CHAPTER 2

Mining regime and land access

2.1 Legal framework

Mining activities are governed by many laws, including three that specifically apply to this sector: the Mining Act (CQLR, chapter M-13.1), the Mining Tax Act (CQLR, chapter I-0.4) and the Act Respecting Transparency Measures in the Mining, Oil and Gas Industries (CQLR, chapter M-11.5).

The Mining Act aims to:

- Promote, with a view to sustainable development, the search, prospecting, exploration and mining of mineral substances, while ensuring the people of Québec receive their fair share of the wealth generated from the mining of its resources while taking into account other possible land uses;
- Ensure that the mining of non-renewable resources is carried out in a way that will benefit future generations; and
- Develop expertise in Québec in the fields of exploration, mining and processing of mineral resources.

The Mining Tax Act aims to:

- Obtain for the State a fair return from the mining of mineral substances, without compromising the competitiveness of mine operators;
- Stimulate mineral exploration and mining activities;
- Foster the development of Northern Québec; and
- Promote processing and transformation in Québec.

The Act Respecting Transparency Measures in the Mining, Oil and Gas Industries aims to:

- Impose transparency measures with regard to monetary payments or payments in kind made by mining, oil and gas companies;
- Discourage and detect corruption; and
- Foster the social acceptability of natural resource exploration and development projects.

2.2 Basic principles

Access to the province's mineral resources is permitted on the largest expanse of land possible (in the domain of the State), in order to promote the discovery of metal and mineral deposits occurring in the Earth's crust.

Applicants are treated on an equal basis for mining title acquisition. The first to submit a compliant application obtains the exclusive right to search for all mineral substances in the domain of the State on the designated land parcel (claim).
In the event of a discovery of mineable mineral substances, the claim holder has a reasonable assurance of obtaining the right to mine the discovered resource (lease). The lease application must fulfill a number of conditions stipulated in the Mining Act.

Once commercial production has been achieved, the mine operator pays mining tax by filing a statement to this effect and pursuant to a “mine by mine” approach, to avoid instances where losses from one mine may be used to reduce the profits from another. In addition, a mine may not incur a loss given the value of mineral substances.

This value, which is determined at the time the substance is mined, is what is taxed under the mining tax regime, not mining income, which includes the value added by processing activities and that is otherwise taxed under the Taxation Act.

2.3 Mining titles

Mining rights, granted as mining titles, are real and immovable rights that may be the object of transactions. However, mining rights and land rights are unrelated. A mining title thus constitutes property that is distinct from a surface property.

There are two types of mining titles for mineral substances in the domain of the State other than petroleum, natural gas and brine: titles that authorize the search for mineral substances, known as exploration titles or claims, and titles that authorize the mining of mineral substances, known as extraction titles or mining leases.

**Exploration titles**

The claim gives the holder the exclusive right to search for all mineral substances in the domain of the State within the confines of the claim. The only mode of acquisition is by map designation online via the GESTIM Plus system. Claims are valid for a term of two years and may be renewed for additional terms.

To obtain a claim, an applicant must:
- Designate land parcels and fill out a form to this effect in the GESTIM Plus web application;
- Submit the application through GESTIM Plus, accompanied with the fees prescribed by regulation.

**Obligations**

The claim holder must carry out, on the land parcel subject to the claim, prior to the 60th day preceding its expiry date, exploration work, the nature and minimum cost of which are determined by regulation.

When the work to be performed by the claim holder has not been carried out, has not been reported within the prescribed deadline, or is insufficient, upon expiry, to renew the claim, the claim holder may pay to the Minister an amount equal to double the minimum cost of work that should have been carried out or reported, as the case may be, or an amount equal to double the difference between the minimum cost and the amount of work actually carried out on the land parcel subject to the claim and for which a report has been filed.

To renew a claim, a titleholder must:
- Submit a renewal application before the expiry date of the claim through GESTIM Plus;
- Pay the fees prescribed by regulation, which vary according to the surface area, the location of the claim and the date of reception of the application:
  - If the application is received prior to the 60th day preceding the expiry date of the claim, the fees are as prescribed by regulation;
  - If the application is received within the last 60 days preceding the expiry date of the claim, the fees are doubled;
- Have complied with provisions of the Mining Act. The titleholder must namely submit to the Minister, at each anniversary date of the registration of the claim, a report of work performed during the year.

Upon renewing a claim, the titleholder may apply excess work credits from another claim of which he is also the holder, in the exact amount required for its renewal. The claim must be included within a circle with a radius of 4.5 km from the centre of the claim where the excess credits are taken.
The maximum duration of excess work credits, i.e., expenses incurred for work performed on a claim, which may be used to renew a claim, is limited to six claim renewal periods, starting from the date when the work is initially reported.

When a claim is located, in whole or in part, in an area deemed incompatible with mining activities, it may be renewed only if work has been carried out during a term that postdates delineation of such areas.

**Extraction titles**

There are two types of extraction titles in Québec. Depending on the type of substance to be mined, a mining lease or a lease to mine surface mineral substances may be issued.

**A) The mining lease (BM)**

A mining lease (BM) is required to mine any mineral substance other than surface mineral substances. The surface area covered by the lease may not exceed 100 hectares. The initial term of a BM is 20 years, and it may be renewed for up to three additional 10-year terms. After the third renewal, the Minister may extend the lease for periods of five years.

To obtain a mining lease, an applicant must:

- Produce a report certified by an engineer member of the *Ordre des ingénieurs du Québec* (OIQ) or by a geologist member of the *Ordre des géologues du Québec* (OGQ), describing the nature, extent and probable value of the ore deposit;
- Produce a feasibility study for the project;
- Produce a market and economic scoping study as regards processing in Québec;
- Pay the annual rent;
- Submit the plan of survey of the targeted land parcel approved by the Surveyor General’s Office of Québec;
- Obtain the Minister’s approval regarding the rehabilitation and restoration plan;
- Obtain the certificate of authorization required under sections 22, 31.5, 164 or 201 of the Environment Quality Act (chapter Q-2) from the *Ministère du Développement durable, de l’Environnement et de la Lutte contre les changements climatiques* (MDDELCC);
- For metallic ore mining projects with a daily production capacity of 2,000 metric tonnes or more, and for all rare earth and uranium mining projects, the applicant must prepare an impact study in accordance with the Regulation respecting environmental impact assessment and review. These projects must be the object of public hearings held by the *Bureau d’audiences publiques sur l’environnement* (BAPE);
- For metallic ore mining projects with a daily production capacity of less than 2,000 metric tonnes of ore, the applicant must proceed with public consultations in the region where the project is situated and produce a report on the consultations in accordance with the Regulation respecting mineral substances other than petroleum, natural gas and brine.

To operate on a mining lease, a leaseholder must:

- Form, within 30 days of the issuance of a mining lease, a monitoring committee to foster the involvement of local communities in the project as a whole;
- Obtain authorization from the *Ministère de l’Énergie et des Ressources naturelles* (MERN) for the location of a processing plant, if applicable;
- Obtain authorization from the MERN for the location of tailings ponds and tailings accumulation areas, if applicable;
- Obtain authorization from the MERN for the location of access roads or power lines, if applicable;
- Obtain from the *Ministère des Forêts, de la Faune et des Parcs* (MFFP) an authorization to cut wood or a forest management permit, if applicable;
- Obtain authorization from the surface landowner or lessee, if applicable;
- Obtain the consent of holders of leases to mine surface mineral substances (BEX), if applicable.

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4 - Areas deemed incompatible with mining activities may be defined at a later date by regional county municipalities (MRC), in accordance with government orientations, when the relevant provisions of the *Mining Act* come into effect.

5 - Other permits and authorizations may be required pursuant to other laws and regulations, as the case may be.
To renew a mining lease, a leaseholder must:

- File an application for renewal of a BM prior to the expiry date of the lease. If the application is filed within the last 60 days preceding its expiry date, payment of an additional amount will be required;
- Submit a report establishing that mining operations have taken place during at least two of the last ten years of the term of the BM;
- Pay the annual rent;
- Produce a market and economic scoping study as regards processing in Québec;
- Have complied with provisions of the Mining Act and the Mining Tax Act (chapter I-0.4) during the term that is coming to an end. In particular, the leaseholder must submit to the Minister, at each anniversary date, a report indicating the quantity and value of ore extracted during the previous year, the amount of duties paid under the Mining Tax Act during the same period and the total amount of contributions paid.

B) Leases to mine surface mineral substances

1) The exclusive lease to mine surface mineral substances (BEX)

A BEX is issued for the extraction of silica sand used for industrial purposes, or for surface mineral substances other than sand and gravel; for example, for stone and peat. It is also issued for the extraction of sand, gravel, common clay or any mineral substance naturally occurring as an unconsolidated deposit, if it can be demonstrated to the Minister that a guaranteed supply is required to perform an industrial activity or a crushing activity to guarantee supply for an industrial activity, or to engage in commercial export outside Québec. A BEX may also be issued to a municipality or an intermunicipal board for the construction or maintenance of its streets and road network. A BEX may also be issued to the State for the construction or maintenance of public roads or other State works. This lease gives the lessee the exclusive right to mine and also confers the environmental liability for the site.

The surface area covered by a BEX may not exceed 100 hectares, except for peat production, in which case the surface area of the BEX may reach 300 hectares. The term of an exclusive lease is set by the Minister but may not exceed 10 years. The Minister sets the term according to the anticipated duration of extraction or mining activities that is requested. However, the term of an exclusive lease issued for peat production is 15 years. A BEX may be renewed twice at most, for terms of five years, or fifteen years for peat production.

To obtain a BEX, an applicant must:

- Submit an application for a BEX;
- Pay the rent prescribed by regulation;
- Produce a report describing the nature, extent and quality of the deposit. The report must be certified by a geologist member of the OGQ or by an engineer member of the OIQ;
- Produce a report describing the projected uses of mined substances, targeted markets and the anticipated rate of production;
- Produce a report describing the proposed extraction method;
- Produce a surface plan indicating the perimeter of the targeted land parcel;
- Produce a hypsometric plan in the case of a peat production site;
- Produce a map at a scale of 1/5,000 or more, indicating the perimeter of the land parcel subject to the application, the proposed extraction area including the location of equipment and loading, unloading and stockpiling areas for produced materials, as well as the location of accumulation areas for waste materials, stripped overburden and topsoil;
- Proceed with public consultations in the region where the project is situated, in accordance with the Regulation respecting mineral substances other than petroleum, natural gas and brine, in the case of a peat production project, or if the project is deemed necessary for an industrial activity or for commercial export;
- Produce any document and any information relating to the public consultation requested by the Minister of Energy and Natural Resources;
- Report the quantity of extracted or alienated surface mineral substances and, if warranted, pay the royalties for each lease held by the titleholder.

6 When the applicant for an exclusive lease to mine surface mineral substances intends to mine silica sand, calcite, dolomite or a type of rock used as building stone or silica ore.
To operate on a BEX, a titleholder must:
- Obtain a certificate of authorization issued by the MDDELCC;
- Obtain authorization from the MERN for the location of access roads or power lines, if applicable;
- Obtain from the MFFP a forest management permit, if warranted;
- Obtain from the MFFP an authorization for activities carried out in a wildlife habitat, if warranted;
- On lands granted, alienated or leased by the State for purposes other than mining, obtain the written authorization of the surface landowner or lessee, at least 30 days prior to accessing the site.

To renew a BEX, a titleholder must namely:
- Have performed mining operations for at least a fifth of the term of the lease;
- Have complied with provisions of the Mining Act during the term that is coming to an end;
- File an application for renewal of a BEX prior to the expiry date of the lease. If the application is filed within the last 60 days preceding its expiry date, payment of an additional amount will be required;
- Pay the rent prescribed by regulation;
- Provide the serial number of the land file, or the identification and registration number of the lease as entered in the Register of the Land Registry Office;
- Update the map required at the time of the initial lease application;
- Provide a statement certifying that the titleholder has complied with all obligations concerning the reporting of quantities of extracted or alienated surface mineral substances and the payment of royalties for the extraction site;
- Certify the accuracy of information provided.

2) The non-exclusive lease (BNE)
A BNE is issued for unconsolidated deposits (sand, gravel and common clay) to be used for construction purposes. It is not transferable. Its term ends on March 31st of the year following its issuance. It may be renewed, ten times at most, for terms of one year.

To obtain a BNE, an applicant must:
- File an application for a BNE;
- Produce a map at a scale of 1/50,000 or more, showing the location of the mining site;
- Pay the rent prescribed by regulation;
- Provide a statement certifying that the applicant has complied with obligations under section 155 of the Mining Act concerning the reporting of quantities of extracted or alienated surface mineral substances and the payment of royalties for each lease held by the applicant, if any.

To renew a BNE, a titleholder must namely:
- File an application for renewal prior to the expiry date of the lease;
- Pay the rent;
- Provide a statement certifying that the titleholder has complied with obligations concerning the reporting of quantities of extracted or alienated surface mineral substances and the payment of royalties for each lease held by the titleholder, if any.

7 - Other permits and authorizations may be required pursuant to other laws and regulations, as the case may be.
2.4 Active mining titles

As at December 31, 2015, there were 130,407 active mining titles across Québec covering a total surface area of 6,149,689 hectares. This represents a decrease of 15.9% in the number of active mining titles, and of 14.9% in the total surface area covered by such titles relative to 2014 (Figure 2.1).

This decline is particularly significant in the Capitale-Nationale (82.7%), Centre-du-Québec (79.1%), Montérégie (69.8%), Chaudière-Appalaches (63.5%) and Mauricie (61.7%) administrative regions. On the other hand, the number of registered exploration titles has increased in the Bas-Saint-Laurent (67.7%) administrative region (Table 2.1).

In 2015, 14,309 exploration titles were registered in the Public Register of Real and Immovable Mining Rights, covering a surface area of 706,621 hectares. This is the lowest level since 2003, and represents a 40.2% drop in the number of registered exploration titles relative to 2014 and a 43% decrease in the total surface area covered by such titles (Figure 2.2).

The number of active extraction titles (BM, CM, BEX and BNE) in Québec as at December 31, 2015, was 3,561, an increase of 4% relative to Table 2.2.

Mining extraction titles are distributed in most regions across Québec (Figure 2.3). Data taken from the Register as at December 31, 2015, reveal that 49% of all BM and mining concessions (CM) are located in the Abitibi-Témiscamingue region, whereas 63.5% of all BEX are located in the Côte-Nord and Nord-du-Québec regions. As for BNE, more than 73.5% of these mining titles are distributed in four administrative regions of Québec: Saguenay – Lac-Saint-Jean (407 BNE), Abitibi-Témiscamingue (640 BNE), Côte-Nord (528 BNE) and Nord-du-Québec (398 BNE) (Table 2.2).

2.5 Enactment of sections 71.1 and 75 of the Mining Act

On May 6, 2015, sections 71.1 and 75 of the Mining Act were enacted by decree No. 358-215.

Submission of an annual report on exploration work performed on a claim

Section 71.1 introduces the obligation for a claim holder to submit to the Minister of Energy and Natural Resources, on each anniversary date of the registration of a claim, a report on exploration work performed during the year. To do so, the claim holder must, no later than December 31st of each year, file the report using the form provided on the GESTIM Plus website.

Length of time during which excess work credits for amounts spent on a claim may be used

Section 75 limits to twelve years the amount of time during which amounts spent to perform work on a claim in excess of the minimum cost may be applied for the renewal of a claim. Thus, these excess work credits may only be carried over for the six subsequent terms of the claim, starting from the date upon which the work was reported.

Excess work credits previously accumulated on a claim may be applied for the next six terms to renew the claim, starting May 6, 2015.

2.6 Enactment of the Regulation to amend the Regulation respecting mineral substances other than petroleum, natural gas and brine

On December 31, 2015, the Regulation to amend the Regulation respecting mineral substances other than petroleum, natural gas and brine (R.S.Q., c. M13.1, r.2) came into effect. It namely calls for an increase in the amounts payable in connection with certain mining titles and a two-year decrease, of 35%, of the minimum cost of exploration work.

It also triggers the coming into force of seven provisions of the Act to Amend the Mining Act (2013, chapter 32).
I – Enactment of new provisions stipulated in the Act to Amend the Mining Act

These new provisions namely pertain to the following obligations.

**Notice to land owners and to the municipality when a claim is issued**

On lands granted, alienated or leased by the State for purposes other than mining or on lands subject to an exclusive lease to mine surface mineral substances, the claim holder must, within 60 days following registration of a claim, notify the land owner, lessee, BEX titleholder and the local municipality of the issuance of the claim.

The Regulation stipulates that a claim holder may, as he sees fit, forward the notice directly to the persons and the municipality concerned, or publish the notice in a daily or weekly newspaper circulated in the region where the claim is situated. In the latter case, a map clearly showing the location of the claim and its position must be published along with the notice. Notice must be given using one of the two forms provided to this end on the MERN website, depending on if the notice is forwarded directly to the persons and municipality concerned, or if it is published in a daily or weekly newspaper.

[mern.gouv.qc.ca/publications/mines/titres/Avis_obtention_claims-personnel.pdf](mern.gouv.qc.ca/publications/mines/titres/Avis_obtention_claims-personnel.pdf)

[mern.gouv.qc.ca/publications/mines/titres/Avis_obtention_claims-publication_journal.pdf](mern.gouv.qc.ca/publications/mines/titres/Avis_obtention_claims-publication_journal.pdf)

**Notice of upcoming mineral exploration work to land owners and the municipality**

When a claim is located within the territory of a local municipality, the claim holder must inform the latter, as well as the land owner, that work will be performed, at least 30 days before the work begins.

**Reporting a uranium discovery**

A claim holder is required to report to the Minister of Energy and Natural Resources and to the Minister of Sustainable Development, Environment and the Fight Against Climate Change, any discovery of mineral substances containing 0.1% or more of triuranium octaoxide (U₃O₈), within 90 days of the discovery.

**Public consultations by developers of metallic ore mining projects of less than 2,000 metric tonnes per day**

For metallic ore mining projects where the production capacity is less than 2,000 metric tonnes per day, the applicant for a mining lease must, before submitting an application for a mining lease, proceed with public consultations in the region where the project is situated.

This measure is not applicable in the case of rare earth and uranium projects.

The public consultation involves holding a public meeting that is announced by means of a notice containing at least the following information:

- A project description;
- A map showing the location of the project site;
- The location and the website where detailed documentation on the project as a whole may be consulted. This documentation namely includes proposed infrastructure and access roads, a description of the various phases of the project and the expected duration of each phase, the anticipated impacts and benefits of the project, proposed mitigation measures, and a description of other uses of the territory near the project site;
- The means and deadline to submit comments;
- The time and place where a public meeting will be held, which will be selected to facilitate the participation of local citizens;
- The possibility for anyone to forward written comments no later than 30 days after the public meeting.

This notice must be published in a daily or weekly newspaper circulated in the region where the project is situated, at least 30 days before the date of the public meeting. A copy of this notice must be sent to the Minister of Energy and Natural Resources, the Minister of Sustainable Development, Environment and the Fight Against Climate Change, concerned municipalities, and Native communities consulted by the government on this project, if applicable.

During the public meeting, the project is presented and persons who wish to voice comments and opinions are heard. Comments made during this meeting are recorded.

Subsequently, the project developer must submit a report on the consultation to the Minister of Energy and Natural Resources and the Minister of Sustainable Development, Environment and the Fight Against Climate Change.
Public consultations by applicants for a lease to mine surface mineral substances

When a lease is requested for peat production or if it is necessary for an industrial activity or for commercial export, the applicant must, after submitting the lease application, proceed with public consultations in the region where the project is situated.

The applicant provides any document and any information relating to the public consultation requested by the Minister.

The Minister may, if he deems the consultation has not been conducted in the prescribed manner, impose other additional measures.

The Minister may subject the lease to conditions designed to avoid conflicts with other land users and to take into consideration the comments received during the public consultation.

Creation of a monitoring committee

The holder of a mining lease must create, within 30 days of the issuance of the lease, a monitoring committee to foster the involvement of the local community in the project as a whole. This committee must be maintained until all work planned under the rehabilitation and restoration plan has been completed.

Committee members are selected in the manner determined by the leaseholder. The latter also determines the number of committee members.

However, the committee must include at least one representative from the municipal sector, one representative from the economic sector, one citizen, and one representative from the Native community consulted by the government on this project, if applicable.

The majority of committee members must be independent from the leaseholder, and all committee members must come from the region where the mining lease is situated.

II – Rate increases for claims and leases to mine surface mineral substances

The 2015–2016 budget presented by the Government of Québec called for a 16% increase of rates relating to claims, and a 12% increase of rates relating to leases to mine surface mineral substances.

The Regulation to amend the Regulation respecting mineral substances other than petroleum, natural gas and brine calls for these rate increases to come into force progressively over a period of two years. The rate increases will be applied in the following manner:

1- Fees, duties, and amounts to be paid relating to claims, required under sections 1, 2, 3, 7, 8, 128, 129 and 130 of the Regulation will increase by 8% on January 1, 2016, and by an additional 8% on January 1, 2017. This increase applies to:

- Applications for a prospecting licence;
- Renewal of a prospecting licence;
- Obtaining a duplicate of a prospecting licence;
- Obtaining tags for staking;
- Notices of staking;
- Notices of map designation;
- Registration of a transfer or any other act in the Public Register of Real and Immovable Mining Rights;
- Participation to a drawing of lots;
- Application for the revocation of claims.

2- Fees, duties, rents and amounts to be paid relating to leases to mine surface mineral substances, required under sections 49, 50, 53, 54 and 57 of the Regulation will increase by 6% on January 1, 2016, and by an additional 6% on January 1, 2017. This increase applies to:

- The amount of rent for a non-exclusive lease to mine surface mineral substances;
- The amount of rent for an exclusive lease to mine surface mineral substances;
- An application to increase the surface area of a land parcel subject to an exclusive lease to mine surface mineral substances;
- An authorization to extract a fixed amount of surface mineral substances.
III – Two-year reduction of the minimum cost of work to be performed on a claim

Pursuant to section 138.2 of the Regulation respecting mineral substances other than petroleum, natural gas and brine, the minimum cost of work that must be performed by a claim holder is reduced by 35% for a period of two years starting December 31, 2015.

The 35% reduction applies to the minimum cost of work required during the two-year period from December 31, 2015, to December 30, 2017. This reduction will be taken into account when provisions of the Mining Act relating to claim renewal are applied, namely sections 72 to 80, when a renewal application is filed during this period, when an amount is paid to the Minister where the work performed is insufficient or has not been reported in the allotted time, or when a claim holder applies excess work credits.

2.7 The GESTIM Plus mining title management system

In Québec, mining title management is computerized and easily accessible on the Internet via the GESTIM Plus web application (gestim.mines.gouv.qc.ca).

This system provides instant access to up-to-date data in the Public Register of Real and Immovable Mining Rights and namely makes it possible to:

- Electronically designate claims on a map;
- Easily monitor and manage mining titles in real time;
- Consult and download data from the Register by selecting the desired parameters;
- View mining title maps and download them free of charge in PDF format or as shape files;
- Generate mining title maps tailored to your needs;
- File a notice of map designation or a claim renewal application;
- Pay the required fees via e-commerce in a totally secure environment;
- File a renewal application for a BNE8;
- Report quantities of extracted or alienated surface mineral substances;
- Pay royalties on extracted or alienated surface mineral substances.

The MERN is resolutely taking to the web by progressively expanding its services offered through GESTIM Plus. The Internet is now the only accepted means, via the GESTIM Plus system, to file a notice of map designation, a claim renewal application, and to file reports on the extraction and alienation of surface mineral substances. Accepted modes of payment when such forms are filed are by credit card or, in the case of “Privilège” members of GESTIM Plus, through the client’s account.

www.mern.gouv.qc.ca/mines/titres/titres-directives.jsp

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<tr>
<th>New developments in 2015</th>
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<td>In an effort to continue modernizing and improving its services, the MERN is intent on expanding its electronic service delivery by improving and integrating new self-management tools in the GESTIM Plus system, namely with the following:</td>
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<tr>
<td>Implementation of a form to report work performed on an annual basis;</td>
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<td>Establishment of a deadline for the use of excess work credits;</td>
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<td>Management of title groups (properties) by external clients;</td>
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<td>35% reduction in the amount of work required to renew claims;</td>
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<td>Implementation of an electronic form to report the discovery of triuranium octaoxide (U₃O₈);</td>
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<td>Addition, in extraction report forms, of the quantity and value of extracted surface mineral substances.</td>
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8 - When a BNE is issued in an administrative region where an agreement to delegate the management of sand and gravel mining is in effect, renewal applications must be forwarded to the delegate MRC.
2.8
Relations with Aboriginal communities

Over the years, the Supreme Court of Canada has rendered many decisions about Aboriginal rights that emphasize the importance of balancing the interests of Aboriginal peoples and society in general. These decisions aim to satisfy the fundamental objective of section 35 of the Constitution Act of 1982, which recognizes and affirms the existing ancestral and treaty rights of the Aboriginal peoples of Canada. In its pursuit of conciliation, the highest court of Canada has insisted that governments respect the concept of the honour of the Crown in its relations with Aboriginal peoples and any obligations that may ensue.

Among the obligations that come with the honour of the Crown, as described by the Supreme Court in the Haida and Taku River decisions of 2004, is the obligation for the Crown to consult Aboriginal communities and to accommodate them, if possible, when contemplating an action that could have a prejudicial effect on any rights such communities may claim and to which they may be entitled.

In accordance with decisions rendered by the Supreme Court of Canada, the MERN consults Aboriginal communities since 2006, before issuing any extraction title such as a BM, a BEX or a BNE on a new site. The MERN also engages in consultations for all major exploration work, such as excavations that require displacing more than 10,000 cubic metres of unconsolidated deposits, bedrock stripping, removing or displacing 500 or more metric tonnes of mineral substances for geological or geochemical sampling purposes, and the dewatering of mine shafts and mine workings, as well as the sinking of access ramps, shafts or any other type of excavation.

Moreover, Aboriginal communities are expressing a greater desire to participate in development projects taking place on lands to which they claim rights and interests.

In the process leading to the amendment of the Mining Act in 2013, many Aboriginal communities called upon the Government of Québec to address challenges specific to the mining sector, namely concerning the need to consult Aboriginal communities. As a result, a new chapter specifically devoted to Aboriginal communities was added to the Mining Act. It includes the following provisions:

- The Act must be construed in a manner consistent with the obligation to consult Native communities;
- The government shall consult Native communities separately;
- Taking into account the rights and interests of Native communities is an integral part of reconciling mining activities with other possible uses of the territory;
- The Minister draws up, makes public, and keeps up to date a Native community consultation policy specific to the mining sector.

In collaboration with other departments, the MERN has developed a policy project in accordance with the obligations that befall the government.

Beyond the obligation to consult, this policy project translates the government’s desire for openness and transparency in its relations with Native communities, with regards to the development of mineral resources.

It aims to make it easier to take into account concerns expressed by Native communities regarding mine development, to clarify the consultation process, to better coordinate government actions, to strengthen relations and promote a healthy dialogue between Québec, Aboriginal communities, and mine developers.

On November 24, 2015, the MERN launched extensive consultations on this policy project, which will continue until the spring of 2016.
2.9  
Land protection

In order to accommodate other possible uses of the territory, the Minister may limit or prohibit mining activities. Pursuant to section 304 of the Mining Act, the Minister may reserve to the State or withdraw from prospecting, mineral exploration and mining operations any mineral substance in the domain of the State required for any purpose deemed to be in the public interest, in particular for works or purposes such as:

- Mining, industrial, port, airport, or communications facilities;
- Development and utilization of waterpower, power transmission lines, storage tanks or underground reservoirs;
- Creation of parks or protected areas;
- Classification as an exceptional forest ecosystem;
- Designation of a biological refuge;
- Conservation of wildlife and plant-life;
- Protection of eskers that may be a source of drinking water;
- Respect for protected areas established under the Groundwater Catchment Regulation;
- Protection of rehabilitation and restoration work carried out in accumulation areas.

In addition, the Minister may, subject to conditions he may set on lands reserved to the State, determine that certain specific mineral substances may be the object of mineral exploration or mining.

The Minister must also reserve to the State any mineral substance in the domain of the State for which he has refused a lease to mine sand and gravel or for which the Minister has terminated a lease to mine sand, gravel, or stone.

The Minister may temporarily suspend, for a renewable period of six months, the right to stake and map-designate lands within the boundaries indicated on maps kept at the Registrar’s office.

Since December 10, 2013, any mineral substance in the domain of the State occurring within an urbanized perimeter is withdrawn from mining activities, with the exception of mineral substances located within a parcel of land subject to a mining title obtained prior to this date, until areas deemed incompatible with mining activities are delineated.

Pursuant to section 304.1.1 of the Mining Act, areas deemed incompatible with mining activities may be delineated by MRCs. If so, these areas will be withdrawn from mining activities. This task will be undertaken as soon as the government has adopted the necessary land-use orientations.

The purpose of these orientations will be to establish clear and specific rules to guide MRCs in exercising their power to delineate areas deemed incompatible with mining activities. They may also present the objectives and expectations of the government regarding land use with respect to mineral resources.

The Government of Québec wants to foster the development of mineral resources, but also to protect other land users from the effects of mining activities. This new power vested to MRCs and the taking into account of community concerns in land-use planning will lead to increased social acceptability of mining projects and improved predictability for the mining industry, particularly in inhabited areas.

As at December 31, 2015, lands withdrawn from mining activities covered a total of 20.5 million hectares or 12.32% of the surface area of Québec. Lands subject to a temporary suspension covered 12.2 million hectares or 7.33% of the surface area of Québec. Lands reserved to the State covered a total of 12.4 million hectares or 7.44% of the surface area of Québec (Figure 2.4). Note that the Minister may allow, by decree and subject to conditions he may set on lands reserved to the State, mineral exploration or mining activities for certain mineral substances he may designate, in accordance with the Mining Act (section 304 paragraph 4).

Lands recognized as Protected Areas by the International Union for Conservation of Nature cover 9.16% of Québec's territory and are included in the territory subject to restrictions on mining activities described above.
2.10 Delegation of sand and gravel management to regional county municipalities

In an effort to decentralize the management of sand and gravel, the government delegates sand and gravel management to regional county municipalities (MRC) that have signed an agreement to this effect.

Half of the collected royalties and rental fees for sand and gravel mining are retained by the delegate MRCs. The powers and responsibilities vested to MRCs with regard to sand and gravel are:

- The granting, renewal, revocation, and registration in the Public Register of Real and Immovable Mining Rights, of authorizations to mine and leases to mine sand and gravel;
- The issuance of certificates of authorization pursuant to section 22 of the Environment Quality Act;
- The inspection and monitoring of mining operations for these substances;
- The collection of rental fees and royalties;
- The rehabilitation of sand and gravel pits.

The MRCs of regions that have agreed to take over the management of sand and gravel are listed below (Figure 2.5).

**Bas-Saint-Laurent (01)**
- MRC de Kamouraska
- MRC de La Matapédia
- MRC de La Mitis
- MRC des Basques
- MRC de Matane
- MRC de Rimouski-Neigette
- MRC de Rivièrer du-Loup
- MRC de Témiscouata

**Saguenay–Lac-Saint-Jean (02)**
- City of Saguenay
- MRC de Lac-Saint-Jean-Est
- MRC du Domaine-du-Roy
- MRC de Maria-Chapdelaine
- MRC du Fjord-du-Saguenay

**Capitale-Nationale (03)**
- MRC de Charlevoix
- MRC de Charlevoix-Est
- MRC de la Côte-de-Beaupré
- MRC de Portneuf

**Mauricie (04)**
- City of La Tuque
- MRC de Maskinongé
- MRC de Mékinac
9 - The agreement was signed in 2014 and management was delegated starting April 1, 2015.

In 2015, there were 4,380 active leases and authorizations to mine sand and gravel across Québec, relating to 3,238 sites where surface mineral substances were mined. Of these, 3,643 titles were managed by delegate MRCs and 737 titles were managed by the MERN (Table 2.3).

2.11 The Mining Tax Act

The prime objective of the mining tax regime is to enable the State to receive its fair share of returns on the mining of its mineral resources.

Since January 1, 2014, all mining companies must pay mining tax to the State, in the higher of the two following amounts:

- A minimum mining tax based on the mine-mouth output value at the following rates:
  - 1% on the first $80 million;
  - 4% on the rest;

A mining tax on annual profit based on progressive rates ranging from 16% to 28% depending on the company’s profit margin. Thus, companies that make more profit contribute a greater proportion of the profit generated by their mine or mines.

The regime is characterized by various allowances that namely serve to stimulate mining, specifically in Northern Québec, for example, and to foster processing and transformation. These allowances take into account investments made by companies in the form of work and assets.

For example, mining companies that acquire processing assets may take advantage of a 75% deduction of their mining profit relating to these assets. The processing allowance, duly calculated, makes it possible to detax part of the profit attributable to the processing of mineral substances.
The regime also provides an incentive for investments in exploration and development prior to production. Allowances calculated for the latter enable non-producing companies to claim a credit on duties refundable for losses, a unique measure in Canada, equivalent to 16% of eligible work expenditures. The credit may also be used by producing companies for deposit appraisal work performed prior to the commencement of commercial production.

www.mern.gouv.qc.ca/mines/fiscalite/fiscalite-regime-perte.jsp

In parallel with incentive measures contained in the Mining Tax Act, other fiscal measures also aiming to promote mineral exploration are available via the Québec tax regime.

The main tax incentives relating to the mining sector are:

- The flow-through share regime, which allows individual investors to claim deductions reaching up to 120% of their investment cost;
  
  www.mern.gouv.qc.ca/mines/fiscalite/fiscalite-mesures-actions.jsp

- The tax credit for resources, which grants companies a refund reaching up to 38.75% of eligible exploration expenditures incurred in Québec;
  
  www.mern.gouv.qc.ca/mines/fiscalite/fiscalite-mesures-ressources.jsp

### New developments in 2015

On December 1, 2015, the MERN publicly released, for the first time ever, the quantity, mine-mouth output value, and duties paid per mine by mining companies in 2014.

### The Act Respecting Transparency Measures in the Mining, Oil and Gas Industries

The Act Respecting Transparency Measures in the Mining, Oil and Gas Industries (chapter M-11.5) came into effect on October 21, 2015. It requires mining companies to report the amounts paid each year to the various levels of government, to government agencies or their mandataries and, starting June 1, 2017, to Native communities and organizations that exercise political functions in their name. Information obtained pursuant to the Act is public.

The obligation to report applies to companies listed on a Canadian stock exchange and whose head office is located in Québec, as well as to major companies, whether they are listed on a stock exchange or not.

Payments that must be reported are those equal to or greater than $100,000, made to the same government, pertaining to certain categories such as mining taxes, royalties, mining duties, corporate taxes, municipal taxes, and contributions toward the construction or improvement of infrastructure. These payments may be in kind or in cash.

The Autorité des marchés financiers is responsible for the application of the Act Respecting Transparency Measures in the Mining, Oil and Gas Industries (chapter M-11.5). It will receive specific powers to this effect. In fact, most of the companies subject to this Act are eligible issuers pursuant to the Securities Act (chapter V-1.1).

This Act should not increase the administrative burden of companies. It will be harmonized with other laws enacted in G8 countries, in particular with the requirements of the United States Security Exchange Commission and the Transparency Directive of the European Union. The government may recognize the requirements of another government as equivalent to those stipulated under the Act. Consequently, companies will not be required to produce different reports for each country where they hold establishments.

The Federal Government adopted a similar act in January 2015: the Extractive Sector Transparency Measures Act. The Government of Québec will conclude an agreement with the Federal government to harmonize the application of the two legislations.
Figure 2.1 - Active exploration and extraction mining titles in Québec.
Figure 2.2 - **Active mining titles in Québec (number and surface area).**

![Graph showing the number and surface area of active mining titles in Québec from 2013 to 2015.](image)

- Number of active exploration titles as at December 31st
- Number of exploration titles issued during the year

Figure 2.3 - **Mining extraction titles by administrative region.**

![Pie chart showing the distribution of mining extraction titles by administrative region.](image)

- Gaspésie–Îles-de-la-Madeleine, 2%
- Chaudière-Appalaches, 1%
- Laval, 0%
- Lanaudière, 2%
- Laurentides, 4%
- Montérégie, 0%
- Centre-du-Québec, 0%
- Bas-Saint-Laurent, 3%
- Saguenay–Lac-Saint-Jean, 13%
- Capitale-Nationale, 3%
- Mauricie, 8%
- Estrie, 0%
- Montréal, 0%
- Nord-du-Québec, 17%
- Côte-Nord, 22%
- Abitibi-Témiscamingue, 23%
- Outaouais, 3%

Legend:
- Bas-Saint-Laurent
- Saguenay–Lac-Saint-Jean
- Capitale-Nationale
- Mauricie
- Estrie
- Montréal
- Outaouais
- Abitibi-Témiscamingue
- Côte-Nord
- Nord-du-Québec
- Gaspésie–Îles-de-la-Madeleine
- Chaudière-Appalaches
- Laval
- Lanaudière
- Laurentides
- Montérégie
- Centre-du-Québec
Figure 2.4 - Restriction on mineral exploration in Québec.

Mining restrictions
- Major Exploration prohibited: 20,555,160 ha
- Major Urban perimeter: 635,804 ha
- Major Land suspended temporarily: 12,222,721 ha
- Minor Exploration under specific conditions: 12,417,548 ha

The areas indicated are calculated according to the Modified Transverse Mercator coordinate system with the NAD 83 geodetic datum.

Metadata
- Coordinate System: Conic Conformal Lambert with two standard parallels (46° and 60°)
- Sources:
  - Mining data, MERN, 2016
  - Cartographic Reference, MERN, 2011 (BDGA 1M, BDGA 5M)
- Note: The areas calculated represent the sum of the surface area of each individual mining restriction. The calculation does not take in consideration the possible overlapping of some areas.
- 1/10 000 000
- © Gouvernement du Québec, February 19, 2016

Realisation
Ministère de l’Énergie et des Ressources naturelles
Direction du développement et du contrôle de l’activité minière
Note: This document has no legal value.
Figure 2.5 - **Delegation of sand and gravel mining management.**
### TABLE 2.1 - Distribution of mining exploration titles per administrative region in Québec

**Active and suspended exploration titles as at December 31, 2015.**

<table>
<thead>
<tr>
<th>Administrative region</th>
<th>Number of titles (CL,CDC,CLD)</th>
<th>Surface area (ha)</th>
<th>Variation (%) (2015)</th>
<th>Number of titles issued (CL,CDC,CLD)</th>
<th>Surface area (ha) of titles issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Bas-Saint-Laurent</td>
<td>1,889</td>
<td>714</td>
<td>733</td>
<td>2.7</td>
<td>103,492</td>
</tr>
<tr>
<td>02 Saguenay–Lac-Saint-Jean</td>
<td>4,978</td>
<td>4,155</td>
<td>3,039</td>
<td>(26.9)</td>
<td>265,999</td>
</tr>
<tr>
<td>03 Capitale-Nationale</td>
<td>598</td>
<td>1,017</td>
<td>973</td>
<td>(4.3)</td>
<td>29,794</td>
</tr>
<tr>
<td>04 Mauricie</td>
<td>1,067</td>
<td>1,057</td>
<td>819</td>
<td>(22.5)</td>
<td>98,594</td>
</tr>
<tr>
<td>05 Estrie</td>
<td>2,210</td>
<td>1,137</td>
<td>875</td>
<td>(23.0)</td>
<td>128,895</td>
</tr>
<tr>
<td>06 Montréal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>07 Outaouais</td>
<td>5,283</td>
<td>3,237</td>
<td>2,607</td>
<td>(19.5)</td>
<td>308,183</td>
</tr>
<tr>
<td>08 Abitibi-Témiscamingue</td>
<td>31,216</td>
<td>25,188</td>
<td>21,274</td>
<td>(15.5)</td>
<td>1,230,836</td>
</tr>
<tr>
<td>09 Côte-Nord</td>
<td>17,929</td>
<td>14,166</td>
<td>11,463</td>
<td>(19.1)</td>
<td>916,099</td>
</tr>
<tr>
<td>10 Nord-du-Québec</td>
<td>111,234</td>
<td>93,374</td>
<td>79,824</td>
<td>(14.5)</td>
<td>5,205,500</td>
</tr>
<tr>
<td>11 Gaspésie–Îles-de-la-Madeleine</td>
<td>4,607</td>
<td>3,665</td>
<td>2,412</td>
<td>(34.2)</td>
<td>244,977</td>
</tr>
<tr>
<td>12 Chaudière-Appalaches</td>
<td>2,510</td>
<td>1,590</td>
<td>1,172</td>
<td>(26.3)</td>
<td>119,983</td>
</tr>
<tr>
<td>13 Laval</td>
<td></td>
<td></td>
<td>3</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>-14 Lanaudière</td>
<td>796</td>
<td>866</td>
<td>528</td>
<td>(39.0)</td>
<td>46,739</td>
</tr>
<tr>
<td>15 Laurentides</td>
<td>2,752</td>
<td>1,948</td>
<td>1,593</td>
<td>(18.2)</td>
<td>154,895</td>
</tr>
<tr>
<td>16 Montérégie</td>
<td>131</td>
<td>129</td>
<td>119</td>
<td>(7.8)</td>
<td>7,312</td>
</tr>
<tr>
<td>17 Centre-du-Québec</td>
<td>234</td>
<td>135</td>
<td>81</td>
<td>(40.0)</td>
<td>13,992</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>186,511</td>
<td>151,605</td>
<td>126,846</td>
<td>(16.3)</td>
<td>8,792,588</td>
</tr>
</tbody>
</table>

*Titles that overlap more than one administrative region are compiled in each of the regions. Consequently, the sum of titles per region does not equal the total number of titles. These statistics are taken from the ODM Register as at February 9, 2016.

**Acronyms**

CDC: map-designated claim issued after November 22, 2000

CL: staked claim

CLD: map-designated claim issued prior to November 22, 2000
### Table 2.2 - Distribution of mining extraction titles per administrative region in Québec.

**Active mining extraction titles as at December 31, 2015.**

<table>
<thead>
<tr>
<th>Administrative region</th>
<th>CM,BM</th>
<th>BEX</th>
<th>ASB</th>
<th>BNE</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Bas-Saint-Laurent</td>
<td>1</td>
<td>17</td>
<td>0</td>
<td>72</td>
</tr>
<tr>
<td>02 Saguenay–Lac-Saint-Jean</td>
<td>4</td>
<td>38</td>
<td>0</td>
<td>407</td>
</tr>
<tr>
<td>03 Capitale-Nationale</td>
<td>4</td>
<td>34</td>
<td>0</td>
<td>71</td>
</tr>
<tr>
<td>04 Mauricie</td>
<td>3</td>
<td>34</td>
<td>0</td>
<td>229</td>
</tr>
<tr>
<td>05 Estrie</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>06 Montréal</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>07 Outaouais</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>121</td>
</tr>
<tr>
<td>08 Abitibi-Témiscamingue</td>
<td>140</td>
<td>38</td>
<td>0</td>
<td>640</td>
</tr>
<tr>
<td>09 Côte-Nord</td>
<td>23</td>
<td>222</td>
<td>0</td>
<td>528</td>
</tr>
<tr>
<td>10 Nord-du-Québec</td>
<td>72</td>
<td>154</td>
<td>0</td>
<td>398</td>
</tr>
<tr>
<td>11 Gaspésie–Îles-de-la-Madeleine</td>
<td>10</td>
<td>23</td>
<td>0</td>
<td>26</td>
</tr>
<tr>
<td>12 Chaudière-Appalaches</td>
<td>8</td>
<td>3</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>13 Laval</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>14 Lanaudière</td>
<td>3</td>
<td>16</td>
<td>0</td>
<td>70</td>
</tr>
<tr>
<td>15 Laurentides</td>
<td>12</td>
<td>12</td>
<td>0</td>
<td>103</td>
</tr>
<tr>
<td>16 Montérégie</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>17 Centre-du-Québec</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>*<em>Total</em></td>
<td>286</td>
<td>592</td>
<td>0</td>
<td>2,683</td>
</tr>
</tbody>
</table>

*Titles that overlap more than one administrative region are compiled in each of the regions. Consequently, the sum of titles per region does not equal the total number of titles.

These statistics are taken from the ODM Register as at February 9, 2016.

#### Acronyms

- **ASB**: authorization to mine without a lease
- **BEX**: exclusive lease to mine surface mineral substances
- **BNE**: non-exclusive lease to mine surface mineral substances
- **CM**: mining concession
- **BM**: mining lease
### Table 2.3 - Distribution of active mining titles and authorizations to mine without a lease for sand and gravel mining.

**From January 1 to December 31, 2015**

<table>
<thead>
<tr>
<th>Administrative region</th>
<th>BNE / BEX</th>
<th>ASB</th>
<th>Extraction sites for SMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Bas-Saint-Laurent*</td>
<td>88</td>
<td>0</td>
<td>65</td>
</tr>
<tr>
<td>02 Saguenay–Lac-Saint-Jean*</td>
<td>752</td>
<td>0</td>
<td>633</td>
</tr>
<tr>
<td>03 Capitale-Nationale*</td>
<td>115</td>
<td>0</td>
<td>83</td>
</tr>
<tr>
<td>04 Mauricie*</td>
<td>442</td>
<td>0</td>
<td>398</td>
</tr>
<tr>
<td>05 Estrie</td>
<td>13</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>06 Montréal</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>07 Outaouais*</td>
<td>192</td>
<td>0</td>
<td>162</td>
</tr>
<tr>
<td>08 Abitibi-Témiscamingue*</td>
<td>957</td>
<td>0</td>
<td>587</td>
</tr>
<tr>
<td>09 Côte-Nord *</td>
<td>813</td>
<td>0</td>
<td>527</td>
</tr>
<tr>
<td>10 Nord-du-Québec</td>
<td>665</td>
<td>5</td>
<td>531</td>
</tr>
<tr>
<td>11 Gaspésie–Îles-de-la-Madeleine</td>
<td>39</td>
<td>0</td>
<td>23</td>
</tr>
<tr>
<td>12 Chaudière-Appalaches</td>
<td>20</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td>13 Laval</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>14 Lanaudière*</td>
<td>100</td>
<td>0</td>
<td>61</td>
</tr>
<tr>
<td>15 Laurentides*</td>
<td>184</td>
<td>0</td>
<td>147</td>
</tr>
<tr>
<td>16 Montérégie</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>17 Centre-du-Québec</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4,380</strong></td>
<td><strong>5</strong></td>
<td><strong>3,238</strong></td>
</tr>
</tbody>
</table>

*Delegate administrative regions responsible for the management of sand and gravel.

These statistics are taken from the ODM Register as at February 9, 2016.

**Acronyms**

ASB: authorization to mine without a lease  
BEX: exclusive lease to mine surface mineral substances  
BNE: non-exclusive lease to mine surface mineral substances  
SMS: surface mineral substances