

[DENR MEMORANDUM ORDER NO. 99-10, March 10, 1999]

GUIDELINES IN THE DETERMINATION OF QUALIFIED PERSON FOR MINING APPLICATIONS AND MINING RIGHTS

Pursuant to the pertinent provisions of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995 (the "Act") and Department Administrative Order No. 96-40 known as the Revised Implementing Rules and Regulations of the Act (the "IRR"), the specific policy and guidelines in the determination of a Qualified Person with respect to Mining Applications and the grant of Mining Rights are hereby promulgated.

Section 1. Rationale. —

1. It is the declared policy that the state shall promote the rational and equitable distribution, exploration, development, utilization and conservation of all mineral resources, through the combined efforts of the Government and the private sector in order to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities.
2. Pursuant to the Act, the State may grant Exploration Permits ("EP") and enter into Mineral Agreements ("MA") and Financial or Technical Assistance Agreements ("FTAA") with Qualified Persons for the exploration, development and utilization of mineral resources. The Act further provides for the maximum areas that a Qualified Person may hold at any one time or be granted under an EP, MA or FTAA.
3. The Act and the IRR further provide that a corporation, partnership, association or cooperative shall be deemed a Qualified Person if it is organized or authorized for the purpose of engaging in mining and duly registered in accordance with law, having the technical and financial capability to undertake mineral resources development.
4. In order to implement the expressed intent of the Act to limit the areas that may be held or granted to a single Qualified Person, the guidelines are herein provided to determine whether or not two or more mining applicants are deemed as one and the same Qualified Person for purposes of applying for and being granted EPs, MAs or FTAA.

*Section 2. Definition of Terms. —*As used in this Order, the following terms, whether singular or plural, shall mean:

1. "Qualified Person" means any Filipino citizen of legal age and with capacity to contract; or a corporation, partnership, association or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in

accordance with law, at least sixty percent (60%) of the capital of which is owned by Filipino citizens; Provided, That a legally organized Foreign-owned Corporation shall be deemed a Qualified Person for purposes of granting an Exploration Permit, FTAA or Mineral Processing Permit only.

2. "Foreign-owned Corporation" means any corporation, partnership, association or cooperative duly registered in accordance with law in which less than fifty percent (50%) of the capital is owned by Filipino citizens.
3. "Juridical Persons" means a corporation, partnership or association for private interests or purposes to which the law grants a juridical personality, separate and distinct from that of each shareholder, position or member.

All other terms used in this Order shall be consistent with and have their meaning as defined in Section 3 of the Act and Section 5 of the IRR.

Section 3. Maximum Areas Per Qualified Person. —As provided in the Act and the IRR, each Qualified Person shall be entitled to hold or apply for the maximum area at any one time for each of the following mining rights:

a. Exploration Permit

1. Onshore, in any one province

1.1 For an individual — twenty (20) blocks or approximately one thousand six hundred twenty (1,620) hectares and

1.2 For a corporation, partnership, association or cooperative — two hundred (200) blocks or approximately sixteen thousand two hundred (16,200) hectares.

2. Onshore, in the entire Philippines

2.1 For an individual — forty (40) blocks or approximately three thousand two hundred forty (3,240) hectares and

2.2 For a corporation, partnership, association or cooperative — four hundred (400) blocks or approximately thirty-two thousand four hundred (32,400) hectares.

3. Offshore, in the entire Philippine, beyond five hundred meters (500 m) from the mean low tide level.

3.1 For an individual — one hundred (100) blocks or approximately eight thousand one hundred (8,100) hectares and

3.2 For a corporation, partnership, association or cooperative — one thousand (1,000) blocks or approximately eighty-one thousand (81,000) hectares.

b. Mineral Agreements

1. Onshore, in any one province