



Republic of the Philippines
Department of Environment and Natural Resources

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ADMINISTRATIVE ORDER
No. 2003 - 46

SEP 19 2003

SUBJECT : AMENDMENTS TO DENR ADMINISTRATIVE ORDER NO. 96-40, AS AMENDED, 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 DENR Administrative Order (DAO) No. 96-40, the Revised Implementing Rules and Regulations of Republic Act No. 7942, as amended, and in line with the policy of the Government to continuously provide for a responsive regulatory framework, DAO No. 96-40, as amended by DAO Nos. 99-57, 2000-61 and 2000-99, is further revised as follows:

Section 1. Section 11 (Mining Operations within Mineral and Government Reservations) is hereby amended, to read as follows:

"Mining operations in Mineral Reservations shall be undertaken by the Department or through a Qualified Person under any of the following modes:

- a. Exploration Permit;
- b. Mineral Agreement;
- c. Financial or Technical Assistance Agreement (FTAA);
- d. Small-Scale Mining Permit; and
- e. Quarry Permit.

In cases where the mining operations shall be directly undertaken by the Department, a Memorandum of Agreement may be entered into by and between the Department and a qualified government corporation/ entity authorizing the latter to explore, develop and/or utilize the minerals resources found therein.

Mining operations in Government Reservations shall be first undertaken through an Exploration Permit, subject to limitations prescribed therein, before the same is opened for Mineral Agreement/ FTAA application or other mining applications.

Applications for Exploration Permit/Mineral Agreement/FTAA within Mineral Reservations shall be filed in the Regional Office concerned for its initial evaluation and endorsement to the Bureau for final evaluation. In the event that the applied area covers both a Mineral Reservation and a non-Mineral Reservation, the mining applicant may file separate applications covering the Mineral Reservation area and the non-Mineral Reservation area, or file a single application covering the whole area, in the Regional Office concerned.

Application for Exploration Permit/Mineral Agreement/FTAA/Quarry Permit within Mineral and Government Reservations shall be governed by *other applicable provisions of Chapters V, VI, VII and VIII of these implementing rules and regulations.*"

Section 2. Section 17 (General Provisions) is hereby amended, to read as follows:

"Exploration activities may be directly undertaken by the Bureau or on behalf of the Contractor subject to reimbursement of all expenditures. In the event that the Bureau can not undertake such

- a. A firm commitment, in the form of a sworn statement during the existence of the Agreement, that the Contractor shall comply with minimum ground expenditures during the exploration and pre-feasibility periods as follows:

<u>Year</u>	<u>US \$/Hectare</u>
1	2
2	2
3	8
4	8
5	18
6	23

and a minimum investment of Fifty Million US Dollars (\$50,000,000.00) or its Philippine Peso equivalent in the case of Filipino Contractor for infrastructure and development in the contract area. If a Temporary/Special Exploration Permit has been issued prior to the approval of an FTAA, the exploration expenditures incurred shall form part of the expenditures during the first year of the exploration period of the FTAA.

In the event that the Contractor exceeds the minimum expenditure requirement in any one (1) year, the amount in excess may be carried forward and deducted from the minimum expenditure required in the subsequent year. In case the minimum ground expenditure commitment for a given year is not met for justifiable reasons as determined by the Bureau/Regional Office *concerned*, the unexpended amount may be spent on the subsequent year(s) of the exploration period.

- b. A stipulation that the Contractor shall not, by virtue of the FTAA, acquire any title over the contract/mining area without prejudice to the acquisition by the Contractor of the land/surface rights through any mode of acquisition provided for by law;
- c. Representations and warranties that the Contractor has, or has access to, all the financing, managerial 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, extendible for another two (2) years, subject to annual review by the Secretary in accordance with these implementing rules and regulations;
- d. Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the Agreement;
- e. A stipulation that the Contractor shall relinquish its contract area pursuant to Section 60 hereof;
- f. Representations and warranties that, except for payments for dispositions for its equity, foreign investments in local enterprises which are qualified for repatriation, and local supplier's credits and such other generally accepted and permissible financial schemes for raising funds for valid business purposes, the Contractor shall not raise any form of financing from domestic sources of funds, whether in Philippine or foreign currency, for conducting its mining operations for and in the contract/mining area;
- g. A stipulation that the mining operations shall be conducted in accordance with the provisions of the Act and these implementing rules and regulations;
- h. A stipulation that the Contractor shall perform its activities within the periods expressed in the FTAA plans and work programs, save as may be excused by force majeure;

- i. A stipulation that the Contractor shall give preference to goods and services produced and offered in the Philippines of comparative quality and cost. In particular, the Contractor shall give preference to qualified Filipino construction enterprises, construction materials and skills available in the Philippines, Filipino sub-contractors for road construction and transportation and Philippine household equipment, furniture and food;
- j. A stipulation that the Contractor is obliged to give preference to Filipinos in all types of mining employment for which they are qualified and that the technology shall be transferred to the same;
- k. A stipulation that the Contractor shall not discriminate on the basis of gender and that the Contractor shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
- l. A stipulation requiring the Contractor to effectively use the best available appropriate anti-pollution technology and facilities to protect the environment and to restore or rehabilitate mined-out areas and other areas affected by mine waste/mill tailings and other forms of pollution or destruction in compliance with the requirements of the ECC and P.D. No. 984. This should be undertaken in coordination with the EMB/Department Regional Office;
- m. A stipulation that the Contractor shall furnish the Government an annual report of its mining operations and records of geologic, accounting and other relevant data, and that book of accounts and records shall be open for inspection by the Government;
- n. A stipulation requiring the Contractor to dispose of the minerals and by-products produced at the highest market price and to negotiate for more advantageous terms and conditions subject to the right to enter into long-term sales or marketing contracts or foreign exchange and commodity hedging contracts which the Government acknowledges to be acceptable notwithstanding that the sale price of the minerals may from time to time be lower, or the terms and conditions of sales are less favorable, than that available elsewhere: *Provided*, That the Bureau is furnished a copy of the said Sale Agreement subject to confidentiality between the Bureau and the Contractor;
- o. A stipulation providing for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the Agreement;
- p. A stipulation that the Contractor shall pay fees, taxes, royalties, shares and other obligations in accordance with existing laws, rules and regulations;
- q. A stipulation that alien employment shall be limited to technologies requiring highly specialized training and experience subject to the required approval under existing laws, rules and regulations;
- r. A stipulation that in every case where foreign technologies are utilized and where alien executives are employed, an effective program of training understudies shall be undertaken;
- s. A stipulation that the Contractor shall conform with laws, rules and regulations regarding, among others, labor, safety and health standards;
- t. A stipulation that the Contractor shall confine its mining operations to its contract/mining area and that it shall not interfere with the rights of other Contractors/Lessees/operators/Permittees/Permit Holders;
- u. A stipulation that the Contractor shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;
- v. A stipulation that the Contractor shall contribute to the development of the host and neighboring communities of the mining area, local geoscience and mining technology in accordance with Chapter XIV hereof;
- w. A stipulation that the Contractor shall comply with its obligations under its Environmental Protection and Enhancement Program (EPEP) and its Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;

- x. A stipulation that the Contractor shall utilize the best available appropriate and efficient mining and processing technologies;
- y. A stipulation that the Contractor shall undertake exploration work on the area as specified in its Agreement based on an approved Work Program: *Provided*, That a negative variance of at least twenty percent (20%) in the Work Program and corresponding expenditures shall be subject to approval of the Director/Regional Director *concerned*;
- z. A stipulation that the Contractor shall submit annually starting from the date of approval of the Agreement, progress reports of the exploration activities in the prescribed form. This shall be accompanied by raw geologic, geophysical and geochemical data plotted in a 1:50,000 scale map, at a minimum. A quarterly report containing activities and accomplishments for each quarter shall also be submitted. At the end of the exploration term, the Contractor shall submit the final report with the detailed list of activities with the corresponding expenditures. The final report shall be accompanied by a 1:50,000 geologic map of the contract area acceptable by international standards. All reports referred to herein shall be submitted to the Bureau/Regional Office *concerned*;
- aa. A stipulation that the FTAA shall be canceled, revoked or terminated for failure of the Contractor to comply with the terms and conditions thereof or for other grounds as provided for in Section 230 hereof.
Should an FTAA be canceled, revoked or terminated, it shall no longer be required to meet the minimum expenditure requirement for the remaining period: *Provided*, That such cancellation, revocation or termination is in accordance with Section 68 hereof.
- ab. A stipulation that withdrawal by the Contractor from the FTAA shall not release it from any and all financial, environmental, legal and/or fiscal obligations including settlement of all obligations that should have accrued to the Government during the term of the FTAA;
- ac. *A stipulation that a financing institution that has granted a loan to the Contractor for the mining project shall have the authority to designate its assignee of the FTAA in case of the Contractor's default from such loan: Provided, That the assignee is a Qualified Person and the assignment shall be subject to prior approval by the President;*
- ad. A stipulation that the Contractor shall comply with all other applicable provisions of the Act and these implementing rules and regulations; and
- ae. Such other terms and conditions not inconsistent with the Constitution, the Act and these implementing rules and regulations, as well as those which the Secretary may deem to be for the national interest and public welfare.

The Department shall formulate and promulgate such other rules, regulations and guidelines necessary to ensure compliance with the terms and conditions herein stated and to establish a fixed and stable fiscal regime with respect to FTAA's."

Section 10. Section 69 (General Provisions), as amended, is hereby further 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 provisions of Chapter VI of these implementing rules and regulations: *Provided*, further, That a large-scale quarry operation, including a sand and gravel operation, during the Development/Construction/Operating Period under a Mineral Agreement, shall involve a mechanized operation and a final mining area not exceeding the following:

For sand and gravel Individual - Twenty (20) hectares
Including lahar

	Corporation/ Partnership/ Association/ Cooperative	- Fifty (50) hectares
For marble, granite and/or construction aggregates	Individual	- <i>Eighty one (81)</i> hectares
	Corporation/ Partnership/ Association/ Cooperative	- <i>Two hundred forty three</i> <i>(243)</i> hectares
For cement raw materials such as limestone, shale and <i>silica</i>	Individual	- <i>Four hundred eighty six</i> <i>(486)</i> hectares
	Corporation/ Partnership/ Association/ Cooperative	- One thousand <i>four</i> <i>hundred fifty eight</i> <i>(1,458)</i> hectares

subject to the following conditions:

1. That the mining applicant/Contractor may file/declare more than one (1) final mining area in its applied area/contract area: Provided, That for sand and gravel, each additional final mining area shall further require the approval by any two (2) of the Sanggunian *concerned* in the form of a formal Resolution;
2. That each final mining area shall be covered by a Declaration of Mining Project Feasibility supported by a Mining Project Feasibility Study, Development/ Utilization Work Program and application for survey;
3. That the aggregate of the final mining areas for all Mining Agreements held by the Contractor and areas covered by Mineral Agreement applications, if any, shall not exceed the maximum limits set under Section 33 of DAO No. 96-40, as amended; ***and***
4. ***That for sand and gravel/lahar deposits, the Mineral Agreement shall exclude the Exploration Period and immediately proceed to the Development and/or Operation Periods, subject to compliance with the applicable requirements: Provided, That Mineral Agreement applicants concerned shall, within six (6) months, amend their applications to conform with this Section.***

For this purpose, a final mining area means the contract area or portion(s) thereof properly delineated and surveyed by the mining applicant/Contractor for development and actual quarrying/mining operation including sites for support/ancillary facilities."

Section 11. Section 103 (General Provisions) is hereby amended, to read as follows:

"Applications for Small-Scale Mining Permits (SSMP) shall be filed *in* the *Office of the* Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board *concerned* for areas outside the Mineral Reservations.

Applications for SSMPs within Mineral Reservations shall be filed and initially evaluated in the Regional Office concerned and endorsed to the Bureau for final evaluation and approval of the Director.

In case the Permit Holder opts for a renewal of its SSMP, it shall file, prior to the expiration of the SSMP, a renewal application in the Regional Office concerned, accompanied by the following mandatory requirements:

- a. *Duly accomplished and sworn MGB Form No. 9-01;*
- b. *Copies of original SSMP, location map using NAMRIA topographic map in a scale of 1:50,000, approved survey plan, ECC and latest Income Tax Return;*
- c. *Proofs of payment of occupation fee, excise tax and royalty;*
- d. *Audited financial statements and Annual Report for the preceding year, if applicable;*
- e. *Certification by the Regional Office concerned as to the compliance of the Permit Holder with the terms and conditions of the SSMP; and*
- f. *Other supporting papers as the Bureau/Regional Office concerned may require.*

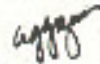
Within fifteen (15) days upon the Permit Holder's compliance with all the requirements, the Regional Office concerned shall endorse the application to the Bureau for final action.

The guidelines and provisions specified in Mines Administrative Order No. MRD-41, Series of 1984, Department Administrative Order No. 28 and MRDB Administrative Order Nos. 3 and 3A which are the implementing rules and regulations of P.D. No. 1899 and the guidelines and provisions of Department Administrative Order No. 34, Series of 1992 which are the implementing rules and regulations of R.A. No. 7076, insofar as they are not inconsistent with the provisions of these implementing rules and regulations, shall continue to govern small-scale mining operations."

Section 12. Section 110 (Application for Mineral Processing Permit/Mandatory Requirements) is hereby amended, to read as follows:

"An application (MGB Form No. 11-2) for a Mineral Processing Permit shall be filed by a Qualified Person either personally or through its duly authorized representative with the Regional Office *concerned*. *Provided*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the Regional Office *concerned*. *Provided, further*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least five (5) sets of the following mandatory requirements:

- a. Duly certified Certificate of Registration issued by the Securities and Exchange Commission or concerned authorized Government agency;
- b. Duly certified Articles of Incorporation/ Partnership/Association and By-Laws;
- c. Location map/sketch plan of the area of the proposed processing plant using NAMRIA topographic map in a scale of 1:50,000;
- d. Feasibility Study including work programs, plant site, mill and plant layout/design, details of technology to be employed in the proposed operation, anti-pollution devices/measures as well as the plant capacity: *Provided, That a Mineral Processing Permit applicant with existing mineral processing operation may submit, in lieu of the Feasibility Study, a Project Description and a detailed financial statement for its operations incorporating therein the social and environmental expenditures, taxes and fees paid (MGB Form No. 5-3A);*
- e. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;
- f. Environmental Compliance Certificate; 

- g. Proof of technical competence including, among others, curricula vitae and track records in mineral processing and environmental management of the technical personnel who shall undertake the operation;
- h. Proof of financial capability to undertake the activities pursuant to *the Feasibility Study* and Environmental Protection and Enhancement Program, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments;
- i. Interim Importation Permit/certification from EMB on the use of chemicals (e.g. cyanide, mercury) in compliance with R.A. No. 6969;
- j. Brief history of applicant's activities for the last five (5) years, if any;
- k. Supply Contract/Agreement with mining rights holders, if applicable; and
- l. Other supporting papers as the Secretary/ Director/Regional Office concerned may require or the applicant may submit."

Section 13. Section 111 (Processing/Registration/Issuance of a Mineral Processing Permit) is hereby amended, to read as follows:

"Within five (5) working days from receipt of application by the Regional Office, it shall initially evaluate and then forward the same to the Bureau for final review and evaluation by the latter within fifteen (15) working days from receipt thereof. *The Secretary may approve an application for Mineral Processing Permit (MPP) with a project cost of more than Five Hundred Million Pesos: Provided, That the Secretary, through the Director, may approve an application for MPP whose project cost ranges from more than Two Hundred Million Pesos to Five Hundred Million Pesos: Provided, further, That for an application for MPP whose project cost is Two Hundred Million Pesos or less, the Secretary, through the Regional Director concerned, may approve said application.*

Upon approval of the application, the Secretary through the Director/Regional Director *concerned* shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The Director/Regional Director *concerned* shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same."

Section 14. Section 114 (Renewal of Mineral Processing Permit) is hereby amended, to read as follows:

"*Prior to the expiration of the Permit, the Permit Holder may submit to the Bureau/Regional Office concerned an application to renew the Permit accompanied by two (2) sets of the following mandatory requirements:*

- a. Justification of renewal;
- b. Comprehensive technical reports on the outcome of the operations *and the level of ECC compliance*, signed by a licensed Mining Engineer or Metallurgical Engineer *and an Environmental Officer, respectively*;
- c. Audited *financial statements covering the term of the MPP*;
- d. Work Program duly prepared, signed and sealed by a licensed Metallurgical Engineer; and
- e. Other supporting papers as the Regional Office *concerned* may require.

Any renewal *application may* be approved by the Secretary/Director/Regional Director *concerned, as the case may be: Provided, That no renewal of Permit shall be allowed unless the Permit Holder 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 its implementing rules and regulations*

Section 15. Section 117 (Ore Transport Permit) is hereby amended, to read as follows:

"The transport of all minerals/mineral products *and by-products, including gold bullions*, by Permit Holders, Contractors, accredited traders, retailers, processors and other mining rights holders must be accompanied by an Ore Transport Permit (MGB Form No. 12-1) issued by the Regional Director *concerned* or his/her duly authorized representative: *Provided*, That the transport of sand and gravel shall be covered by a Delivery Receipt.

In case of mineral ores/minerals/*mineral products and by-products, including gold bullions*, being transported from the small-scale mining areas to the custom mills or processing plants, the Provincial/City Mining Regulatory Board *concerned* shall formulate its own policies to govern such transport of ores produced by small-scale miners.

For MPSA and FTAA Contractors, Ore Transport Permits (OTP) shall be issued under the Agreements: *Provided*, That a written notice prior to shipment or transport of ores shall be furnished to the Regional Office *concerned* for the purpose of monitoring mining activities in the contract area. *Provided, further*, That such activity is in accordance with the terms and conditions of the Agreement.

An OTP is not necessary for ore samples not exceeding two (2) metric tons to be used exclusively for assay and pilot test purposes. Instead, a certification regarding the same shall be issued by the Regional Director *concerned*. For ore samples exceeding two (2) metric tons to be transported exclusively for assay and pilot tests purposes, an OTP shall be issued by the *Regional* Director *concerned* for a limited amount based on the type of ore, metallurgical tests to be undertaken and other justifiable reasons as determined by the *Regional Office concerned*."

Section 16. Sections 19.c, 35.a.3, 35.b.5, 53.a.5, 74.d and 110.e are hereby amended to clarify the manner of requiring a satisfactory environmental management and community relations record, to read as follows:

"An application (MGB Form No. 16-04) for or a Certificate of Environmental Management and Community Relations Record (CEMCRR);"

Section 17. A new section, Section 167-A, Certificate of Environmental Management and Community Relations Record (CEMCRR), is hereby added, to read as follows:

"A CEMCRR is one of the requirements in the approval of Mineral Agreements, Financial or Technical Assistance Agreements, Quarry or Commercial/ Industrial Sand and Gravel Permit and Mineral Processing Permit. A CEMCRR is the applicant's proof of satisfactory environmental management and community relations in its past mineral resource use ventures.

The CEMCRR shall be issued by the Regional Office concerned upon compliance with the following:

- 1. Payment of the processing fee; and*
- 2. Satisfactory environmental management and community relations record from Regional Office/s concerned of the MGB and the EMB.*

Failure on the part of office/s concerned to act on the request for environmental management and community relations record within fifteen (15) working days from the date of receipt of a request, without justifiable reasons, will not prevent the issuance of a CEMCRR by the MGB Regional Office concerned.

A Certificate of Exemption (COE) will be issued by the Regional Director concerned, in lieu of the CEMCRR, to an applicant with no past mineral resource use or mining related ventures."

Section 18. Section 143 (Accreditation of Service Contractors) is hereby amended, to read as follows:

"No Service Contractor shall be hired by the Contractor/Permittee/ Lessee/Permit Holder to undertake mining/quarrying operations, *including mine rehabilitation and decommissioning*, unless they are duly accredited by the *Regional Office concerned*. *The Accreditation of Service Contractor shall have a term of three (3) years, renewable for like periods.*

The applicant shall submit at least two (2) sets of the following mandatory requirements:

1. *Duly accomplished Accreditation Application Form (MGB Form No. 15-12);*
2. *Duly certified Certificate of Registration issued by the appropriate government agency/ies;*
3. *Proof of satisfactory safety performance, such as:*
 - a. *Accident records during the previous years of operation;*
 - b. *Duly notarized certification from present and/or previous principals; and*
 - c. *Job Safety Analysis for new companies or companies without Items 3.a or 3.b.*
4. *Proof of payment of the prescribed application fee; and*
5. *Other relevant information that may be required by the Regional Director concerned.*

The pertinent procedural guidelines shall be issued through a Memorandum Order by the Director."

Section 19. Section 170 (Processing and Approval of the EPEP), is hereby amended, to read as follows:

"The Contractor/Permit Holder shall submit at least ten (10) legible copies of the EPEP and a complete electronic file in computer diskettes to the Mine Rehabilitation Fund (MRF) Committee (described in Sections 182 and 183 hereof) through the *Regional Office concerned* for review.

The MRF Committee shall conduct a preliminary evaluation on the submitted document as to its form and substance and may impose additional requirements and documentation which are deemed necessary. The MRF Committee shall endeavor to complete the evaluation and processing of the EPEP within thirty (30) calendar days from receipt thereof: *Provided, That the EPEP of Industrial Sand and Gravel Permit and Quarry Permit holders/applicants shall be evaluated and approved/disapproved by the MRF Committee in the Region concerned.*

All preliminary evaluations shall be consolidated and forwarded to the Contingent Liability and Rehabilitation Fund (CLRF) Steering Committee (described in Sections 193 and 194 hereof) through the Bureau for final evaluation and approval. The EPEP shall be acted upon by the CLRF Steering Committee within thirty (30) calendar days from receipt thereof from the MRF Committee. The Contractor/Permit Holder shall provide each of the Local Government Units *concerned* with a copy of the approved EPEP not later than thirty (30) calendar days prior to the intended date of commencement of mining operation.

Any change in the approved environmental protection, enhancement and rehabilitation strategies, which entails a variance of minus twenty percent (-20%) of the financial requirements, shall require a submission of a revised EPEP by the Contractor/Permit Holder to the MRF Committee for preliminary evaluation and to the CLRF Steering Committee for final evaluation and approval. The MRF and CLRF Steering Committees shall act on the revised EPEP within the period of assessment as set forth in the preceding paragraphs. The Contractor/Permit Holder shall provide each of the Local Government Units *concerned* with a copy of the approved revised EPEP not later than thirty (30) calendar days prior to the intended date of effecting the revised EPEP."

Section 20. Section 182 (The Mine Rehabilitation Fund Committee), is hereby amended, to read as follows:

"A Mine Rehabilitation Fund (MRF) Committee shall be created in each Region where active mining operations exist and shall have the following duties and responsibilities:

- a. Conducts preliminary evaluation on the submitted EPEP and consults with credible experts, as may be required, to clarify proposals and to discuss the adequacy of control and rehabilitation measures: *Provided, That the MRF Committee shall evaluate and approve/disapprove the submitted EPEP for Industrial Sand and Gravel Permit and Quarry Permit.*
- b. Manages, operates, monitors and looks after the safety of the MRFs that shall be established and deposited in a Government depository bank in accordance with the provisions of these implementing rules and regulations;
- c. Resolves issues involving the progressive mine rehabilitation programs that shall be implemented;
- d. Hires credible experts to do independent studies and researches on the environmental, engineering and sociocultural impacts of the projects in order to assist it in making judicious decisions;
- e. Ensures that the approved EPEPs/AEPEPs shall be strictly implemented by the Contractors/Permit Holders;
- f. Deputizes a Multipartite Monitoring Team (MMT) to serve as its monitoring arm with the Regional Office *concerned* taking the lead role;
- g. Monitors and evaluates the performance of the MMTs and reports its assessments to the CLRF Steering Committee;
- h. Ensures that the MTFs and RCFs shall be kept separate and distinct from one another and maintains independent and specific books of records for all transactions of the said funds of each Contractor/Permit Holder;
- i. In the absence of fraud, bad faith or gross negligence on the part of the MRF Committee or any person acting on its behalf, the said Committee shall not be liable for any loss or impairment of the MRFs arising out or in connection with any act done or performed or caused to be done or performed by the said Committee pursuant to the provisions of these implementing rules and regulations;
- j. Prepares and submits to the Secretary/Director, within thirty (30) calendar days after the end of each year, an annual report of accomplishments, including audited financial statements and such periodic reports of activities as may be required; and
- k. Performs other functions as may be assigned by the Secretary/Director."

Section 21. Section 230 (Grounds), is hereby amended, to read as follows:

"The following are the grounds for cancellation, revocation and termination of a Mining Permit/Mineral Agreement/FTAA:

- a. Falsehood or omission of facts in the application for Exploration Permit, Mineral Agreement, FTAA or other permits which may alter, change or affect substantially the facts set forth in said statements
- b. Non-payment of taxes and fees due the Government for two (2) consecutive years; and
- c. *Failure to perform all other obligations, including abandonment, under the permits or agreements;*
- d. Violation of any of the terms and conditions of the Permits or Agreements; and/or
- e. *Violation of existing laws, policies, and rules and regulations.*

Section 22. Section 232 (Effect of Expiration and Cancellation of a Permit and Mineral Agreement/FTAA), is hereby amended, to read as follows:

“Section 232. Effect of Expiration, Cancellation, *Revocation and/or Termination* of a Permit and Mineral Agreement/FTAA

Upon the expiration of a Mining Permit/Mineral Agreement/FTAA, the mining operations may be undertaken by the Government through one of its agencies or through a qualified independent Contractor. In the latter case, the contract shall be awarded to the highest bidder in a public bidding held after due publication of the notice thereof. The Contractor/Permit Holder shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

Upon cancellation/*revocation/termination* of a Mining Permit/ Mineral Agreement/FTAA, the Director shall cause the same to be entered in the registration book and a notice thereof shall be posted on the bulletin board of the Bureau and Regional Office *concerned* and the mining area covered thereby shall thereupon be open to *mining applications*. *The mining operations may be undertaken by the Government through one of its agencies or through a qualified independent Contractor. In the latter case, the contract shall be awarded to the highest bidder in a public bidding held after due publication of the notice thereof. If the cancellation/revocation/termination of the contract is due to violation of the terms and conditions thereof, the Contractor/Permit Holder shall not have the right to equal the highest bid.*

Non-payment of taxes and fees causing the cancellation/*revocation/termination* of a Mining Permit/Mineral Agreement/FTAA shall have also the effect of re-opening the mining area to new applicants.”

Section 23. Transitory Provisions

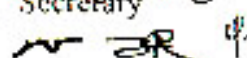
All pending mining applications shall be covered by this Order.

Section 24. Repealing Clause

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

Section 25. Effectivity

This Administrative 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.


ELISEA G. GOZUN
Secretary


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exploration activities, the same may be undertaken by a Qualified Person in specified areas as determined by the Director.

In cases where the Regional Office concerned/Bureau deems it necessary to undertake an immediate technical study of an area, it may enter into a Memorandum of Agreement (MOA) with an EP applicant to jointly undertake such study for a period of six (6) months. The conduct of sub-surface exploration activities shall be strictly prohibited under the MOA."

Section 3. Section 22 (Terms and Conditions of an Exploration Permit), as amended, is hereby further amended to read as follows:

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

- a. The right to explore shall be subject to valid, prior and existing rights of any party(ies) within the subject area;
- b. The Permit shall be for the exclusive use and benefit of the Permittee or its duly authorized representative and, shall under no circumstances, be used by the Permittee for purposes other than exploration;
- 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. In cases where further exploration is warranted *beyond the six (6)- or eight (8)-year period* and on condition that the Permittee has substantially implemented the Exploration and Environmental Work Programs as verified by the Bureau, the Secretary, *through the Director*, may further grant renewal of the Exploration Permit: *Provided*, That the Permittee shall be required to set up a performance surety equivalent to the expenditure requirement of the Exploration and Environmental Work Programs. The conduct of feasibility studies shall be included during the term of the Exploration Permit;
- d. The Permittee shall submit to the Bureau/ Regional Office *concerned* within thirty (30) calendar days after the end of each semester a report under oath of the Exploration Work Program implementation and expenditures showing discrepancies/deviations including the results of the survey, laboratory reports, geological reports/maps subject to semiannual inspection and verification by the Bureau/Regional Office *concerned* at the expense of the Permittee: *Provided*, That any expenditure in excess of the yearly budget of the approved Exploration Work Program may be carried forward and credited to the succeeding years covering the duration of the Permit;
- e. The Permittee shall submit to the Bureau/Regional Office *concerned* within thirty (30) calendar days from the end of six (6) months after the approval of the Environmental Work Program (EWP) and every six (6) months thereafter a status report on its compliance with the said EWP;
- f. The Permittee shall annually relinquish at least 20% of the permit area during the first two (2) years of exploration and at least 10% of the remaining permit area annually during the extended exploration period. However, if the permit area is less than five thousand (5,000) hectares, the Permittee need not relinquish any part thereof. A separate report of relinquishment shall be submitted to the Bureau/Regional Office *concerned* with a detailed geologic report of the relinquished area accompanied by maps at a scale of 1:50,000 and results of analyses and corresponding expenditures, among others. The minimum exploration expenditures for the remaining area after relinquishment shall be based on the approved Exploration Work Program;
- g. The Secretary or his/her duly authorized representative shall annually review the performance of the Permittee;

- h. The Permittee shall submit to the Bureau/Regional Office *concerned* a final report upon the expiration or relinquishment of the Permit or its conversion into Mineral Agreement or FTAA in a form and substance comparable to published reports of respected international organizations and shall incorporate all the findings in the permit area, including locations of samples, assays, chemical analyses and assessment of the mineral potential. Such report shall include complete detailed expenditures incurred during the exploration;
- i. In case of diamond drilling, the Permittee shall, upon request of the Director/Regional Director *concerned*, submit to the Bureau/ Regional Office *concerned* a quarter of the core samples which shall be deposited in the Bureau/Regional Office Core Library *concerned* for reference and safekeeping;
- j. Offshore exploration activities shall be carried out in accordance with the United Nations Convention on the Law of the Sea (UNCLOS) and in a manner that will not adversely affect the safety of navigation at sea and will ensure accommodation with other marine activities such as fishing, aquaculture, transportation, etc.;
- k. Onshore exploration activities shall be carried out in a manner that will, at all times, safeguard the environment;
- l. If the Permittee applies for a Mineral Agreement or FTAA over the permit area, the exploration period covered by the Exploration Permit shall be considered as the exploration period of the Mineral Agreement or FTAA;
- m. The Permittee shall comply with pertinent provisions of the Act and these implementing rules and regulations; and
- n. Other terms and conditions which the Bureau/Regional Office *concerned* may deem appropriate."

Section 4. Section 27 (Renewal of Exploration Permit) is hereby amended, to read as follows:

"*Prior to* the expiration of an Exploration Permit, the Permittee may submit to the Bureau, copy furnished the Regional Office *concerned*, an application to renew the Exploration Permit accompanied by five (5) sets of the following mandatory requirements:

- a. Justification of renewal;
- b. Comprehensive technical reports on the outcome of the two-year Exploration *and Environmental Work Programs*, signed by a licensed Mining Engineer or Geologist *and an Environmental Officer, respectively*;
- c. Audited *financial statements covering the term of the Exploration Permit*;
- d. Two (2)-year Exploration Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- e. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A);
- f. *Certification by the Regional Office concerned as to the compliance of the Permittee with the terms and conditions of the Exploration Permit; and*
- g. Other supporting papers as the Bureau may require.

The Secretary, *through the Director*, may grant the renewal after field verification by the Bureau, *which shall be undertaken at the expense of the Permittee, and compliance with all pertinent requirements.*"

Section 5. Section 35 (Mandatory Requirements for Mineral Agreement Application) is hereby amended, to read as follows:

"The applicant shall submit at least five (5) sets of the following mandatory requirements depending on the type of agreement applied for:

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a. For individuals -

1. Location map/sketch plan of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
2. Two-year Exploration Work Program (MGB Form No. 5-4) or three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
3. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;
4. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
5. Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable;
6. Proof of financial capability to undertake the activities pursuant to Exploration/Development/Utilization Work Program and Environmental Work/ Environmental Protection and Enhancement Program, as deemed applicable, such as statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding year;
7. Declaration of the total area covered by approved/pending Mineral Agreement(s)/ application(s), and
8. Other supporting papers as the Department/Bureau/Regional Office *concerned* may require or the applicant may submit.

b. For corporations, partnerships, associations or cooperatives -

1. Duly certified Certificate of Registration issued by the Securities and Exchange Commission or authorized Government agency *concerned*;
2. Duly certified Articles of Incorporation/ Partnership/Association and By-Laws;
3. Location map/sketch plan of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
4. Two-year Exploration Work Program (MGB Form No. 5-4) or three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
5. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and

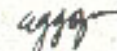
applicability of such records shall be specified by the Secretary upon the recommendation of the Director;

6. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
7. Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/Development/Utilization Work Program and Environmental Work/ Environmental Protection and Enhancement Program, as deemed applicable;
8. Proof of financial capability to undertake the activities pursuant to Exploration/ Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments;
9. Declaration of the total area covered by approved/pending Mineral Agreement(s)/ application(s); and
10. Other supporting papers as the Department/Bureau/Regional Office *concerned* may require or the applicant may submit.

If the applicant conducts or has conducted mining operations in a foreign country(ies), the Department shall verify the relevant requirements through the Philippine Embassy(ies) or Consulate(s) based in such country(ies).

- c. For holders of valid and existing mining lease contracts, operating agreements, Quarry Permits/licenses or unperfected mining/quarry claims, the following shall be submitted in addition to the aforesaid requirements, whenever applicable, namely:
 1. Certification from the Regional Office *concerned* that the mining/quarry claims are valid and subsisting;
 2. Appropriate environmental report on the rehabilitation of mined-out and/or mine waste/tailings-covered areas and anti-pollution measures undertaken during the mining operations;
 3. Environmental Compliance Certificate for any new phase outside of the originally approved operation under the mining project;
 4. Mining Project Feasibility Study (MGB Form No. 5-3): *Provided, That a Mineral Agreement applicant with existing mining operation may submit, in lieu of the Mining Project Feasibility Study, a Project Description and a detailed financial statement of its operations, incorporating therein the social and environmental expenditures, taxes and fees paid (MGB Form No. 5-3A);*
 5. Three-year Development/Construction/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
 6. Approved Survey Plan of the mining area; and
 7. Other supporting papers as the Department/Bureau/Regional Office *concerned* may require or the applicant may submit.”

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

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

- a. A stipulation that the Contractor shall not, by virtue of the Mineral Agreement, acquire any title over the contract/mining area without prejudice to the acquisition by the Contractor of the land/surface rights through any mode of acquisition provided for by law;
- 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. In cases where further exploration is warranted *beyond the six (6)- or eight (8)-year period* and on condition that the Contractor has substantially implemented the Exploration and Environmental Work Programs as verified by the Bureau, the *Director* may further grant renewal of the Exploration Period: *Provided*, That the Contractor shall be required to set up a performance surety equivalent to the expenditure requirement of the Exploration and Environmental Work Programs. The conduct of feasibility studies shall be included during the term of the Exploration Period. *The Contractor shall file in the Regional Office concerned the Declaration of Mining Project Feasibility within the term of the Exploration Period.*

In case the Contractor opts for a renewal of its Exploration Period, it shall file, prior to the expiration, a renewal application in the Bureau, copy furnished the Regional Office concerned, accompanied by the following mandatory requirements:

- i. *Justification of renewal;*
 - ii. *Comprehensive technical reports on the outcome of the two (2)-year Exploration and Environmental Work Programs, signed by a licensed Mining Engineer or Geologist and an Environmental Officer, respectively;*
 - iii. *Audited financial statements covering the term of the Exploration Period;*
 - iv. *Two (2)-year Exploration Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;*
 - v. *Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A);*
 - vi. *Certification by the Regional Office concerned as to the compliance of the Contractor with the terms and conditions of the Mineral Agreement during the Exploration Period; and*
 - vii. *Other supporting papers as the Bureau may require.*
- c. Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the Agreement;
 - d. A stipulation that the Contractor may relinquish totally or partially the original contract area during the exploration period. 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 portion of the contract area which shall not be necessary for mining operations and not covered by any declaration of mining feasibility with the corresponding submission to the Bureau/Regional Office *concerned* of geologic report and pertinent maps in the scale of 1:50,000. The minimum exploration expenditures for the remaining

- area after relinquishment shall be based on the approved Exploration Work Program;
- e. A stipulation that each mining area after final relinquishment shall not be more than five thousand (5,000) hectares for metallic minerals and two thousand (2,000) hectares for nonmetallic minerals: *Provided*, That the Director, with the approval of the Secretary, may allow a Contractor to hold a larger mining area depending upon the nature of the deposit subject to technical verification and evaluation by the Bureau as to the technical/financial capability of the Contractor;
 - f. A stipulation that the mining operations shall be conducted in accordance with the provisions of the Act and these implementing rules and regulations;
 - g. A stipulation that the Contractor shall give preference to goods and services produced and offered in the Philippines of comparative quality and cost. In particular, the Contractor shall give preference to qualified Filipino construction enterprises, construction materials and skills available in the Philippines, Filipino sub-contractors for road construction and transportation, and Philippine household equipment, furniture and food;
 - h. A stipulation that the Contractor is obliged to give preference to Filipinos in all types of mining employment for which they are qualified and that the technology shall be transferred to the same;
 - i. A stipulation that the Contractor shall not discriminate on the basis of gender and that the Contractor shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
 - j. A stipulation requiring the Contractor to effectively use the best available appropriate anti-pollution technology and facilities to protect the environment and to restore or rehabilitate mined-out areas and other areas affected by mine waste/mill tailings and other forms of pollution or destruction in compliance with the requirements of the ECC and P.D. No. 984. This should be undertaken in coordination with the EMB/ Department Regional Office;
 - k. A stipulation that the Contractor shall furnish the Government an annual report of its mining operations and records of geologic, accounting and other relevant data, and that book of accounts and records shall be open for inspection by the Government;
 - l. A stipulation requiring the Contractor to dispose of the minerals and by-products produced at the highest market price and to negotiate for more advantageous terms and conditions subject to the right to enter into long-term sales or marketing contracts or foreign exchange and commodity hedging contracts which the Government acknowledges to be acceptable notwithstanding that the sale price of the minerals may from time to time be lower, or the terms and conditions of sales are less favorable, than that available elsewhere: *Provided*, That the Bureau is furnished a copy of the said Sales Agreement subject to confidentiality between the Bureau and the Contractor;
 - m. A stipulation providing for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the Agreement;
 - n. A stipulation that the Contractor shall pay fees, taxes, royalties and other obligations in accordance with existing laws, rules and regulations;
 - o. A stipulation that alien employment shall be limited to technologies requiring highly specialized training and experience subject to the required approval under existing laws, rules and regulations;
 - p. A stipulation that in every case where foreign technologies are utilized and where alien executives are employed, an effective program of training understudies shall be undertaken;
 - q. A stipulation that the Contractor shall conform with laws, rules and regulations regarding, among others, labor, safety and health standards;
 - r. A stipulation that the Contractor shall confine its mining operations to its contract/mining area and that it shall not interfere with the rights of other Contractors/Lessees/operators/Permittees/Permit Holders;

- s. A stipulation that the Contractor shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;
- t. A stipulation that the Contractor shall contribute to the development of the host and neighboring communities of the mining area, local geoscience and mining technology in accordance with Chapter XIV hereof;
- u. A stipulation that the Contractor shall comply with its obligations under its Environmental Protection and Enhancement Program (EPEP) and its Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;
- v. A stipulation that the Contractor shall utilize the best available appropriate and efficient mining and processing technologies;
- w. A stipulation that the Contractor shall undertake exploration work on the area as specified in its Agreement based on an approved Work Program: *Provided*, That a negative variance of at least twenty percent (20%) in the Work Program and corresponding expenditures shall be subject to approval of the Director/Regional Director *concerned*;
- x. A stipulation that the Contractor shall submit annually starting from the date of approval of the Agreement, progress reports of the exploration activities in the prescribed form. This shall be accompanied by raw geologic, geophysical and geochemical data plotted in a 1:50,000 scale map, at a minimum. A quarterly report containing activities and accomplishments for each quarter shall also be submitted. At the end of the exploration term, the Contractor shall submit the final report with the detailed list of activities with the corresponding expenditures. The final report shall be accompanied by a 1:50,000 geologic map of the contract area acceptable by international standards. All reports referred to herein shall be submitted to the Bureau/Regional Office *concerned*;
- y. A stipulation that the Mineral Agreement shall be canceled, revoked or terminated for failure of the Contractor to comply with the terms and conditions thereof or for other grounds as provided for in Section 230 hereof;
- z. A stipulation that *the* withdrawal by the Contractor from the Mineral Agreement shall not release it from any and all financial, environmental, legal and fiscal obligations under the Agreement;
- aa. *A stipulation that a financing institution that has granted a loan to the Contractor for the mining project shall have the authority to designate its assignee of the Mineral Agreement in case of the Contractor's default from such loan: Provided, That the assignee is a Qualified Person and the assignment shall be subject to approval by the Secretary; and*
- ab. Such other terms and conditions not inconsistent with the Constitution, the Act and these implementing rules and regulations, as well as those which the Secretary may deem to be for the national interest and public welfare.

The Department shall formulate and promulgate such other rules, regulations and guidelines necessary to ensure compliance with the terms and conditions herein."

Section 7. Section 41 (Evaluation of Mineral Agreement Application) is hereby amended to read as follows:

"Within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 38 hereof, the Regional Director *concerned* shall initially evaluate the Mineral Agreement applications in areas outside Mineral Reservations. He/She shall thereafter endorse his/her findings to the Bureau for further evaluation by the Director within fifteen (15) working days from receipt of forwarded documents. Thereafter, the Director shall endorse the same to the Secretary for consideration/approval within fifteen (15) working days from receipt of such endorsement: *Provided, That any application for Mineral Agreement shall be deemed approved if not acted upon by the Secretary within thirty (30) calendar days from official receipt thereof:*

Provided, further, That the Secretary shall, within five (5) days thereafter, sign all the pertinent documents for the approval of the said application.

In case of Mineral Agreement applications in areas within Mineral Reservations, within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 38 hereof, the same shall be evaluated and endorsed by the Director to the Secretary for consideration/approval within fifteen (15) working days from receipt of such endorsement: *Provided, That any application for Mineral Agreement shall be deemed approved if not acted upon by the Secretary within thirty (30) calendar days from official receipt thereof: Provided, further, That the Secretary shall, within five (5) days thereafter, sign all the pertinent documents for the approval of the said application.*"

Section 8. Section 52 (Term of an FTAA) is hereby amended to read as follows:

"An FTAA shall have a term not exceeding twenty-five (25) years from the date of execution thereof, and renewable for another term not exceeding twenty-five (25) years under such terms and conditions as may be provided for by law and mutually agreed upon by the parties. The activities of each phase of mining operations must be completed within the following periods:

- a. Exploration - up to two (2) years from date of FTAA execution, extendible for another two (2) years subject to the following requirements:
 1. Justification of renewal;
 2. Comprehensive technical reports on the outcome of the two (2)-year Exploration *and Environmental Work Programs*, signed by a licensed Mining Engineer or Geologist *and an Environmental Officer, respectively*;
 3. Audited *financial statements covering the term of the Exploration Period*;
 4. *Two (2)-year Exploration* Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
 5. *Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A)*;
 6. Relinquishment report; and
 7. Other supporting papers as the Department/Bureau/Regional Office *concerned* may require.

In case the Contractor opts for a renewal of its Exploration Period, it shall file prior to the expiration of the Exploration Period a renewal application to the Bureau, copy furnished the Regional Office concerned, accompanied by the above requirements.

- b. Pre-feasibility study, if warranted - up to two (2) years from expiration of the exploration period;
- c. Feasibility study - up to two (2) years from the expiration of the exploration/pre-feasibility study period or from declaration of mining project feasibility; and
- d. Development, construction and utilization - remaining years of FTAA.

Any two (2) or more of the above periods may be simultaneously undertaken in one approved contract area, as the need of the Contractor may arise, subject to the pertinent provisions of Section 59 hereof."

Section 9. Section 56 (Terms and Conditions of an FTAA) is hereby amended, to read as follows:

"The following terms, conditions and warranties shall be incorporated in the FTAA, namely:

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