



Land Use Operational Policy Mining

NAME OF POLICY: Mining

APPLICATION: Applies to all surface tenures for Crown land used for mining purposes, including Crown land within Provincial Forests.

ISSUANCE: Assistant Deputy Minister
Crown Land Administration Division

IMPLEMENTATION: Ministry of Agriculture and Lands

REFERENCES: *Land Act* (Ch. 245, R.S.B.C., 1996)
Coal Act (Ch. 51, R.S.B.C., 1996)
Mineral Tenure Act (Ch. 292, R.S.B.C., 1996)
Mines Act (Ch. 293, R.S.B.C., 1996)

RELATIONSHIP TO PREVIOUS POLICY: This policy replaces the previous Mining policy dated August 16, 2004

POLICY AMENDMENT: Any formal request for an amendment to this policy is to be directed in writing to the Director, Land Program Services Branch, Crown Land Administration Division.

Warren K. Mitchell

Warren Mitchell
A/Assistant Deputy Minister
Crown Land Administration Division
Ministry of Agriculture and Lands

05/10/29

Date

| APPROVED AMENDMENTS: | | |
|----------------------|-------------------------|---|
| Effective Date | Briefing Note /Approval | Summary of Changes: |
| August 16, 2004 | | Changes made as a result of the Policy and Procedures Re-write Project. |
| October 21, 2005 | | Policy changed to reflect new agency names and responsibilities |

EFFECTIVE DATE: August 16, 2004
AMENDMENT NO: 1 (October 21, 2005)

FILE: 12335-00

APPROVED AMENDMENTS:

| Effective Date | Briefing Note /Approval | Summary of Changes: |
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1. POLICY APPLICATION

This policy applies to surface tenures for all Crown land utilized for mineral exploration and development as defined below, including Crown land within Provincial Forests (in accordance with Section 5 of the *Forest Act* and the administrative agreement with the Ministry of Forests and Range).

This policy applies to mine development projects which are reviewed and approved by the Environmental Assessment Office and the Mine Development Review Committee (*Mines Act*, Section 9).

This policy applies to permanent structures and any existing mining uses located within statutory rights of way.

This policy applies to surface tenures for Crown land utilized for mineral and coal purposes while recognizing the provision for entry upon and use of Crown land contained within the *Mineral Tenure Act* (Section 11), and the *Coal Act* (Section 7).

This policy does not apply to general industrial uses authorized under the Aggregate and Quarry Materials policy nor to roadways for access purposes authorized under the Roadways policy.

The italicized text in this document represents information summarized from standard Crown land management policies and procedures. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant land management policies and procedures. Text in standard script is applicable to this policy only.

2. PRINCIPLES AND GOALS

Provincial employees act in accordance with applicable legal requirements when making decisions. The Guiding Principles are a summary of key administrative and contract law principles which guide provincial employees.

This policy is part of a series of policies that have been developed to help provincial staff use business and legal principles to achieve the government's goals with respect to the management of Crown land in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the public understand how the Province of BC makes decisions respecting Crown land.

3. DEFINITIONS

Authorizing agency means the provincial ministry responsible for the specific land use authorization.

Development means activities including post exploration feasibility and field studies, and construction and operation of facilities leading to and including the production of mineral resources.

Exploration means investigations by test hole or well drilling, prospecting, surveying or other such techniques to identify the existence and extent of mineral resources.

4. ABBREVIATIONS

BCA - BC Assessment

ha. - Hectare

MAL - Ministry of Agriculture and Lands

MEMPR - Ministry of Energy, Mines and Petroleum Resources

MOU - Memorandum of Understanding

5. APPLICANT ELIGIBILITY

Applicants for new tenures, tenure assignment, or tenure replacement must be:

- *Canadian citizens or permanent residents 19 years of age or older; or,*
- *Corporations which are incorporated or registered in British Columbia; or,*
- *Registered partnerships, cooperatives, and non-profit societies which are formed under the relevant provincial statutes; or,*
- *First Nations can apply through band corporations or Indian Band and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the tenure arrangement, and b) giving the signatories of the tenure document the ability to sign on behalf of the Band. For tenures which are to be registered in the Land Title Office, First Nations must apply through either a band corporation or trustees. Band members can elect 1 or more trustees to hold a tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councilors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required.*
- *In the case of aquatic land, non-Canadians can apply if they own the adjacent upland (companies must still be incorporated or registered in B.C.).*

For more detailed standard policy information see [Eligibility and Restrictions](#).

6. FORM OF LAND ALLOCATION

Refer to Appendix 1 for a summary of the forms and terms of Crown land allocation available for mining operations.

The term of *Land Act* tenure is to be compatible with, and no longer than the term of the subsurface tenure issued by the MEMPR.

No *Land Act* tenure for mining will be issued for sites proposed over an existing lease with purchase provisions. (In such cases, the proponent will negotiate access and occupation with the leaseholder, who will be permitted to sub-let the property.)

For more detailed standard policy information see [Form of Crown Land Allocation](#).

6.1 Investigative Permit

An investigative permit may be issued to any proponent requiring access to the land for appraisals, inspections, analyses, inventories, surveys or other investigations of Crown land or its natural resources, or where otherwise required. No buildings or other improvements may be placed on the land.

The tenure holder must permit public access to the area without interference, and must recognize that overlapping and layering of tenures may be authorized by government.

The maximum term for an investigative permit is 2 years.

6.2 Temporary Permit

A temporary permit may be issued for temporary uses (including one-time events and sustained or repeated use of Crown land), where a business is better served by such a permit than by a license of occupation.

The tenure holder must allow public access to the area without interference, and must recognize that overlapping and layering of tenures may be authorized by Government.

The maximum term for a temporary permit is 2 years.

6.3 Licence of Occupation

A licence of occupation may be issued where minimal improvements are proposed, where short-term tenure is required, where there are multiple users of a site (e.g. communication sites), or in remote areas where survey costs are prohibitive. It may also be used to allow development to proceed while awaiting completion of survey requirements for a lease or right of way.

A licence of occupation conveys fewer rights than a lease. It conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged, and does not require a survey.

A licence of occupation does not allow the tenure holder to curtail public access over the licence area except where it would impact the licencees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.

The standard term for a licence of occupation is 10 years.

Only investigative and temporary permits and licences of occupation are used for projects in the early stages of mine development. Licences may be converted to long term tenure, as appropriate, when a project is approved by government.

6.4 Lease

A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.

The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).

A legal survey will generally be required at the applicant's expense to define the tenured area. A lease is a registerable interest in the land that is mortgageable.

The standard term for a lease is 30 years.

6.5 Sale

Crown land sales may occur through an application process if the proposed site meets specific criteria and the use is considered suitable by government agencies and other affected interests.

7. PRICING POLICY

7.1 Administrative Fees

Application fees for tenures, and other administrative fees, are payable to the Province of BC. These fees are set out in the fee schedules contained in the [Land Act Fees Regulation](#).

7.2 Method of Valuation

Land value is determined initially on the basis of the appraised market value of the site for industrially-zoned land (excluding building improvements). In subsequent years, land value is based on Actual Land Value as established by BC Assessment.

7.3 Rentals

NOTE: All tenures [except permits] are subject to rental review every fifth year of tenure.

7.3.1 Investigative Permit

\$250 for terms up to one year, or \$500 prepaid for 2 years.

7.3.2 Temporary Permit

\$250 for terms up to one year, or \$500 prepaid for 2 years.

7.3.3 Licence of Occupation and Lease

Annual rental for a licence of occupation or lease is 7.5% and 8%, respectively, of land value for marketing/refining facilities.

7.4 Sales

Fee simple dispositions are priced at the full market value of the land.

8. ALLOCATION PROCESSES

8.1 Applications

New and replacement tenures are normally offered in response to individual applications.

8.1.1 Application Package

Applications must be complete before they can be accepted for processing. A complete application package will include all the material defined in the Application Checklist.

8.1.2 Application Acceptance

New applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary statusing, and other information which may be available to provincial staff. The acceptance review is to be completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.

8.1.3 Clearance/Statusing

After acceptance, provincial staff undertake a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.

8.1.4 Referrals

Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government agencies. Referrals may also be used to address the interests of local governments and First Nations. Referral agencies, organizations and identified special interest groups provide their responses to the authorizing agency within 30 days (45 days for First Nations).

For Crown land applications located within coal or mineral tenures, the referral to the MEMPR should specifically request that MEMPR state whether or not responsibility for clean-up and reclamation will be under the *Mines Act* (Section 12).

Project Review Team (PRT)

A Project Review Team (PRT) is an advanced referral method which may be used for complex applications. It is a team chaired by the authorizing agency and comprised of recognized agencies and groups which meets to review and comment on specific Land Act applications.

8.1.5 Advertising/Notification

At the time of application acceptance, provincial staff will notify applicants if advertising is required and provide the necessary instructions.

Upland Owner Consent

Owners of waterfront property have certain "riparian rights" which include the right of access to and from the upland (see [Riparian Rights and Public Foreshore Use in the Administration of Aquatic Crown Land](#)). Provincial staff will advise applicants if there is a need to obtain a letter indicating the upland owner's consent to their application.

Adjacent Owner Notification

New applications to tenure foreshore adjacent to privately owned property, including Indian Reserves, are brought to the adjacent property owner's attention through referrals or direct contact. In certain circumstances, provincial staff may advise applicants that there is a need to obtain a letter indicating adjacent owner's consent to their application.

8.1.6 Aboriginal Interests Consideration

The authorizing agency is responsible for ensuring the province's obligations to First Nations are met in the disposition of Crown land. Provincial staff carry out consultations in accordance with the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.

8.1.7 Field Inspections

Field inspection means the on-site evaluation of a parcel of Crown land by provincial staff. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with the authorizing agency.

8.1.8 Decision/Report

The applicant will be notified in writing of the government's decision. [Reasons for Decision](#) are posted on the relevant website.

8.1.9 Issuing Documents

If the application is approved, tenure documents are offered to the applicant. All preconditions must be satisfied prior to the authorizing agency signing the documents. It is the applicant's responsibility to obtain all necessary approvals before placing improvements or commencing operations on the tenure.

8.2 Competitive Process

The authorizing agency may initiate one of a number of different competitive processes (e.g. public auction, request for proposals) where permitted by program policy and when deemed appropriate by provincial staff.

8.3 Direct Sale

Direct sales provide fee simple dispositions of Crown land through individual applications under the relevant land use program.

9. TENURE ADMINISTRATION

9.1 Insurance

A tenure holder is generally required to purchase, and is responsible for maintaining during the term of the tenure, a minimum level of public liability insurance specified in the tenure document. The province may make changes to the insurance requirements and request copies of insurance policies at any time during the term of the tenure.

9.2 Security/Performance Guarantee

A security deposit or bond may be required to be posted by the tenure holder where any improvements on, or changes to, the land are proposed. The security deposit is collected to insure compliance and completion by the tenure holder of all the obligations and requirements specified in the tenure. Some examples where such security may be used are for any type of clean-up or reclamation of an area, for overdue rentals, and/or to ensure compliance with development requirements.

At the authorizing agency, a clean-up guarantee may be required from the applicant upon issuance of tenure (including permits) where clean-up provisions remain the responsibility of the authorizing agency. A blanket deposit may be requested if the applicant has more than one tenure .

If reclamation and/or clean-up are the responsibility of another agency either through statute or inter-agency agreement, then bonding will be the responsibility of that agency.

9.3 Assignment and Sub-Tenuring

Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. Sub-tenuring means an interest in the Crown land granted by a tenant of that Crown land rather than the owner (the Province).

Assignment or sub-tenuring requires the prior written consent of the authorizing agency. The assignee or sub-tenure holder must meet eligibility requirements. The authorizing agency may refuse the assignment of existing tenures if the details of the assignment or sub-tenure are not acceptable to the province.

Assignment is only permitted with the concurrence of MEMPR.

9.4 Tenure Replacement

Replacement tenure means a subsequent tenure document issued to the tenure holder for the same purpose and area.

In most cases, tenure holders may apply for a tenure replacement at any time following the mid-term of the tenure. Replacement of tenures is at the authorizing agency's discretion. The province may decline to replace a tenure, or may alter the terms and conditions of a replacement tenure. For tenure terms and conditions see Section 6.

Investigative permits are not generally replaced. A further two year term may be provided, at the authorizing agency's discretion, when there are legitimate requirements for a longer investigative period.

9.5 Monitoring and Enforcement

Tenure terms and conditions, including requirements contained in approved management/development plans, act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.

9.5.1 Cancellation

Surface tenure is to be cancelled upon notification by MEMPR that the sub-surface tenure has been cancelled. MEMPR is to be notified of any cancellation or abandonment of mining tenures issued under the *Land Act*.

10. VARIANCE

Any decision that would vary from this policy must be made by the Assistant Deputy Minister, Crown Land Administration Division, Ministry of Agriculture and Lands.

Appendix 1. Mining Policy Summary

| TENURE | TERM | VALUATION | PRICING | METHOD OF DISPOSITION |
|---------------------------------|--|---|---|---|
| Temporary Permit | 2 years | Fixed amount | \$250 for terms up to one year, or \$500 prepaid for 2 years | Application |
| Investigative Permit | 2 years | Fixed amount | \$250 for terms up to one year, or \$500 prepaid for 2 years | Application |
| Licence of Occupation and lease | 10 years (licence) 30 years (lease) | Appraisal based on industrially-zoned land or BCA Actual Land Value | Annual rental at 7.5% (licence) and 8% of land value (lease). Minimum rent of \$500 per tenure | Application |
| Fee Simple | Perpetuity | Appraised Market Value | Full Market Value in advance | Application in rural and remote locations |