

Exploration and mining

surface mineral substances



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Direction du développement minéral of the
ministère des Ressources naturelles du
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FOREWORD

The *Mining Act* deals with the management of mineral resources and the granting of mineral substances exploration rights during the exploration phase. It also deals with the granting of rights pertaining to the utilization of these substances during the mining phase. Finally, the act establishes the rights and obligations of mining rights holders to ensure maximum development of Québec's mineral resources.

To simplify interactions between the industry and the Government, major amendments have been made to the Mining Act. A new version of this act, passed in 1998, became effective in fall 2000. The ministère des Ressources naturelles has made it its priority to publicize the content of this new legislation as well as the procedures that must be followed to comply with it.

One of the main components of this information policy involves producing four information documents dealing with:

- claim;
- mining leases and mining concessions;
- exploration and mining of surface mineral substances;
- conversion and substitution.

Each document must ensure that mining stakeholders know their rights and obligations with respect to the various topics covered.

This document deals with the exploration and mining of surface mineral substances. Its purpose is to inform our customers about the terms and conditions governing the granting, use and renewal of rights associated with these activities. Until now, it was necessary to obtain an exploration licence for surface mineral substances and a lease to mine surface mineral substances to explore and mine surface mineral substances, with the exception of sand and gravel. Henceforth, to obtain the right to explore these substances, stakeholders will have to acquire claims. However, an exploration licence acquired before the coming into force of the new act remains valid and may be converted.

IMPORTANT NOTICE

Please note that this document has no legal value and the text of the *Mining Act* prevails at all times.

The rates presented in this document will be indexed periodically.

EXPLORATION AND MINING OF SURFACE MINERAL SUBSTANCES

Definition

Surface mineral substances:

- peat;
- sand including silica sand;
- gravel;
- limestone;
- calcite;
- dolomite;
- common clay and shale used in the manufacturing of clay products;
- all types of rocks used as dimension stone, crushed stone, silica mineral or to make cement;
- any other mineral substance found in a natural state in the form of unconsolidated deposits, except for topsoil, as well as inert mine tailings, when these substances are used for construction purposes, to make building materials or for soil amendment purposes.

Background

In Québec's mining legislation, surface mineral substances (SMS) were once known as "low-grade minerals". These minerals differed from other mineral substances by reason of their abundance, their low unit value, the ease of their identification at the surface, the use of the open pit mining method, and the relatively small investment required to mine these substances.

On lands granted before January 1st, 1966, several of these substances were relinquished to the land owner. However, since that date, these substances have been considered publicly owned assets, even on granted lands. Beginning in 1988, an SMS exploration licence or a lease to mine SMS was required to prospect for or mine these substances on public lands and lands granted after January 1st, 1966.

The amendments made to the *Mining Act* in 1998 has however changed certain rules. With the new act, no new SMS exploration licence may be granted. From now on, the exclusive right to explore all mineral substances is granted only to claim holders. However, this exclusive right does not apply to sand, gravel and other substances existing in the form of natural unconsolidated deposits, given that these substances cannot be subjected to an exclusive exploration right.

SMS exploration licences acquired before the coming into force of the amendments to the act, will continue to be valid until their expiry date or their conversion into map designated claims. As it was the case in the past, these licences will constitute an exclusive right to explore these SMS.

The new legislation continues to provide for two types of SMS mining rights:

- the **non-exclusive lease**, where the substance is sand (with the exception of silica sand used for industrial purposes), gravel, inert mine tailings and any other unconsolidated deposit used for construction purposes;
- the **exclusive lease**, for these same substances used for industrial purposes, or a crushing activity guaranteeing an industrial activity, and all other surface mineral substances not referred to in the non-exclusive lease.

Moreover, the Minister may authorize a person who is not a lessee to extract in a year a fixed quantity of SMS under certain conditions.

SURFACE MINERAL SUBSTANCES EXPLORATION LICENCE

Exploration licence abolition

This right has been abolished with the coming into force of the amendments to the act. However, all licences in effect remain valid until their expiry date or their conversion into map designated claims.

From now on, claims must be acquired to obtain the exclusive exploration right, which gives access to all mineral substances with the exception of sand, gravel and other substances in the form of unconsolidated deposits. However, the surface area subjected to the claims is smaller than the one granted by the surface mineral substances exploration licence and may vary according to the concerned territory. To obtain more information on the acquisition of this right, readers may refer to the document dealing with claims.

Definition

An exploration licence still in effect and not converted into a map designated claim gives the holder the exclusive right to prospect for the following substances on a given land:

- silica sand used for industrial purposes;
- stone (dimension stone, crushed stone, limestone, dolomite, schist, quartzite) from rocks of all kinds;
- peat;
- clay used for purposes other than construction;
- inert mine tailings.

Construction permitted on the land

The construction of any building relating to an SMS exploration licence or a claim on public lands must first be authorized by the Ministry, unless it is a construction defined by ministerial order. Where applicable, the holder must submit an authorization application.

SMS extraction

The holder of an exploration right may extract up to 50 tonnes of SMS for geological or geochemical sampling purposes. Whether it is an SMS exploration licence or a claim, a holder who wishes to sample quantities in excess of 50 tonnes must first obtain an authorization to extract without a lease, and on which the quantity to be extracted and the activity timetable are indicated. The information that must be provided to request this authorization is mentioned under the heading “Extraction without a lease” of this document.

Work required for the renewal of mining titles

The holder of an exploration right is required to carry out exploration, experimentation or techno-economical studies for the entire duration of his right. In several cases, this work must be certified by a qualified professional, namely a university graduate in physical, geophysical or geological science or a member of the Ordre des ingénieurs.

The nature of the exploration work required is the same as the one required for claims. The work report must be submitted in accordance with the same standards as for the claim. Readers should consult the document on the claim to obtain further details about the nature of the work and the standards regarding the submission of written reports. These standards are outlined in the Regulation respecting mineral substances other than petroleum, natural gas and brine.

EXTRACTION WITHOUT A LEASE

It is not mandatory to hold an SMS exploration licence or a claim to extract or collect rock quantities in excess of 50 tonnes with a view to determine the mineability of an SMS deposit. Moreover, short-term SMS extraction or mining activities carried out under a tight schedule construction contract or at the time of emergency measures applied in the public interest will not require a lease to mine. However, in both cases, an authorization to extract without a lease is required. The duration must be at the most one year. In the case where the activity must be postponed for reasons beyond the stakeholder’s control, the authorization may be renewed. However, the Minister may set a later date if the person who must postpone the mining activity proves, to his satisfaction, that for valid reasons he is unable to resume the activity within the prescribed time.

An authorization application to extract without a lease must include:

- a duly completed lease application form;
- a \$461 payment;
- the extraction purposes;
- the work date start up and its duration;
- the perimeter of the extraction site in UTM coordinates of National Topographic System (NTS) maps based on Nad 1983;
- a map at the scale of 1:50,000.

This authorization is subjected to the same obligations as an exclusive lease in the carrying out of the mining activity. The holder must submit quarterly reports listing the extracted quantities and pay the royalties associated with such quantities.

This authorization grants the beneficiary an exclusive mining right which entrusts him with environmental responsibilities regarding the site. However, the beneficiary must acquire an authorization certificate from the ministère de l’Environnement. He must also submit colour photos of the site before the beginning of mining activities and after the restoration of the site.

When granting his authorization, the Minister may impose other conditions that he deems appropriate (volume, duration, royalties, etc.).

NON-EXCLUSIVE LEASE TO MINE SURFACE MINERAL SUBSTANCES

Definition

The non-exclusive lease gives its holder the right to extract, on a land that is delimited but not reserved exclusively for the leaseholder, the following substances when they are used for construction purposes:

- sand;
- gravel;
- common clay;
- inert mine tailings;
- any other mineral substance which, in its natural state, is in an unconsolidated deposit form.

Lease issuing refusal grounds

A non-exclusive lease to mine cannot be issued by the Minister, if the land is used as a cemetery. Moreover, the non-exclusive lease cannot be issued in favor of a person other than the applicant, except the Crown, if it is subjected to:

- a mining lease or a mining concession;
- an exclusive lease to mine SMS or an application for such a lease.

This non-exclusive lease cannot be issued on the following territories:

- territories exempted from staking;
- parks;
- Indian reserves;
- migratory bird sanctuaries, wildlife reserves, unless the stakeholder has obtained the Minister’s authorization.

The authorizations and special conditions applying to prospecting licences and claims also refer to non-exclusive leases.

Non-exclusive lease application

A stakeholder who wishes to submit a non-exclusive lease must complete the appropriate form supplied by the Minister and append thereto:

- a map, at a scale of not less than 1:50,000 illustrating the location of the mining site. However, for a new mining area, the scale must not be less than 1:5,000, and the map must indicate:
 - the mining area;
 - the neighboring territory located within less than 150 metres from the mining area;
 - the territory boundaries concerned by the application;
 - public roads, access roads, watercourses and constructions;
 - the map drawing date;
- the identification of the substance referred to in the application;
- the payment of a \$210 fee;
- a statement certifying that the applicant meets the obligations of section 155 of the act concerning the reporting of the quantities of extracted or alienated mineral substances and the payment of royalties on the concerned mining site.
- a statement warranting the accuracy of the information provided in the application.

Surface area: no restriction.

Term: it ends on March 31st of the year that follows the year in which it was issued.

Non assignability of the lease.

Commencement of mining operations

Before extracting substances, the holder(s) must make sure that the surface minerals and the topsoil have been removed over a minimum distance of 20 metres from the working face and have been stored for future restoration purposes.

Non-exclusive lease renewal

The non-exclusive lease holder interested in keeping his lease in force must:

- submit an application to renew the lease before its expiry date, indicating his name and address as well as his lease number;
- pay a \$210 fee;
- submit a statement that the applicant meets the obligations of section 155 of the Act concerning the reporting of quantities of extracted or alienated mineral substances, and the royalty payments on the concerned mining site.

However, this renewal may be refused if, in the course of the duration of the lease about to expire, the land in question is subjected to a mining lease, an exclusive lease, or an application for such a lease in favor of a third party.

The lease may be renewed for a period of one year.

EXCLUSIVE LEASE TO MINE SURFACE MINERAL SUBSTANCES

Definition

The lease is exclusive where it is granted for the extraction or mining of silica sand used for industrial purposes. The lease is also exclusive where it is granted for the extraction or mining of sand, gravel, common clay or a mineral substance found in its natural state as a loose deposit, if it is shown to the Minister's satisfaction that a supply guarantee is necessary for the carrying on of an industrial activity, or a crushing activity to guaranty supplies for an industrial activity or to engage in commercial export outside Québec, or where the lease is applied for by the State for the construction or maintenance of a public highway or other State work.

Lease issuing refusal grounds

In no case a lease may be granted in respect of any land used as a cemetery or as any other territory previously designated for the non-exclusive lease, or if it is the subject, in favor of a person other than the applicant:

- of a mining concession, a mining lease or a mining lease application;
- an SMS exploration licence or exclusive lease to mine SMS or an exclusive lease application.

The authorizations and special conditions applying to exploration licences and claims also refer to exclusive leases.

Exclusive lease application

Holding an exploration title is not mandatory to apply for an exclusive lease. However, no exclusive lease shall be granted where the land concerned is subject to mining rights held by a third person. A stakeholder who files an application for an exclusive lease must fill out the same form as for a non-exclusive lease application and append thereto:

- a map at a scale of not less than 1:50,000 indicating:
 - the mining area;
 - the neighboring territory located within less than 150 metres from the mining area;
 - the boundaries of the land concerned by the application;
- a report describing the nature, the scope and the deposit value;
- a report stipulating the planned uses of the substance to be mined, the targeted markets and the anticipated production rate;
- a report describing the proposed mining method;
- a mining plan indicating the perimeter based on the new mining division or by UTM coordinates of National Topographic System (NTS) maps based on Nad 83;
- a statement that the applicant meets, for the mining site concerned, the obligations of section 155 of the act regarding the obligation to report the SMS extracted or alienated quantities, and the payment of royalties;

- an accuracy information attestation provided with the application;
- the rental payment set proportionally to the lease duration in accordance with the following table:

Term of lease	Amount
5 years and under	\$2,307
5 to 6 years	\$2,768
6 to 7 years	\$3,229
7 to 8 years	\$3,691
8 to 9 years	\$4,152
9 to 10 years	\$4,613
15 years (peat only)	\$6,920

- in the case of a peat production solicited lease, the applicant must submit a hypsometric plan indicating the peat land dimensions and the planned drainage system location, taking into account the perimeter referred to in the application and the planned operating period.

Where a substance other than sand, calcite, dolomite or any type of rock used as ashlar or siliceous material, the required report must be certified by an engineer or a geologist.

- **Surface area:** set by the Minister, between 0 and 100 hectares.
300 hectares or more for the production of peat to ensure a supply for a period of approximately 50 years.
- **Duration:** between 1 and 10 years.
15 years for the production of peat.

Commencement of mining operations

The Minister may set a time period within which the holder must undertake mining work.

Prior to start mining operations, the holder must indicate on the ground the perimeter corners of the lease with a precision measured in metres. This perimeter must be visible in order to be followed on the land.

Mining refers to the work carried out to extract mineral substances from a land with the goal to achieve a commercial production.

Extension of the parcel of land subjected to the lease

At the beginning of each year the Minister may grant the lessee of an exclusive lease an increase in the area of the territory subjected to the lease provided that:

- the added parcel of land is contiguous to the territory;
- the total surface area complies with the stipulated maximum;
- the lessee has paid the inherent \$105 fee per lease, prescribed by regulation.

Lease abandonment

The lessee under an exclusive lease may abandon his right in all or part of the parcel of land subjected to his lease provided that he applies thereof in writing and that, following the application, the Minister has notified all creditors having registered an instrument in the public register of real and immovable mining rights. In the case of a partial abandonment, the remaining surface area must be comprised within a single perimeter.

Exclusive lease renewal

The term of an exclusive lease may not exceed 10 years. However, the term of an exclusive lease to produce peat is 15 years. The Minister shall renew an exclusive lease, for a term not exceeding 5 years, provided the lessee:

- Applies thereof 60 days or more before the expiry of the lease or, on payment of an additional amount of \$115, within 60 days before the expiry of the lease.

This application must include:

- the applicant's name and address;
- the lease number;
- a report establishing the holder's mining activities carried out for at least one-fifth of the term duration;
- the payment of the stipulated rent, varying from \$2,301 to \$6,920;
- the identification number of the land sheet or the registration or inscription number in the land register of the land registry office;
- map updates required at the time of the lease application indicating a new working face, material storage areas, tailing accumulation areas and buildings and infrastructures location;
- the applicant statement that the obligations of section 155 of the Act concerning the reporting of quantities of extracted or alienated mineral substances are fulfilled and the payment of royalties for the concerned mining site are made.
- a statement of the provided information accuracy.

However, the renewal shall be refused for the mining of sand, gravel or clay where the Minister is of opinion that the supply guaranty is not longer necessary for the carrying on of the activity to which the application for extraction or mining pertains.

The lease is renewed for a maximum period of 5 years. In the case of peat, the term is 15 years.

Where the operation involves the production of peat, the holder is required to restore the site in a satisfactory manner and pursuant to the *Environment Quality Act*.

EXTRACTION ACTIVITY REPORT

Every lessee shall keep detailed records of his operations including a copy of all documents relating to the alienation and shipment of extracted substances.

On the following dates the lessee shall submit to the Minister a report indicating the quantity of extracted SMS and the quantity of those alienated:

- July 15, for the period from April 1st to June 30
- October 15, for the period from July 1st to September 30
- January 15, for the period from October 1st to December 31
- April 15, for the period from January 1st to March 31st.

For the beneficiary of an authorization without a lease, the terms and conditions for the submission report are indicated in the authorization letter.

ROYALTIES

A royalty is payable pursuant to the quantity and nature of the extracted or alienated SMS .

- **Peat: \$0.05 / standard bale***.
- **Sand, gravel, clay and other unconsolidated deposits: \$0.36 /tonne extracted.**
- **Dimension stone: \$4.40/m³ of material alienated.**
- **Stone and sand used as silica ore and any stone used as a component in the manufacture of cement such as limestone, calcite and dolomite: \$0.40/tonne.**
- **Inert mine tailings and surface mineral substances other than those described in this table: \$0.21/tonne extracted.**
- **Crushed stone and any stone used for construction purposes: \$0.21/tonne of substances extracted.**

* 1 standard bale = 0.170 m³ or 6 pi³.

The applicant must submit the due royalty payments with his extraction reports.

No royalty is required from a leaseholder to mine for the extraction of sand, gravel or stone used for the construction or the upkeep of a mining or forestry road on public lands when he holds a forest management permit as provided for under the *Forest Act*. As for the upkeep of other public roads, only the Crown is exempted from the payment of royalties. Leaseholders under contract with the Crown for the upkeep of a public road must pay royalties.

ADDITIONAL FEES

A holder who neglects to file the reports on quantities or who neglects to pay the due royalties, by the stipulated deadlines will have to pay the following additional amounts: \$50 if the reports are submitted in the first 15 days following the deadline, and \$100 beginning from the 16th day following the deadline. In case of the failure to pay royalties, an amount equal to the interest incurred on the amount of the due royalties will be added to the \$50 or \$100.

LAND ACCESS RIGHT

The holder of an SMS exploration licence or claim, may have access to the parcel of land subjected to his title and he may carry out his work on the mineral substances thereon. On public lands, no permission is required, except where the land concerned offers public facilities. On private lands, the holder of an exploration right must obtain the owner's permission and, if necessary, acquire on friendly terms or by expropriation the access right necessary to carry out his work. On a land leased out by the Crown, for example a land subjected to a vacant lease, the holder must obtain the tenant's consent; if an amicable agreement with this tenant cannot be reached, the holder must pay him the indemnity prescribed by the competent court.

GENERAL NOTES

Unlike the case of a mining lease, it is not necessary to first hold an exploration licence to obtain a lease to mine SMS.

The mining rights pertaining to SMS can be granted on the entire territory of Québec, with the exception of a few sectors mentioned in the text that describes each of these rights. However, in order to protect the public interest or to facilitate the exercise of different mining rights on the same land, the Minister may subject these rights to special conditions.

Every sand pit must be kept uncovered over a distance of at least 20 metres from its working face without however exceeding the stipulated surface in the year. Surface minerals and topsoil must be stored in such a way that they can be recovered for site restoration purposes.

Applications for the issuing or renewal of exploration licences or leases to mine, work reports, sampling applications pertaining to a land that is already referred to in a licence, authorization applications to extract SMS without a lease, mining activity reports and royalties must be submitted to the registrar's office in Québec City or to a regional office of the ministère des Ressources naturelles.

The payment of rights, rentals or royalties must be made in cash, by cheque or postal money order made out to the Minister of Finance of Québec, or by credit or debit card.

FORMS

Here is the list of available forms regarding surface mineral substances:

- **Lease application to mine surface mineral substances**
- **Extracted surface mineral substances annual statement**
- **Quarterly statement of extracted surface mineral substances.**

These forms are available at the registrar's office, at the regional offices of the ministère des Ressources naturelles or on the ministry's website at the following address:

www.mrn.gouv.qc.ca

Regional offices

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