

**[DENR MEMORANDUM ORDER NO. 97-07, S. 1997,
August 27, 1997]**

**GUIDELINES IN THE IMPLEMENTATION OF THE MANDATORY
SEPTEMBER 15, 1997 DEADLINE FOR THE FILING OF MINERAL
AGREEMENT APPLICATIONS BY HOLDERS OF VALID AND
EXISTING MINING CLAIMS AND LEASE/QUARRY APPLICATIONS
AND FOR OTHER PURPOSES**

Pursuant to Section 8 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995 (the "Act") and Section 6 of Department Administrative Order ("DAO") No. 96-40 known as the Revised Implementing Rules and Regulations of the Act (the "IRR"), the following guidelines in the implementation of the mandatory September 15, 1997 deadline for the filing of Mineral Agreement applications by holders of valid and existing mining claims and/or lease/quarry applications consistent with Section 113 of the Act and Section 273 of the IRR, the divestment or relinquishment requirement under Section 272 of the IRR and for other pertinent purposes, are hereby promulgated.

SECTION 1. Objectives. - This Order is issued to attain the following objectives:

- a. To provide specific policies, procedures and mechanisms in the determination of which mining claims, lease or quarry applications are valid and existing in order to facilitate the acceptance and expeditious processing of Mining Agreement and other Mining Applications filed in connection with the deadline prescribed in Section 273 of the IRR.
- b. To provide guidelines and procedures for the implementation of the deadline prescribed under Section 272 of the IRR.

SECTION 2. Scope. This Order covers:

- a. policies on the status of mining claims and lease/quarry applications filed before the effectivity of the Act;
- b. the acceptance of Mineral Agreement applications that may be filed on or before September 15, 1997 by holders of valid and existing mining claims and lease/quarry applications pursuant to Section 113 of the Act and Section 273 of the IRR;
- c. the acceptance of Mining Applications, as hereafter defined, filed after September 15, 1997 over areas previously covered by mining claims and lease/quarry applications considered abandoned by the concerned claimants/applicants who failed to file the necessary Mineral Agreement applications in accordance with the immediately preceding subsection; and

d. guidelines on the requirement under Section 272 of the IRR for divestment or relinquishment of areas by September 15, 1997 covered by FTAA applications filed under DAO No. 63, Series of 1990, that exceed the maximum Contract Area permitted under Section 34 of the Act and Section 51 of the IRR.

SECTION 3. Definitions and Interpretation. Consistent with Section 5 (bj) of the IRR, the term Mining Applications means any application for: (1) Exploration Permits; (2) Mineral Agreements, which refer specifically to Mineral Production Sharing Agreements, Joint Venture Agreements and Co-Production Agreements; (3) Financial or Technical Assistance Agreements (FTAA); and (4) Quarry, Sand and Gravel, and other permits under Section 5 (bh) of the IRR.

Other terms used in this Order shall have their meaning as defined in the Act, the IRR, Presidential Decree No. 463 as Amended and the Consolidated Mines Administrative Order (CMAO) as Amended.

Nothing in this order shall be construed as denying any right, preference or priority with respect to mining rights granted by applicable law or regulation or as validating any mining right that is invalid under applicable law or regulation.

SECTION 4. Date of Deadline Under Sections 272 and 273 of the IRR. Consistent with pertinent national policy, the September 13, 1997 deadline under Section 272 of the IRR and the September 14, 1997 deadline under Section 273 of the IRR, which fall on a Saturday and Sunday, respectively, shall be imposed on September 15, 1997.

All requirements related to such provisions must be complied with not later than 5:00 p.m. on such date; Provided, That all persons desiring to file proof of compliance who are present at the MGB Central/Regional Office at 5:00 p.m. on such dates shall have their proof of compliance accepted and processed effective as of such dates.

SECTION 5. Valid and Existing Mining Claims and Lease/Quarry Applications. For purposes of this Order, a mining claim shall be considered valid and existing if it has complied with the following requirements.

a. For a mining claim which Declaration of Location (DOL) was filed within the period from July 19, 1987 to July 18, 1988, it must be covered by a timely and duly filed Application for Survey and Survey Returns (if a Survey Order was issued);

b. For a mining claim which DOL was filed under the provisions of Presidential Decree No. 463 as amended, Presidential Decree No. 1214 and the CMAO as Amended but not later than July 18, 1987, it must be covered by a timely and duly filed Application for Mining Lease, Application for Survey and Survey Returns (if a Survey Order was issued);

c. For a mining claim located/filed under the provisions of Commonwealth Act No. 137 and/or earlier laws, it must be covered by a timely and duly filed Application for Availment under Presidential Decree No. 463 as Amended, Application for Mining Lease, Application for Survey and Survey Returns (if a Survey Order was issued).

Provided, That the holder of a mining claim which DOL was filed between July 19, 1988 and January 4, 1991 with or without a Letter of Intent to file for a Mineral Agreement application, shall be given up to September 15, 1997 to file the necessary Mineral Agreement application.

For purposes of this Order, a mining lease application shall be considered valid and existing only if all mining claims contained in such lease application are valid and existing as defined in this section, while applications for Quarry Licenses and Quarry Permits filed prior to April 9, 1995 shall be considered valid and existing if the concerned applicant had timely and duly filed the Application for Survey and duly submitted the Survey Returns (if the Survey Order was issued).

Notwithstanding the preceding provisions of this section, a mining claim or lease/quarry application over which an order of rejection or cancellation has been issued shall not be considered valid and existing as of the date of issuance of such order.

SECTION 6. Notice of Abandonment of Mining Claims. The MGB Central/Regional Office shall cause the posting for two (2) consecutive weeks of a Notice identifying mining claims and lease/quarry applications that are determined not to be valid and existing pursuant to Section 5 hereof, on the Bulletin Board of the MGB Central Office and the concerned Regional Office. Any failure to post such Notice shall not render valid and existing any mining claim or lease/quarry application that would not otherwise be valid and existing under applicable laws and regulations.

The Notice must contain, among others, the complete name and address of the applicant, area location, date of filing of location, denomination of mining claims or lease/quarry applications and reason/cause and effectivity of abandonment.

SECTION 7. Status of Abandoned Mining Claims and Lease/Quarry Applications Covered by Other Mining Applications. Where a mining claim or lease/quarry application is not considered to be valid and existing as defined in Section 5 hereof and consequently abandoned, it shall be deemed to have become open to Mining Applications upon the effectivity of its abandonment as determined by the Bureau or concerned Regional Office; Provided, That where a Mining Application was filed over all or part of the area covered by an abandoned claim/application on or after the date of effectivity of its abandonment, such area shall automatically be considered as part of such Mining Application, subject however to pertinent requirements under the IRR if such have not been complied with including, inter alia, the necessity of obtaining the appropriate area clearance and undergoing the posting, publication and radio announcement process.

In the event that more than one Mining Application had been filed over such area, the rights of the respective applicants to such area shall be determined under applicable laws and regulations. Under any of the foregoing circumstances, an applicant may elect by filing a notice with the Regional Office not to have the area covered by the abandoned mining claim or lease/quarry application automatically included in its Mining Application.

SECTION 8. Claimants/Applicants Required to File Mineral Agreement Applications. Only holders of mining claims and lease/quarry applications filed prior to the effectivity of the Act which are valid and existing as defined in Section 5