



MAY 19 2021

DENR ADMINISTRATIVE ORDER

No. 2021- 12

SUBJECT: GUIDELINES FOR THE AUTOMATIC RENEWAL OF THE EXPLORATION PERIOD AND THE TIMELY FILING OF DECLARATION OF MINING PROJECT FEASIBILITY UNDER THE EXPLORATION PERMIT, MINERAL PRODUCTION SHARING AGREEMENT, FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT AND SIMILAR MINING TENEMENTS

Pursuant to Republic Act (RA) No. 7942, otherwise known as the Philippine Mining Act of 1995, its Implementing Rules and Regulations; and RA No. 11032, the Ease of Doing Business and Efficient Government Service Delivery Act of 2019, the following are hereby promulgated for the guidance and compliance of all concerned

Section 1. Basic Policy

It is the policy of the State to promote the rational exploration, development, utilization and conservation of mineral resources in the country. The State shall require all Permittees/Contractors of Exploration Permits (EPs), Mineral Production Sharing Agreements (MPSAs)/Financial or Technical Assistance Agreements (FTAAs) and other holders of mining tenement to undertake rational exploration of mineral resources under the full control and supervision of the State to (1) enhance the contribution of mineral resources to economic recovery and national development, with due regard to the protection of the environment and the affected communities, (2) encourage investments in exploration and assure a steady supply of minerals (3) and immediately generate wealth in terms of taxes, employment generation, foreign exchange earnings and regional development.

Section 2. Objectives

This Administrative Order is issued to ensure that:

1. Permittees/Contractors/other holders of mining tenement are performing their commitments to conduct actual mineral exploration activities within the period prescribed and in accordance with the terms and conditions of the permits/contracts/other mining tenements;
2. Permittees/Contractors/other holders of mining tenement timely files the application for the approval of the Declaration of Mining Project Feasibility (DMPF); and
3. Permits/Contracts/other mining tenements are all moving mining tenements.

Section 3. Scope and Coverage

This Order shall cover all EPs and MPSAs/FTAAs/other similar mining tenements under Exploration Stage.

Section 4. Automatic Renewal of the Exploration Period under MPSAs/FTAAs and Other Similar Mining Tenements

There shall be an automatic renewal of the Exploration Period of MPSAs/FTAAs and other mining tenements. All Contractors/other holders of mining tenement are no longer required to file the application for renewal of the Exploration Period: *Provided*, that all Contractors/other holders of mining tenement shall submit, within sixty (60) days prior to the expiration of the current Exploration Period, the following requirements in the Mines and Geosciences Bureau (MGB) Central Office (CO):

1. Brief summary of the outcome on the implementation of the Exploration Work Program (ExWP), Environmental Work Program (EWP), Community Development Program (CDP) and Safety and Health Program (SHP);
2. ExWP (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
3. EWP (MGB Form 16-1 or MGB Form No. 16-1A) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
4. Statement of Expenditures incurred during the implementation of the ExWP, EWP, CDP and SHP, respectively, under an MPSA/FTAA/other mining tenement; signed, prepared by the company's accountant or third party accountant duly notarized;
5. Proof of posting of surety/performance bond (equivalent to the expenditure requirement of the ExWP and EWP covering the two-year period); and
6. Proof of payment of the Renewal Fee pursuant to Department Administrative Order (DAO) No. 2013-10 in re: "*Increasing Fees for Mining Applications.*"

MGB CO shall conduct the evaluation and approval of the ExWP and EWP within 30 days from receipt thereof. If in case the results of such evaluation is in order, MGB CO shall inform the Contractor/other holder of mining tenement the official approval of the renewed term subject to conditions, among others, that the latter shall secure the approval of the CDP and SHP within 60 days from receipt thereof, on the other hand, if such evaluation requires further revision, MGB CO shall notify the Contractor accordingly.

The term of the Exploration Period of MPSAs shall not exceed a total term of six (6) years for non-metallic minerals or eight (8) years for metallic minerals, starting from the original two (2)-year term and expiring after the 6th- or 8th-year of the MPSA. In case of FTAAs, the provisions of the contract pertaining to the Exploration Period shall be complied with.

The MGB Director may approve further exploration beyond the six (6)- or eight (8)-year period upon justifiable reasons for a maximum period of two-years and that such approval shall ensure the filing of the DMPF. *Provided*, that, for reasons of force majeure, the Contractor may be given another two-year extension of the Exploration Period.

All Contractors/other holders of mining tenement shall file the DMPF within the term of the Exploration Period. All mining projects under existing mining tenements (MPSAs/FTAAs) that were issued prior to the issuance of DAO No. 2017-10 in re: *Banning the Open Pit Method of Mining for Copper, Gold, Silver and Complex Ores* shall continue and shall not be affected by the said DAO; *Provided*, that these projects are found to be environmentally sound, technically and economically viable under the existing standards; *Provided*, further, that the ban on open pit shall be strictly implemented under the new mining tenements granted after DAO No. 2017-10.

If the Contractor/other holder of mining tenement failed to file the application or secure the approval of the DMPF within the term, i.e., maximum allowable term or further renewal upon justifiable reasons, of the Exploration Period, it shall be a ground for the cancellation of the mining tenement.

Section 5. Automatic Renewal of the Exploration Permit

The term of an EP shall be for a period of two (2) years from date of issuance thereof, renewable for like periods but not to exceed a total term of six (6) years for non-metallic mineral exploration or eight (8) years for metallic mineral exploration.

Permittees shall no longer be required to file the application for renewal of the EP: *Provided*, that the Permittee shall submit to the Mines and Geosciences Bureau (MGB) Central Office (CO) within sixty (60) days prior to the expiration of current the Exploration Permit, the following:

1. Brief summary of the outcome on the implementation of the ExWP, EWP, CDP and SHP.
2. ExWP [MGB Form No. 5-4] duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
3. EWP [MGB Form 16-1 or MGB Form No. 16-1A] duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
4. Statement of Expenditures incurred during the implementation of the ExWP, EWP, CDP and SHP, respectively, under an EP; signed, prepared by the company's accountant or third party accountant duly notarized;
5. Proof of posting of surety/performance bond (equivalent to the expenditure requirement of the ExWP and EWP covering the two-year period); and
6. Proof of payment of the Renewal Fee pursuant to DAO No. 2013-10.

MGB CO shall conduct the evaluation and approval of the ExWP and EWP within 30 days from receipt thereof. If in case the results of such evaluation is in order, MGB CO shall inform the Permittee the official approval of the renewed term of the EP subject to conditions, among others, that the latter shall secure the approval of the CDP and SHP within 60 days from receipt thereof, on the other hand, if such evaluation requires further revision, MGB CO shall notify the Contractor accordingly.

Provided, that in case of failure to file the DMPF during the total term of six (6) years of the EP for non-metallic minerals or eight (8) years of the same EP for metallic minerals, the Permittee may apply for further renewal of the EP, which may be granted by the Secretary for another term of two (2) years for the very purpose of preparing or completing the feasibility studies, and filing of the DMPF and the pertinent MPSA or FTAA application. The complete and final exploration report shall be required in this renewal of the EP: *Provided*, Furthermore, That in case the EP expires prior to the approval of the DMPF and/or filing of the MPSA or FTAA application, the said EP shall be deemed automatically extended until such time that the MPSA or FTAA application is approved.

If the Permittee failed to file the application or secure the approval of the DMPF within the prescribed term, i.e., maximum allowable term or further renewal, the EP shall be deemed relinquished and shall be immediately open to mining applications.

Section 6. Payment of Renewal Fee

The payment of the Renewal Fee shall be paid by Permittees/Contractors/other holders of mining tenement in MGB CO. Upon the submission of the complete requirements, the authorized representative of the Permittees/Contractors/other holders of mining tenement shall secure the Order of Payment from the Mining Tenements Management Division of MGB CO, on the same date of, but prior to the payment thru Cash, Manager's/Cashier's Check or Online Payment.

Section 7. Interim Implementation of the Work Programs

All Permittees/Contractors/other holders of mining tenement, upon request to CO, are authorized to implement the activities under the submitted ExWP, EWP, CDP and SHP subject to the following conditions:

1. The Permittee/Contractor/other holder of mining tenement has submitted the above stated documents and paid the Renewal Fee; and
2. The Contractor/other holder of mining tenement has not violated the terms and conditions of the Permit/Contract/other mining tenement; relevant laws, rules, and regulations; and has not been recommended for cancellation by the MGB Regional Office (RO) concerned and/or MGB CO.

Provided, That the approval of the interim implementation of the ExWP/EWP shall be for a maximum period of two (2) months after the expiration of the Permit and the Exploration Period of the MPSA/FTAA.

Should the MGB decide to propose a revision to a certain specific feature in the Work Program or Budget, it shall, within thirty (30) days after receipt thereof, provide a Notice to the Contractor specifying in detail its reasons thereof. Promptly thereafter, the Government and Contractor will meet and endeavour to agree on the revision proposed by the Government. In any event, the revision of any portion of said Work Program or Budget in which the Government shall fail to notify the Contractor of the proposed revision shall, insofar as possible, be carried out as prescribed herein. If the MGB should fail within thirty (30) days from receipt thereof to notify Contractor of the proposed revisions, the Work Program and Budget proposed by the Contractor shall be deemed to be approved.

Section 8. Grounds for Cancellation

The following are the grounds for the cancellation of the mining tenement:

1. Failure to submit the ExWP, EWP, CDP and SHP within the prescribed periods;
2. Failure to secure the approval of the automatic renewal of the Exploration Period for five (5) years or more;
3. Failure to implement the ExWP and EWP for two (2) consecutive years pursuant to Department Memorandum Order No. 2010-04 in re: "*Reforms in the Department Mining Tenement System*;"
4. Failure to file the application of the DMPF within the term of the EP or the Exploration Period, i.e., maximum allowable term or further renewal, of the MPSA/FTAA/other mining tenement; and

5. Other violations provided under RA No. 7942, its implementing rules and regulations.

Section 9. Transitory Provision

All Permittees/Contractors/other holders of other mining tenements that have fully consumed the allowable term of the Exploration Period/EPs are given another two (2) years from the date of effectivity this Order to file the DMPF.

Section 10. Separability Clause


If any clause, sentence, section or provision of this Order is held or declared to be unconstitutional or invalid by a competent court, the remaining parts of this Order shall not be affected thereby.

Section 11. Repealing Clause

All orders, circulars and directives or parts thereof inconsistent with the provisions of this Order are hereby repealed or modified accordingly.

Section 12. Effectivity

This Order shall take effect within fifteen (15) days following its complete publication in a newspaper of general circulation and upon acknowledgement of the receipt of a copy thereof by UP Office of the National Administrative Register (ONAR).


ROY A. CIMATU
Secretary *g*

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