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JUL 19 2007

DEPARTMENT ADMINISTRATIVE ORDER

No. 2007 - 15

SUBJECT: AMENDMENTS TO DEPARTMENT 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 Sections 4 and 8 of Republic Act (RA) 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 RA No. 7942," as amended by DAO Nos. 99-57, 2000-61, 2003-46, 2004-54, 2005-15 and 2007-12, following the continuing policy of the Government to provide for a responsive regulatory framework, and in view of the need to expedite the grant of mining tenements in line with the policy of revitalizing the minerals industry, the following Sections of DAO No. 96-40, as amended, are further amended:

Section 1. Section 15. (Areas Closed to Mining Applications) is hereby amended such that new Sections 15.4 and 15.5 shall be added and the existing Section 15.4 renumbered as Section 15.6, to read as follows:

"X x x.

X x x

4. Offshore areas within five hundred (500) meters from the mean low tide level and onshore areas within two hundred (200) meters from the mean low tide level along the coast;
5. In case of seabed/marine aggregate quarrying, offshore areas less than 1,500 meters from the mean low tide level of land or island(s) and where the seabed depth is less than 30 meters measured at mean sea level; and
6. Areas expressly prohibited by law.

X x x.

X x x.

X x x."

Section 2. Section 19. (Application for Exploration Permit/Mandatory Requirements), as amended, is hereby further amended, to read as follows:

"X x x.

The Certificate of Environmental Management and Community Relations Record (CEMCRR)/Certificate of Exemption, Environmental Work Program (MGB

Form No. 16-1 or MGB Form No. 16-1A) as provided for in Section 168 hereof, shall be required from the Exploration Permit applicant after acceptance of the application but prior to the issuance of the pertinent Notice of Application.

The Certificate of Non-Overlap for areas without Indigenous Cultural Community/ies (ICCs)/Indigenous Peoples (IPs) or Certification Precondition from the National Commission on Indigenous Peoples (NCIP) for areas with ICCs/IPs shall be secured by the Exploration Permit applicant in accordance with the NCIP rules and regulations: *Provided*, That in case the aforesaid requirements are not issued within the NCIP's prescribed periods, the Exploration Permit applicant shall submit the NCIP's Report on the Field-Based Investigation for the applied area that does not overlap ancestral domain, or the Memorandum of Agreement (MoA) executed by and among the Exploration Permit applicant, ICC/IP concerned and the NCIP for the applied area that affects the ICCs/IPs: *Provided, further*, That the said Certificate of Non-Overlap or Certification Precondition shall be submitted by the Exploration Permit applicant within ninety (90) days from issuance of the Exploration Permit.

X x x."

Section 3. Section 21. (Publication/Posting/Radio Announcement of an Exploration Permit Application) is hereby amended, to read as follows:

"Section 21. Publication/Posting/Radio Announcement of an Exploration Permit Application

Within five (5) working days from receipt of the necessary area clearances, the Regional Office(s) concerned shall issue the Notice of Application for Exploration Permit to the applicant for publication and radio announcement, and to the Offices concerned for posting. The Notice must contain, among others, the name and complete address of the applicant, duration of the permit applied for, extent of exploration activities to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed permit area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

Within five (5) working days from receipt of the Notice, the Exploration Permit applicant shall cause the publication thereof once in two (2) newspapers: one of general circulation published in Metro Manila and another published in the municipality or province where the proposed permit area is located, if there be such newspapers; otherwise, in the newspaper published in the nearest municipality or province. The pertinent affidavits of publication shall be submitted by the Exploration Permit applicant to the Regional Office concerned within five (5) days from the date of publication of the Notice.

The Regional Office concerned shall cause the posting of the Notice on its bulletin board, and those of the province(s) and municipality(ies) concerned, or city(ies) concerned, for one (1) week, copy furnished the Bureau and the barangay(s) where the proposed permit area is located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

The radio announcements shall be made daily for one (1) week in a local radio program and shall consist of the name and complete address of

the applicant, area location, duration of the permit applied for and instructions that information regarding such application may be obtained at the Regional Office(s) concerned. The publication and radio announcements shall be at the expense of the applicant.

Within five (5) working days from the last date of posting and radio announcement, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within ten (10) days from the date of publication or from the last date of posting/radio announcement, with the Regional Office concerned or through any PENRO or CENRO concerned for filing in the Regional Office concerned for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days from receipt of the request of any concerned party.

X x x.

No Exploration Permit shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is resolved with finality."

Section 4. Section 22. (Terms and Conditions of an Exploration Permit), as amended, is hereby further amended, to read as follows:

"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 four (4) years for nonmetallic mineral exploration or six (6) years for metallic mineral 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 case of failure to file the declaration of mining project feasibility during the total term of four (4) years of the Exploration Permit for non-metallic minerals or six (6) years of the same Exploration Permit for metallic minerals, the Permittee may apply for further renewal of the Exploration Permit, which may be granted by the Secretary for another term of two (2) years for the very purpose of preparing or completing the feasibility studies, and filing of the declaration of mining project feasibility and the pertinent Mineral Agreement or FTAA application. The complete and final exploration report shall be required in this renewal of the Exploration Permit: *Provided, furthermore*, That in case the Exploration Permit expires prior to the approval of the declaration of mining project feasibility and/or filing of the Mineral Agreement or FTAA application, the said Exploration Permit shall be deemed automatically extended until such time that the Mineral Agreement or FTAA application is approved;



X x x.”

- n. The Permittee may surrender the Permit or exercise the priority right to apply for a Mineral Agreement or FTAA over the permit area, which application shall be granted if the Permittee meets the necessary qualifications and the terms and conditions of any such agreement;
- o. The Permit excludes commercial extraction and/or construction of infrastructures designed for mining development or mining production;
- p. The Permit does not grant beneficial ownership of the minerals to the Permittee;
- q. The Director/Regional Director concerned shall cause the cancellation of the Exploration Permit for failure of the Permittee to comply with the terms and conditions under which the Permit is issued;
- r. The Permittee shall assume all the exploration risks and shall not be entitled to reimbursement of its expenses;
- s. The Permittee shall comply with the minimum ground expenditures during the term of the Permit, as follows:

<u>Year</u>	<u>Pesos/Hectare</u>
1	100
2	100
3	400
4	400
5	900
6	1,150
7 and onwards	1,150

In case the minimum ground expenditure 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 following year of the Permit. However, if the minimum ground expenditures for the entire term of the Permit are not met, the unexpended amount shall be paid by the Permittee to the Bureau/Regional Office concerned within three (3) months from the expiration of that term and shall accrue to the Bureau to be used for mining operations in Mineral Reservations or to other purposes as may be determined by the Bureau. The failure of the Permittee to pay the said amount within the prescribed period shall be a ground for the denial of its application for renewal of the Permit or other related application/s.

X x x.”

Section 5. Section 23. (Registration of Exploration Permit), as amended, is hereby further amended, to read as follows:

“Upon evaluation that all the terms and conditions and all pertinent requirements are in order and that the subject area has been cleared from any conflict, the Director in case of Mineral Reservation areas or the Regional Director concerned in case of Non-Mineral Reservation areas and upon clearance by the

Director shall approve and issue the Exploration Permit. The Permittee shall cause the registration of the same in the Regional Office concerned within fifteen (15) working days from receipt of the written notice and upon payment of the required fees: *Provided*, That the Permittee shall comply with the required consultation with the Sanggunian concerned pursuant to the pertinent provisions of RA No. 7160, The Local Government Code of 1991, prior to the implementation of the Exploration Work Program."

Section 6. Section 23-A. (Conversion of Exploration Permit to Mineral Agreement or Financial or Technical Assistance Agreement), as amended , is hereby further amended, to read as follows:

A Permittee may, at its option, convert totally or partially its Exploration Permit to a Mineral Agreement or FTAA for the purpose of undertaking detailed exploration, if the exploration activities indicate a resource discovery. The Letter of Intent shall be filed in the Regional Office concerned prior to the expiration of the Exploration Permit, copy furnished the Bureau. 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 in the Regional Office concerned 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 pertinent requirements, including a field verification report by the Regional Office confirming the resource discovery 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 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 7. Section 25. (Transfer or Assignment of Exploration Permit) is hereby amended, to read as follows:

An Exploration Permit may be transferred or assigned to another Qualified Person(s) subject to the approval of the Director.

Section 8. Section 27. (Renewal of Exploration Permit), as amended, is hereby further amended, to read as follows:

"X x x.

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, including payment of all required fees and reporting requirements: *Provided*, That if all the requirements have been complied with and the Exploration Permit application for renewal is still awaiting approval one (1) month after its date of filing, the said Exploration Permit application for renewal, upon submission of an affidavit by the applicant attesting to the full compliance with all the pertinent requirements, shall be deemed approved and the Director shall issue the renewed Exploration Permit within five



(5) working days from receipt of said affidavit, for registration and release. This is without prejudice to the Department undertaking the necessary investigation to determine any liability as to the non-issuance of the renewed Exploration Permit within the prescribed period: *Provided, further,* That the renewal of the Exploration Permit for the purpose of filing of the declaration of mining project feasibility shall require approval of the Secretary.

The Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) as provided for in Section 168 hereof and the Certification by the Regional Office concerned as to the compliance with the terms and conditions of the Exploration Permit, particularly the level of implementation of the Work Programs and compliance with the fiscal and reporting obligations, shall be required from the Permittee after the acceptance of the application but prior to the issuance of the renewed Exploration Permit."


Section 9. Section 28. (Cancellation of an Exploration Permit), as amended, is hereby further amended, to read as follows:

"The Secretary/Director/Regional Director concerned may cancel the Exploration Permit for violation(s) by the Permittee of the terms and conditions thereof, including the failure to secure the required proof of consultation with/project presentation to the Sanggunian concerned pursuant to the pertinent provisions of RA No. 7160, The Local Government Code of 1991, within one (1) year from issuance of the Exploration Permit.

X x x."

Section 10. Section 30. (Declaration of Mining Project Feasibility), as amended, is hereby further amended, to read as follows:

If results of exploration reveal the presence of mineral deposits economically and technically feasible for mining operations, the Permittee shall, within the term of the Exploration Permit, file a declaration of mining project feasibility. The approval of the declaration of mining project feasibility by the Director shall grant the Permittee the exclusive right to a Mineral Agreement or FTAA over the permit area: *Provided,* That the Order approving the declaration of mining project feasibility shall be posted on the bulletin boards of the Bureau and the Regional Office concerned for at least one (1) week: *Provided, further,* That failure of the Permittee to apply for Mineral Agreement or FTAA within a period of one (1) year from the date of approval of the declaration of mining project feasibility shall mean automatic cancellation of the said declaration.

In case of failure to file the declaration of mining project feasibility during the total term of four (4) years of the Exploration Permit for non-metallic minerals or six (6) years of the same Exploration Permit for metallic minerals, the Permittee may apply for further renewal of the Exploration Permit, which may be granted by the Secretary for another term of 2 years for the very purpose of preparing or completing the feasibility studies, and filing of the declaration of mining project feasibility and the pertinent Mineral Agreement or FTAA application. X x x. 

X x x.

X x x."

Section 11. Section 33 (Maximum Areas Allowed under a Mineral Agreement) is hereby amended, to read as follows:

a. X x x

X x x; and

2. For corporations, partnerships, associations or cooperatives – five thousand (5,000) hectares for metallic minerals and two thousand (2,000) hectares for non-metallic minerals per final mining area subject to the pertinent provisions of Section 69 hereof.

b. X x x

X x x; and

2. For corporations, partnerships, associations or cooperatives – five thousand (5,000) hectares per final mining area subject to the pertinent provisions of Section 69 hereof.

Section 12. Section 35. (Mandatory Requirements for Mineral Agreement Application), as amended, is hereby further amended, to read as follows:

“X x x.

The ECC, Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof, CEMCRR and approved survey plan shall be required from the Mineral Agreement applicant after acceptance of the application but prior to the issuance of the pertinent Notice of Application.

The Certificate of Non-Overlap for areas without ICCs/IPs or Certification Precondition from the NCIP for areas with ICCs/IPs shall be secured by the Mineral Agreement applicants whose applications are not originating from Exploration Permits in accordance with the NCIP rules and regulations: *Provided*, That in case the aforesaid requirements are not issued within the NCIP's prescribed periods, the Mineral Agreement applicant shall submit the NCIP's Report on the Field-Based Investigation for the applied area that does not overlap ancestral domain, or the MoA executed by and among the Mineral Agreement applicant, ICC/IP concerned and the NCIP for the applied area that affects the ICCs/IPs: *Provided, further*, That the said Certificate of Non-Overlap or Certification Precondition shall be submitted by the Mineral Agreement applicant within ninety (90) days from issuance of the Mineral Agreement.

Mineral Agreement applicants whose applications originated from Exploration Permits and have complied with the above requirements in the process are no longer covered by the same NCIP requirements.”

Section 13. Section 38. (Publication/Posting/Radio Announcement of a Mineral Agreement Application) is hereby amended, to read as follows:

“Section 38. Publication/Posting/Radio Announcement of a Mineral Agreement Application

Within five (5) working days from receipt of the necessary area clearances, the Regional Office(s) concerned shall issue the Notice of


Application for Mineral Agreement to the applicant for publication and radio announcement, and to the Offices concerned for posting. The Notice must contain, among others, the name and complete address of the applicant, duration of the agreement applied for, extent of operation to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed contract area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

Within five (5) working days from receipt of the Notice, the Mineral Agreement applicant shall cause the publication thereof once, in two (2) newspapers: one of general circulation published in Metro Manila and another published in the municipality or province where the proposed contract area is located, if there be such newspapers; otherwise, in the newspaper published in the nearest municipality or province. The pertinent affidavits of publication shall be submitted by the Mineral Agreement applicant to the Regional Office concerned within five (5) days from the date of publication of the Notice.

The Regional Office concerned shall cause the posting of the Notice on its bulletin board, and those of the province(s) and municipality(ies) concerned, or city(ies) concerned, for one (1) week, copy furnished the Bureau and the barangay(s) where the proposed contract area is located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

The radio announcements shall be made daily for one (1) week in a local radio program and shall consist of the name and complete address of the applicant, area location, duration of the agreement applied for and instructions that information regarding such application may be obtained at the Regional Office(s) concerned. The publication and radio announcements shall be at the expense of the applicant.

Within five (5) working days from the last date of posting and radio announcement, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within ten (10) days from the date of publication or from the last date of posting/radio announcement, with the Regional Office concerned or through any PENRO or CENRO concerned for filing in the Regional Office concerned for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days from receipt of the request of any concerned party.

However, previously published valid and existing mining claims or Mineral Agreement applications originating from Exploration Permits that have undergone the publication/posting/radio announcement requirement are exempted from the publication/posting/radio announcement requirement under this Section. 

X x x."


Section 14. Section 39 (Terms and Conditions of a Mineral Agreement), as amended, is hereby amended, to read as follows:

"X x x.

- ad. A stipulation that the Contractor shall assume all the risks which are inherent and incidental to the mining operations such that it will not be entitled for reimbursement of expenses even if no minerals in commercial quantity are developed and produced;
- ae. A stipulation that the financial records of the Contractor related to the mining operations shall be open to Government inspection of all reasonable times upon prior written notice, and that the Government or its representative shall be part of the committee or group that shall audit the financial records of the Contractor;
- af. A stipulation that the Mineral Agreement does not grant beneficial ownership of the minerals to the Contractor;
- ag. A stipulation that the Contractor shall execute a firm commitment, in the form of a sworn statement during the existence of the Agreement, that it shall comply with the minimum ground expenditures during the exploration period, as follows:

<u>Year</u>	<u>Pesos/Hectare</u>
1	100
2	100
3	400
4	400
5	900
6	1,150
7 and onwards	1,150

In case the minimum ground expenditure 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 following year of the given exploration period of the Agreement. However, if the minimum ground expenditures for the given exploration period of the Agreement are not met, the unexpended amount shall be paid by the Contractor to the Bureau/Regional Office concerned within three (3) months from the expiration of the said exploration period and shall accrue to the Bureau to be used for mining operations in Mineral Reservations or to other purposes as may be determined by the Bureau. The failure of the Contractor to pay the said amount within the prescribed period shall be a ground for the cancellation of the Agreement;

- ah. 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. 

X x x."

Section 15. Section 43. (Registration of Mineral Agreement) is hereby amended, to read as follows:

"Upon approval of the Mineral Agreement by the Secretary, the same shall be forwarded to the Bureau for numbering. The Director shall notify the Contractor to cause the registration of its Mineral Agreement with the Bureau for areas inside Mineral Reservations or with the Regional Office concerned for areas outside Mineral Reservations within fifteen (15) working days from receipt of the written notice and upon payment of the required fees. The Bureau/Regional Office concerned shall officially release the Mineral Agreement to the Contractor after registration of the same: *Provided*, That the Contractor shall comply with the required endorsement of the project by at least the majority of the Sanggunian concerned pursuant to the pertinent provisions of RA No. 7160, The Local Government Code of 1991, prior to the commencement of the development and/or utilization activities.


X x x "

Section 16. 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. Certification by the Regional Office concerned as to the compliance with the terms and conditions of the FTAA, particularly the level of implementation of the Work Programs and compliance with the fiscal and reporting obligations.

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 in 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; and 

- d. Development, construction and utilization – upon approval of the declaration of mining project feasibility up to the remaining years of the 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.

In the evaluation of the pertinent Mining Project Feasibility Study, the expected life of mine, grade management, mining sequence, conservation measures and the capability of the project to pay the Government Share and absorb the environmental and social costs shall be strictly taken into consideration. There shall be a provision guaranteeing the payment of the Government Share notwithstanding the grant of any incentives by other Government agency(ies). The mine should have a profitable operating life of more than ten (10) years, to ensure the collection of the Government Share, given the cost recovery period.

Section 17. Section 53. (Filing of FTAA Applications/Mandatory Requirements), as amended, is hereby further amended, to read as follows:

“X x x.

X x x.

X x x.

Any application with incomplete mandatory requirements shall not be accepted. The CEMCRR and Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) as provided for in Section 168 hereof shall be required from the FTAA applicant after acceptance of the application but prior to the issuance of the pertinent Notice of Application.

The Certificate of Non-Overlap for areas without ICCs/IPs or Certification Precondition from the NCIP for areas with ICCs/IPs shall be secured by the FTAA applicant in accordance with the NCIP rules and regulations: *Provided*, That in case the aforesaid requirements are not issued within the NCIP's prescribed periods, the FTAA applicant shall submit the NCIP's Report on the Field-Based Investigation for the applied area that does not overlap ancestral domain, or the MoA executed by and among the FTAA applicant, ICC/IP concerned and the NCIP for the applied area that affects the ICCs/IPs: *Provided, further*, That the said Certificate of Non-Overlap or Certification Precondition shall be submitted by the FTAA applicant within ninety (90) days from issuance of the FTAA.

Section 18. Section 55 (Publication/Posting/Radio Announcement of an FTAA Application) is hereby amended, to read as follows:

“Section 55. Publication/Posting/Radio Announcement of an FTAA Application

Within five (5) working days from receipt of the necessary area clearances, the Regional Office(s) concerned shall issue the Notice of Application for FTAA to the applicant for publication and radio announcement,

and to the Offices concerned for posting. The Notice must contain, among others, the name and complete address of the applicant, duration of the agreement applied for, extent of operation to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed contract area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

Within five (5) working days from receipt of the Notice, the FTAA applicant shall cause the publication thereof once, in two (2) newspapers: one of general circulation published in Metro Manila and another published in the municipality or province where the proposed contract area is located, if there be such newspapers; otherwise, in the newspaper published in the nearest municipality or province. The pertinent affidavits of publication shall be submitted by the FTAA applicant to the Regional Office concerned within five (5) days from the date of publication of the Notice.

The Regional Office concerned shall cause the posting of the Notice on its bulletin board, and those of the province(s) and municipality(ies) concerned, or city(ies) concerned, for one (1) week, copy furnished the Bureau and the barangay(s) where the proposed contract area is located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

The radio announcements shall be made daily for one (1) week in a local radio program and shall consist of the name and complete address of the applicant, area location, duration of the agreement applied for and instructions that information regarding such application may be obtained at the Regional Office(s) concerned. The publication and radio announcements shall be at the expense of the applicant.

Within five (5) working days from the last date of posting and radio announcement, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within ten (10) days from the date of publication or from the last date of posting/radio announcement, with the Regional Office concerned or through any PENRO or CENRO concerned for filing in the Regional Office concerned for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days from receipt of the request of any concerned party.

However, previously published valid and existing mining claims or FTAA applications originating from Exploration Permits that have undergone the publication/posting/radio announcement requirement are exempted from the publication/posting/radio announcement requirement under this Section. *AP*

X x x"

Section 19. Section 63. (Registration of FTAA) is hereby amended, to read as follows:

"Upon approval of the FTAA by the President, the same shall be forwarded to the Bureau for numbering. The Bureau/Regional Office concerned shall notify the Contractor to cause the registration of its FTAA within fifteen (15) working days from receipt of the written notice and upon payment of the required fees. The Bureau/Regional Office concerned shall officially release the FTAA to the Contractor after registration of the same: *Provided*, That the Contractor shall comply with the required consultation with the Sanggunian, concerned prior to the implementation of the Exploration Work Program and/or endorsement of the project by at least the majority of the same Sanggunian pursuant to the pertinent provisions of RA No. 7160, The Local Government Code of 1991, prior to the commencement of the development and/or utilization activities.

X x x."

Section 20. 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 Including lahar	Individual	- 40 hectares
	Corporation/ Partnership/ Association/ Cooperative	- 100 hectares
For marble, granite and/or construction aggregates	Individual	- 200 hectares
	Corporation/ Partnership/ Association/ Cooperative	- 500 hectares
For cement raw materials such as limestone, shale and silica	Individual	- 1,000 hectares
	Corporation/ Partnership/ Association/ Cooperative	- 2,000 hectares

subject to the following conditions:

1. X x x.

X x x."

Section 21. Section 168 (Environmental Work Program (EWP)) is hereby amended, to read as follows:

"X x x.

X x x.

The applicants shall furnish the Sangguniang Panlalawigan concerned with the EWP. A status report as to compliance with the EWP shall be submitted to the Bureau/Regional Office concerned within thirty (30) days from the end of six (6) months after the approval of the EWP and every six (6) months thereafter.

X x x."

Section 22. Section 214 (Government Share in FTAA) is hereby amended, to read as follows:

"X x x.

X x x.

The collection of Government share shall commence after the FTAA Contractor has fully recovered its pre-operating, exploration and development expenses, inclusive. The period of recovery which is reckoned from the date of commencement of commercial operation shall be for a period not exceeding five (5) years or at a date when the aggregate of the net cash flows from the mining operations is equal to the aggregate of its pre-operating expenses, whichever comes earlier: *Provided*, That in case of projects incurring very large investments with high production rate and extensive mine life, as determined by the Bureau, the recovery period may be extended upon negotiation with the FTAA Negotiating Panel and subject to approval by the Secretary.


The Contractor shall also pay an additional Government share after the recovery period as provided for in separate guidelines."

Section 23. Section 216 (Place and Manner of Payment and Allocation of Government Share) is hereby amended, to read as follows:

"X x x.

X x x.

X x x.

The additional Government share shall be paid to the Bureau within thirty (30) days after the filing and payment of the final income tax return to the BIR." 

Section 24. Section 219 (Manner and Place of Payment of Occupation Fees) is hereby amended, to read as follows:

"The occupation fees shall be paid on the date the Exploration Permit/Mineral Agreement/FTAA is registered with the appropriate office and on the same date every year thereafter. It shall be paid to the Treasurer of the Municipality/City where the onshore mining areas are located, or to the Bureau in case of offshore mining areas. For this purpose, the appropriate officer, (the Director for FTAA's or the Regional Director for Exploration Permits and Mineral Agreements) shall submit to the Treasurer of the Municipality/City where the onshore mining area is located, a complete list of all onshore mining rights registered with his/her office, indicating therewith the names of the holders, area covered in hectares, name of Municipality/City and its provincial location and date of registration. If the fee is not paid on the date specified, the Contractor shall pay a surcharge of twenty-five percent (25%) of the amount due in addition to the occupation fees: *Provided*, That if the municipal/city treasurer refuses to accept payment of the occupation fee and the case for consignment is filed in the appropriate court, the Exploration Permit/Mineral Agreement/FTAA may already be registered.

X x x."

Section 25. Section 270 (Reporting Requirements), as amended, is hereby further amended such that a new Section 270.s shall be added and the existing Section 270.s shall be renumbered as Section 270.t, to read as follows:

"X x x.

- s. Semiannual Status Report on the Exploration Work Program

Refer to relevant section in these implementing rules and regulations.

t. X x x."

Section 26. Section 271 (Fines), as amended, is hereby further amended, to read as follows:

"X x x.

X x x.

X x x.

X x x.

a. X x x.

b. X x x.

c. X x x.

In case of late or non-submission of reports mentioned in Section 270 (i) to (q) and (s) except (m) and (r), a fine of One Thousand Pesos (PhP

1,000.00) shall be imposed. The Secretary may adjust the above-mentioned fines from time to time as conditions warrant such changes.


X x x."

Section 27. Repealing Clause

All orders, including Department Memorandum Order Nos. 99-27 and 2005-020, and circulars or parts thereof inconsistent with or contrary to the provisions of this Order, are hereby repealed, amended or modified accordingly.

Section 28. Effectivity

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


ANGELO T. REYES
Secretary ^{UP}
AS OR X 2007



IN REPLYING, PLS CITE:
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