Demand Side Legislation – Mineral Act and Mining Act

What is Demand Side Legislation?

PEGNL considers Demand Side Legislation to be clauses in government Acts and Regulations that require the services of an engineer or geoscientist to undertake an activity or certify something as meeting a required state or standard.

Governments at all levels—federal, provincial and municipal—find that demand side legislation is an effective tool for enhancing public safety and welfare.

Among the legislation requiring the services of engineers and geoscientists are the Mineral Act and the Mining Act.

Mineral Act

Important in the Mineral Act is the issuance of a Mining Lease. The Mining Lease section of the Mineral Act uses the term ‘qualified person’ noting that such a person is an engineer or geoscientist who is registered with a professional association for engineers or geoscientists. The section further notes that the application for a mining lease requires a submission from a ‘qualified person’. Such registration is a matter of provincial jurisdiction and the only body within this province’s jurisdiction that provides such registration is PEGNL. As such, ‘qualified person’ must be an engineer or geoscientist who is appropriately licensed with PEGNL.

It is an important element of The Mineral Act that a mining lease application must be accompanied by the ‘confirmation of a qualified person, the existence of a mineral resource that is of sufficient size and quality to be potentially economic.’ The Mining Lease potion of the Mineral Act follows:

Mining lease

31. (1) A holder of a licence who wishes to obtain a mining lease of the unalienated minerals in, on or under the land or part of the land covered by the licence must insure that an application for the lease is received by the minister during the currency of the licence.

(2) A holder of a licence who delivers an application under subsection (1) has a right to the issuing of a mining lease for the reasonable period, not exceeding 25 years, that the minister may determine, but only if the following provisions of this section are complied with.

(3) A person shall not obtain a mining lease under this section unless
(a) all the terms, provisions and conditions of or pertaining to the licence held by the applicant for the lease have been complied with during its currency;

(b) the person has
    (i) submitted a survey of the perimeter of the area covered by the application which has been carried out by a qualified land surveyor,
    (ii) submitted a certified plan of survey with the surveyor’s notes and a proper description of the land described in the application for the lease;

(b.1) the person has demonstrated to the satisfaction of the minister, including through the confirmation of a qualified person, the existence of a mineral resource that is of sufficient size and quality to be potentially economic;

(c) the land is marked in the manner prescribed by regulation; and

(d) the lease covers the minimum area necessary to cover the identified resource.

(3.1) A "qualified person" referred to in paragraph (3)(b.1) is a person who
(a) is an engineer or geoscientist with at least 5 years of experience in mineral exploration, mine development or operation or mineral project assessment or a combination of these.
has experience relevant to the subject matter of the mineral project and the technical report, and
(c) is a member in good standing of a professional association for engineers or geoscientists.

The following is also taken from the Mineral Act and is a further part of Section 31 that addresses the renewal of a mining lease.

31 (6) The minister shall renew a lease for a further term not exceeding 10 years from the date of expiry of the original term of the lease or prior extension of the lease where a lessee
(a) submits a written application no later than 3 months before the expiration of the term of a lease or 3 months before the expiration of a subsequent term;
(b) has complied with the terms and conditions of the lease; and
(c) has demonstrated to the satisfaction of the minister, including through the confirmation of a qualified person, the existence of a mineral resource that is of sufficient size and quality to be potentially economic.

While the Mineral Act does not make further reference to engineers and geoscientists, it and the associated Regulations make significant reference to the requirement for engineering and geoscientific work, which under the Engineers and Geoscientists Act, does require that engineers and geoscientists registered with PEGNL undertake and take responsibility for this work.

Link to Mineral Act
Link to Regulations Associated with the Mineral Act

Mining Act

The Mining Act does not make any reference to engineers or geoscientists. However, much of the work required under the Act is of an engineering or geoscientific nature and therefore such work must be done under the supervision and responsibility of an engineer or geoscientist licensed to practice with PEGNL, in order to be in compliance with the Engineers and Geoscientists Act.

The following sections of the Mining Act, ‘Project operation’, ‘Development plan’ and ‘Records required’ note documentation to be submitted to government that include engineering or geoscientific work and therefore under the Engineers and Geoscientists Act require the work of Engineers and Geoscientists licensed with PEGNL.

Project operation

4. A person shall not operate a project, other than a mill, unless he or she
(a) holds a lease;
(b) has submitted all plans required under this Act to the satisfaction of the minister including
   (i) a development plan, and
   (ii) a rehabilitation and closure plan; and
(c) has provided financial assurance, as required by the minister, to the satisfaction of the minister.

Development plan

6. (1) Before commencing a project, a lessee shall submit a development plan to the minister for his or her approval which
(a) contains the information with respect to the mode of development of the project prescribed by the regulations;
(b) includes the measures the lessee will undertake to insure the project conforms to prudent resource management; and
(c) contains the other information and is in the form required by the minister.
(2) Where a lessee after his or her development plan has been approved proposes to make a significant alteration or addition to a project, he or she shall file with the minister an amended development plan which meets the requirements of subsection (1) and the minister may accept it with or without changes.

(3) A lessee shall operate a project in substantial conformity with the development plan approved under this section.

(4) Notwithstanding another provision of this section, a lessee shall file with the minister annually an operational plan for the project containing the information respecting the operation of the project in the coming year that the minister may require.

Records required

12. (1) A holder of a lease shall maintain and keep current

(a) site boundary plans;
(b) surface plans; and
(c) where applicable, geological and geophysical logs.

(2) In addition to subsection (1),

(a) every holder of a lease for an underground project shall maintain and keep current, where applicable,
   (i) underground level plans, and
   (ii) vertical mine sections; and
(b) every holder of a lease for an open pit or quarry project shall maintain and keep current, where applicable,
   (i) site plans,
   (ii) pit development plans,
   (iii) ultimate pit development plans, and
   (iv) cross section maps of the pit geology.

(3) A holder of a mill licence shall maintain and keep current

(a) site boundary plans; and
(b) surface plans.

(4) The plans referred to in subsections (1), (2) and (3) shall include the information prescribed by the regulations.

MINING REGULATIONS

The Regulations associated with the Mining Act makes a specific reference to engineers and geoscientists. It indicates that the minister may require some work to be approved by an engineer or geoscientist. Even if not required by the minister, the Engineers and Geoscientists Act requires that engineering and geoscientific work be done by those registered with PEGNL.

The following is the section of the Regulations associated with the Mining Act.

General

3. (1) Any report, engineering or geological plan, longitudinal section or cross-section which may be required to be submitted to the minister under the Act, these regulations or the guidelines may, in the discretion of the minister, be required to be approved by a professional geoscientist or engineer and bear his or her stamp or seal.

(2) Any plan, report, data or drawing required to be submitted to the minister under the Act, these regulations or the guidelines may be submitted in an electronic format that is acceptable to the minister.

The Regulations associated with the Mining Act does not make any further reference to engineers or geoscientists. However, much of the work required under the Regulations is of an engineering or geoscientific nature and therefore to be in compliance with the Engineers and Geoscientists Act, such work must be done under the supervision and responsibility of an engineer or geoscientist licensed to practice with PEGNL. The following are excerpts from the Regulations and note references of such work.
Development plan

4. A development plan shall be in the form prescribed in the guidelines and shall include
   (a) a description of the project, including the anticipated timelines for completion of and
       the duration of all stages of the project
       (i) development,
       (ii) operation,
       (iii) rehabilitation, and
       (iv) closure;
   (b) a surface plan;
   (c) a description of the mining process;
   (d) a description of the milling process; and
   (e) any other information that the minister may require

Operational plan

5. (1) An operational plan shall be submitted to the minister no later than one month before the
   commencement of the operating year of the lessee.
   (2) An operational plan shall be in the form prescribed in the guidelines and shall contain
       (a) an ore reserve statement;
       (b) a description of the surface and underground exploration work planned for the year;
       (c) a description of the progressive rehabilitation work planned for the year;
       (d) with respect to an underground mine, open pit or quarry
           (i) all development and production mining tonnages scheduled for the year, and
           (ii) plans showing the locations of all ore and waste to be mined;
       (e) the planned volume, tonnage and location of waste rock to be placed underground or
           to a surface area;
       (f) a schedule of ore to be milled;
       (g) the volume, tonnage, and location of tailings to be discharged;
       (h) a listing, with cost estimates and timing, of all major capital expenditures for the year;
       and
           (i) the planned number of employees for each department and for the total project.

Link to the Mining Act
Link to The Regulations Associated with the Mining Act