

**[DENR ADMINISTRATIVE ORDER NO. 96-40, S.
1996, December 20, 1996]**

**REVISED IMPLEMENTING RULES AND REGULATIONS OF
REPUBLIC ACT NO. 7942, OTHERWISE KNOWN AS THE
"PHILIPPINE MINING ACT OF 1995"**

Pursuant to Section 8 of Republic Act (R.A.) No. 7942, otherwise known as the "Philippine Mining Act of 1995", the following revised rules and regulations are hereby promulgated for the guidance and compliance of all concerned.

CHAPTER I

Introductory Provisions

SECTION 1. Title. — The title of this Administrative Order shall be "Revised Implementing Rules and Regulations of R.A. 7942, otherwise known as the Philippine Mining Act of 1995".

SECTION 2. Declaration of Policy — All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation through the combined efforts of the Government and private sector in order to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities.

SECTION 3. Governing Principles. — In implementing the policy stated in the preceding Section, the Department shall adhere to the principle of sustainable development which meets the needs of the present without compromising the ability of the future generations to meet their own needs, with the view of improving the total quality of life, both now and in the future. Consequently:

a. Mineral resource exploration, development, utilization and conservation shall be governed by the principle of sustainable mining, which provides that the use of mineral wealth shall be pro-environment and pro-people in sustaining wealth creation and improved quality of life under the following terms:

1. Mining is a temporary land use for the creation of wealth which leads to an optimum land use in the post-mining stage as a result of progressive and engineered mine rehabilitation work done in cycle with mining operations;

2. Mining activities must always be guided by current best practices in environmental management committed to reducing the impacts of mining and effectively and efficiently protecting the environment;

3. The wealth accruing to the Government and communities as a result of mining should also lead to other wealth-generating opportunities for people and to other environment-responsible endeavors;

4. Mining activities shall be undertaken with due and equal emphasis on economic and environmental considerations, as well as for health, safety, social and cultural concerns; and

5. Conservation of minerals is effected not only through recycling of mineral-based products to effectively lengthen the usable life of mineral commodities but also through the technological efficiency of mining operations.

b. Investments in commercial mining activities from both domestic and international sources shall be promoted in accordance with State policies and the principles and objectives herein stated.

c. The granting of mining rights shall harmonize existing activities, policies and programs of the Government that directly or indirectly promote self-reliance, development and resource management. Activities, policies and programs that promote community-based, community-oriented and processual development shall be encouraged, consistent with the principles of people empowerment and grassroots development.

These principles are implemented through the specific provisions of these implementing rules and regulations.

SECTION 4. Objectives. — These rules and regulations are promulgated toward the attainment of the following objectives:

a. To promote the rational exploration, development, utilization and conservation of mineral resources under the full control and supervision of the State;

b. To enhance the contribution of mineral resources to economic recovery and national development, with due regard to the protection of the environment and the affected communities, as well as the development of local science and technical resources;

c. To encourage investments in exploration and commercial mining activities to assure a steady supply of minerals and metals for material needs of both present and future society and to generate wealth in terms of taxes, employment generation, foreign exchange earnings and regional development;

d. To promote equitable access to economically efficient development and fair sharing of benefits and costs derived from the exploration, development and utilization of mineral resources; and

e. To enable the Government and the investor to recover their share in the production, utilization and processing of minerals to attain sustainable development with due regard to the environment, social equity and fair return of investment.

SECTION 5. Definition of Terms. — As used in and for purposes of these rules

and regulations, the following terms shall mean:

- a. "Act" refers to R.A. No. 7942 otherwise known as the "Philippine Mining Act of 1995."
- b. "Ancestral Lands" refer to all lands exclusively and actually possessed, occupied or utilized by Indigenous Cultural Communities by themselves or through their ancestors in accordance with their customs and traditions since time immemorial, and as may be defined and delineated by law.
- c. "Annual Environmental Protection and Enhancement Program (AEPEP)" refers to a yearly environmental management work plan based on the approved environmental protection and enhancement strategy.
- d. "Archipelagic Sea" refers to all waters within the baseline of an archipelago except internal waters such as roadsteads, lakes and rivers.
- e. "Block or Meridional Block" means an area, bounded by one-half (1/2) minute of latitude and one-half (1/2) minute of longitude, containing approximately eighty-one (81) hectares.
- f. "Built-up Areas" refer to portions of land within the municipality or barangay actually occupied as residential, commercial or industrial areas as embodied in a duly approved land use plan by the appropriate Sanggunian.
- g. "Bureau" means the Central Office of the Mines and Geosciences Bureau under the Department.
- h. "City" refers to an independent component city as classified under the Local Government Code.
- i. "Commercial Production" refers to the production of sufficient quantity of minerals to sustain economic viability of mining operations reckoned from the date of commercial operation as declared by the Contractor or as stated in the feasibility study, which ever comes first.
- j. "Community Relations Record" refers to the applicant's proof of its community relations which may consist, but is not limited to, sociocultural sensitivity, the character of its past relations with local communities, cultural appropriateness and social acceptability of its resource management strategies: Provided, That this shall not be required in cases where the applicant has no previous community-relations experience in resource use ventures, locally or internationally.
- k. "Conservation" means the wise use and optimum utilization of mineral resources.
- l. "Contiguous Zone" refers to water, sea bottom and substratum measured twenty-four (24) nautical miles seaward from the baseline of the Philippine Archipelago.
- m. "Contract Area" means the land or body of water delineated under a Mineral

Agreement or FTAA subject to the relinquishment obligations of the Contractor and properly defined by longitude and latitude.

n. "Contractor" means a Qualified Person acting alone or in consortium who is a party to a Mineral Agreement or FTAA.

o. "Critical Watershed" refers to a drainage area of a river system, lake or water reservoir supporting existing and proposed hydroelectric power, domestic water supply, geothermal power and irrigation works, which needs immediate rehabilitation and protection to minimize soil erosion, improve water yield and prevent possible flooding.

p. "DENR Project Area" refers to specific portions of land covered by an existing project of the Department such as, but not limited to, Industrial Forest Management Agreement (IFMA), Community Forest Management Agreement (CFMA), Community Forestry Program (CFP), Forest Land Management Agreement (FLMA) and Integrated Social Forestry Program (ISFP).

q. "Department" means the Department of Environment and Natural Resources of the Republic of the Philippines.

r. "Development" means the work undertaken to explore and prepare an orebody or a mineral deposit for mining, including the construction of necessary infrastructure and related facilities.

s. "Development Stage" as used exclusively for FTAA's means the period to prepare an explored orebody or mineral deposit for mining including the construction of necessary infrastructure and related facilities.

t. "Director" means the Director of the Bureau.

u. "Ecological Profile or Eco-Profile" refers to geographic-based instruments for planners and decision-makers, which presents a description of the environmental setting including the state of environmental quality and evaluation of the assimilative capacity of an area.

v. "Effluent" means any wastewater, partially or completely treated, or any waste liquid flowing out of mining operations, wastewater treatment plants or tailings disposal system.

w. "Environment" refers to the physical factors of the total surroundings of human beings, including the land, water, atmosphere, climate, sound, odors, tastes, the biological factors of animals and plants and the social factors of aesthetics. In a broad sense, it shall include the total environment of human beings such as economic, social, cultural, political and historical factors.

x. "Environmental Audit" refers to a systematic, documented verification process of objectively obtaining and evaluating audit evidence (verifiable information, records or statements of facts) to determine whether or not specified environmental activities, events, conditions, management systems or information about these matters conform with audit criteria (policies, practices, procedures or requirements against which the auditor compares collected audit evidence about the

subject matter) and communicating the results of this process to the concerned stakeholders.

y. "Environmental Compliance Certificate (ECC)" refers to the document issued by the Secretary or the Regional Executive Director certifying that based on the representations of the proponent and the preparers (the proponent's technical staff or the competent professional group commissioned by the proponent to prepare the EIS and other related documents), as reviewed and validated by the Environmental Impact Assessment Review Committee (EIARC), the proposed project or undertaking will not cause a significant negative environmental impact; that the proponent has complied with all the requirements of the Environmental Impact Assessment System; and that the proponent is committed to implement its approved Environmental Management Plan in the Environmental Impact Statement or mitigation measures in the Initial Environmental Examination.

z. "Environmental Impacts" refer to the probable effects or consequences of proposed projects or undertakings on the physical, biological and socioeconomic environment that can be direct or indirect, cumulative and positive or negative.

aa. "Environmental Impact Assessment (EIA)" refers to the process of predicting the likely environmental consequences of implementing projects or undertakings and designing appropriate preventive, mitigating and enhancement measures.

ab. "Environmental Impact Statement (EIS)" refers to the document(s) of studies on the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall contain in every case all relevant information and details about the proposed project or undertaking, including the environmental impacts of the project and the appropriate mitigating and enhancement measures.

ac. "Environmental Management Record" refers to an applicant's high regard for the environment in its past resource use ventures and proof of its present technical and financial capability to undertake resource protection, restoration and/or rehabilitation of degraded areas and similar activities: Provided, That this shall not be required in cases where the applicant has no previous experience in resource use ventures, locally or internationally.

ad. "Environmental Protection and Enhancement Program (EPEP)" refers to the comprehensive and strategic environmental management plan for the life of the mining project on which AEPEPs are based and implemented to achieve the environmental management objectives, criteria and commitments including protection and rehabilitation of the disturbed environment.

ae. "Environmental Work Program (EWP)" refers to the comprehensive and strategic environmental management plan to achieve the environmental management objectives, criteria and commitments including protection and rehabilitation of the disturbed environment during the exploration period.

af. "Exclusive Economic Zone" refers to the water, sea bottom and subsurface measured from the baseline of the Philippine Archipelago up to two hundred (200) nautical miles offshore.