



PERU MINING INVESTMENT MANUAL





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The present Mining Investment Manual is intended to serve as an orientation guide to investors with regard to the more relevant legal obligations to be taken into account when analyzing and deciding to invest in mining in Peru.

The six (6) chapters that form part of this Manual describe the principal legal aspects that rule the development of a mining project, from the moment at which it is decided to begin it, its development through other subsequent stages (prospecting, sampling, exploration, development, exploitation and processing of minerals) to finalizing the operation after completing removal of the mineral resources contained therein, finally concluding with the activities mandated for mine closure.

This Manual has been designed to include a variety of topics, addressing them independently in each one of the following chapters:

- (i) The Mining Concession: Mineral Exploration and Exploitation
- (ii) Other Concessions: Processing, General Work and Mining Transport
- (iii) Guarantees on Foreign Investment and Legal Stability
- (iv) Principal Tax Aspects and Other Economic Charges
- (v) Principal Environmental Aspects Applicable to Mining Activities
- (vi) Labor Aspects and Principal Contracting Modes

It is worth mentioning that the information provided herein is based on the law and official regulations effective as of this date.

The Manual also includes an Appendix containing a glossary of the Terms and Acronyms that are used throughout the chapters, along with a list of the more important legal provisions that has been used in preparing the present Manual; their in-depth review will allow investors to form a better overall concept of the legal regime applicable to the mining activities that are developed in our country.

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The present document is strictly orientational in nature and refers to the most relevant aspects of the legal framework for investments in the mining activity in effect as of January 31, 2008.

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THE MINING CONCESSION: MINERAL EXPLORATION AND EXPLOITATION



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THE MINING CONCESSION: MINERAL EXPLORATION AND EXPLOITATION

Mining concessions grant their holders the right to explore and exploit mineral resources to an unlimited depth, bound by vertical planes corresponding to the sides of a square, a closed traverse rectangle or one whose vertices refer to Universal Transversal Mercator (UTM) coordinates. A mining concession constitutes a right that is distinct, separate and independent of the rights on the estate where it is located, that is to say, it does not grant rights on the surface.

The basic surface measurement unit for mining concessions is equivalent to a minimum expanse of 100 hectares and a maximum of 1,000 hectares, according to the Grid System authorized by the MINEM.

Concessions are irrevocable, as long as the holder meets the obligations that the mining law demands for maintaining them in force. Among these obligations is the payment of an annual Mining Good Standing Fee starting from the year in which the claim was filed and as long as concession remains in effect. The fee amounts to US\$3.00 per year per hectare, except for PPM (US\$1.00) and PPA (US\$0.50). This payment must be made before June 30th of every year.

The TUO of the General Mining Law also establishes an obligation to attain a Minimum Annual Production per year and per hectare¹ before the seventh year, computed starting from the year in which the concession was granted. In the event of not fulfilling this obligation, an Annual Penalty² must be paid starting from the seventh year until the year in which this Production is met. If it is not met until the twelfth year, the holder must pay a higher Annual Penalty³.

It is possible to be exempted from the payment of the Annual Penalty by proving per-hectare investments for the previous year equivalent to no less than 10 times the amount of the corresponding Annual Penalty.

Considering the foregoing, it is suggested that a query be made to the INGEMMET prior to requesting the granting of mining concessions. By doing that, it will be possible to obtain real-time information on the free areas that can be requested (open for claims), and on any another aspect related to the granting of concessions, the national mining register, the register of areas restricted to mining activity and the payment of Mining Good Standing Fees and Penalties.

1. MINING CONCESSION APPLICATION (KNOWN AS PETITORIO IN PERU)

An applicant subject to the general regime must present its application for a mining concession in Reception Desk of the INGEMMET or the competent Regional Government in the case of PPM or PMA, attaching the receipt for payment of the Mining Good Standing Fee corresponding to the first year and the receipt for payment of the Proceedings Fees, equal to 10% of one Tax Unit⁴. The application must also meet the requirements that are set forth in Arts. 14-B and 17 of the Regulations for Mining Procedures.

2. GEOLOGICAL, MINING AND METALLURGICAL INSTITUTE - INGEMMET

The INGEMMET and Regional Governments will maintain a Registry of Incoming Applications for Mining Concessions in the SIDEMCAT in order to determine priority in the presentation of the applications.

1 US\$100.00 for all mining concessionaires, except for PPM and PMA.

2 US\$6.00 per hectare for all mining concessionaires, except for the PPM and PMA.

3 US\$20.00 per hectare for all mining concessionaires, except for the PPM and PMA.

4 The Tax Unit for the 2008 period is S/3,500.00, equivalent to approximately US\$1,186.00 (Exchange rate: S/2.95 new soles per US\$1).

When receiving the applications, those responsible for the Reception Desk must create an Exclusive Mining Application Code, even in those cases in which a reading of the request or review of the documentation indicates that there has been an omission of some of the requirements called for in Arts.14-B and 17 of the Regulations for Mining Procedures; except when the requirements that have not been met are those set forth in Art. 14-A of the Regulations for Mining⁵, in which case the request will be rejected ab initio.

3. NOTIFICATION FOR THE RECEIPT OF LEGAL NOTICES

If the application meets the requirements called for by Art. 17 of the Regulations for Mining Procedures, within the 07 business days following presentation of the application, INGEMMET or the Regional Government, as applicable, will notify the applicant, enclosing the legal notices for publication.

4. PUBLICATION

Publication must be made within the 30 business days following the date of publication of the corresponding legal notice in the official newspaper El Peruano and in the newspaper charged with the publication of legal notices in the capital of the department where the concession is located. If there is no local newspaper, the legal notices will be posted for 07 business days in the respective INGEMMET or Regional Government offices, as applicable. The publications must contain a summary of the information contained in the Application for the Mining Concession, according to Art. 19 of the Regulations for Mining Procedures.

5. DELIVERY OF PROOF OF PUBLICATION

Within the 60 calendar days following the date of publication, the applicant must deliver to the Office of the INGEMMET or the Regional Government, as applicable, all the pages to prove publication of the legal notices.

6. FAVORABLE TECHNICAL AND LEGAL OPINION

This is the step prior to obtaining the concession title. An opinion is issued by the Director of the Mining Concessions Bureau of the INGEMMET or by the Regional Government's Energy and Mines Bureau (DREM), as applicable, after having verified and assessed the application for a mining concession and not tendering any opposition. The Technical and Legal Opinion must be issued within a term no greater than 30 business days following receipt of publication of the legal notices.

7. GRANTING OF TITLE TO THE CONCESSION

Within the 05 business days following issue of the opinions, under pain of penalty of being held liable therefor, the Director of the Mining Concessions Bureau of the INGEMMET or the Regional Government's DREM, as applicable, must submit the application docket to the President of the Executive Council of INGEMMET or the Director of the Regional Government's DREM, respectively, for issuance of the corresponding Resolution. By this concession title the State recognizes unto the concessionaire the right to exclusively exercise the rights inherent to the concession that are set forth in Art. 37 of the TUO of the General Mining Law.

Title to the mining concession will not be granted before 30 calendar days following the last publication indicated in section 4 above.

⁵ These would be applications for mining concessions in which: (a) any one of the original receipts for payment for the Mining Good Standing Fee and/or Proceedings Fee is omitted, (b) the payment in soles for the Mining Good Standing Fee is less than the lowest limit established by law; and, (c) the payment in United States dollars for the Mining Good Standing Fee has not been fully made. (Art. 14-A of the Regulations on Mining Procedures).

8. MINING CONCESSIONS APPROVED

Within the first 15 days of every month, the INGEMMET or the Regional Government, as corresponds, will publish a list of the mining concessions whose titles had been approved in the previous month in the official newspaper El Peruano.

9. APPEAL FOR REVIEW

An appeal for review against a Resolution issued by the President of the Executive Council of INGEMMET resolving in favor of the granting of a mining concession can be filed in the Mining Council of the MINEM, within the 15 business days following the date of publication referred to in the above section.

Articles 9 to 11, 38 to 41 of the TUO of the General Mining Law
Articles 12 to 14-B, 17, 19 to 21, 24 and 25 of the Regulation for Mining Procedures
TUPA INGEMMET

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OTHER CONCESSIONS: PROCESSING, GENERAL WORK AND MINING TRANSPORT



OTHER CONCESSIONS: PROCESSING, GENERAL WORK AND MINING TRANSPORT

I. PROCESSING CONCESSIONS

Processing is a combination of physical, chemical or physical-chemical processes that are carried out to extract or to concentrate the valuable ore from an aggregate of mineral, and to purify, smelt or refine metals, including the following stages: (i) mechanical preparation, (ii) metallurgy and, (iii) refining. A processing concession grants its holder the right to undertake the activities indicated.

1. APPLICATION

One applying for a processing concession must present a request to the DGM of the MINEM, with basic information on the company and the project, enclosing proof of having presented the DGAAM with a copy of the Environmental Impact Assessment (EIA)¹, a Water Use Authorization², a Sworn Statement of Prior Commitment, agreements evidencing having the surface rights for the project area and proofs of payment of the Mining Good Standing Fee corresponding to the first year and the Proceedings Fee, which is equivalent to 20% of one Tax Unit (UIT).

The applicant will pay an amount for Mining Good Standing Fee computed according to the following scale:

RANGE	Amount of the Mining Good Standing Fee
Up to 350 MT/ day	0.0014 of one UIT for each MT
350 to 1,000 MT/ day	1 UIT
1,000 to 5,000 MT/ day	1.5 UIT
Each additional 5,000 MT/ day	2 UIT

MT/ day refers to the installed treatment capacity and, in the case of expansions, will be paid only on the increase in capacity.

2. TECHNICAL INFORMATION

The technical information on the project required under Art. 35 of the Regulations for Mining Procedures shall be attached to the application for a processing concession.

3. VERIFICATION AND NOTIFICATION

If the application meets the requirements indicated, the DGM will notify the applicant to come in to pick up the legal notices for publication.

4. RECEIPT OF LEGAL NOTICES

Once notified, the applicant must pick up the legal notices within the following 15 working days.

¹ See Chapter 5: "Principal Environmental Aspects Applicable to Mining Activities".

² See Chapter 5: "Principal Environmental Aspects Applicable to Mining Activities".

5. PUBLICATION

Publication must be made in the official newspaper El Peruano and in the newspaper responsible for publication of legal notices in the capital of the province where the concession is located, within the 30 working days following receipt of the legal notices. If there is no local newspaper, the legal notices will be posted for 07 working days in the respective INGEMMET offices. The publication must contain a summary of the information demanded in Article 35 of the Regulations for Mining Procedures.

6. PROOF OF PUBLICATION

Within the 30 business days following the date of publication, the applicant must deliver to the DGM all the pages to prove publication of the legal notices.

7. ASSESSMENT AND RESOLUTION

Having delivered the legal notices, and there not being any opposition, the DGM shall assess whether or not the application meets the safety, housing, health, mining welfare and environmental-impact standards, and will issue a resolution within a term that cannot not exceed 30 working days.

8. NOTICE OF CONCLUSION OF CONSTRUCTION

Upon conclusion of the construction and installation of the processing plant, the applicant shall so advise the DGM so that the latter can order an inspection in order to verify that the same have taken place in accordance with the original project in terms of mining health and safety and environmental impact. This must be accompanied by the corresponding authorization for the disposal of industrial waste.

9. INSPECTION

The inspection must be carried out within the 60 calendar days following the date on which it was requested. If the inspection is favorable, the DGM will grant title to the concession.

10. TITLE TO THE CONCESSION

The Resolution granting title to the processing concession authorizes the operation of the plant, as well as the water use requested and the industrial and domestic effluents disposal system. The Resolution must be submitted to INGEMMET for its inscription in the filing card/entry corresponding to the concession.

Arts. 17, 18 and 46 of the TUO of the General Mining Law
Arts. 17 and 35 to 37 of the Regulations for Mining Procedures
Procedure # CM01 of the TUPA of the MINEM .

II. GENERAL WORK AND MINING TRANSPORT CONCESSIONS

“General Work” is any mining activity that provides ancillary services such as ventilation, sewage, hoisting or extraction, to two or more concessions granted to different concessionaires. The general work concession is granted to provide the ancillary services indicated above.

“Mining Transport” refers to all systems used for the continuous bulk transport of mineral products by unconventional methods. The systems to be used could be conveyor belts, ducts or track cables. A mining transport concession confers upon its holder the right to install and operate a system for continuous bulk transport of mineral product indicated above.

The procedure for obtaining a general work concession and one for mining transport is detailed below:

1. APPLICATION

One applying for a General Work or Transport concession, must present a request to the DGM with basic information on the company, accompanied by a Sworn Statement of Prior Commitment and a copy of the proofs of payment for the Mining Good Standing Fee corresponding to the first year and the Proceedings Fee, which is equivalent to 15% of one UIT⁴. The requirements set forth in Art. 40 of the Regulations for Mining Procedures must also be met. The application is presented to the DGM, with as many copies as there are holders to be benefited by the concession.

2. PAYMENT OF MINING GOOD STANDING FEE

Upon applying for the concession, the applicant will pay a Mining Good Standing Fee equivalent to 0.003% of one UIT⁵ per linear meter of work projected.

3. NOTIFICATION

Within the 10 working days following the date of the application's presentation, the DGM will notify the holders of the mining concessions in whose favor the general work or mining transport concession is being requested to attend a Meeting of Concessionaires.

4. CITATIONS

The first citation will be made within a term no to exceed 15 days from notification and the second within a term no greater than 30 working days. The meeting will be presided over by the General Mining Director of the DGM and will deal with the adoption of agreements concerning execution of the work and the use of the services.

5. TITLE TO THE CONCESSION

Upon the Meeting's approval of the execution of the work, the DGM will grant title to the concession and will submit the Resolution to INGEMMET so that the latter proceeds to record the General Work or Mining Transport concession.

Arts. 19, 20, 22, 23 and 47 of the TUO of the General Mining Law
Arts. 40 to 42 of the Regulations for Mining Procedures
Procedure # CM02 of the TUPA of MINEM