

**DENR Administrative Order
No. 99-57
December 27, 1999**

SUBJECT : Amendments To Department Administrative Order No. 96-40 or the “Revised Implementing Rules and Regulations of Republic Act No. 7942, Otherwise Known as the ‘Philippine Mining Act of 1995’”

Pursuant to Section 8 of Republic Act No. 7942, otherwise known as the “Philippine Mining Act of 1995” and Section 275 of Department Administrative Order (DAO) No. 96-40 entitled “Revised Implementing Rules and Regulations of Republic Act No. 7942, Otherwise Known as the ‘Philippine Mining Act of 1995’ ”, and in line with the policy of the Government to continuously provide for a responsive regulatory framework, DAO No. 96-40 is further revised as follows:

Section 1. Clause b.3 of Section 15 (Areas Closed to Mining Applications) is hereby amended, allowing the acceptance of Sand and Gravel Permit Applications without the consent of prior mining applicants except within Mineral Agreement (MA) applications for sand, gravel and alluvial gold, to read as follows:

“X X X.

3. Areas covered by FTAA applications which shall be opened for quarry resources mining applications pursuant to Section 53 hereof upon the written consent of the FTAA applicants: *Provided, That sand and gravel permit applications shall not require consent from the FTAA, Exploration Permit or Mineral Agreement applicant, except for Mineral Agreement*

or Exploration Permit applications covering sand, gravel and/or alluvial gold: Provided, further, That the Director shall formulate the necessary guidelines to govern this provision;

x x x.”

Section 2. Section 18 (Term/Maximum Areas Allowed under an Exploration Permit) is hereby amended to provide for a maximum term of six (6) years for nonmetallic minerals exploration and eight (8) years for metallic minerals exploration, to read as follows:

“The term of an Exploration Permit 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 nonmetallic minerals exploration or eight (8) years for metallic minerals exploration: Provided, That no renewal of Permit shall be allowed unless the Permittee has complied with all the terms and conditions of the Permit, and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations: Provided, further, That in cases where further exploration is warranted and on condition that the Permittee has substantially implemented the Exploration and Environmental Work Programs as verified by the Bureau/concerned Regional Office, the Secretary may further grant renewal of the Exploration Permit: Provided, furthermore, That the Permittee shall be required to set up a performance surety equivalent to the expenditure requirement of the Exploration and Environmental Work Programs: Provided, finally, That the conduct of feasibility studies shall be included during the term of the Exploration Permit.*

x x x.”

Section 3. A new Section is hereby added to allow the transfer of Exploration Permit Applications, to read as follows:

Section 19-A. Transfer or Assignment of Exploration Permit Application

Transfer or assignment of Exploration Permit applications shall be allowed subject to the approval of the Director/concerned Regional Director taking into account the national interest and public welfare: Provided, That such transfer or assignment shall be subject to eligibility requirements and shall not be allowed in cases involving speculation.”

Section 4. Section 22 (Terms and Conditions of an Exploration Permit) is hereby amended to conform with the amendments of Section 18, to read as follows:

“An Exploration Permit shall contain the following terms and conditions:

- a. x x x
- b. x x x
- c. The term of the Permit 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 nonmetallic minerals exploration or eight (8) years for metallic minerals exploration: Provided, That no renewal of Permit shall be allowed unless the Permittee has complied with the terms and conditions of the Permit and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations: provided, further, That in cased where further exploration is warranted and on conditions that the Permittee has substantially implemented the***

Exploration and Environmental Work Programs as verified by the Bureau/concerned Regional Office, the Secretary may further grant renewal of the Exploration Permit: Provided, furthermore, That the Permittee shall be required to set up a performance surety equivalent to the expenditure requirement of the Exploration and Environmental Work Programs: Provided, finally, That the conduct of feasibility studies shall be included during the terms of the Exploration Permit:

d. x x x
x x x.”

Section 5. A new Section is hereby added to allow the conversion of Exploration Permit to an MA or FTAA

“Section 23-A. Conversion of Exploration Permit to Mineral Agreement or Financial or Technical Assistance Agreement

A Permittee who has conducted preliminary exploration activities may, at its option, convert totally or partially its Exploration Permit to a Mineral Agreement or FTAA by filing a Letter of Intent with the Bureau prior to the expiration of the Exploration Permit, copy furnished the concerned Regional Office. Said Letter shall also provide therein its intention over the area that may not be covered by the conversion to a Mineral Agreement or FTAA: Provided, That the MA or FTAA application shall be filed with the concerned Regional Office within thirty (30) days upon filing of the Letter of Intent: Provided, further, That the failure of the Permittee to file the MA or FTAA application within the prescribed period shall be construed that the Permittee

elects to continue operation until the expiration of the Exploration Permit.

Upon compliance by the Permittee with all the mandatory requirements and upon payment of the required conversion fee, the application for conversion shall be evaluated and approved subject to Chapter VI and Chapter VII of DAO No. 96-40 and all the other applicable provisions of the Act and DAO No. 96-40; Provided, That the term of the Exploration Permit shall be deducted from the terms of the Exploration/Pre-Feasibility Study/Feasibility Study Period of the Mineral Agreement or FTAA.”

Section 6. Section 39 (Terms and Conditions of a Mineral Agreement) is hereby amended, to read as follows:

“The following terms and conditions shall be incorporated in the Mineral Agreement, namely:

- a. x x x
- b. Representations and warranties that the Contractor has, or has access to, all the financing and technical capability and technology required to promptly and effectively carry out the objectives of the Agreement with the understanding to timely utilize these resources under its supervision pursuant to the periodic work programs and related budgets, and when proper, providing an exploration period up to two (2) years from date of issuance thereof, renewable for like periods but not to exceed a total term of six (6) years *for nonmetallic minerals exploration or eight (8) years for metallic minerals exploration*, subject to annual review *and approval* by the Director in accordance with these implementing rules and regulations: *Provided, That in cases where further exploration is warranted and on condition that the Contractor*

has substantially implemented the Exploration and Environmental Work Programs as verified by the Bureau/concerned Regional Office, the Secretary may further grant renewal of the Exploration Period: Provided, further, That the Contractor shall be required to set up a performance surety equivalent tot he expenditure requirement of the Exploration and Environmental Work Programs: Provided, finally, That the conduct of feasibility studies shall be included during the term of the Exploration Period;

c. x x x

d. x x x After the exploration period and prior to or upon approval of Declaration of Mining Project Feasibility *by the Director*, the Contractor shall finally relinquish to the Government any position of the x x x

x x x.”

Section 7. A new Section is hereby added to allow the conversion of Mineral Agreement to Exploration Permit Applications

“Section 40-A. Conversion of a Mineral Agreement Application into Exploration Permit Application.

An applicant for a Mineral Agreement may, at its option, convert totally or partially its Mineral Agreement application into an Exploration Permit application by filing a Letter of Intent with the Director/concerned Regional Director without losing its priority rights over the area. Said Letter shall also provide therein its intention over the area that may not be covered by the conversion to an EP application.

Upon compliance by the applicant with all the mandatory requirements and upon payment of the required conversion fee, the application for conversion shall be evaluated and approved subject to Chapter V of DAO No. 96-40 and all other applicable provisions of the Act and DAO No. 96-40: Provided, That the date of filing of the Exploration Permit application shall be reckoned from the date when the Mineral Agreement application was filed.”

Section 8. Section 42 (Temporary Exploration Permit) is hereby amended, to read as follows:

*“Upon the initial evaluation by the Bureau of the Mineral Agreement application, taking into account Area Status and Clearance, financial and technical capability, Exploration and Environmental Work Programs, proof of consultation with the concerned community(ies), and absence of any adverse claim, protest or opposition as certified by the concerned Panel of Arbitrator/Mines Adjudication Board, the Director may, upon the request of the applicant, issue a one-time non-renewable Temporary Exploration Permit (TEP) with a term not exceeding one (1) year to undertake exploration subject to the applicable provisions of Chapter V of these implementing rules and regulations: *Provided*, that the term of the TEP shall be deducted from the exploraiton period of the Mineral Agreement: *Provided, further*, That in the event that the Mineral Agreement application is disapproved by the Secretary, the TEP is deemed automatically cancelled.*

Upon approval of the TEP, the Director shall cause the registration of the same with the Bureau/concerned Regional Office after payment of the required fees.”

Section 9. Section 48 (Issuance of Special Mines Permit) is hereby amended, to read as follows:

*“An applicant for mineral Agreement whose application is valid and existing, has been granted an Area Status and Clearance, NCIP Precondition Certification and endorsement from the concerned Sanggunian, and has no pending mining dispute/conflict as certified by the concerned Panel of Arbitrators/Mines Adjudication Board, may file an application for Special Mines Permit with the Bureau/concerned Regional Office. A Special Mines Permit (SMP) may be issued by the Director upon clearance by the Secretary. **The SMP shall be for a period of one (1) year renewable once: Provided, That the SMP may be further renewed depending upon the nature of the deposit, the propriety of the mining operation, the environmental and community relations track record of the applicant, faithful compliance with the terms and conditions of the SMP and diligence of the applicant in pursuing the Mineral Agreement application, subject to the approval of the Secretary.***

In cases where public welfare so requires, the Secretary may, after verification and evaluation of the Bureau, grant other form/s of Special Mines Permit so as to address the specific conditions in the area concerned.

The SMP shall be granted, subject to the following conditions and requirements:

- a. That the applicant is already operating or has completed the development/construction stage and is ready to begin operations *or has a readily available ore for mining* subject to verification by the Bureau;
- b. That the applicant x x x
x x x.”

Section 10. Section 53 (Filing of FTAA Applications/Mandatory Requirements) is hereby amended primarily to include a new paragraph, to read as follows:

“x x x

a. x x x

b. x x x

c. x x x

d. Prior to construction, development and/or utilization –

1. *Mining Project* Feasibility Study;

2. *Development/Construction/Utilization Work Program;*

3. Approved Survey Plan of the mining area;

4. Environmental Compliance Certificate; and

5. Environmental Protection and Enhancement Program. Provided, That any application x x x

In the approval of the Mining Project Feasibility Study, the Director shall take into consideration, among others, the expected life of mine, grade management, mining sequence, conversation measures and the capability of the Project to contribute the Government Share and to absorb the environmental and social costs.

Section 11. A new Section is hereby added to allow the conversion of FTAA Applications to Exploration Permit Applications, to read as follows:

“Section 57-A. Conversion of a FTAA Application into Exploration Permit Application

An application for a FTAA may, at its option, convert totally or partially its FTAA Application into a Exploration Permit Application by filing a Letter of Intent with the Director/concerned Regional Director without losing its priority rights over the applied area. Said Letter

shall also provide therein its intention over the area that may not be covered by the conversion to an EP application.

Upon compliance by the applicant with all the mandatory requirements and upon payment of the required conversion fee, the application for conversion shall be evaluated and approved subject to Chapter V of DAO No. 96-40 and all other applicable provisions of the Act and DAO No. 96-40: Provided, That the date of filing of the Exploration Permit application shall be reckoned from the date when the FTAA application was filed.”

Section 12. Section 69 (General Provisions) is hereby amended, to read as follows:

“Quarry, sand and gravel, guano and gemstone resources in private and/or public lands may be extracted, removed, disposed and/or utilized: *Provided*, That in large-scale quarry operations involving cement raw materials, marble, granite and sand and gravel *and construction aggregates*, any Qualified Person may apply for a Mineral Agreement subject to *the applicable provisions of* Chapter VI of these implementing rules and regulations: *Provided, further, That large-scale quarry operations, including sand and gravel and lahar operations, shall involve a mechanized operation and an area not exceeding the following:*

<i>For sand and Gravel, including Lahar</i>	<i>Individual - Twenty (20) hectares</i>
	<i>Corporation/ - Fifty (50) hectares</i>
	<i>Partnership/</i>
	<i>Association/</i>
	<i>Cooperative</i>
<i>For marble, gravel and construction aggregates</i>	<i>Individual - Fifty (50) hectares</i>
	<i>Corporation/ - One hundred (100)</i>

	<i>Partnership/ hectares</i>
	<i>Association/</i>
	<i>Cooperative</i>
<i>For cement raw materials such as limestone, shale and limestone</i>	<i>Individual - Five hundred (500) hectares</i>
	<i>Corporation/ - One Thousand</i>
	<i>Partnership/ (1,000) hectares</i>
	<i>Association/</i>
	<i>Cooperative</i>

Section 13. Section 71 (Quarry Permit) is hereby amended to provide for further qualifications in the approval of a Quarry Permit, to read as follows:

“Any Qualified Person may apply for a Quarry Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and disposition of quarry resources covering an area of not more than five (5) hectares, ***and a production rate of not more than fifty thousand (50,000) tons annually and/or whose project cost is not more than Ten Million Pesos (₱ 10,000,000.00)***, for a term of five (5) years from the date of issuance thereof, renewable for like period but not to exceed a total term of twenty-five (25) years: *Provided*, That application for renewal shall be filed before the expiry date of the Permit: *Provided, further*, That the Permit Holder has complied with all the terms and conditions of the Permit as provided herein and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations: *Provided, furthermore*, That no Quarry Permit shall be issued or granted on any area covered by a Mineral Agreement or FTAA, except on areas where a written consent is granted by the Mineral Agreement or FTAA Contractor: ***Provided, finally, That existing Quarry Permit at the effectivity of this Order under which the***

production rate is more than fifty thousand (50,000) tons annually and/or whose project cost is more than Ten Million (₱ 10,000,000.00) shall not be renewed but shall be given preferential right to a Mineral Agreement application which shall be evaluated and approved in accordance with Chapter VI of DA No. 96-40 and the pertinent provisions of this Order.”

Section 14. Section 118 (Basis of Arrests and Confiscation/Seizures) is hereby amended to require Permittees/Contractors/Permit Holders to police their Permit/Contract areas from illegal mining

“x x x . If it is found that the minerals/mineral products seized have been mined, extracted or removed without any permit or authority under existing mining laws, rules and regulations, final confiscation can be effected to be followed by the filing of the compliant for theft of minerals. The Bureau officers which include the Regional Director and other Bureau personnel, duly authorized by the Director, DENR personnel duly authorized by the Secretary, *Permittee, Contractor, Permit Holder and other duly deputized personnel* shall have authority to arrest offenders, and confiscate/seize illegally-sourced minerals/mineral products and the tools, equipment and conveyance used in the commission of offense.

It shall be the primary responsibility of the Permittee, Contractor, or Permit Holder to police the permit/contract area from any illegal mining operations.”

Section 15. Section 122 (Filing of Complaint) is hereby amended to conform with Section 118 as amended, to read as follows:

“The concerned Regional Office, *Permittee, Contractor, or Permit Holder and/or other duly deputized*

personnel shall file the complaint with the proper court for violation of Section 103 of the act (Theft of Minerals).

x x x.”

Section 16. Section 270 (Reporting Requirements) is hereby amended to include the submission of Marketing Contract(s)/Sales Agreement(s), to read as follows:

“x x x

r. Marketing Contract(s)/Sales Agreement/s

The Contractor/Permit Holder shall submit to the Director, a copy of its existing and future marketing contract(s)/sales agreement(s) for registration, copy furnished the concerned Regional Director, before any sale and/or shipment of mineral product is made, subject to the confidentiality clause. At the same time, the Contractor/Permit Holder shall regularly inform the Director in writing of any revisions, changes or additions in said contract(s)/arrangement(s). The Contractor/Permit Holder shall reflect in its Monthly/Quarterly Report on Production, sales and Inventory of Minerals, as well as in the Integrated Annual Report, the corresponding registration number(s) of the marketing contract(s)/sales agreements(s) governing the export or sale of minerals.

s. Other reports as may be required by the Director.

x x x.”

Section 17. Section 271 (Fines) is hereby amended to include two (2) paragraphs to read as follows:

“x x x.

Late or non-submission of any of the reports mentioned in Section 270 hereof shall be a ground for the withholding, upon due notice, or other pending transactions or the processing of other mining

applications of the Permittee/Contractor/Permit Holder with the Bureau and/or concerned Regional Office.

In case of renewal applications, Permittees/Contractors/Permit Holders shall secure a written Certification from the concerned PMRB/Regional Director/Director as to the timely and complete submission of the required reports. Non-submission of said reports shall be a ground for denial of the renewal application.

In addition, the following fines shall be imposed:

- a. X X X
X X X.”

Section 18. Repealing Clause

All existing orders, rules and regulations, memorandum circulars, directives or part thereof, contrary or inconsistent with the provisions of this Administrative Order, are hereby repealed, amended and/or modified accordingly.

Section 19. Effectivity

This Order shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation and fifteen (15) days after registration with the Office of the National Administrative Register.

(Sgd.) ANTONIO H. CERILLES
Secretary

Published at:

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