

**DENR Administrative Order  
No. 2000 – 99  
December 21, 2000**

**SUBJECT : Amendments to Sections 134-136 of DENR Administrative Order No. 96-40, 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 (R.A.) No. 7942, otherwise known as the "Philippine Mining Act of 1995", Section 275 of DENR Administrative Order (D.A.O.) No. 96-40, the Revised Implementing Rules and Regulations of R.A. 7942, and in line with the policy of the Government to continuously provide for a responsive regulatory framework, Sections 134, 135 and 136 of D.A.O. No. 96-40 are hereby amended as follows:

**Section 1. Title**

The title of this Administrative Order shall be "Rules and Regulations on the Implementation of the Social Development and Management Programs (SDMP) for Mining Projects".

**Section 2. Definition of Terms**

As used in and for purposes of these rules and regulations, the following terms shall mean:

- a. "Act" refers to R.A. No. 7942 otherwise known as the "Philippine Mining Act of 1995."
- b. "Annual Social Development and Management Program" refers to a yearly community development programs/ projects/activities based

on the approved five-year Social Development and Management Program.

- c. "Bureau" means the Central Office of the Mines and Geosciences Bureau.
- d. "Contractor" means a Qualified Person acting alone or in consortium who is a party to a Mineral Agreement or FTAA.
- e. "Direct Milling Costs" refer to expenditures and expenses directly incurred in the mechanical and physical processing and/or chemical separation of the ore from the waste to produce marketable mineral products: *Provided*, That, for cement plant operations, direct milling costs are limited to expenditures and expenses directly incurred from raw materials crushing and grinding up to ground raw meal homogenizing, prior to clinker manufacturing.
- f. "Direct Mining Costs" refer to expenditures and expenses directly incurred in all activities preparatory to and in the actual extraction of the ore from the earth and transporting it to the mill plant for mineral processing.
- g. "Director" means the Director of the Bureau.
- h. "Host and Neighboring Communities". Host community refers to the people living at the barangay(s) outside the mine camp, where the mining project is located, and neighboring communities refer to the people living at the barangay(s), which are adjacent to the host community; areas covered by the mining tenement of the project; areas where mining facilities are located; and, immediate areas which will be affected by the mining operations.
- i. "Lessee" means a person or entity with a valid and existing mining lease contract.
- j. "Mineral Processing Permit" refers to the permit granted to a Qualified Person for mineral processing.
- k. "Mine Camp" refers to the portion of the mining/permit/contract area where housing/residential, recreational and other support facilities are built solely for use by the Contractor/Permit Holder/Lessee, including its employees and dependents.

- l. "Mining Permits" include Exploration, Quarry, Sand and Gravel (Commercial, Industrial and Exclusive), Gratuitous (Government or Private), Guano, Gemstone Gathering and Small-Scale Mining Permits.
- m. "Permit Holder" means a holder of any mining permit or of Mineral Processing Permit issued under D.A.O. No. 96-40 and its amendments, except permits that authorizes exploration activities only.
- n. "Regional Office" refers to the concerned Regional Office of the Bureau.
- o. "Social Development and Management Program (SDMP)" refers to the comprehensive five-year plan of the Contractor/Permit Holder/Lessee authorize to conduct actual mining and milling operations towards the sustained improvement in the living, standards of the host and neighboring communities by creating responsible, self-reliant and resource-based communities capable of developing, implementing and managing community development programs, projects, and activities in a manner consistent with the principle of people empowerment.

**Section 3. Section 134 is hereby amended to read as follows:**

***Section 134. Development of Community and Mining Technology and Geosciences***

- a. The Contractor/Permit Holder/Lessee shall assist in the development of the host and neighboring communities in accordance with its SDMP duly approved by the Bureau as provided for under Section 7 hereof to promote the general welfare of the inhabitants living therein;
- b. The Contractor/Permit Holder/Lessee shall assist in developing mining technology and geosciences as well as the corresponding manpower training and development; and,

- c. The Contractor/Permit Holder/Lessee shall allot annually a minimum of one percent (1 %) of the direct mining and milling costs necessary to implement Paragraphs (a) and (b) of this Section: *Provided*, That ninety percent (90%) of the one percent (1%) of the direct mining and milling costs shall be apportioned to implement the SDMP in Paragraph (a) hereof and the remaining ten percent (10%) to implement Paragraph (b) hereof. *Provided, further*, That the Contractor/Lessee shall submit to the Bureau and the Permit Holder to the concerned Regional Office a sworn statement of their direct mining and milling costs within sixty (60) days after the end of each calendar year: *Provided, finally*, That the royalty payment of one percent (1%) of the gross output for the Indigenous Cultural Communities, pursuant to Section 16 of D.A.O. No. 96-40, may include the aforementioned allotment to implement Paragraphs (a) and (b) hereof.

**Section 4. Section 135 is hereby amended to read as follows:**

***Section 135. Credited Activities***

The following activities shall be considered in enhancing the development of the host and neighboring communities:

- a. Establishment/construction, development and maintenance of infrastructure (i.e., community schools, hospitals, churches, recreational facilities, access roads, bridges, piers, wharves, communication, waterworks, electric power and sewerage systems, community housing projects, and training facilities for manpower development);
- b. Establishment of livelihood industries including reforestation through usufruct contracts to be issued by DENR utilizing fruit trees;
- c. Using facilities within the mine camp, such as hospitals, schools, and others, by members of host and neighboring communities, the expenditures of which shall be pro-rated according to the number of people from said communities accommodated in such facilities; and,

d. Other activities as may be considered by the Director.

*Provided*, That expenditures for the above-mentioned activities shall be credited to the 90% of the 1% of the direct mining and milling costs allotted to implement the SDMP.

*Provided, further*, That expenditures for programs/projects/activities for the mine camp accruing to the contractors' employees and their families shall not be included in the computation of the cost of the SDMP

The following activities or expenditures shall be considered towards the development of mining, geosciences and processing technology and the corresponding manpower training and development:

- a. Advanced studies conducted in the mining area such as, but not limited to, institutional and manpower development and basic and applied research;
- b. Advanced studies, including the cost of publication thereof in referred technical journals or monographs accessible to the local scientific community, related to mining which are conducted by qualified researchers, as construed by the practices at the Department of Science and Technology, who are not employees of the mine;
- c. Expenditures for scholars, fellows and trainees on mining, geoscience and processing technology and related subjects such as community development and planning, mineral and environmental economics;
- d. Expenditures on equipment and capital outlay as assistance for developing research and educational institutions which serve as a venue for developing mining, geoscience and processing technology and the corresponding manpower training and development, and,

- e. Other activities that the Director may consider upon proper recommendation by the concerned professional organizations and/or research institutions, where appropriate.

*Provided*, That expenditures for the above-mentioned activities shall be credited to the 10% of the 1% of the direct mining and milling costs.

Information, education and communication campaign for the development of mining, geosciences and processing technology and the corresponding manpower training and development shall be considered in the 10% of the 1% of the direct mining and milling costs.

**Section 5. Section 136 is hereby amended to read as follows:**

*Section 136. Development of Host and Neighboring Communities*

The Contractor/Permit Holder/Lessee shall perform the following:

- a. Coordinate with proper authorities in providing development plans for the host and neighboring communities;
- b. Help create self-sustaining income generating activities, such as but not limited to, reforestation and production of goods and services needed by the mine and the community. Where traditional self-sustaining income generating activities are identified to be present within the host and/or neighboring communities, the Contractor/Permit Holder/Lessee shall work with such communities towards the preservation and/or enhancement of such activities; and,
- c. Give preference to qualified Filipino citizens in the hiring of personnel for its mining operation, the majority of which shall originate according to priority from the host and neighboring communities: the host municipality and province where mine is located, *Provided*, That the Contractor/Permit Holder/Lessee shall organize, at its own expense, skills enhancement programs in the

absence of the needed skills: *Provided, further,* That it shall give its firm commitment to skills re-formation and entrepreneurship development for people in the mining communities as an integral part of the mine decommissioning process.

**Section 6. New Section 136-A is hereby added to read as follows:**

***Section 136-A. Social Development and Management Program (SDMP)***

A Social Development and Management Program (SDMP) shall be, in consultation and in partnership with the host and neighboring communities, actively promoted and shall cover and include all plans, projects, and activities of the Contractor/Permit Holder/Lessee towards enhancing the development of the host and neighboring communities in accordance with Sections 4 and 5 hereof.

To meet the changing needs and demands of the communities, the Contractor/Permit Holder/Lessee shall submit every five (5) years an SDMP to the Bureau/concerned Regional Office for approval as provided for in Section 7 hereof.

Detailed guidelines in the implementation of this Section shall be prescribed by the Director.

**Section 7. New Section 136-B is hereby added to read as follows:**

***Section 136-B. Processing and Approval of the SDMP***

a. For the Contractor/Lessee:

The Contractor/Lessee shall submit within ninety (90) days from the effectivity of these rules and regulations a legible copy of the SDMP to the concerned Regional Office for screening and preliminary review.

During the screening and preliminary review of the submitted document as to its form and substance, the concerned Regional Office may impose additional requirements and documentation, which are deemed necessary to supplement the SDMP. It shall endeavor to complete the screening and preliminary review of the SDMP within ten (10) days from receipt thereof.

The concerned Regional Office shall then endorse the copy of the SDMP together with its preliminary evaluation to the Bureau for further review as to its substance, clarity and completeness, after which the Contractor/Lessee shall submit at least five (5) legible copies and a complete electronic file in computer diskettes of its SDMP to the Bureau for final evaluation and approval.

The Bureau may invite credible experts to assist it in the review and evaluation of an SDMP: *Provided*, That the Contractor/Lessee shall shoulder all reasonable expenses attendant to the review and evaluation of the SDMP.

During the final evaluation, the Contractor/Lessee shall make a presentation of the highlights of its SDMP before the Bureau for deliberation. It should utilize this opportunity to anticipate the concerns of the Bureau and minimize the need for additional information/requirements: *Provided*, That it shall shoulder all reasonable incidental expenses to be incurred during the presentation of its SDMP to the Bureau: *Provided, further*, That the SDMP shall be acted upon by the Bureau within twenty (20) days from receipt thereof.

b. For the Permit Holder:

The Permit Holder shall submit within ninety (90) days from the effectivity of these rules and regulations at least five (5) legible



copies of the SDMP to the concerned Regional Office for review and evaluation as to its form, substance, clarity and completeness.

The concerned Regional Office may impose additional requirements and documentation, which are deemed necessary to supplement the SDMP.

During the final evaluation, the Permit Holder shall make a presentation of the highlights of its SDMP before the concerned Regional Office for deliberation. It should utilize this opportunity to anticipate the concerns of the concerned Regional Office and minimize the need for additional information/requirements: *Provided*, That it shall shoulder all reasonable incidental expenses to be incurred during the presentation of its SDMP to the concerned Regional Office: *Provided, further*, That the SDMP subject to review and evaluation shall be acted upon by the concerned Regional Office within twenty (20) days from receipt thereof

The concerned Regional Office shall furnish the Bureau with a copy of the approved SDMP, including the minutes and other pertinent documents related thereto, within thirty (30) days from its approval.

The Contractor/Permit Holder/Lessee shall provide each of the concerned Local Government Units with a copy of the approved SDMP not later than thirty (30) days prior to the intended date of commencement of mining operation or of effecting the SDMP.

To effectively implement the approved SDMP, an Annual SDMP shall be submitted to the Bureau/concerned Regional Office at least thirty (30) calendar days prior to the beginning of every calendar year. Such program shall be based on the approved SDMP and shall be implemented during the year for which it shall be submitted.

**Section 8. New Section 136-C is hereby added to read as follows:**

***Section 136-C. Designation of Community Relations Officer (CRO)***

The Contractor/Permit Holder/Lessee shall incorporate in its mine organization structure a Community Relations Officer (CRO) to establish linkages among the host and neighboring communities in the implementation of its SDMP. To be reporting directly to the Resident/Plant Manager, the CRO must be a graduate of any social science course, or any person with experience and training on community development work.

**Section 9. New Section 136-D is hereby added to read-as follows:**

***Section 136-D. Monitoring and Auditing of SDMP***

The concerned Regional Office shall periodically monitor the implementation of the approved SDMP and submit its monitoring report(s) to the Bureau as basis for audit.

Regular internal monitoring shall likewise be done jointly and solidary by the CRO and representatives of the host and neighboring communities to determine whether the ongoing projects/programs/activities are being implemented in accordance with the approved SDMP. The concerned Regional Office shall be provided with the results of the internal monitoring conducted, copy furnished the Bureau.

**Section 10. New Section 136-E is here-by added to read as follows:**

***Section 136 - E. Penalties***

Contractor/Permit Holder/Lessee found operating without an approved SDMP shall, on the first offense, be liable to a fine not exceeding Five Thousand Pesos (₱5,000.00) and shall, on the succeeding offense, be sufficient ground to suspend its mining/milling operations in the areas under contracts, in addition to a fine not exceeding Five Thousand Pesos (₱5,000,00).

### **Section 11. Separability Clause**

If any clause, section or provision of these rules and regulations is held or declared to be unconstitutional or invalid by a competent court, the remaining parts of these rules and regulations shall not be affected thereby.

### **Section 12. Repealing and Amending Clause**

#### *Accreditation of Traders, Dealers and Retailers in the Trading of Minerals/Mineral Products and By-Products*

All orders, rules and regulations inconsistent with or contrary to the provisions of these rules and regulations are hereby repealed or modified accordingly. The Secretary shall furthermore have the authority, *inter alia*, to amend, revise, add to, clarify, supplement, interpret, delete, or make exemptions (to the extent not contrary to the provisions of the Act) to any provision of these rules and regulations with the end in view of ensuring that the Act is appropriately implemented, enforced and achieved.

### **Section 13. Effectivity**

These rules and regulations shall take effect fifteen (15) days following their complete publication in a newspaper of general circulation.

**(Sgd.) ANTONIO H. CERILLES**  
Secretary

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