiplied by \$0.25 has been done and confirmed.

Relevant Sections of the Regulations: ss 15, 18

Reports of Work

A report of the work that has been done in respect of a prospecting permit must be prepared and submitted in accordance with Part 1 of Schedule 2 of the Regulations unless the nature and value of the work is such that the work report may be a simplified report (discussed below). It must be prepared and signed by a professional geoscientist or a professional engineer.

Relevant Section of the Regulations: s 15

Simplified Reports

A simplified report of work is a report that deals only with excavation, sampling or the examination of outcrops and surficial deposits – or any combination of them – and the cost of work is \$10.00 per hectare.

A simplified report may be prepared in accordance with Part 2 of Schedule 2 of the Regulations, and can be prepared and signed by the individual who performed or supervised the work. A simplified report must be prepared and signed by the individual who performed or supervised the work.

Relevant Section of the Regulations: s 15

Grouping

Prospecting permits may be grouped for the purpose of allocating the cost of work done with respect to them if there are no more than four permits in the group and the area of the grouped permits is wholly or partly within a circle having a radius of 32km.

The former requirement that a prospecting permit area may be included in only one group between one anniversary date of the permit and the next following anniversary date has been repealed.

Relevant Section of the Regulations: s 17

Suspension of Time

Under section 16 of the Regulations, if a permittee is unable to do work because the permittee is, for reasons beyond the permittee's control, waiting for a public authority to give an authorization or decision without which the work cannot proceed (e.g. land use permit), the permittee may request a suspension of time for one year to defer the payment of the required charge. This is the only acceptable reason to qualify for a suspension of time. The remaining duration of the permit continues after the suspension.

The request must be made in writing to the Supervising Mining Recorder before the next charge under Section 14 is payable. It must be accompanied by documentation showing that the permittee is waiting for the authorization or decision.

A suspension prolongs the duration of the permit by the duration of the suspension. No charge requirements apply during that year.

Relevant Section of the Regulations: s 16

Period of Confidentiality for a Work Report

A person cannot view or obtain a copy of a work report in respect of a prospecting permit until the permit expires or is cancelled, or three years after the day on which the report was received by the Mining Recorder, whichever is earlier.

Relevant Section of the Regulations: s 83

Claims

Size and Duration of a Claim

The area of a claim must not exceed 1,250 hectares.

Unless a recorded claim is leased, or its recording is cancelled prior, the duration of a recorded claim is 10 years, beginning on its recording date, plus any suspensions or prolongations. An extension of time to do work does not affect the duration of a claim.

Relevant Sections of the Regulations: s 23, 33

How a Claim shall be staked

Sections 23 to 30 of the Regulations describe the staking rules which involve the use of identification (claim)tags and legal posts (boundary, corner and/or witness posts). These rules must be followed for a claim to be considered staked.

Relevant Sections of the Regulations: s 23- 30

Witness Posts

Witness post means a legal post set up in accordance with section 29 to provide reference to the corner of a claim that is being staked for the purpose of making it a claim. It is used where, because of the presence of a body of water or other natural obstruction or lands on which entry for staking has not been authorized by the holder of the surface rights, it is not practicable to erect a corner post. The identification (claim) tag for the corner post must be attached to the witness post.

Relevant Sections of the Regulations: s 29

Verification of Staking

Compliance with the staking requirements set out in sections 23 to 30 of the Regulations may be verified by a person authorized by the Minister to perform this function.

Relevant Section of the Regulations: s 31

Moving of Legal Posts

In general, it is prohibited to remove, displace or destroy a legal post and to remove, deface or alter an identification tag or an inscription on a legal post. However, the claim holder, the holder of the surface rights or a public authority may remove a legal post if the post is interfering with their use of the lands. If the holder of the surface rights or a public authority removes a legal post, they must notify the claim holder and the Mining Recorder within 30 days of the removal.

Relevant Section of the Regulations: s 32

Recording

The application to record a claim must be made by a licensee or a person acting on behalf of the licensee within 60 days after the date on which the staking of the claim was completed. It must include the required fee as well as a map showing the information below:

- The location of the claim in relation to permanent topographical features in the vicinity of the claim;
- Any nearby prospecting permit zones, recorded claims and leased claims;
- The positions of the corner posts;

- The positions and numbers of the boundary posts;
- The positions of any witness posts.

If the above requirements are met, the Mining Recorder will record the claim as soon as practicable after the 60th day following the day on which the staking was completed. The recording date is considered to be the date that the application was received at the Mining Recorder's Office.

Relevant Section of the Regulations: s 33

Reduced-Area Claim

The holder of a recorded claim may make an application to record a reduced-area claim if work of at least \$10 per full or partial hectare has been certified and the new reduced-area claim has been re-staked in accordance with the staking rules, including the use of reduced-area tags.

The application to record must be made within 60 days after the date on which the staking of the reduced-area claim was completed. It must include the required fee as well as a map showing the information below:

- The location of the claim in relation to permanent topographical features in the vicinity of the claim;
- Any nearby prospecting permit zones, recorded claims and leased claims;
- The positions of the corner posts;
- The positions and numbers of the boundary posts;
- The positions of any witness posts.

If the above requirements are met, the Mining Recorder will record the new reduced-area claim, effective on the next anniversary date of the recording of the original claim. When the recording of a reduced-area claim takes effect, the recording date for it is considered to be the recording date of the original claim. The information recorded by the Mining Recorder with respect to the original claim is considered to have been recorded with respect to the reduced-area claim. The recording of the original claim is cancelled.

Relevant Section of the Regulations: s 52

Work Requirements

The claim holder must do work that incurs a "cost of work" that is equal to or greater than:

- \$10 per full or partial hectare in the claim during the two-year period following the day on which the claim was recorded; and
- \$5 per full or partial hectare in the claim during each subsequent one-year period.

Work that was done during the two years before the claim was recorded is considered to be work done on the claim during the two-year period following the day on which the claim is recorded.

Relevant Section of the Regulations: s 39

Work Requirements/Extension of Time – Lapsing Notices

Lapsing Notices will no longer be sent to claim holders. It is the claim holder's responsibility to ensure compliance is made with the regulations. Submission of work or request for extension must be submitted no later than 90 days after the end of the period during which the required work must be done. See below for more details on extensions.

Relevant Section of the Regulations: s 40.

Work Requirements

The term representation work from the former mining regulations has been repealed. Only the terms "work" and "cost of work" are now used. The activities that are considered work are defined in section 1 of the Regulations. The expenditures that can be considered "cost of work" are also defined in section 1. Note that work can also include environmental baseline studies.

A deposit is now called a "charge". Payment of a charge means payment of a deposit that is required to extend the time to do the work.

"Remission of a charge" means the refund of the charge.

Work Requirements – Extension of Time

A request to extend the time to do work is a request to defer the completion and reporting of work required to maintain a claim. An extension of time does not affect the duration of the claim. Time continues to count and new work requirements continue to accrue during the extension. The extension only applies to work owed in the past year.

A request for an extension must be made, if no report of work is submitted, no later than 90 days after the end of the period during which the required work must be done. The application must be accompanied by the applicable fee as well as a "charge" amount equivalent to the work required for the period. This charge can be later remitted (refunded) if the required work is done, reported on, and included in a certificate of work. An extension is granted for one period and a total of three consecutive extensions are allowed and then work is required. Money paid to extend the claim does not count towards the minimum amount of work needed to lease a mineral claim.

Relevant Sections of the Regulations: s 40, 42 - 43

Work Requirements – Insufficient Work Reported

Under section 49 of the Regulations, where a report of work was submitted but later evaluated as insufficient and the certificate of work thus issued does not contain enough justified “cost of work” per the work requirement for the applicable period, a “charge” equivalent to the difference between the amount of work required and the amount certified may be paid to maintain the claim and avoid its cancellation.

The claim holder must pay the charge within 60 days from the day the certificate of work was issued or the claim will be cancelled. The charge can be remitted if work of the same amount is done and certified in the future. The missing work can be done at any time afterwards during the life of the claim. Any money paid to make up any deficiency does not count towards the minimum amount of work needed to lease a mineral claim.

There can only be a maximum of two insufficient reports of this nature. The claim will be cancelled when a third insufficient report has been submitted and it has been issued a certificate of work that does not contain enough justified cost of work.

Relevant Section of the Regulations: s 49.

Work Requirements – Reports of Work

A report of the work that has been done in respect of a claim must be prepared and submitted in accordance with Part 1 of Schedule 2 of the Regulations unless the nature and value of the work is such that the work report may be a simplified report (discussed below). It must be prepared and signed by a professional geoscientist or a professional engineer.

Relevant Section of the Regulations: s 41

Work Requirements – Simplified Reports

A simplified report of work is a report that deals only with excavation, sampling or the examination of outcrops and surficial deposits – or any combination of them – and the maximum allowable cost of work is \$10 per hectare.

A simplified report may be prepared in accordance with Part 2 of Schedule 2 of the Regulations, and can be prepared and signed by the individual who performed or supervised the work.

Relevant Section of the Regulations: s 41

Work Requirements – Grouping

Recorded claims may be grouped for the purpose of allocating the cost of work done with respect to them if:

- The claims are contiguous;

- The total area of the group does not exceed 5,000 hectares; and
- None of the claims is leased.

The request must be signed by each of the claim holders and be accompanied by the applicable fee. A grouping certificate takes effect on the day on which the application fee is received and ceases to have effect on the earliest of the following days:

- Day on which the recording of any claim in the group is cancelled;
- Day on which a lease of any claim in the group takes effect; or
- Day on which a new grouping certificate in respect of any claim in the group takes effect.

A holder of a claim listed in a grouping certificate may request to allocate the cost of work that has been justified in a report in respect of any of the claims listed in the grouping certificate to any of the other claims listed in the certificate.

The former requirement that no recorded claim may be grouped with any other recorded claim more than once in any 12-month period has been repealed.

Relevant Section of the Regulations: s 46

Work Requirements – Suspension of Time

Under section 51 of the Regulations, if a claim holder is unable to do the required work because the holder is, for reasons beyond the claim holder's control, waiting for a public authority to give an authorization or decision without which the work cannot proceed, the claim holder may request a one-year suspension of the work and charge requirements. This is the only acceptable reason to qualify for a suspension of time.

The request must be made in writing to the Supervising Mining Recorder no later than 90 days after the end of the applicable period for which the suspension is requested. It must be accompanied by documentation showing that the claim holder is waiting for the authorization or decision.

A suspension prolongs the duration of the claim by the duration of the suspension. No work or charge requirements apply during that year.

If a claim holder who has applied for a lease advises the Mining Recorder in writing that they cannot, for reasons beyond their control, obtain an official plan of survey and record it before the end of the duration of the claim to be leased, the duration of the claim is also prolonged for one year.

Relevant Sections of the Regulations: s 51, 60

Cancellation of Claims

Claims will be cancelled by the Mining Recorder following certain specific events described in the Regulations. Please refer to sections 49(3), 50(2), 52(4)(c), 53(3) and (4), 55, 62(3) of the Regulations for detailed descriptions of these events.

In general, claims are cancelled when claimholders fail to fulfill specified requirements (e.g. not doing work or not reporting on them); fail to respect certain deadlines (e.g. not applying for a lease on time) or contravene the established rules (e.g. remove minerals illegally). Claims are cancelled also, for example, if they include prohibited lands or where the cancellation is the intention of the claimholders (e.g. notice of cancellation, reduced-area claim, lease not renewed).

Relevant Sections of the Regulations: ss 53, 49(3), 50(2), 52(4)(c), 53(3) and (4), 55, 62(3)

Opening of Lands for Staking and Prospecting After Cancellation

The lands that were covered by a claim the recording of which has been cancelled under subsection 50(2), section 55 or subsection 62(3) are open for prospecting and staking at noon on the day following the first business day after the day on which the recording of the claim was cancelled.

The lands in the original claim that are not within the reduced-area claim are open for prospecting and staking at noon on the day following the first business day after the day on which the recording of the claim was cancelled.

The lands that were covered by a claim the recording of which has been cancelled under subsections 49(3), 53(3) or 53(4)(b) are open for prospecting and staking at noon on the day that is 30 days after the day on which the recording of the claim was cancelled, unless the cancellation is subject to a review by the Minister.

Where there is review by the Minister of a cancellation under subsections 53(3) or 53(4)(b), it is prohibited to stake a claim on the lands covered by the claim the recording of which was cancelled or the boundaries of which were amended. The prohibition is in effect from the start of the review until noon on the day following the first business day after the day on which the Minister's decision was sent.

Relevant Sections of the Regulations: s 56, 85

Delayed Opening of Lands Containing Un-remedied Environmental Damage

If the Minister has reasonable grounds to believe that there is un-remedied environmental damage to the lands that were covered by a claim or a claim subject to a lease and the recording of which has been cancelled, the Minister may delay the opening of the lands for prospecting and staking.

Relevant Section of the Regulations: s 56

Lease of Mineral Claim

Application Requirements

A claim holder who wants to obtain a lease of a recorded claim must have the lease application received by the Mining Recorder before the end of the tenth year of the claim. If the lease application is for a collection of contiguous recorded claims, it must be received by the Mining Recorder before the end of the tenth year of the claim that has the earliest recording date of any of the claims in the collection of contiguous claims.

The following requirements must be met before a lease is issued:

- An official plan of survey of the claim, or the collection of contiguous claims, must have been recorded;
- Cost of work of at least \$25 per hectare per claim, of which the total of the costs of the official plan of survey and of the construction of any roads, airstrips or docks does not exceed \$5 per hectare, must have been certified;
- The rent for the first year of the lease must have been paid to the Mining Recorder.

If a claim holder who has applied for a lease advises the Mining Recorder in writing that they cannot, for reasons beyond their control, obtain an official plan of survey and record it before the end of the duration of the claim to be leased, the duration of the claim is also prolonged for one year without any new work or charge requirements and the lease application remains valid for that year. The lease will be back-dated and will begin the day after the tenth year of the claim.

Relevant Section of the Regulations: s 60

Survey of Mineral Claim

A claim holder who wants to obtain a lease of a recorded claim must obtain a plan of survey of the claim prepared in accordance with the Canada Lands Surveys Act, and have it recorded by the Mining Recorder at the latest before the end of the duration of the claim unless a one-year extension to complete the survey has been approved. The survey must be recorded before a lease can be issued.

Relevant Section of the Regulations: s 57, 59

Rent

The annual rent for a lease is \$2.50 per hectare during the first 21 year term and \$5.00 per hectare during each renewed term. The rent for the second and subsequent years of a term must be paid to the Mining Recorder before the anniversary date of the lease.

If rent is not paid within 30 days after the day it is due, the Mining Recorder will send the lessee a notice stating the amount of rent due and the rate of interest payable on that amount. If the rent

due, together with interest accrued from the date on which the rent was due, is not paid within 60 days after the day the notice was sent, the lease is cancelled on the 61st day after the notice was sent.

Relevant Sections of the Regulations: s 61, 63

Renewal of Lease and Reduction in Lease Area

To obtain a renewal of a lease, the lessee must, at least six months before the end of the existing lease, submit to the Mining Recorder a written request for renewal accompanied by the applicable fee.

A lessee may request that one or more entire recorded claims be removed from the lease at the time of renewal of the lease if the request is received by the Mining Recorder at least 90 days before the end of the existing lease. If the lease covers only one recorded claim, a lessee may request that the area of the original claim that has been cancelled due to a new reduced-area claim be removed. The request must be accompanied by a new survey to reflect the new boundary.

Relevant Section of the Regulations: s 62

Notice of Cancellation by Lessee

Under section 64(1) of the Regulations, a lease can be cancelled if the lessee submits to the Mining Recorder a written notice of cancellation. The cancellation takes effect on the day the notice is received by the Mining Recorder, or if a later day for cancellation is set out in the notice, on that day.

Relevant Section of the Regulations: s 64

Transfer of Prospecting Permit, Claim or Lease

Under sections 65 and 66 of the Regulations, a prospecting permit, claim or lease can be transferred to a licensee if a request is made in writing to the Mining Recorder's Office, signed by both the transferor and transferee, and submitted with the required fees. A request to transfer a claim needs to be in the prescribed form.

For a lease to be transferred, the rent and any interest on it must have been paid. The transfer of a lease includes the transfer of the recorded claims to which the lease applies.

If there are unpaid royalties in the relation to the mining property, the transfer of a lease or a recorded claim that is part of a mining property may be recorded only if security in the amount of the unpaid royalties has been deposited with the Minister.

Relevant Sections of the Regulations: s 65, 66

Transitional Provisions

A person who holds an honorary licence under the former mining regulations is still entitled to renew the honorary licence each year after the new Regulations come into force.

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