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DENR ADMINISTRATIVE ORDER
No. 2021- 37

DEC 03 2021

SUBJECT: HARMONIZING THE MINING OPERATIONS OF AN OPERATOR UNDER A MINING TENEMENT

Pursuant to the pertinent provisions of Republic Act (RA) No. 7942, otherwise known as the Philippine Mining Act of 1995 and its Implementing Rules and Regulations (IRR), Department of Environment and Natural Resources (DENR) Administrative Order (DAO) No. 2010-21 entitled "Providing Consolidated DAO for the IRR of RA No. 7942, 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 through the full supervision and control of the State and shall be governed by the pertinent provisions of RA No. 7942 and its IRR and the terms and conditions of the mining tenement.

SECTION 2. Objectives. This Administrative Order is issued to ensure that:

- 2.1 There will be a holistic, harmonious and systematic conduct of mining operations under the Mining Tenement geared towards environmental, safety, health, social and cultural development;
- 2.2 There is a solidary obligation in the performance of the terms and conditions under the Mining Tenement and that there will be penalties to be imposed should there be violations committed either by the Mining Tenement Holder or its Operator, or both with the pertinent provisions of RA No. 7942 and its IRR and the terms and conditions of the Mining Tenement; and
- 2.3 There will be only one Operator per Mining Tenement, thus, preventing the Mining Tenement Holder to execute multiple mining agreements with other entities.

SECTION 3. Scope and Coverage. This Order shall cover all Mining Tenement Holders.

SECTION 4. Definition of Terms. For purposes of this Order, the following terms shall be defined as follows:

- 4.1 Mining Tenement Holder – a holder of any tenurial instrument providing mining rights, such as Exploration Permit, Mineral Agreement, Financial or Technical Assistance Agreement, Mining Patent, and Special Mines Permit.

- 4.2 Mining Tenement – any tenorial instrument providing mining rights, such as Exploration Permit (EP), Mineral Agreements, Financial or Technical Assistance Agreement (FTAA), Mining Patents, and Special Mines Permit.
- 4.3 Operator – an entity commissioned by the Mining Tenement Holder to conduct mining operations within the Mining Tenement area by virtue of their executed Operating Agreement (OA)/Memorandum of Agreement (MOA)/other similar forms of Agreement, wherein such conduct of mining operations is duly approved by the Director of the Mines and Geosciences Bureau (MGB), provided that such entity has met all the criteria as a Qualified Person.
- 4.4 Qualified Person – any Filipino citizen of legal age and with capacity to contract; or a corporation, partnership, association or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in accordance with law, at least sixty percent (60%) of the capital of which is owned by Filipino citizens: Provided, That a legally organized foreign-owned corporation shall be deemed a Qualified Person for purposes of granting an Exploration Permit, FTAA or Mineral Processing Permit only.

SECTION 5. Qualifications/Requirements of an Operator. The Mining Tenement Holder warrants to conduct the mining operations in accordance with the law and the implementing rules and regulations. Further, it warrants that it has the technical, financial and operational capability to develop, operate and rehabilitate the contract area.

However, subject to specific terms and conditions, the MGB Director may allow one Operator to undertake mining operations and rehabilitation within the Mining Tenement area, provided that the Operator is a Qualified Person pursuant to the pertinent provisions of RA No. 7942, DENR Memorandum Order No. 99-10 and DAO No. 2010-21 and shall also meet the following qualification:

- 5.1 Satisfactory environmental management and community relations in its past mineral resource use ventures, in the form of a Certificate of Environmental Management and Community Relations Record or Certificate of Exemption; and
- 5.2 Technical competence and financial capability to undertake the implementation of the activities under the Work Programs.

SECTION 6. Grounds for Suspension/Cancellation. The following are the grounds for the withdrawal of the authority of Operator to conduct mining operations therein and for the suspension/cancellation of the Mining Tenement:

- 6.1 The failure of the Operator to conduct mining operation in the area under the Mining Tenement for more than one year from its authorization therein shall cause the withdrawal of the said authority.

6.2 There is a solidary obligation in the performance of the terms and conditions under the Mining Tenement, wherein the violation of either the Mining Tenement Holder or Operator, or both, with the terms and conditions of the Mining Tenement, the pertinent provisions of RA No. 7942 and its IRR and other related laws, rules and regulations that affects the mining operation therein shall cause the withdrawal of its authority or the termination or cancellation of the Mining Tenement.


6.3 Any dispute/s that may arise between the Mining Tenement Holder and its Operator which will cause violation or non-compliance with the terms and conditions of the Mining Tenement and other laws, rules and regulations shall cause the termination or cancellation of the Mining Tenement.

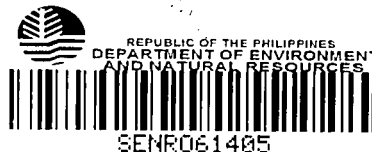
SECTION 7. Transitory Provision. The existing multiple Operators under a Mining Tenement shall continue to be authorized until the expiry of the term of their respective OA/MOA and other similar forms of agreement. The authorization of multiple Operators shall cease upon the expiry of the term of their respective agreements and that the Mining Tenement Holder shall elect which Operator shall remain to conduct mining operation under the Mining Tenement.

SECTION 8. Separability Clause. If any provision of this Order shall be held invalid or unconstitutional, the other portions or provisions hereof which are not affected shall continue in full force and effect.

SECTION 9. Repealing Clause. All Orders and all other similar issuances inconsistent herewith are hereby revoked, amended, or modified accordingly.

SECTION 10. Effectivity. This Order shall take effect within fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgment of the receipt of the copy thereof by the Office of the National Administrative Register.


ROY A. CIMATU
Secretary



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January 21, 2022

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