

**[DENR ADMINISTRATIVE ORDER NO. 95-936,
August 15, 1995]**

**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 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 "Implementing Rules and Regulations of 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. 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 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 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
- d. 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 environment, social equity and fair return of investment.

Chapter II
Definitions

SECTION 4. Definition of Terms - As used in and for purposes of these rules and regulations, the following terms shall mean:

- a. "The Act" refers to R.A. No. 7942 otherwise known as the "Philippine Mining Act of 1995."
- b. "Ancestral Lands" refers 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. "Bureau" means the Mines and Geosciences Bureau under the Department of Environment and Natural Resources.
- g. "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, whichever comes first.
- h. "Conservation" means the wise use and optimum utilization of mineral resources.
- i. "Contiguous Zone" refers to water, sea bottom and substratum measured twenty-four (24) nautical miles seaward from the baseline of the Philippine Archipelago.
- j. "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.
- k. "Contractor" means a qualified person acting alone or in consortium who is a party to a mineral agreement or FTAA.
- l. "Co-Production Agreement (CA)" refers to an agreement between the government and the contractor wherein the government shall provide inputs to the mining operations other than the mineral resource.
- m. "Department" means the Department of Environment and Natural Resources of the Republic of the Philippines.
- n. "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.
- o. "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.
- p. "Director" means the Director of the Mines and Geosciences Bureau.

q. "Ecological Profile or Eco-Profile" refers to geographic-based instruments for planners and decision-makers which present A DESCRIPTION OF THE ENVIRONMENTAL SETTING INCLUDING THE STATE OF ENVIRONMENTAL QUALITY AND EVALUATION OF THE ASSIMILATIVE CAPACITY OF AN AREA.

r. "Effluent" means ANY WASTEWATER, PARTIALLY OR COMPLETELY TREATED OR ANY WASTE LIQUID FLOWING OUT OF MINING MILL OPERATIONS, WASTEWATER TREATMENT PLANTS OR TAILINGS DISPOSAL SYSTEM.

s. "Environmental Compliance Certificate (ECC)" refers to the document issued by the Department certifying that the project under consideration will not bring about an unacceptable environmental impact and that the proponent has complied with the requirements of the Environmental Impact Statement System.

t. "Environmental Impact Assessment (EIA)" refers to a process which consists of identifying and predicting the impact(s) of proposed projects and programs on the physical, cultural, biological environment and on man's health and well-being, RECOMMENDING MITIGATING MEASURES TO ADDRESS ENVIRONMENTAL IMPACTS and interpreting/communicating information about such impacts in a manner which can be utilized.

u. "Environmental Impact Statement (EIS)" refers to a document which aims to identify, predict, interpret, and communicate information regarding changes in environmental quality associated with a proposed project and which examines the range of alternatives for the objectives of the proposal and their impacts on the environment.

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

w. "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.

x. "Existing Mining/Quarrying Right" means a valid and subsisting mining claim or permit or quarry permit or any mining lease contract or agreement covering a mineralized area granted/issued under pertinent mining laws.

y. "Exploration" means searching or prospecting for mineral resources by geological, geochemical, geophysical surveys, remote sensing, test pitting, trenching, drilling, shaft sinking, tunneling or any other means for the purpose of determining the existence, extent, quality and quantity of mineral resources and the feasibility of mining them for profit.

z. "Financial or Technical Assistance Agreement (FTAA)" means a contract involving financial or technical assistance for large scale exploration, development and utilization of mineral resources.

aa. "Force Majeure" means acts or circumstances beyond the reasonable control of contractor including, but not limited to, war, rebellion, insurrection, riot, civil disturbance, blockade, sabotage, embargo, strike, lockout, any dispute with surface owners and other labor disputes, epidemic earthquake, storm, flood or other

adverse weather conditions, explosion, fire, adverse action by government or by any instrumentality or subdivision thereof, act of God or of any public enemy, and any cause not herein describe over which the affected party has no reasonable control.

ab. "Foreign-owned Corporation" means any corporation partnership, association or cooperative duly registered in accordance with law in which less than fifty per centum (50%) of the capital is owned by Filipino citizens.

ac. "Government" means the Government of the Republic of the Philippines.

ad. "Gross Output" means the actual market value of minerals or mineral products from each mine or miners land operated as a separate entity, without any deduction for mining, processing, refining, transporting, handling marketing or any other expenses: Provided, That if the minerals or mineral products are sold or consigned abroad by the Contractor under C.I.F. terms, the actual cost of ocean freight and insurance shall be deducted: Provided, however That in the case of mineral concentrates which are not traded in commodity exchanges in the Philippines or abroad, such as copper concentrates, the actual market value shall be the world price quotations of the refined mineral products content thereof prevailing in the said commodity exchanges, after deducting the smelting, refining, treatment, insurance, transportation and other charges incurred in the process of converting mineral concentrates into refined metal traded in those commodity exchanges.

ae. "Indigenous Cultural Community" means a group or tribe of indigenous Filipinos who have continuously lived as communities on communally-bounded and defined land since time immemorial and have succeeded in preserving, maintaining, and sharing common bonds of languages, customs, traditions, and other distinctive cultural traits, and as may be defined and delineated by law.

af. "Joint Venture Agreement (JVA)" refers to an agreement where a joint venture company is organized by the government and the contractor with both parties having equity shares. Aside from earnings in equity, the government shall be entitled to a share in the gross output.

ag. "Lessee" means a person or entity with a valid and existing mining lease contract.

ah. "Metallic Mineral" means a mineral having a brilliant appearance, quite opaque to light, usually gives a black or very dark streak and where a metallic element/component can be extracted/utilized for profit.

ai. "Minerals" refers to all naturally occurring inorganic substances in solid, liquid, gas or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials, and geothermal energy.

aj. "Mineral Land" means any area where mineral resources, as herein defined, are found.

ak. "Mineral Processing" means the milling, beneficiation, leaching, smelting, cyanidation, calcination or upgrading of ore(s)/minerals/rocks/mill tailings/mine waste/other metallurgical by-products or by similar means to convert the same into marketable products.

al. "Mineral Processing Permit" refers to the permit granted to a qualified person for milling, beneficiation, leaching, smelting, cyanidation, calcination or upgrading of

ore(s)/minerals/rocks/mill tailings/mine waste/other metallurgical by-products or by similar means to convert the same into marketable products.

am. "Mineral Products" means materials derived from mineral ores/rocks and prepared into a marketable state by metallurgical processes which include, but not limited to milling, beneficiation, cyanidation, leaching, smelting, calcination and other similar processes.

an. "Mineral Resources" means any concentration of minerals/rocks with potential economic value.

ao. "Mill Tailings" means, materials whether solid, liquid or both segregated from the ores during concentration/milling operations which has no present economic value to the generator of the same.

ap. "Mine Waste" means soil and/or rock materials from surface or underground mining operations with no present economic value to the generator of the same.

aq. "Mineral Agreement" means a contract between the government and a contractor, involving Mineral Production-Sharing Agreement, Joint Venture Agreement, or Co-Production Agreement.

ar. "Mining Area" means a portion of the contract area identified by the contractor for purposes of development, mining, utilization, and sites for support facilities or in the immediate vicinity of the mining operations.

as. "Mining Operations" means mining activities involving exploration, feasibility study, development, utilization and mineral processing.

at. "Mining Right" means any right to explore, develop, or utilize mineral resources.

au. "Mining Right Application" means any application for small-scale mining permit, exploration permit, quarry permit, sand and gravel permit, guano permit, gemstone gathering permit, mineral agreement or FTAA.

av. "Net Assets" refers to the property, plant and equipment as reflected in the audited financial statement of the contractor net of depreciation, as computed for tax purposes, excluding appraisal increase and construction in progress.

aw. "Net Income" means gross income from operations less allowable deductions which are necessary or related to mining operations.

ax. "Non-Metallic Mineral" refers to mineral usually having a dull luster, generally light-colored, transmits light, usually gives either colorless or light colored streak and where a non-metallic element/component can be extracted/utilized for a profit.

ay. "Non governmental Organization (NGO)" includes nonstock, nonprofit organizations involved in activities dealing with resource and environmental conservation, management and protection.

az. "Offshore" means the water, sea bottom, and subsurface from the shore or coastline reckoned from the mean low tide level up to the two hundred (200) nautical miles Exclusive Economic Zone including the archipelagic sea and contiguous zone.