

LEGAL ALERT

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## Chilean Mining Code

- Important Changes Effective  
Jan. 1, 2024.

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In 2022, law 21.420 amending the Chilean Mining Code was passed. The amendments were in large part to come into effect on January 1<sup>st</sup>, 2024. Among the main objectives of the amendments were:

1. The implementation of a modified “use it or lose it” concession system, by incrementing significantly the cost of holding mining concessions without undertaking exploration or exploitation activities;
2. The improvement of the publicly available geological information; and
3. The limitations of certain historical abuses mine concession holders could undertake in relation to superficial landowners.

The 2022 amendments were widely deemed to have technical, legal and conceptual flaws that would limit their efficacy and create confusion and obstacles to the concession system.

Therefore, in 2023, Congress debated Bill 15.510-08 which sought to correct the flaws in the proposed Mining Code amendments, prior to those changes coming into effect in 2024. Finally, Bill 15.510-08 was approved by Congress in this past December.

The following are therefore the key changes to Chile’s existing Mining Code that come into effect now:

### **Increase in Mine Concession “Patente” Fees**

- **Exploration Concessions** – Annual Patente fees increase from 1/50 (approx. USD 1.30) to the new rate of 3/50 UTM (approx. USD 3.90) per hectare.
- **Exploitation Concession** – Annual Patente Fees will increase from the current 1/10 UTM (approx. USD 7.60) to a new rate that will eventually reach 12 UTM (approx. USD 910) per hectare. The new rate will start at 4/10 UTM (approx. USD 30.00) per hectare in 2024 and increase over a period of 31 years to the noted 12 UTM (approx. USD 910.00) per hectare. The patente fee hikes will occur in 5-year increments over a period of 31 years.

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- **Reduced Mining Patente Fee** of 1/10 UTM (approx. USD 7.60) will be applicable in the following cases:
  - Exploitation Concessions upon which mining activity is being undertaken. Mining activity includes any of the following: advanced geological exploration, prospection, construction, exploitation, and production.
  - Exploitation Concessions that fall within approved environmental permits (RCA)
  - Special deductions for small / artisanal miners.
  - During 2024 to all concession holders. (As of 2025 concession holders will need to accredit the existence of one of the requirements noted above to be eligible for the Reduced Mining Patente).
- Additionally, the distinction between metallic and non metallic concessions is eliminated, which results in the lower fees applicable to the non metallic concessions no longer being applicable.

### **Increase in Duration of Mining Concessions for Exploration**

- The current 2-year duration of Exploration Concessions will be expanded to 4 years. Additionally, one will be able to seek an immediate one-time renewal for subsequent 4 year period.

Regarding existing exploration concessions that lapse during 2024, one will be permitted to petition for a 4 year extension during 2024.

### **Temporary Prohibition on new Exploration Concessions over Same Area.**

Upon termination of an exploration concession, one may not, for a period of one year from the date of said termination, – directly or Indirectly- petition for a new exploration concession over all or part of the area of the terminating concession.

### **Expanded Exploration Result Reports**

Concession holders must now provide more detailed information to the Chilean Geological Service (SERNAGEOMIN) and fines and sanctions have been increased for non-compliance.

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The new law contemplates the drafting of an updated Regulation that will detail the geological information that must be provided by concession holders and will revoke the current rules set out in D.L. 2.525.

### **New Rules to Combat Abuse of Mining Concession Petitions**

Subject to specific exceptions, mine concession holders seeking to impose their concession rights over superficial land owners or tenants, including filing for injunctions to shut down owner/tenant development of the land, can only do so upon obtaining an easement or other right “in rem” over the superficial land.

### **Other changes**

- **Changes in Georeferencing System**

The previously proposed elimination of the SIRGRAS geo-referencing system was eliminated. A new regulation will define future amendments to the datum system.

- **Exploitation concession processing timings**

The timings corresponding to certain steps in the Exploitation Concession constitution process have been amended to expedite the process. Additionally, the requirement of establishing physical, on-site survey monuments, has been eliminated.