iclg

Mining Law 2025

12th Edition

Contributing Editor:
Oliver Irwin
Bracewell (UK) LLP

WORLD ASSOCIATION OF MINING LAWYERS

glg Global Legal Group

Introductory Chapter

Q&A Chapters

USA

Mayer Brown LLP

Meaghan Connors

1 Relevant Authorities and Legislation

1.1 What regulates mining law?

The U.S. legal system consists of many levels of codified and uncodified federal, State, and local laws. The government's regulatory authority at each level may originate from constitutions, statutes, administrative regulations or ordinances, and judicial common law. The U.S. Constitution and federal laws are the supreme law of the land, generally pre-empting conflicting State and local laws. In many legal areas, the different authorities have concurrent jurisdiction, requiring regulated entities to comply with multiple levels of regulation. Mining on federal lands, for example, is generally subject to multiple layers of concurrent federal, State, and local statutes and administrative regulations.

1.2 Which Government body/ies administer the mining industry?

Federal and State governments have developed comprehensive regulatory schemes for mining. Although the U.S. is a common law nation, practicing U.S. mining law often resembles practicing mining law in civil law countries because the regulatory schemes are set out in detailed codifications. See, e.g., 43 C.F.R. §§ 3000.0-5-3936.40 (The U.S. Department of the Interior Bureau of Land Management (the "BLM") minerals management regulations). However, these mining law codifications are subject to precedential interpretation by courts pursuant to common law principles (and, in some situations, by quasi-judicial administrative bodies). U.S. mining law may originate from federal, State, and local laws, including constitutions, statutes, administrative regulations or ordinances, and judicial and administrative body common law.

Determining which level of government has jurisdiction over mining activities largely depends on surface and mineral ownership. A substantial amount of mining in the United States occurs on federal land where the federal government owns both the surface and mineral estates. On this land, federal law primarily governs mineral ownership, operations, and environmental compliance, with State and local governments having concurrent or independent authority over certain aspects of land mining projects (e.g., permitting, water rights and access authorizations). The BLM and the U.S. Department of Agriculture Forest Service Regulation manage mining on federal land. The BLM manages approximately 30% of the minerals located in the U.S. and one in every 10 acres of land in the U.S.

If the resource occurs on private land, estate ownership is a matter of State contract and real property law, although operations and environmental compliance are still regulated by applicable federal and State laws. Estate ownership on State-owned land is regulated by State law, and operations and environmental compliance are regulated by applicable federal and State laws, and in some cases local zoning ordinances.

1.3 Describe any other sources of law affecting the mining industry.

The General Mining Law of 1872 (the "GML"), 30 U.S.C. §§ 21-54, 611-615, as amended, remains the principal law governing locatable minerals on federal lands. The GML affords U.S. citizens the opportunity to explore for, discover and purchase certain valuable mineral deposits on federal lands open for mineral entry, and to locate mill sites for mining-related activities. Locatable minerals include non-metallic minerals (lithium, fluorspar, mica, certain limestones and gypsum, tantalum, heavy minerals in placer form, and gemstones) and metallic minerals (including gold, silver, lead, copper, zinc, and nickel). Locating these mineral deposits entitles the locator to certain possessory interests:

a. unpatented mining claims, which provide the locator with an exclusive possessory interest in surface and subsurface lands and the right to develop the minerals; and
b. patented mining claims, which pass the full fee title from the federal government to the locator, converting the property to private land – although a mining patent moratorium has been in place since 1994, and no new patents are being issued.

Other minerals on federal lands are "leasable" and are governed under separate statutes and regulations. The Federal Land Policy and Management Act of 1976, ("FLPMA") (43 U.S.C. §§ 1701-1787) governs federal land use, including access to, and exercise of, GML rights on lands administered by the BLM and the U.S. Forest Service ("USFS"). The FLPMA recognizes "the Nation's need for domestic sources of minerals" (43 U.S.C. § 1701(a)(12)), and provides that the FLPMA will not impair GML rights, including, but not limited to, the rights of ingress and egress (43 U.S.C. § 1732(b)). However, the FLPMA also provides that mining authorizations must not "result in unnecessary or undue degradation of public lands" (43 C.F.R. § 3809.411(d)(3)(iii); see also 43 U.S.C. § 1732(b)). The BLM and USFS have promulgated the extensive FLPMA mining regulations (see, e.g., 36 C.F.R. §§ 228.1-228.116, 43 C.F.R. §§ 3000.0-5-3936.40).

The National Environmental Policy Act ("NEPA") (42 U.S.C. §§ 4321-4370m-12) requires federal agencies to prepare an environmental impact statement ("EIS") for all major federal actions significantly affecting the quality of the human environment.

Mining operations on federal lands or with a federal *nexus* will generally involve an EIS, or a less intensive environmental assessment ("EA"), examining their potential environmental impact. The NEPA process also involves the consideration of other substantive environmental statutes. The U.S. Securities and Exchange Commission ("SEC") regulates mineral resources and reserves reporting by entities subject to SEC filing and reporting requirements. The SEC's reporting classification system is based on the SEC's 1992 "Industry Guide 7", which provides for a declaration only of proven and probable reserves. On October 31, 2018, the SEC adopted new rules for its reporting classification system. The new rules require additional disclosures for mining companies, including exploration results, mineral resources, and mineral reserves bringing the SEC disclosure requirements more in line with the disclosure standards of Canada's National Instrument 43-101 and the Committee for Mineral Reserves International Reporting Standards. The new rules require registrants with material mining operations to disclose information in their public filings regarding their mineral resources, in addition to their mineral reserves. Compliance with the new rules began in January 2021.

In September 2023, the Federal Permitting Improvement Steering Council (also known as the Permitting Council), which administers Title 41 of the FAST ACT (Fixing America's Surface Transportation Act) (or "FAST-41") program, designed to streamline qualifying infrastructure projects' Federal permitting review and processes, proposed to revise the scope of what constitutes a mining infrastructure project for eligibility under the FAST-41 permitting system to focus on only those involving critical mineral projects and the critical minerals supply chain. Currently, there is only one critical minerals project to receive FAST-41 coverage, the South 32 Hermosa Project (a zinc and manganese mining and processing operation).

In March 2024, the SEC adopted new climate disclosure rules that require registrants to provide climate related disclosures in their annual reports and registration statements, beginning with those annual reports for the year ending December 31, 2025. Applicable companies will have to provide details of its Scope 1 GHG emissions (direct emissions that are owned or controlled by a company) and Scope 2 GHG emissions (indirect emissions a company causes that come from purchased energy), but are allowed some delay for disclosure. At this time, disclosure of Scope 3 GHG emissions (indirect emissions resulting from assets not controlled or owned by a company but are indirectly affected in the company's value chain) is not required.

Furthermore, in June 2024, the District of Columbia Court of Appeals settled a long dispute starting in 1999 with a BLM regulation that limited mill sites for mining claims. Originally, the BLM proposed that only one mill site could be claimed for each mining claim, however, four years later, in connection with its Final Rule in 2003, the BLM ruled that mill sites may be "reasonably necessary" for "efficient…milling or mining operations". The 2024 ruling from the District of Columbia Court of Appeals upheld the BLM's Final Rule from 2003, stating that a mining claim can have more than one mill site as long as the mill site is "reasonably necessary to be used" for mining operations.

2 Recent Political Developments

2.1 Are there any recent political developments affecting the mining industry?

On February 2, 2022, the Biden Administration, with the Department of the Interior, launched a new interagency working group (the "IWG") on reforming hard rock mining laws, regulations and permitting policies in the United States. The working group was created to support Biden's focus on green policies and the responsible production of critical minerals. The group brought together experts in mine permitting and environmental laws to review the existing mining laws, regulations and permitting processes. During its review process, the IWG released 11 fundamental principles for domestic mining reform, hosted roundtables, and requested comments and feedback from government groups. The IWG issued its final report in September 2023 with over 60 recommendations on how to modernize the GML, including recommendations for overhauling the permitting process, changing the current location claim system to a leasing system, engaging tribal consultation earlier in the mining planning process, requiring an up to 8% royalty on the net proceeds of minerals mined from federal lands, and adopting the BLM's project management system on a nationwide basis.

In March 2022, President Biden also invoked the Defense Production Act (the "DPA") to boost mineral development and provide federal money to support the exploration of new mines or expand existing ones. Biden also directed the Department of Defense to consider lithium, cobalt, graphite, nickel and manganese as essential to national security. The DPA gives the President of the United States the authority to use economic incentives to boost the critical mineral supply.

On August 16, 2022, President Biden signed into law the Inflation Reduction Act (the "IRA") which included extensive provisions related to green tax energy incentives, including incentives to strengthen the U.S. supply chain for critical minerals. Most notably for mining companies, under Section 45X of the IRA, a new advanced manufacturing production tax credit was created for taxpayers who produce certain eligible components, including critical minerals. The amount of credit varies significantly depending on the component produced, but for critical minerals, the credit is equal to 10% of the costs incurred by the taxpayer with respect to the production of the minerals. There is also no phase-out of this tax credit. As of now, this tax credit does not extend to the actual costs of "extracting" raw materials but the IRS is currently seeking comment on this approach and it is expected that extraction costs will soon be covered, as of course, critical minerals need to be "extracted" before they can be processed, purified or refined and then sold into the supply chain.

On July 22, 2024, U.S. Senators Joe Manchin (I-WV) and John Barasso (R-WY), the Chairman and Ranking Member of the Senate Energy and Natural Resources Committee released the Energy Permitting Reform Act of 2024. While the legislation focuses on shortening timelines for federal authorizations for both energy and mineral projects, for hardrock mining, it will ensure that mining projects can use federal land for relevant mining support operations by establishing a new mill site claim without changing existing laws, and it will also address mine reclamation efforts. On July 31, 2024, the proposed legislation was advanced to the full Senate with a vote of 15–4, as Senators on both sides see it as important legislation to further the incentives offered by the IRA. The legislation will face difficulty getting passed if Congress is divided as a result of the upcoming U.S. elections, however, if the legislation passes, it will have a significant impact on the mining industry.

2.2 Are there any specific steps the mining industry is taking in light of these developments?

With the tax incentives offered by the IRA, critical minerals producers, lithium battery manufacturers and electric vehicle

producers are looking for ways to monetise such credits. Foreign investors are also looking for investment opportunities in the U.S., but there are certain domestic content requirements that may be hard to satisfy with a project that has a foreign component. Under Section 30D of the IRA, to be eligible for the tax credits, a certain percentage of the critical minerals must be extracted in the U.S. or with a country that has a free trade agreement with the U.S. Under the regulations, starting in 2025, an electric vehicle battery may not contain any crucial minerals that were extracted, processed or recycled by a foreign entity of concern ("FEOC"). On May 3, 2024, the U.S. Department of Treasury and the Internal Revenue Service issued the long-awaited regulations on what constitutes a FEOC, and retained a two-step approach. A FEOC must be a foreign entity and either subject to the jurisdiction of a covered nation, or owned, controlled or subject to the direction of the government of a covered nation.

3 Mechanics of Acquisition of Rights

3.1 What rights are required to conduct reconnaissance?

The GML affords U.S. citizens the opportunity to explore for, discover and purchase certain valuable mineral deposits on federal lands open for mineral entry. The process for developing locatable mineral rights on federal lands under the GML involves:

a. discovery of a "valuable mineral deposit", which under federal law means that a prudent person would be justified in developing the deposit with a reasonable prospect of developing a successful mine, and that the claims can be mined and marketed at a profit;
b. locating mining claims by posting notice and marking claim boundaries;
c. recording mining claims by filing a location certificate with the proper BLM State office within 90 days of the location date and recording pursuant to county requirements;
d. maintaining the claim through assessment work or paying an annual maintenance fee; and
e. additional requirements for mineral patents (as mentioned above, there is a *moratorium* on patents).

Reconnaissance on federal lands with leasable minerals generally requires the issuance of an exploration permit or lease. Although the GML and Mineral Lands Leasing Act require mine claimants, permittees and lessees to be US citizens, a "citizen" can include a US-incorporated entity that is wholly owned by non-US entities or corporations. There generally are no restrictions on foreign acquisition of these types of U.S. mining rights through parent-subsidiary corporate structures.

It is important to note that one of the IWG recommendations is the replacement of the current mine claim location system with a leasing system as is used in the oil and gas industry. However, there has been a great deal of criticism regarding this plan, as it would require all claims to convert into leases, which would result in a significant administrative challenge.

3.2 What rights are required to conduct exploration?

Depending on the stage and extent of exploration work and the amount of ground that is disturbed, additional permits and licences required to conduct mining activities may include:

a. a mine plan of operations;
b. a reclamation plan and permits;
c. air quality permits;
d. water pollution permits (pollutant discharge elimination system discharge permit, storm water pollution prevention plan, spill prevention control and a countermeasure plan);
e. dam safety permits;
f. artificial pond permits;
g. hazardous waste materials storage and transfer permits;
h. well drilling permits;
i. road use and access authorisations, right-of-way authorisations; and
j. water rights.

3.3 What rights are required to conduct mining?

See the response to questions 2.1 and 2.2.

3.4 Are different procedures applicable to different minerals and on different types of land?

The GML governs locatable minerals which include non-metallic minerals (fluorspar, mica, certain limestones and gypsum, tantalum, heavy minerals in placer form, and gemstones) and metallic minerals (including gold, silver, lead, copper, zinc, and nickel). The Mineral Lands Leasing Act of 1920 (30 U.S.C. §§ 181-287), as amended, establishes a prospecting permit and leasing system for all deposits of coal, phosphate, sodium, potassium, oil, gas, oil shale, and gilsonite on lands owned by the United States, including national forests. In addition, sulphur deposits found on public lands in Louisiana and New Mexico are leasable, as are geothermal steam and associated geothermal resources, uranium, and hardrock mineral resources. These same deposits found in some acquired federal lands, including acquired forest lands, are leasable under a similar statute. The Materials Disposal Act of 1947 (30 U.S.C. §§ 601-615), as amended, provides for the disposal of common minerals found on federal lands, including, but not limited to, cinders, clay, gravel, pumice, sand or stone, or other materials used for agriculture, animal husbandry, building, abrasion, construction, landscaping and similar uses. These minerals may be sold through competitive bids, non-competitive bids in certain circumstances or through free use by government entities and non-profit entities. Minerals on State-owned land are made available under the individual State's statutory and regulatory scheme.

3.5 Are different procedures applicable to natural oil and gas?

The Mineral Lands Leasing Act of 1920 (30 U.S.C. §§ 181-287), as amended, provides U.S. citizens the opportunity to obtain a prospecting permit or lease for coal, gas, gilsonite, oil, oil shale, phosphate, potassium, and sodium deposits on federal lands. The process for obtaining a permit or lease involves filing an application with the federal agency office with jurisdiction over the affected land. Depending on the type of permit or lease applied for, applicants may be required to:

a. pay rental payments;
b. file an exploration plan;
c. pay royalty payments based on production; or
d. furnish a bond covering closure and reclamation costs.

These permits and leases are often subject to conditions and stipulations directed at protecting resource values.

4 Foreign Ownership and Indigenous Ownership Requirements and Restrictions

4.1 What types of entity can own reconnaissance, exploration and mining rights?

Only U.S. citizens or U.S. companies can hold locatable and leasable minerals on federal lands, but foreign companies may form U.S. subsidiaries to secure such rights. States do not generally restrict the ownership of mineral leases based on the type of entity.

4.2 Can the entity owning the rights be a foreign entity or owned (directly or indirectly) by a foreign entity and are there special rules for foreign applicants?

U.S. mining laws generally do not restrict or limit foreign investment. Although the GML and Mineral Lands Leasing Act require mine claimants, permittees and lessees to be U.S. citizens, a "citizen" can include a US-incorporated entity that is wholly owned by non-U.S. entities or corporations. There are generally no restrictions on foreign acquisition of these types of U.S. mining rights through parent-subsidiary corporate structures. The Mineral Lands Leasing Act, Mineral Leasing Act for Acquired Lands, and Reorganization Plan No. 3 require that the holder of a mineral lease or prospecting permit must be a citizen of the United States (30 U.S.C. § 181, 352; 43 C.F.R. § 3502.10(a)). Corporations organized under the laws of the United States or any State or territory of the U.S. may qualify to hold leases or prospecting permits. While foreign persons are permitted to be shareholders, the citizenship of the shareholders is significant. The country of citizenship of each shareholder must be a country that does not deny similar or like privileges to U.S. citizens (30 U.S.C. § 181 (Such countries are referred to as "non-reciprocal countries")). Disclosure of foreign ownership is not required unless it meets the 10% threshold (43 C.F.R. § 3502.30(b)). Therefore, even foreign stockholders from non-reciprocal countries may own less than 10%. Foreign investments are subject to U.S. national security laws. The Committee on Foreign Investment in the U.S., for example, is an inter-agency committee chaired by the Secretary of the Treasury that has authority to review foreign investments to protect national security and make recommendations to the President to block the same (50 U.S.C. § 4565). The President may exercise this authority if they find that the foreign interest might take action impairing national security and other provisions of the law do not provide them with appropriate authority to act to protect national security (50 U.S.C. § 4565(d)(4)). Foreign employees are governed by general U.S. immigration laws, and are required to obtain a work visa or other authorisation. A limited number of visas are available for skilled workers, professionals and non-skilled workers, but these workers must be performing work for which qualified U.S. workers are not available (8 U.S.C. § 1153(b)(3)(C)).

4.3 Are there any change of control restrictions applicable?

The GML does not contain change of control restrictions.

4.4 Are there requirements for ownership by indigenous persons or entities?

The GML does not contain requirements for ownership by indigenous persons or entities. See the response to question 9.1.

4.5 Does the State have free carry rights or options to acquire shareholdings?

There are no carry rights or shareholding options under federal law, although production royalties are usually required on leasable minerals that are governed by the Mineral Leasing Act. Many States charge royalties on mineral operations on State-owned lands, and charge taxes which function like royalties on other lands, such as severance taxes, mine licence taxes or resource excise taxes. These functional royalties can vary depending on land ownership and the minerals extracted.

5 Processing, Refining, Beneficiation and Export

5.1 Are there special regulatory provisions relating to processing, refining and further beneficiation of mined minerals?

There are no specific provisions relating to processing, refining or beneficiating mined minerals in U.S. law, except for general environmental laws and laws governing permitting requirements.

5.2 Are there restrictions on the export of minerals and levies payable in respect thereof?

There are no restrictions or limitations on the sale, import, or export of extracted or processed minerals, unless deemed a national security risk by the U.S. Department of Homeland Security or State Department. There are restrictions for qualification of the tax incentives under the IRA dependant on where the critical minerals are sourced or where they are processed. See also the response to question 2.2. With the focus in the U.S. on strengthening the domestic critical minerals supply chain, it will be interesting to see if the successor administration to the Biden Administration will reconsider this lack of restrictions or limitations on exports.

6 Transfer and Encumbrance

6.1 Are there restrictions on the transfer of rights to conduct reconnaissance, exploration and mining?

No, except that the transferee must be qualified to hold the interest. See the response to question 4.2.

6.2 Are the rights to conduct reconnaissance, exploration and mining capable of being mortgaged or otherwise secured to raise finance?

Yes, locatable and leasable minerals on federal lands can be mortgaged or otherwise used as security, subject to the underlying mineral ownership rights of the government. Leasehold rights in State- and privately owned minerals can also be used as security, subject to any restrictions in the lease. See response to question 17.1.

7 Dealing in Rights by Means of Transferring Subdivisions, Ceding Undivided Shares and Mining of Mixed Minerals

7.1 Are rights to conduct reconnaissance, exploration and mining capable of being subdivided?

Under the GML, reconnaissance activities which do not cause surface disturbance can generally be conducted on any lands open for mining, and exploration and mining can occur after locating an unpatented mining claim. Unpatented mining claims provide the locator with exclusive possessory surface and mineral interests. Ownership of State-land minerals is controlled by State law and varies by State. State laws generally are similar to federal laws in that the title remains with the State until the minerals are severed pursuant to statutory procedures. However, land ownership in the U.S. can be severed into surface and subsurface estates, creating a split estate where the surface and mineral rights can be held by different parties. The ability to sever the unified estate depends on land ownership. Federal land mineral interests are regulated by federal laws and titles cannot be generally transferred to private citizens until the minerals have been severed. Under the GML, locatable mineral claims may be patented, transferring the title to the locator; however, as mentioned earlier, there has been a patent moratorium in place since 1994. Severance of private land estates is governed by State law, and, generally, private citizens are free to split their surface and mineral estates. Once the mineral estate is severed and enters the private market, the title to the minerals can be bought, sold, leased or rented as a matter of contract and real property law, subject to reservations in the severance document and applicable laws. The federal government, particularly in the western U.S., may have reserved the mineral estate to itself when it transferred ownership of the surface lands to private citizens or State governments, which could affect the surface owners' ability to alienate the minerals. In some areas, it is common to have different minerals leased to different parties.

7.2 Are rights to conduct reconnaissance, exploration and mining capable of being held in undivided shares?

Yes, such rights may be held in undivided shares, and this is a common practice.

7.3 Is the holder of rights to explore for or mine a primary mineral entitled to explore for or mine secondary minerals?

Generally, the holder of a mining claim or lease for a primary mineral is entitled to extract from a claim/lease those "associated minerals", or secondary minerals, which may be economically recovered along with the primary mineral(s). Particular leasable minerals and minerals on State- or privately owned land are made available depending on the terms of the lease.

7.4 Is the holder of a right to conduct reconnaissance, exploration and mining entitled also to exercise rights over residue deposits on the land concerned?

Generally, the holder of a mining claim or lease may exercise rights over residue deposits on the land concerned. However, certain residue deposits may be subject to ownership by another party and may not be contemplated by a mining lease.

7.5 Are there any special rules relating to offshore exploration and mining?

Yes. There are special federal and State rules relating to offshore exploration and mining, depending on whether exploration and mining are taking place in State-owned or federal waters. Generally, the Outer Continental Shelf Lands Act, 43 U.S.C. §1331, *et seq*., provides the U.S. Bureau of Ocean Energy Management ("BOEM") and related agencies with the authority to manage minerals on the U.S. outer continental shelf. Minerals may be offered for lease by the BOEM in accordance with federal regulations at 30 C.F.R. Parts 580-582.

Recently, in July 2024, the International Seabed Authority, an intergovernmental body based out of Kingston Jamaica, which includes 168 Member States and the EU (established out of the 1982 UN Convention on the Law of the Sea), met to negotiate a new mining code that will regulate deep-sea mining. Currently 27 countries are wanting a halt to any deep-sea mining activity, but in January 2024, Norway approved commercial deep-sea mining after parliamentary approval and Canada's The Metals Company is expected to submit a mining application to the Pacific State of Naru later this year.

8 Rights to Use Surface of Land

8.1 Does the holder of a right to conduct reconnaissance, exploration or mining automatically own the right to use the surface of land?

See the responses to questions 1.3, 3.1 and 7.1. FLPMA governs federal land use, including access to, and exercise of, GML rights on lands administered by the BLM and the USFS. FLPMA recognises "the Nation's need for domestic sources of minerals", and provides that FLPMA must not impair GML rights, including, but not limited to, rights of ingress and egress. However, FLPMA also provides that mining authorisations must not "result in unnecessary or undue degradation of public lands". BLM and USFS have promulgated extensive FLPMA mining regulations. Not all federal lands are open to mineral entry, including national parks, national monuments, most Reclamation Act project areas, military reservations, wilderness areas, and wild and scenic river corridors. Upon making a discovery of valuable minerals, the locator of a federal mining claim receives the "exclusive right of possession and enjoyment" of all "veins, lodes, and ledges throughout their entire depth" which have apexes within the mining claim. The locator also receives the exclusive right to possess all surface areas within the claim for mining purposes, but the United States retains the right to manage the surface of the property for other purposes. A locator's possessory rights are considered vested property rights in real property with full attributes and benefits of ownership exercisable against third parties, and these rights may be sold, transferred and mortgaged. In most States, the owner of the mineral estate on private land has the right to use as much of the surface as is reasonably necessary to exploit the mineral estate, but such rights are usually qualified and limited in various ways.

8.2 What obligations does the holder of a reconnaissance right, exploration right or mining right have *vis-à-vis* the landowner or lawful occupier?

Federal mining laws do not require community engagement or corporate responsibility. Those projects that require NEPA review, however, will be subject to public notice and comment

requirements and the review will involve consideration of the project's cultural, societal and economic impacts. State laws may impose a "public interest" standard for projects requiring State approval. For example, mining operations that require State water rights may need to show that the use of the water is in the "public interest", which may include consideration of wildlife, fisheries and aquatic habitat values. The law governing split estates generally requires both the mineral estate owner and the surface estate owner to proceed with "due regard" for the other, and to "accommodate" the use of the other. The holder of mining rights is entitled to use as much of the surface and subsurface as is "reasonably necessary" to exploit its interest in the minerals, but this entitlement must be balanced against the surface owner's right to use his property. Federal and State legislation has granted additional protections to surface owners.

8.3 What rights of expropriation exist?

There is little risk of expropriation of mining operations by government seizure or political unrest. Rights may only be expropriated following due process and the payment of due compensation to the holder.

9 Environmental and Social

9.1 What environmental authorisations are required in order to conduct reconnaissance, exploration and mining operations?

NEPA is the principal environmental law implicated by mining on federal lands. NEPA requires federal agencies to take a "hard look" at the environmental consequences of its projects before action is taken. An agency must prepare an EIS for all major federal actions significantly affecting the quality of the human environment. An agency may first prepare an EA to determine whether the effects are significant. If the effects are significant, the agency must prepare the more comprehensive EIS. If the effects are insignificant, the agency generally will issue a finding of no significant impact, ending the process.

The NEPA does not dictate a substantive outcome, however, the analysis generally requires consideration of other substantive environmental statutes and regulations, including the Clean Air Act (42 U.S.C. §§ 7401-7671q), the Clean Water Act (33 U.S.C. §§ 1251-1388), and the Endangered Species Act (16 U.S.C. §§ 1531-1544). The NEPA is administered by the federal agency making the decision that may significantly affect the environment. Mining projects on federal lands, or that otherwise have a federal *nexus*, will likely have to go through some level of NEPA environmental review. State laws may also require environmental analysis. Where analysis is required by different agencies, it may be possible to pursue an agreement among the agencies to allow the operator to produce one comprehensive environmental review document that all agencies can rely on. There is no statutory deadline for federal agencies to complete their NEPA review. Small mine project reviews may take in excess of a year to complete. Larger project reviews will likely take longer. Third parties may sue the federal agency completing the review to ensure that the agency considered all relevant factors and had a rational basis for the decisions made based on the facts found. Prosecuting the litigation would extend the project approval time, and if the agency loses, additional time would be required for the agency to redo its flawed NEPA analysis. In some instances where mines were proposed in especially sensitive areas, it has taken decades to obtain approval. The Clean Air Act regulates air emissions from stationary and mobile sources. The Clean Air Act is administered by the Environmental Protection Agency and States with delegated authority. The Clean Water Act regulates pollutant discharges into the "waters of the US, including the territorial seas" (33 U.S.C. § 1311(a)). The Clean Water Act is administered by the Environmental Protection Agency, U.S. Army Corps of Engineers, and States with delegated authority. The Endangered Species Act requires federal agencies to ensure their actions are not likely to jeopardise the continued existence of any threatened or endangered species, or destroy or adversely modify designated critical habitats; and also prohibits the unauthorised taking of such species. The U.S. Fish and Wildlife Service and National Marine Fisheries Service administer the Endangered Species Act.

On January 11, 2017, the U.S. Environmental Protection Agency ("EPA") issued a proposed rule establishing financial responsibility requirements for the hardrock mining industry to address environmental liabilities. However, the fiscal year 2018 budget for the EPA prohibited the use of funds to implement this rule. On July 29, 2019, the D.C. Circuit issued its decision in *Idaho Conservation League v. Wheeler*, upholding the U.S. EPA decision not to issue financial responsibility requirements for the hardrock mining industry under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").

State laws may also include closure and reclamation requirements, including water and air pollution controls, re-contouring and revegetation, fish and wildlife protections, and reclamation bonding requirements. Mining projects often can address both federal and State requirements through a single closure and reclamation plan and financial guarantee.

9.2 What provisions need to be made for storage of tailings and other waste products and for the closure of mines?

FLPMA requires BLM and USFS to prevent "unnecessary or undue degradation" of public lands (43 U.S.C. § 1732(b)). Casual use hardrock mining operations on BLM lands that will result in no, or negligible, surface disturbance do not require any reclamation planning. Notice-level exploration operations requiring fewer than five acres of surface disturbance must meet BLM reclamation standards and provide financial guarantees that the reclamation will occur (43 C.F.R. §§ 3809.320, 3809.500(b)). Plan-level operations require a plan of operations that includes a detailed reclamation plan (43 C.F.R. §§ 3809.11, 3809.401). BLM reclamation standards include saving topsoil for reshaping disturbed areas, erosion and water control measures, toxic materials measures, reshaping and re-vegetation where reasonably practicable, and rehabilitation of fish and wildlife habitats (43 C.F.R. § 3809.420). Mining in BLM wilderness study areas additionally requires that surface disturbances be "reclaimed to the point of being substantially unnoticeable in the area as a whole" (43 C.F.R. § 3802.0-5(d)).

Mining activities on National Forest lands must be conducted "so as to minimise adverse environmental impacts on National Forest System surface resources" (36 C.F.R. § 228.1). Operators must take measures that will "prevent or control on-site and off-site damage to the environment and forest surface resources", including erosion control, water run-off control, toxic materials control, reshaping and re-vegetation where reasonably practicable, and rehabilitation of fish and wildlife habitat (36 C.F.R. § 228.8(g)). State laws may

also include closure and reclamation requirements, including, for example, water and air pollution controls, re-contouring and revegetation, fish and wildlife protections, and reclamation bonding requirements. Mining projects can often address both federal and State requirements through a single closure and reclamation plan and financial guarantee. Federal and State laws generally require financial guarantees prior to commencing operations to cover closure and reclamation costs. These reclamation bonds ensure that the regulatory authorities will have sufficient funds to reclaim the mine site if the permittee fails to complete the reclamation plan approved in the permit.

It should be noted that the IWG proposed that the BLM and USFS require all industry players mining on federal land to adhere to the Global Industry Standard on Tailings Management, develop tailing management plans and incorporate best practices for mine operation and closure.

9.3 What liabilities does a mining company face in the event that mining activities result in ground water or other contamination affecting third parties?

Pursuant to the National Forest System regulations, upon exhaustion of the mineral deposit or at the earliest practicable time during operations, or within one year of the conclusion of operations, unless a longer time is allowed, mining companies must reclaim the surface disturbed in operations by taking such measures as will prevent or control onsite and off-site damage to the environment and forest surface resources including, control of water runoff and Isolation, removal or control of toxic materials (36 C.F.R. § 228.8(g)). See also the response to question 9.1 and question 9.2.

9.4 What are the closure obligations of the holder of a reconnaissance right, exploration right or mining right?

See the response to question 9.2.

9.5 Are there any social responsibility requirements (such as to invest in local infrastructure and communities) under applicable law or regulation?

There are currently no requirements in the U.S. for mining companies to invest in local infrastructure and communities, or enter into Community Benefit Agreements ("CBAs") like there are in other parts of the world. It is important to note though that with the world focusing on green energy and the push to meet net-zero by 2050 (or sooner), and stakeholders considering ESG (Environment, Social, and Governance) factors in their investments, mining companies are starting to put into action strong ESG agendas. With mining companies focusing on the "S" in ESG, many of these companies are supporting local communities by investing in areas such as human rights measures, the health and safety for their local workers, education and training and fair labour practices.

9.6 Are there any zoning or planning requirements applicable to the exercise of a reconnaissance, exploration or mining right?

Individual counties and municipalities may impose certain zoning requirements on lands subject to their jurisdiction; however, zoning requirements are less likely to apply where mining operations are located away from residential areas.

10 Native Title and Land Rights

10.1 Does the holding of native title or other statutory surface use rights have an impact upon reconnaissance, exploration or mining operations?

The U.S. contains numerous reservations comprising federal lands set aside by treaty or an administrative directive for specific Native American tribes or Alaska Natives. Tribal reservation titles are generally held by the U.S. in trust for the tribes, and the U.S. Bureau of Indian Affairs administers the reservations. Alaska Native lands are owned and administered by Alaska Native corporations. Mineral development within the tribal reservations and Alaska Native lands requires negotiation with the appropriate administrator.

Tribal cultural interests are considered through NEPA and two specific laws. The National Historic Preservation Act ("NHPA"), 54 U.S.C. § 300101, *et seq.*, requires an analysis that includes social and cultural impacts, and may require tribal consultation. Section 106 of NHPA requires federal agencies to inventorise historic properties on federal lands and lands subject to federal permitting, and to consult with interested parties and the State Historic Preservation Office (54 U.S.C. § 306108). The Native Graves Protection and Repatriation Act, 25 U.S.C. §§ 3001-3013, imposes procedural requirements that apply to inadvertent discovery and intentional excavation of tribal graves and cultural items on federal or tribal lands. Locatable minerals found on American Indian reservations are subject to lease only. Under the Indian Mineral Development Act of 1982, 25 U.S.C. §§ 2101-2108, tribes may enter private negotiations with mineral developers for the exploration and extraction, subject to the Interior Secretary's approval.

As mentioned earlier, the IWG has proposed a number of recommendations in connection with tribal consultation for the mine planning process on federal lands. Unfortunately, the processes described above may not always be in alignment with tribal interest or considerate of the timing process needed for tribes to assess and evaluate their interests in connection with a proposed mine and its operation plan. The IWG proposes that agencies use a "good faith" effort to include tribal consultation early in the planning of the proposed mining operation. The IWG also suggested that an automatic notice system be set up so that tribes are given notice when plans are proposed in areas of interest, federal agencies that have any permitting authority should have clear tribal consultation policies and procedures, and funds should be set aside for the tribes to assist them with this.

11 Health and Safety

11.1 What legislation governs health and safety in mining?

The Federal Mine Safety and Health Act, 30 U.S.C. § 801-966, requires the Mine Safety and Health Administration ("MSHA") to inspect all mines each year to ensure safe and healthy work environments (30 U.S.C. § 813). The MSHA is prohibited from giving advance notice of an inspection, and may enter mine property without a warrant (30 U.S.C. § 813). The MSHA regulations set out detailed health and safety standards for preventing hazardous and unhealthy conditions, including measures addressing fire prevention, air quality, explosives,

aerial tramways, electricity use, personal protection, illumination and others. See, e.g., 30 C.F.R. Part 56 (safety and health standards for surface metal and non-metal mines). The MSHA regulations also establish requirements for: testing; evaluating and approving mining products; miner and rescue team training programs; and notification of accidents, injuries, and illnesses at the mine (30 C.F.R. §§ 5.10-36.50, 46.1-49.60, 50.10).

11.2 Are there obligations imposed upon owners, employers, managers and employees in relation to health and safety?

See the response to question 11.1 above.

12 Administrative Aspects

12.1 Is there a central titles registration office?

Yes. Both the BLM and individual counties in each State maintain records concerning title to surface and mineral interests in federal lands. State agencies typically maintain records for State-owned minerals. Documents affecting a title to private minerals are typically recorded in the county records of the county in which the lands are located.

12.2 Is there a system of appeals against administrative decisions in terms of the relevant mining legislation?

Yes. Appeals may be made to administrative tribunals and to the judicial system.

13 Constitutional Law

13.1 Is there a constitution which has an impact upon rights to conduct reconnaissance, exploration and mining?

The U.S. Constitution and federal laws are the supreme law of the land, generally pre-empting conflicting State and local laws. In many legal areas, the different authorities have concurrent jurisdiction, requiring regulated entities to comply with multiple levels of regulation. Mining on federal lands, for example, is generally subject to multiple layers of concurrent federal, State, and local statutes and administrative regulations.

13.2 Are there any State investment treaties which are applicable?

Many international treaties of general application apply to mining industry investment by foreign persons into the United States, but none specifically address investment in the mining industry or trading in various minerals. See the response to question 15.2 for further information.

14 Taxes and Royalties

14.1 Are there any special rules applicable to taxation of exploration and mining entities?

There are no federal taxes specific to minerals extraction. General federal, State, county and municipal taxes apply to mining companies, including income taxes, payroll taxes, sales taxes, property taxes and use taxes. Federal tax laws generally do not distinguish between domestic and foreign mining operators. However, if a non-U.S. citizen acquires real property, the buyer must deposit 10% of the sale's price in cash with the U.S. Internal Revenue Service as insurance against the seller's income tax liability. The cash requirement can be problematic for a cash-strapped buyer that may have purchased the mine property with stock. Pursuant to the IRA programs mentioned above, there are federal tax advantages and incentives specific to mining. There are no federal duties on minerals extraction. Taxation schemes in individual States vary widely.

Locatable minerals claimants must pay an annual maintenance fee of $155 per claim *in lieu* of performing assessment work required pursuant to GML and FLPMA (43 C.F.R. §§ 3834.11(a), 3830.21). Failure to perform assessment work or pay a maintenance fee will open the claim to relocation by a rival claimant as if no location had been made (43 C.F.R. § 3836.15). Certain waivers and deferments apply. Leasable minerals permittees and lessees must pay annual rent based on acreage. The rental rates differ by mineral and some rates increase over time (43 C.F.R. § 3504.15). Prospecting permits automatically terminate if rent is not paid on time; the BLM will notify late lessees that they have 30 days to pay (43 C.F.R. § 3504.17).

14.2 Are there royalties payable to the State over and above any taxes?

There are generally no royalties levied on the extraction of federally owned locatable minerals. However, as mentioned in question 2.1, royalties for minerals extracted from federal land are now being contemplated by the IWG. Production royalties are generally required on fuel minerals and other minerals governed by the Mineral Leasing Act. Many States charge royalties on mineral operations on State-owned lands and taxes that function like a royalty on all lands, such as severance taxes, mine licence taxes, or resource excise taxes. These functional royalties can differ depending on land ownership and the minerals extracted.

15 Regional and Local Rules and Laws

15.1 Are there any local provincial or municipal laws that need to be taken account of by a mining company over and above National Legislation?

As noted above, State and local governments having concurrent or independent authority over certain aspects of mining projects (e.g., permitting, water rights and access authorisations). Ownership of State-owned land and minerals is controlled by State law and varies by State. State laws generally are similar to federal laws in that a title remains with the State until the minerals are severed pursuant to statutory procedures. State and local laws may impose a "public interest" standard for projects requiring State approval. State laws may also include closure and reclamation requirements, including, for example, water and air pollution controls, re-contouring and re-vegetation, fish and wildlife protections, and reclamation bonding requirements. Many State laws require financial guarantees prior to commencing operations to cover closure and reclamation costs. In addition, some States charge royalties on mineral operations on State-owned lands, and impose taxes that function like a royalty

on all lands, such as severance taxes, mine licence taxes, or resource excise taxes.

15.2 Are there any regional rules, protocols, policies or laws relating to several countries in the particular region that need to be taken account of by an exploration or mining company?

The North American Free Trade Agreement ("NAFTA") among the U.S., Canada and Mexico, in Chapter 11, requires equal treatment between the NAFTA country's own citizens and those from another NAFTA country, and requires that the NAFTA country protect those investors and their investments. Among the most important protections are the broad prohibitions on "expropriation" of the investor's rights, including a prohibition on the NAFTA country implementing measures "tantamount to expropriation" except in accordance with approved criteria, and requiring payment of compensation resulting from losses incurred by the investor. In August 2018, Mexico and the United States announced that they had come to terms on a new trade agreement that preserved much of NAFTA but introduced a number of significant changes. Subsequently, in September 2018, Canada agreed to join the new trade agreement, and the pact was signed on November 30, 2018, and went into effect on July 1, 2020.

16 Cancellation, Abandonment and Relinquishment

16.1 Are there any provisions in mining laws entitling the holder of a right to abandon it either totally or partially?

Under the GML, rights in unpatented mining claims can be abandoned by non-payment of annual maintenance fees. Minerals leased under federal law (energy minerals such as coal), minerals owned by States, and minerals owned by private entities can only be abandoned in accordance with the terms of the lease or other grant from the mineral owner to the holder of the right to develop the minerals.

16.2 Are there obligations upon the holder of an exploration right or a mining right to relinquish a part thereof after a certain period of time?

Under the GML, there is no obligation to relinquish an exploration or mining right after a certain period of time. The terms of federal mineral leases, State mineral leases or private leases may contain such provisions.

16.3 Are there any entitlements in the law for the State to cancel an exploration or mining right on the basis of failure to comply with conditions?

Yes. Under the GML, unpatented mining claims may be cancelled for failure to pay annual maintenance fees, or, in some instances, the federal government can challenge the validity of unpatented mining claims for failure to make a valid discovery of a valuable mineral. The terms of federal, State and private leases often contain default provisions allowing cancellation upon failure to comply with conditions of the lease.

17 Mining Finance: Granting and Perfecting Security

17.1 In relation to the financing of mines, is it possible to give asset security by means of a general security agreement or is an agreement required in relation to each type of asset? Briefly, what is the procedure?

In a mining finance transaction, it is common for both a Security Agreement and a Mortgage to be entered into among the parties, whereby the borrower obtaining the financing has granted certain security interests to the lender to secure its loan obligations. The Security Agreement will include the grant of a security interest by the borrower in specific categories of its personal property assets (equipment, inventory, vehicles, accounts receivable, bank accounts, etc.) to secure the borrower's obligation to pay back the loan. The security interest is a statutory creation and is generally governed under the Uniform Commercial Code. A mortgage is a common law creation, and is a document whereby a borrower grants a security interest to the lender in its interest in real property (tracts of land, mineral interests, mill site, etc.).

17.2 Can security be taken over real property (land), plant, machinery and equipment (whether underground or overground)? Briefly, what is the procedure?

See the response to question 17.1 above. Once a Security Agreement is executed, a UCC financing statement should be filed listing the exact name of the borrower as the debtor, and the lender as the secured party, including their addresses, and including a sufficient description of the collateral under the Security Agreement. This description will often be referred to as an "all assets" description, reflecting a grant under the Security Agreement in a listing of all of the various type of personal property assets of the borrower. While perfection of a security interest depends on the local jurisdiction where the collateral or the borrower is located, the UCC financing statement should generally be filed with the Secretary of State where the borrower is organized to perfect the security interests in the collateral granted under the Security Agreement (although there are certain instances where the UCC financing statement should be filed elsewhere). County level filings (which could be in the form of a UCC financing statement or the Mortgage) can be made to perfect a grant of a security interest in fixtures (certain personal property affixed to the real property) and as-extracted minerals. There are requirements that the UCC financing statement be continued every five years to maintain perfection. Once a Mortgage is executed, to perfect the security interest in the real property collateral granted under the Mortgage, an original executed Mortgage (or copy thereof, if permitted in the applicable county) should be recorded in the real property records where the property is located.

Finally, it is important to note that because the GML and Mineral Lands Leasing Act require mine claimants, permittees and lessees to be U.S. citizens, in mine financings where the lender or agent (acting for a syndicate of lenders) is a foreign entity, a mine collateral agent that is a U.S. entity will likely be appointed by the lenders to hold the collateral on behalf of such parties. The borrower will grant a security interest in the collateral to the mine collateral agent, and the mine collateral

agent will be authorized to take all necessary administrative and enforcement actions with respect to the collateral on behalf of the lenders and/or agent.

17.3 Can security be taken over receivables where the chargor is free to collect the receivables in the absence of a default and the debtors are not notified of the security? Briefly, what is the procedure?

A borrower can grant a security interest to a lender in its rights and interests to collect under its receivables and related contracts, and generally prior to a default, the borrower can continue to collect all amounts due or to become due to it under such receivables and related contracts. Upon a default, generally, the lender can notify the obligors under such receivables that the borrower has assigned its rights to collect such amounts due thereunder and direct such obligor to make such payments to the lender. Prior to a default, the borrower is generally not required to provide notice to the obligor that it has granted a security interest to the lender in its rights to receive payment under such receivables and related contracts. The obligor could, however, run a UCC lien search and if the lender's security interest has been perfected by the filing of a UCC, the obligor could be put on notice that certain of the borrower's assets (including such receivables and contract rights) have been pledged to the lender.

17.4 Can security be taken over cash deposited in bank accounts? Briefly, what is the procedure?

See the response to question 17.1 above. Yes, a security interest in deposit accounts can be granted. A borrower will generally grant a security interest to the lender in its accounts in a Security Agreement. Under the Uniform Commercial Code, to perfect a security interest in a deposit account, "control" over that deposit account must be established, and control requires that either the borrower maintains a deposit account directly with the lender, the lender is the actual owner of the account (by being listed on the account), or the parties obtain an account control agreement with the borrower's depository bank.

17.5 Can security be taken over shares in companies incorporated in your jurisdiction? Are the shares in certificated form? Briefly, what is the procedure?

Yes, a security interest in equity in a company can be granted by the entity that holds such equity, regardless of whether the equity is certificated (evidenced by a numbered certificate) or uncertificated (evidenced by a book entry). The security interest in the equity will generally be granted pursuant to a Pledge Agreement that is entered into between a borrower or parent company and a lender. A UCC financing statement will perfect the security interest in the pledged equity, however, if the equity interests are certificated, the holder of such equity certificates with a valid security interest grant will generally have priority over other secured parties (those only having filed a UCC financing statement) by having control and possession of the equity certificates.

17.6 What are the notarisation, registration, stamp duty and other fees (whether related to property value or otherwise) in relation to security over different types of assets (in particular, shares, real estate, receivables and chattels)?

The fees related to recording security instruments is dependent on the type of document, how voluminous the document, where the document is being recorded, and in certain instances, the value of the property being encumbered by such document. The filing fees at the county clerk level for a simple "all assets" UCC financing statement are approximately $15–$30. The filing costs for a Mortgage with a several hundred-page property description could be much more expensive, as county clerk offices generally charge a first page fee ($4–$10) and then a less expensive fee ($0.50–$2.00) for each additional page. Further, in certain jurisdictions, a mortgage recordation tax is charged when recording a mortgage that is based on the value of the indebtedness being secured by such mortgage (and in some jurisdictions, the term of the mortgage).

17.7 Do the filing, notifications or registration requirements in relation to security over different types of assets involve a significant amount of time or expense?

See answer to question 17.6 above. The process of filing of a UCC financing statement and receiving recordation evidence back from the applicable Secretary of State is generally a very quick process that usually only takes a few days. It may take several weeks to receive the recorded Mortgage from a county clerk's office after processing for filing (and that process may take longer depending on the length of the property exhibits as well as if any indexing of tracts is required). The process of filing and receiving evidence of a recorded Mortgage with the BLM may also take up to a few months.

17.8 Are any regulatory or similar consents required with respect to the creation of security over real property (land), plant, machinery and equipment at a mining operation?

See the response to questions 17.1 through 17.8. The steps outlined above are consistent with taking security over a mine and its mining operations.

18 Other Matters

18.1 What actions, if any, could be taken by the Government to encourage further foreign direct investment in the mining industry?

The Biden Administration is heavily focused on strengthening the U.S. domestic energy supply chain to ensure energy security and to help the U.S. reach its aggressive net-zero clean energy goals. Currently, the U.S. is almost completely reliant on foreign imports for most of its critical minerals required for clean energy and defense technologies. The number of mines and the amount of critical minerals processed in the U.S. is nowhere near the amount needed to

keep up with projected demands. The U.S. needs to significantly ramp up its production of critical minerals in order to meet its net-zero goals and keep up with the demand for critical minerals, and this process could be accelerated by economically incentivizing foreign investments in the mining sector, at least in the short-term. While the Inflation Reduction Act was targeted to encourage domestic investment in critical minerals, the potential of its positive impact on the mining industry is being hindered by the requirement that the critical minerals must either be extracted or processed in a country with which the United States has a free trade agreement for projects to qualify. The U.S. should be more aggressive in negotiating Critical Minerals Agreements with key trusted allies (similar to what was negotiated with Japan). Further, the U.S. should focus on streamlining supply chains through these free trade agreement countries to prevent further roadblocks to the completion of deals. Finally, the lengthy U.S. mine permitting process needs to be streamlined and made much more efficient. The various permitting agencies could be better coordinated with a uniform timeline for all mining projects to entice these outside foreign investments.

Meaghan Connors is a counsel in the Banking & Finance practice of Mayer Brown's Houston office. She represents financial institutions and borrowers in connection with various types of financing. Her experience includes secured and unsecured commercial transactions such as credit facilities for working capital, asset-based financings, acquisitions, refinancings, high-yield debt offerings, restructurings, and distressed lending. Meaghan has a particular emphasis on the energy-related industries (hard-rock mining and oil and gas pipeline). Meaghan also has extensive experience in cross-border financings with complicated collateral arrangements, and frequently represents foreign financial institutions with both U.S. and international matters in bank financings.

Meaghan remains at the forefront of the energy transition, frequently writing articles, presenting and participating as an expert panelist in discussions about the energy transition, the role of critical minerals in the energy transition and the application and impact of the Inflation Reduction Act.

Mayer Brown LLP
71 South Wacker Drive
Chicago, IL 60606
USA

Tel: +1 713 238 2724
Email: mconnors@mayerbrown.com
LinkedIn: www.linkedin.com/in/meaghan-connors-832b0015

Mayer Brown's global mining group works throughout the world, advising clients on a wide variety of transactions including project finance, environmental, corporate, restructuring, construction, insurance, commodities, and litigation matters. Our lawyers have extensive experience of the day-to-day legal, financial, and operational issues faced by mineral producers and those who provide finance to the industry sector. This enables us to get straight to the heart of what our clients need and for the assistance we provide to be given with a full appreciation of real and practical industry concerns. No matter how complex the deal or remote the operation, our mining team is likely to have worked on a similar assignment before and will therefore be familiar with the issues that have to be resolved.

www.mayerbrown.com

MAYER | BROWN

iclg International Comparative Legal Guides

The **International Comparative Legal Guides** (ICLG) series brings key cross-border insights to legal practitioners worldwide, covering 58 practice areas.

Mining Law 2025 features an introductory chapter and 13 Q&A jurisdiction chapters covering key issues, including:

- Relevant Authorities and Legislation
- Recent Political Developments
- Mechanics of Acquisition of Rights
- Foreign Ownership and Indigenous Ownership Requirements and Restrictions
- Processing, Refining, Beneficiation and Export
- Transfer and Encumbrance Dealing in Rights by Means of Transferring Subdivisions, Ceding Undivided Shares and Mining of Mixed Minerals
- Rights to Use Surface of Land
- Environmental and Social
- Native Title and Land Rights
- Health and Safety
- Administrative Aspects
- Constitutional Law
- Taxes and Royalties
- Regional and Local Rules and Laws
- Cancellation, Abandonment and Relinquishment
- Mining Finance: Granting and Perfecting Security

The International Comparative Legal Guides are published by: glg Global Legal Group