

# 자원개발 진출 가이드

필리핀

**kotra**

Korea Trade-Investment  
Promotion Agency

# 머리말

우리공사는 지난 8월 호주, 뉴질랜드, 인도네시아 등 아시아대양주 지역에 대한 자원개발 현지진출 방법과 절차를 소개하는 ‘아시아·대양주 자원개발진출가이드 I’을 1차로 발간한 바 있습니다.

그동안 동지역은 풍부한 자원부존에도 불구하고 호주, 인도네시아 등 몇몇 나라를 제외하고는 대다수의 국가가 열악한 인프라 및 투자환경으로 인해 우리기업의 진출이 활발하지 못하였습니다. 그러나 향후 정치안정과 투자여건이 우호적으로 조성될 경우 미얀마의 원유, 파키스탄의 천연가스와 같이 아시아·대양주 지역의 자원개발 사업기회와 유망성은 다른 어느 지역보다 높다고 할 수 있겠습니다.

이번에 발간하는 ‘아시아·대양주 자원개발진출가이드 II’에서는 진출 유망 대상국에 필리핀, 베트남, 미얀마, 태국, 스리랑카, 말레이시아, 파키스탄 7개국을 추가하여 각국의 부존자원 및 자원개발 현황, 자원개발 제도 및 절차, 우리기업의 유망 진출분야 및 시사점 등을 수록하였습니다. 아울러 현지 자원개발 관련 법령 및 각종 행정서식 등 실무적인 자료 등을 부록으로 첨부하여 현지진출시 실질적인 참고자료로 활용될 수 있도록 하였습니다.

아무쪼록 금번자료가 우리기업이 아시아대양주지역으로 자원개발 사업 진출시 유용한 길잡이가 됨으로써 해외자원확보라는 소기의 성과를 달성하는데 큰 도움이 되었으면 하는 바람입니다.

끝으로 이번 책자가 발간될 수 있도록 현지에서 자료수집 및 보고서 작성에 힘써주신 아시아대양주 한국비즈니스센터와 자원건설플랜트팀 여러분의 노고에 진심으로 감사를 드립니다.

2008년 12월

해외사업본부장 박기식

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# **자원개발 진출환경**

## I. 자원개발 진출환경

### ■ 세계 자원보유 및 생산 면에서 주재국의 위상

- 필리핀은 세계적으로 중요한 광물매장 국가로 알려져 있으며 국토의 30%에 해당하는 900만 헥타르 지역에 광물 매장 가능성이 매우 높은 것으로 추정됨. 이중 2%미만 지역만 개발이 이루어지고 있어 향후 개발 가능성이 매우 높음. 또한 광물자원 매장량과 개발 가능성에 있어, 아시아-태평양 지역에서 인도네시아 다음으로 2위를 차지하고 있음.
- 필리핀은 동, 니켈, 철, 보크사이트 등과 같은 15가지 이상의 금속성 광물과 석회석, 대리석, 현무암, 규토와 같은 20가지 이상의 비금속성 광물을 다량 보유하고 있으며, 그중 동, 크롬, 니켈, 금, 은 등의 금속성 광물자원이 풍부한 편임. 필리핀 광업 보고서에 따르면 금의 매장량은 9.57억 톤, 동은 53억 톤으로 가치 환산 시 약 1천억 불로 세계 5위의 매장량을 보유한 것으로 알려짐.
- 필리핀에 매장되어 있는 12종의 주요 금속성 광물 중, 동(Copper), 크롬(Chromite), 니켈(Nickel), 금(Gold), 은(Silver) 등이 대표적이며, 그 중 크롬(Chromite), 니켈(Nickel), 금(Gold)의 생산량은 세계 20위권 내에 있음(2004년 기준).

### ■ 자원개발 정부정책 방향

- 1995년 3월 필리핀 정부는 광산업 개발을 통한 경제 활성화를 위해 ‘필리핀 광업법(Philippine Mining Act-Republic Act 7942)’을 제정함. 이 법의 주요 내용은 광산개발에 있어서 정부가 보다 적극적인

역할을 수행할 수 있도록 법률적인 지원과 광업부문에 대한 외국인 투자의 참여폭을 확대하는 내용임.

- 2004년 1월 16일, 필리핀 정부는 국가 공업정책의 통합과 개발 가능한 광물자원에 대한 정부의 전폭적인 지원을 골자로 한 행정 명령 207호(Title: The National Policy Agenda on Revitalizing Mining in the Philippines)를 발표하였으며, 그 목적은 크게 경제 성장을 위한 광물자원의 탐사, 개발 및 활용 촉진, 공정성과 평등을 기초로 한 지속가능한 광물자원의 개발원칙 지지, 필리핀 주권에 대한 국민의 문화적 감정 존중 등 세 가지로 볼 수 있음.
- 2004년 12월 1일, 대법원은 지난 2004년 1월에 판결한 광업법 위헌 결정을 번복하고 1995년에 제정된 필리핀 광업법의 합헌성을 확인하였고, 2005년 1월 말 고등법원은 대법원의 판단에 따라 1995년도 필리핀 광업법의 합헌성을 확정 판결하였음. 이에 따라 그간 위축되었던 필리핀 광물자원에 대한 대대적인 탐사, 개발 및 활용을 위한 외국인의 관심이 되살아나게 됨.
- 2005년 1월 고등법원의 광업법 합헌 판결이후 필리핀 광업회의소(시설 기관; Chamber of Mines On the Philippines)는 외국인에게 제한되었던 일부 규제요건을 합리화 또는 간소화시켰으며, 2005년 1월 개최한 중국에 대한 광업 투자 로드쇼를 통해 중국 업체들로부터 130억 불의 투자 유치와 2건의 양해각서를 체결함.
- 필리핀 광산회의소는 2005년 2월 국제 광업투자 회의를 개최하여 호주, 캐나다, 중국, 인도, 일본, 한국, 러시아, 미국, 영국, 태국 등 10개국으로부터 필리핀 협력체와 29개 양해각서 및 의향서를 체결하고, 약 50억 불이 23개 프로젝트에 신규 투자 계약됨.

- 2007년 아로요 대통령은 광산업에 대한 투자를 유치하기 위하여 일본, 호주, 뉴질랜드를 직접 방문하여 홍보했으며 연말에는 광산투자 분배 합리화를 위해 Administrative Order No 2007-12를 시행하는 등 투자 여건 개선 및 외국인 투자유치를 위해 적극적인 모습을 보이고 있음.

## ■ 민간 및 외국인 투자 동향

- 1995년 이전까지는 광업부문은 내국인 투자로 한정되었고 민간 중심의 자율적 투자로 인해 실제적으로 필리핀 경제에 미치는 영향력은 적었음. 그러나 1995년 광산법(Republic Act 7942; 1995년)제정 및 공표를 통해 광물 자원에 대해 외국인의 참여를 활성화하여 외국인 투자가 급증하다가 1997년 아시아 금융위기로 다시 감소세를 보임.
- 2004년부터 광산업 투자가 재개되어 지난 4년간(2004년~2007년) 총 40개의 운영과 탐사 프로젝트에 대해 14억 달러의 투자가 이루어짐. 필리핀 정부의 2008년 4월 발표 자료에 따르면 2011년까지 광산업 투자는 90억 불에 이르고 향후 4년간 5배가량의 투자가 이루어질 전망이다.
- 필리핀은 서비스 및 농업 중심의 국가로서 광산업과 같이 대규모 투자자금이 필요한 분야는 자금 부족으로 주로 외국인 투자에 의존하고 있음. 현재 주요 투자국은 호주, 캐나다, 미국, 영국, 한국, 일본, 중국, 노르웨이 등임. 24개의 주요 광물개발 계획 중 호주, 캐나다 등 8개국 19개 외국 기업이 14개의 주요 광물 개발 계획에 파트너십(Partnership) 형태로 참여하고 있음.
- 2007년 기준 허가된 광산 투자는 총 137억 불을 기록(전체 투자의 3.57%)했으며 이중 96억 불이 외국인 직접투자임. 이는 2003년 광산 투자액 대비 2.5배 증가한 수치로 2003년 이후 꾸준한 증가세 시현

## 〈2007년 필리핀 투자 통계〉

(단위 : US\$백만)

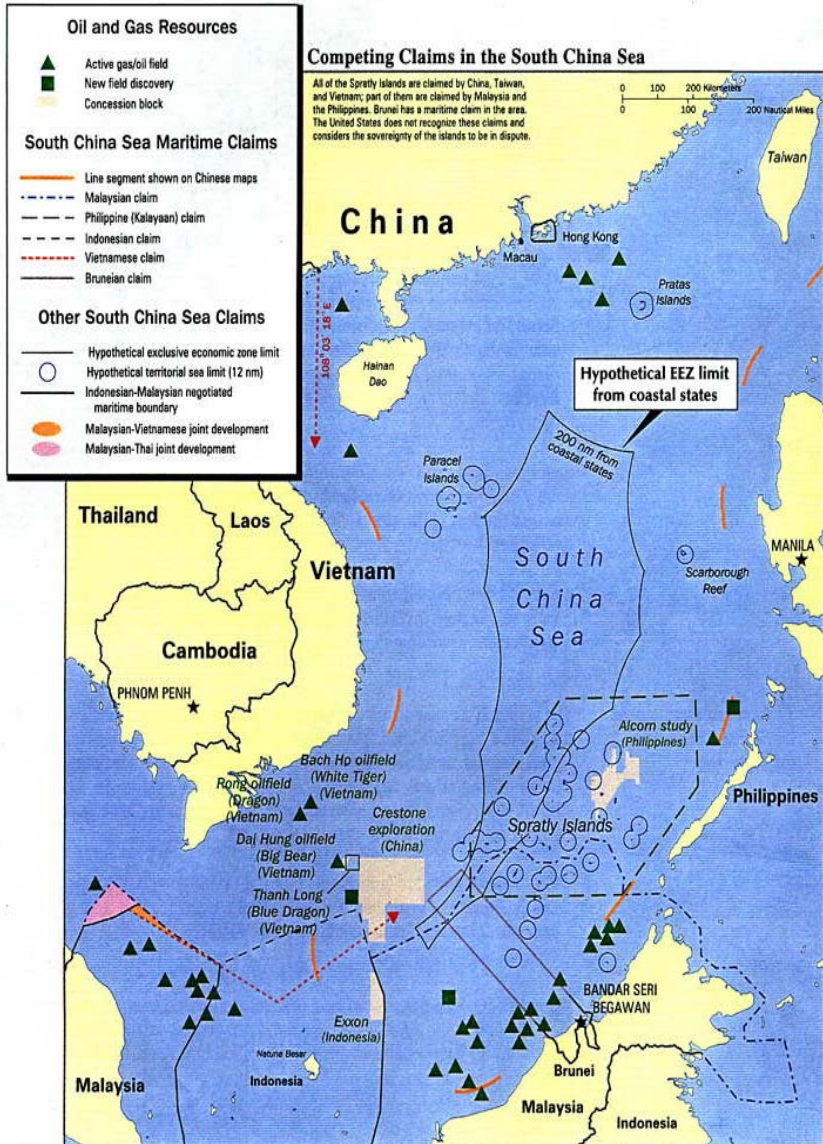
산업	1Q2007	2Q2007	3Q2007	4Q2007	TOTAL	백분율
농업	25.1	625.5	106.9	1,098.6	1,856	0.48%
통신	2.9	-	-	14,218.9	14,222	3.69%
건설	113.5	34.2	33.3	13,908.7	14,090	3.65%
전기	10,847.1	52,001.30	2,635.6	73,594.3	139,078	36.05%
금융/부동산	5,270.80	14,552.0	15,525.7	19,578.5	54,927	14.24%
석유	-	-	533.4	27.6	561	0.15%
생산	15,909.1	32,539.6	29,094.6	17,133.4	94,677	24.54%
광업	333.4	1,522.2	2,302.7	9,617.4	13,776	3.57%
민간 서비스	6,442.3	9,106.9	5,571.2	16,510.9	37,631	9.75%
창고	-	958.7	375.2	6.6	1,341	0.35%
무역	377.5	9.0	78.2	315.1	780	0.20%
운송	2,387.7	599.7	4,868.1	2,473.3	10,329	2.68%
수도	-	-	-	2,537.0	2,537	0.66%
전체	41,709.4	111,949.1	61,124.90	171,020.3	385,803.7	100%

자료원 : Board of Investment

## 인근국과의 관계

- 필리핀, 중국, 베트남이 인접해 있는 남중국해(South China Sea)에 대량의 유전이 있는 것으로 추정되어, 유전을 확보하기 위해 3국간 영해분쟁이 나타나고 있음.
- 필리핀은 소규모 섬을 중심으로 영해를 넓히기 위해 노력하고 있고, 중국은 역사학적으로 남중국해는 중국의 영해이기 때문에 유전에 대한 소유권은 중국에게 있다고 주장하고 있으며, 베트남도 역사학적인 증거를 제시하며 자국의 소유라고 주장하고 있음.

## 〈남중국해 (South China Sea)〉



자료원 : CIA Maps and Publications for the Public



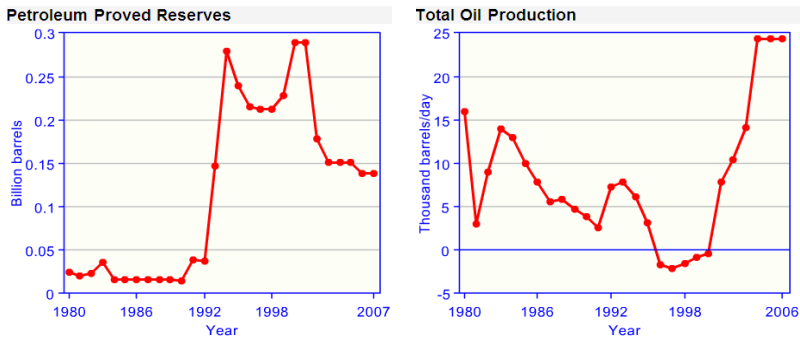
## **부존자원 현황**

## II. 부존자원 현황

### ■ 석유 · 가스 및 전략광종

- 필리핀의 전체 석유 매장량은 138백만 배럴이나 현재까지 충분한 투자가 이루어지지 않았음. 2006년 3/4분기까지의 유전 생산량은 일일 약 25,000배럴임.

〈필리핀 석유 매장량 및 일일 생산량〉



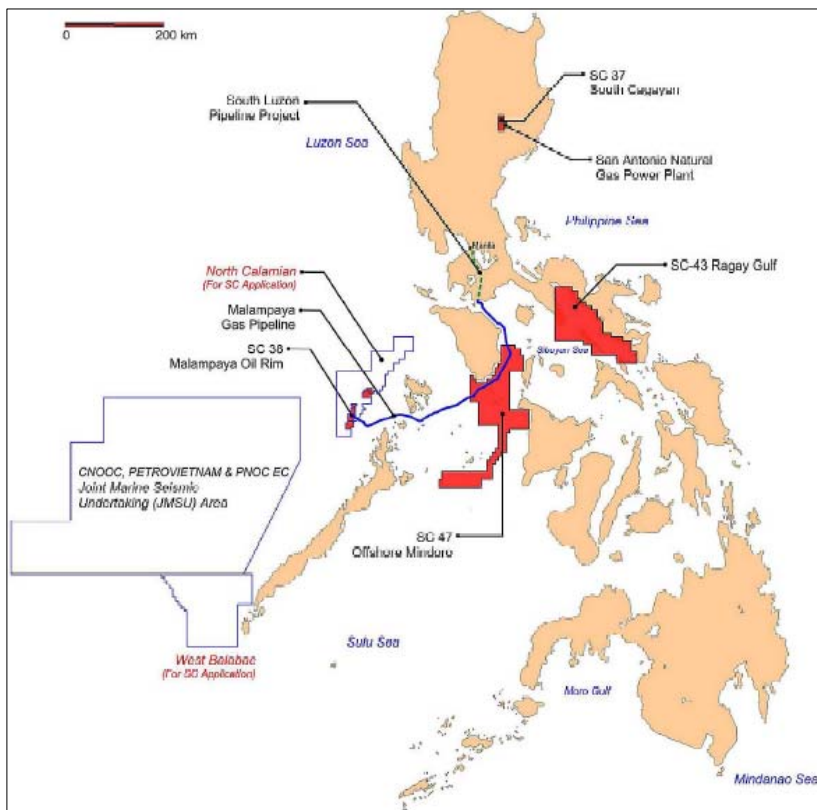
참고 : Total Oil Production표의 마이너스는 정련 처리 손실을 의미

자료원 : EIA(International Energy Data and Analysis)

- 현재 필리핀 유전은 28개로, 필리핀 전역에 고르게 분포되어 있으나 대부분의 유전이 필리핀 중심부인 팔라완, 세부, 보홀 지역에 밀집되어 있음.
- 말라파야 유전에는 약 5천만 배럴의 석유 매장이 추정되는데 셀과 셉브론탭사코가 각각 45%, PNOC (Philippine National Oil Company)가 10% 지분을 보유하고 있음. 현재 기술적인 문제로 인해 개발이 중단된 상태로 2008년 3월 아로요 대통령이 신규 투자가

모집 발표. 이 유전은 과거 한국가스공사에서 투자의사를 밝혔다가 지분인수가격 조건이 맞지 않아 현지 진출을 포기한바 있음.

### 〈필리핀 석유 유전 지역〉



참고 : 추정지역은 적색으로 표기

- 천연가스 매장량은 3.8조 큐빅피트(TCF; Trillion Cubic Feet)로 추정되고 있으나, 실질적인 생산은 이루어지고 있지 않음.

### ○ 6대 전략광종 매장 현황

- 2000년 필리핀 광산지구과학국(MGB; Mines and Geosciences Bureau) 통계자료에 따르면 한국 6대 전략광종 중 철이 차지하고 있는 비중은 전체 금속성 광물중 약 59% 차지. 철을 제외한 6대 전략광종이 차지하고 있는 비중은 크지 않음. 보크사이트는 전체 광물의 약 28.8%, 야금 크롬과 동이 각각 약 3.1%, 니켈 약 1.8%, 기타 광물 4.2%의 순으로 확인됨.

### ■ 주재국 대표적 부존자원 현황

- 2000년 기준 필리핀의 주요 자원보유 현황(채산성 및 경제성 기준)에서 '철(Iron)'은 필리핀 전체 금속성 광물 중 가장 많은 약 59%를 차지하고 있으며, 그 외에 보크사이트 매장량이 약 28.8%

#### 〈주요 자원 보유 현황〉

(단위: 톤)

구 분	필리핀 매장량	세계 매장량	세계 비중(%)*
동(Copper)	26,364,387	550,000,000	4.79%
니켈(Nickel)	5,200,000	140,000,000	3.71%
철(Iron)	502,197,970	800,000,000,000	0.06%
보크사이트(Bauxite)	244,944,384	75,000,000,000	0.33%
금(Gold)	1,021	33,000	3.09%
몰리브덴(Molybdenum)	244,965	18,400,000	1.33%
크롬(Chromite)	11,015,384	12,000,000,000	0.09%
수은(Mercury)	4,990	600,000	0.83%
납(Lead)	3,475	1,500,000,000	0.00%
아연(Zinc)	3,793	1,900,000,000	0.00%

참고 : 세계 비중\*은 세계 매장량(예상치)과 필리핀 매장량과의 비교임.

자료원 : U.S. Geological Survey-Mineral Commodity Summaries 2005 & Minerals Handbook 2004

- 필리핀 금속성 광물의 경우, 생산량에 비해 매장량이 풍부하므로 향후 더 많은 자원개발 계획의 추진이 예상된다.
- 지난 25년간 필리핀의 광물자원 중 생산액 비율로 볼 때 약 61%가 금속성 광물을 가공한 생산품이며, 그중 니켈이 약 89.27%로 생산액 측면에서 가장 대표적인 생산품이며, 그 다음으로 동(약 7.397%), 크롬(약 3.06%) 순임.

### 〈주요 자원 생산량(Volume) 현황〉

분류 \ 년도		단위	2002	2003	2004	2005	증감률 (%)	
귀금속류	금(Gold)	천KG	35.9	37.8	35.5	37.5	5.63%	
	은(Silver)	천KG	8.8	9.5	9.3	19.2	106.45%	
일반금속류	크롬	Chemical Grade	천 톤	15.1	20.6	21.5	16.2	-24.65%
		Metallurgical Concentrate	천 톤	2.2	-	7.7	15.0	94.81%
		Metallurgical Ore	천 톤	-	-	4.8	5.0	4.17%
		Refractory Ore	천 톤	4.7	13.2	8.1	1.8	-77.78%
	동	Concentrate	천 톤	79.2	80.9	70.6	75.3	6.66%
		Metal	천 톤	18.4	20.4	16	16.3	1.88%
	철(Iron Ore)		천 톤	3.0	4.0	3.3	3.4	3.03%
	망간(Manganese)		천 톤	-	-	-	-	-
	니켈	Beneficiated Ore	천 톤	1,200.2	962.5	874.2	1,106.8	26.61%

자료원 : Philippine Statistical Yearbook (2007)



## **자원개발 현황**

## III. 자원개발 현황

### 1. 탐사/생산/개발 동향

#### ■ 진행 중인 자원탐사/개발/생산 사업

- 필리핀 광산지구과학국(Mines and Geosciences Bureau)에서 발표한 24개의 주요 광물개발 계획 중 23개 프로젝트가 금속성 광물의 개발 계획이며, 이것은 크게 「운영 단계(Operating Stage)」, 「건설 및 개발 단계(Construction and Development Stage)」, 「최종 사업 타당성 및 재정 조사 단계(Final Feasibility and Financing Stage)」, 「사전 사업 타당성 및 진척된 탐사 단계(Pre-Feasibility and Advance Exploration Stage)」, 「탐사 단계(Exploration Stage)」, 「입찰 단계(For Bidding)」, 및 「재활용 단계(For Rehabilitation)」 등의 7가지로 나눌 수 있음.

STATUS	PROJECT	2006	2007	2008	2009	Remarks
OPERATING	<ul style="list-style-type: none"> <li>Palawan HPP</li> <li>Rapu-Rapu</li> <li>Canatuan</li> <li>Teresa</li> <li>Sto. Tomas II</li> </ul>					Started March 2005 Started July 2005 Ongoing expansion Operating Inauguration - Nov 14 '05
CONSTRUCTION & DEVELOPMENT	<ul style="list-style-type: none"> <li>ACT Project</li> <li>Didipio</li> </ul>		Sept 2007			Contracting stage Contracting stage
FINAL FEASIBILITY	<ul style="list-style-type: none"> <li>Akle Cement</li> <li>Toledo</li> <li>Masbate</li> <li>King King Cu-Au</li> <li>Nonoc</li> <li>Far-Southeast</li> <li>Ilogon</li> </ul>		Sept 2007		By 2009	Plant site preparation Rehabilitation Final feasibility For Financing Final FS/financing Tech I review / financing Rehab/for financing
ADV. EXPLORATION & PRE-FEASIBILITY	<ul style="list-style-type: none"> <li>Siana</li> <li>Colet</li> <li>Tampakan</li> <li>Boyongan</li> </ul>		By 2008	By 2008	By 2009	Final pre-feasibility Infill drilling Drilling Drilling / Pre-feasibility
EXPLORATION STAGE	<ul style="list-style-type: none"> <li>Diwalwal</li> <li>Hallmark</li> <li>Mindoro Nickel</li> </ul>				2010 2011 2010	Drilling below 600 ml Exploration drilling Social preparation
OTHERS	<ul style="list-style-type: none"> <li>San Antonio</li> <li>Batong Buhay</li> <li>Amacan</li> </ul>				Rehab 2010 2010	Subject to final rehab For bidding For bidding

자료원 : Department of Environment and Natural Resources

## ■ 탐사 단계(Exploration Stage)

- 주요 광물 개발 프로젝트 24개중 3곳이 현재 탐사 단계에 있음. 프로젝트명은 Diwalwal Direct State Development, Hallmark (Pujada) Nickel Project, Mindoro Nickel Project 등임. 그 외 소규모 광물 개발계획은 42개가 있으며, 이중 18개 광산은 실질적으로 탐사가 이루어지고 있고 24개의 광산은 탐사 가능 지역임.

### 〈탐사 단계 프로젝트 주요 현황〉

명칭	생산품	매장량(톤)	진행상황	기한(년)
Diwalwal Direct State Development Project	금, 은	25.64	· 11개의 시추구(1,003m) 완성 · 2006년 4월 까지 총 27개의 시추구 완성 예정	25
Pujada Nickel Project	니켈	2,600,000	· 4004개의 시추구(7,393m) 완성 · 2009년 상업적 가동이 시작될 예정	-
Mindoro Nickel Project	니켈,	940,000	· 2005년 중국의 Jilin과 양해각서(MOU) 체결	25
	코발트	70,000		

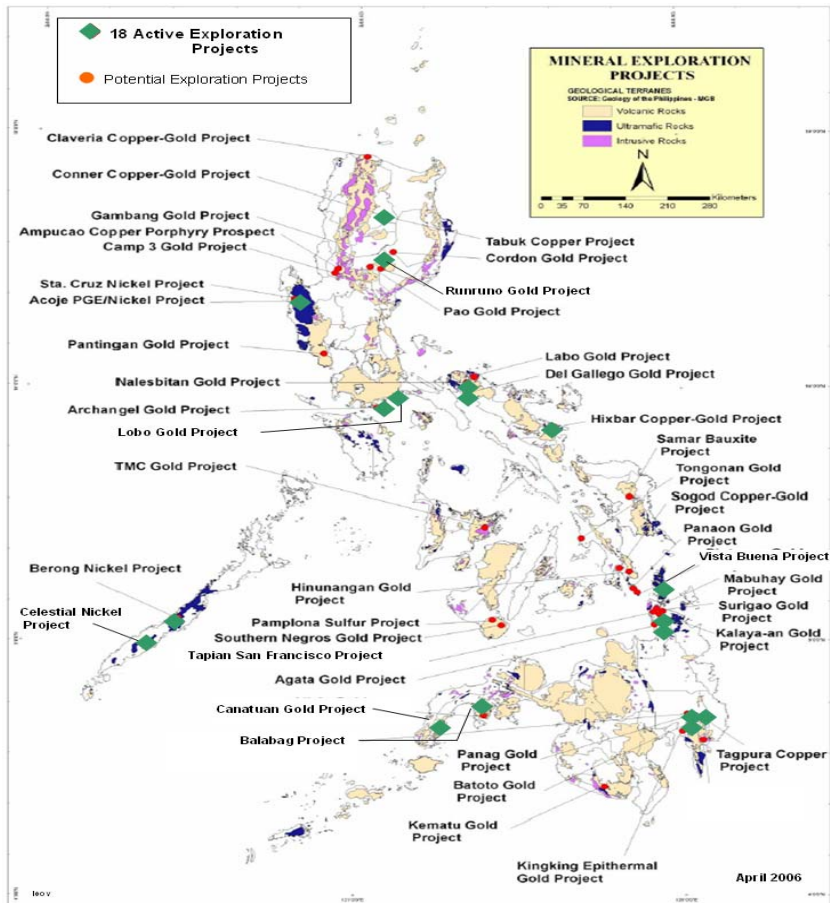
참고 : 매장량은 총 매장량 중 채산성 또는 경제성 있는 광물자원의 중량

자료원 : Department of Environment and Natural Resources

### ■ 사전 사업 타당성 및 진척된 탐사 단계

- 사전 사업 타당성 및 진척된 탐사 단계(Pre-Feasibility and Advance Exploration Stage)에는 총 4개의 프로젝트가 있으며 호주, 미국, 영국 등의 3개 국가가 참여하고 있음. 그중 Colet Copper-Gold Project는 호주의 Indophil Resource Phils.와 미국의 Xtrata Holdings가 대주주로서 사업에 참여하고 있음.

### 〈소규모 광산 프로젝트 탐사도〉



자료원 : Department of Environment and Natural Resources

## 〈사전 사업 타당성 및 진척된 탐사 단계 프로젝트 주요 현황〉

명칭	면적 (Ha)	생산품	매장량(톤)	진행상황	기한 (년)
Siana Gold Project	2,024	금	금(30.87)	· Red V Ltd는 Siana Gold 프로젝트의 사전 타당성 조사를 마쳤고, Siana 매장지(10,816m) 안에 27개의 시추구와 광물 주변(5,420m)에 16개의 시추구를 완성함.	-
Colet Copper-Gold Project	-	동, 몰리브덴, 금, 은	동(1,352,900) 몰리브덴(14,160) 금(815) 동(332,238)	· 62개의 시추구 중 14의 infill drilling(2,195m) 완성 · 2008년 12월 성공이 가능한 타당성조사가 마무리 될 예정 (견적액 US\$2.1백만)	15
Tampakan Copper Project	31,560	동, 금, 은	동(6,757,500) 금(270.3)	· 48개의 시추구 완성 (18,539m) · 사전 타당성 조사 진행 중	
Boyongan Copper Project	2,880	동, 금	동(1,800,000) 금(300)	· 총 자원량을 219백만 톤으로 윤곽을 잡음. · 2010년까지 drilling/사전타당성 조사 완료 예정	10

참고 : 매장량은 총 매장량 중 채산성 또는 경제성 있는 광물자원의 중량

자료원 : Mines and Geosciences Bureau

## ■ 최종 사업타당성 및 진척된 탐사 단계

- 최종 사업 타당성 및 재정 조사 단계(Final Feasibility and Financing Stage)에는 총 7개의 주요 Project가 있으며 그중 6개가 금속성 광물개발 계획임.

## 〈최종 사업 타당성 및 재정 조사 단계 프로젝트 주요 현황〉

명칭	매장량	진행상황	기한 (년)
Akle Cement Project	6.57억 MT 석회	<ul style="list-style-type: none"> <li>· 2005년 개발 및 광산 개발 시작</li> <li>· 2009년 상업화 시작 예상</li> </ul>	-
Carmen (Toledo) Copper Project	8.738억 MT 구리: 0.41%	<ul style="list-style-type: none"> <li>· 광물 계획의 마무리 단계 진행 중, 설비 및 토지의 재활용 진행 중</li> <li>· ACMDC*는 Carmen Coppr Corp을 통해 미화 15만 불의 재사용 건을 최종적으로 조정 중</li> <li>· 외국계 제련업자와 판매를 위한 협상 중</li> <li>· DMF(Declaration of Mining Feasibility) 제출 필요</li> </ul>	12
Masbate Gold Project	71.3백만 MT 금: 1.35 g/t	<ul style="list-style-type: none"> <li>· 광물계획과 타당성B조사의 마무리 단계 진행 중</li> </ul>	8
King-King Copper-Gold Project	3.53억 MT 구리: 0.385% 금: 0.439 g/t	<ul style="list-style-type: none"> <li>· 매장 광량(Ore reserves)이 이미 막힘.</li> <li>· 건설과 개발을 위해 준비됨.</li> <li>· 가능한 Joint Venue 파트너 모색</li> <li>· DMF(Declaration of Mining Feasibility) 제출 필요</li> </ul>	14
Nonoc Nickel Project	63.2백만 MT 홍토: 1.12%	<ul style="list-style-type: none"> <li>· Jinchuan에게 니켈 2톤을 과정 확인 시험을 위해 보냈음.</li> <li>· 2005년 9월 Jinchuan사는 생산 및 보조 설비를 조사하기 위해 Nonoc섬을 방문</li> </ul>	-
Far Southeast Gold Project	1.63억 MT 금: 1.76 g/t 구리 0.81%	<ul style="list-style-type: none"> <li>· Ivanhoe Mines에 의한 연구</li> <li>· 과거에 진행된 타당성 조사에 대한 재검토</li> </ul>	-
Itogon Gold Project	32백만 MT 금: 3.3g/t	<ul style="list-style-type: none"> <li>· Itogon Gold Project는 자금과 사업파트너를 위한 공급원임</li> <li>· Itogon-Suyoc Mins, Inc.는 지하탐사, 지속적인 유지, 및 자산 관리를 하고 있음.</li> </ul>	10

참고 : 매장량은 총 매장량 중 채산성 또는 경제성 있는 광물자원의 중량

주 : ACMDC는 Atlas Consolidated Mining and Development Corp.

자료원 : Mines and Geosciences Bureau

### ■ 건설 및 개발 단계

- 건설 및 개발 단계(Construction and Development Stage)에는 총 2개의 프로젝트가 있으며 호주의 3개 회사가 참여하고 있음. 그중 Didipio Copper-Gold Project에는 호주의 Climax Mining Ltd가 대주주로서 참여하고 있음.

#### 〈건설 및 개발 단계 프로젝트 주요 현황〉

명칭	매장량	진행상황	기한(년)
Adlay-Cagdiano-Tandawa(ACT) Nickel Project	8.9백만 MT 니켈: 1.53% 코발트: 0.144% 철: 36.9%	· '05-9-21 DMF(Declaration of Mining Feasibility) 승인 · '06년 건설, 개발계획 수립 · '07년 전면 가동 돌입	17
Didipio Copper-Gold Project	20백만 MT 금: 1.7g/t 동: 0.65%	· '05-10-11 DMF(Declaration of Mining Feasibility) 승인 · 토지 확보를 위한 협상 진행 중 · 재정적 계획 수립 중	15

자료원 : Department of Environment and Natural Resources

### ■ 운영 단계

- 운영 단계(Operating Stage)에는 현재 총 5가지의 Project가 있으며 그 중 Rapu-Rapu Polymetallic Project에 우리나라의 LG상사와 대한광업진흥공사(KORES)가 70%의 지분으로 참여하고 있는 중임.

## 〈운영 단계 프로젝트 주요 현황〉

명칭	매장량	진행상황	기한(년)
Palawan Nickel Project	11.5백만 MT 니켈 2.3%	· '05-4-13 니켈 가공공장 개관 · '05-9 생산 목표치 달성	20
Rapu-Rapu Polymetallic Project	5.9백만 MT 구리: 1.2% 금: 2.5 g/t 은: 28 g/t Zn: 2.1%	· '05-7-19 최초 금 생산 · '05-8-31 첫 번째 금 선적 · 금속설비 건설 중	7
Canatuan Silver-Gold Project	964.763 MT 금: 3.81 g/t 은: 142.6 g/t	· 2003년 상업적 가동 시작 · 하루 1,200톤 채굴 가능 · DMF(Declaration of Mining Feasibility) 제출 필요	5
Teresa Gold Project	73백만 MT 금: 5.29g/t 은: 0.19g/t	· '04-4 최초 광물 생산 개발 및 탐사 진행 중 하루 2,000톤 채굴 DMF(Declaration of Mining Feasibility) 제출 필요	-
Padcal (Sto. Tomas II) Copper Expansion Project	49.5백만 MT 구리: 0.29% 금: 0.79%	· 2005년 11월 가동 시작 · 하루 300톤 채굴 가능	6~7

참고 : 매장량은 총 매장량 중 채산성 또는 경제성 있는 광물자원의 중량  
 자료원 : Mines and Geosciences Bureau

## ■ 입찰 단계

### ○ Batong-Buhay Gold Project

- 1934년 설립된 Batong Buhay Gold Mines Inc.는 지하 금 광산 개발과 300여개의 TPD PLANT를 건설하였으며, 2차 세계대전 중 광산이 파괴되어 영업을 중단하게 되었음.

- 1969년~1970년에 BBGMI의 의뢰로 Nippon Mining Co.(일본)에 의해서 탐사가 이루어졌고, 1977~1978년에는 BBGMI가 자체적으로 17개의 탐사구(Exploration holes)에서 탐사를 실시함. 1979년 12월에는 필리핀 개발은행(Development Bank of the Philippines) 감독 하에 Philex Mining Corporation과 BBGMI의 합작을 통해 광산을 재운영하게 되었음.
- 1984년 생산량은 926,478DMT며 광물 비율은 1.25%로 타 프로젝트에 비하여 광물의 순도가 상당히 높았으나, 폭동으로 인해 폐업하였고 현재 소유권은 Natural Resources Mining Development Corporation에 있음. 2006년 4월 7일부로 입찰 단계에 머물러 있음.

#### 〈Batong-Buhay Gold Project〉

위치	Pasil, Kalinga-Apayao
경도/위도	7° 11' 30" N 125° 58' 30" E
Tenement	MLC(Mining Lease Contract)
Tenement Holder	Batong Buhay Gold Mines Inc. (최초 신청) NRMDC (소유권 이전)
주주	Antonio Tankian / PMO
외국파트너	N/A
광물	금, 은
매장량	8.69천만 M/T 동 0.599% / 금 0.253 g/t
생산량	입찰 단계 / 생산 중단
근황	Phelps Dodge가 입찰에 관심 표명

자료원 : Mines and Geosciences Bureau

## ○ Amacan Copper Project

- 1981년부터 1992년까지 Davao Mining Corporation에 의해서 운영되었으나 자산문제로 인해 부도 처리되었음. 이후 Assets Privatization Trust(APT)로 소유권이 이전되었으나 Privatization Management Office(PMO)에서 47억 페소를 APT에 지불하고 양도받았음. 자산의 일부분은 PMO에 의해서 처분되었음.
- 입찰을 위해서 소유권이 NRMDC로 이전될 것이며, 생산물 분배 계획의 광업법 시효가 만료되어 연장을 요함.

## 〈Amacan Copper Proejct〉

위치	Mabini, Compostela Velley
경도/위도	7°21'20" N 126°04'15" E
Tenement	FTAA
Tenement Holder	North Davao Mining Corporation (최초 신청) NRMDC (소유권 이전)
주주	PMO
외국파트너	N/A
광물	구리, 금
매장량	6.2천만 M/T 동 0.34% / 금 0.412 g/t
생산량	입찰 단계 / 생산 중단
근황	소유권 이전 (PMO → NRMDC) FTAA 기간 만료 / 재연장 필요

자료원 : Mines and Geosciences Bureau

### ■ 재활용 단계

- San Antonio Copper Project
  - 현재 San Antonio Copper Project는 재활용 단계로 광산 운영이 중단된 상태이며, 환경자원부(DENR)의 Marinduque Environment and Health Study의 세부 운영 계획안을 기다리고 있음.

### ■ 현지 주요 메이저 기업의 해외자원개발 전략 최근 추이

- 필리핀 국적의 유력한 자원개발 회사가 없음.

## 2. 외국인 자원개발 투자현황

### ■ 국별 외국인 자원개발 투자현황

- 24개의 주요 광물 개발계획 중, 현재 호주, 캐나다 등 8개국 19개 외국기업이 14개의 주요 광물 개발계획에 파트너십(Partnership)형태로 참여하고 있음. 그중 4개의 외국기업(TVI Pacific of Canada, Climax Mining Ltd., Indophil Resource Phils., Xtrata Holdings)은 자신들이 참여한 개발 계획에서 대주주로서 사업에 참여함.
- 8개 외국인 투자국 중 호주가 직접 또는 합동으로 참여하는 프로젝트가 6개로 가장 많으며, 캐나다(2), 영국(2), 미국(1), 한국(1), 일본(1), 중국(1), 노르웨이(1)로 각각 투자에 참여함.

### 〈주요 광물 개발 계획의 외국기업 참여 현황〉

국가	외국기업명	광물
노르웨이	Crew Minerals AS Norway	니켈, 코발트
미국	Anglo American Plc	구리, 금
일본	Pan Pacific Copper(a joint-venture company of Nippon Mining and Misui Mining)	구리, 금
영국	Toledo Copper Plc. of London	구리, 금, 은
	Copper Resources Corp.	구리, 몰리브덴, 금, 은
중국	Jinchuan Non Ferrous Corp.	니켈, 코발트
캐나다	TVI Pacific of Canada	금, 은
	Thistle Mining Cor. and Meridian Securities	금
한국 / 호주	한국(LG 상사, 광업진흥공사) 호주(Lafayette NL Australia)	구리, 금, 은, 아연
호주	QNI Phils. INC./ BHP Billiton	니켈, 철
	Indophil Resources Phils. Xtrata Holdings	구리, 금, 은
	Climax Mining Ltd.	금, 동
	BHP-Billiton, Queens and Nickel Inc.	니켈
	Red V Ltd.	금

자료원 : Mines and Geosciences Bureau

### ■ 광종별 외국인 자원개발 투자현황

#### ○ 금(Gold) / 구리(Copper)

- 2006년 8월 Avil Mining(호주)는 필리핀의 Itogon Suyoc Resources 지역의 평가 및 개발 합의서에 서명함. 이 지역은 루손섬에 위치한 Baguio시 동남쪽 12km 떨어진 곳으로 28백만 온스의 금과 2.3 백만 톤의 구리가 생산되고 있으며, 필리핀에서 금이 채굴되는 주요 지역 중에 하나임.

- 2006년 12월, Xstrata(호주)와 Indophil Resource(호주)는 필리핀 남부 Cotabato지역에서 채굴권을 획득하였고, Indophil Resource는 Cotabato지역에 금-구리 생산을 위해 2008년까지 U\$30억, 2010년까지 U\$10억만 달러를 투자할 계획을 세움. 이들은 Cotabato지역 내 Tampakan광산의 구리-금 프로젝트에도 참여하여 4,250kg의 금과 200,000톤의 구리를 채굴하고 있음.
- 2007년 1월 CGA(호주) 금광은 Thistle(남아프리카) 금광 회사와 함께 필리핀의 Masbate Gold Project의 지분을 100%(약 5,100만 달러)확보했는데 이 광산에 매장되어 있는 금은 약 5백만 온스로 추정되고 있음.
- 2007년 1월, 필리핀 및 외국계 9개사가 Diwalwal 금광 탐사 및 개발권 획득을 위한 입찰에 응찰했으나 소규모 광산업자들의 소유권 문제로 경매가 취소되었음. Sumitomo Metal Mining Corp. (일본), Netmont Mining Corp.(미국), Harmony Gold Mining Corp.(미국)는 이 프로젝트에 관심이 많은 것으로 알려짐.

#### ○ 니켈

- 2007년 2월, 최대 니켈 생산업체 Jinchuan Group(중국)은 팔라완 서쪽 니켈 광산지역의 실사가 이루어졌음. 이 회사는 니켈, 크롬, 철, 기타 광물 자원 탐사 및 개발에 대한 독점권을 가지고 있음.
- 2005년 11월 Sumimoto Metal Mining Corp.(일본)은 필리핀 광산업에 1억8,000만 달러를 추가적으로 투자할 것을 공표, 팔라완 섬 Rio Tuba 광산지역에 니켈-코발트/황산철 혼합 공장 건설에 착수하였음. Palawan Nickel Expansion Project는 필리핀 정부가 지정한 24개 광산 프로젝트중 하나임.

### ○ 구리

- 2007년 2월, Lafayette Philippine는 환경자원부는 Albay가 광산에 적합하다고 판단. 운영정지 명령을 해제함으로써 Rapu-Rapu 구리, 아연 채광 프로젝트 생산을 재기하였음. 총 투자액은 아직 공개되지 않았으며, 구리, 아연 생산량이 각각 30,000tpa, 40,000tpa에 달할 것으로 전망됨.
- 2006년 11월 한국의 LG상사와 대한광업진흥공사가 Rapu-Rapu광산의 구리채굴 프로젝트에 참여함. 라푸라푸 광산에서 향후 5년간 11,000톤의 구리를 채광할 것으로 예상하고 있음. 지분은 두 회사가 당초 26%를, Lafayette Mining(호주)이 74%를 소유했으나, 최근 한국 컨소시엄이 지분율을 70%까지 끌어올렸음.
- 2007년 1월 보고에 따르면, Atlas Consolidated Mining & Development Corp.의 자회사 Carmen Copper 는 세부에 위치한 Toledo 광산의 재개 및 복구를 위해서 약 U\$257백만을 투자할 예정에 있으며, 이 프로젝트는 투자청(BOI)의 투자인센티브가 적용되는 큰 사업 중 하나임.

### ○ 석탄

- 2007년 1월 APC Group은 석탄 외 다른 자원 탐사 프로젝트를 위하여 3년~5년 동안 U\$10 Million을 투자할 것이라 발표했으며, APC Group의 자회사인 Argorn Coal Resources Incorporated(ACRI)는 이미 필리핀 에너지자원부(DENR)로부터 석탄지역 운영에 대한 허가 계약을 받았음. 첫 번째 계약은 Masbate의 중부지역에 있는 2개의 석탄지역이며, 두 번째 계약은 Isabela의 북쪽지역의 위치한 3개의 석탄지역임. 이외에 Argorn은 Cebu, Quezon, Cotabato 지역에 석탄 운영에 관한 계약을 위한 서류를 준비 중에 있음.

- 필리핀 회사인 Abacus Consolidated Resources and Holdings는 Surigao del Sur 지역 석탄자원의 탐사 및 개발을 위해 필리핀 에너지자원부(DENR)와 계약을 체결했으며, 이를 위해 1,770만 페소를 투자할 것으로 예상하고 있음.

### ■ 단계별 외국인 자원개발 투자현황

- 필리핀 광업법은 자국의 광물 개발에 있어서 탐사권(EP; Exploration Permit), 광물 가공권(MPP ; Mineral Processing Permit), 재정 및 기술지원 계약(FTAA ; Financial or Technical Assistance Agreement), 및 생산물분배계약(MPSA ; Mineral Production Sharing Agreement) 등의 4가지 주요 광업권을 규정하고 있으며 지역별/단계별 현황은 다음과 같음.

#### 〈프로젝트 광업권 현황〉

프로젝트	운영자	지역	주광종	진행 상황
Acoje PGE	1. Crau Mineral Resources Corp. 2. Kinloch Resources Ltd. 3. Rusina Mining Ltd.	III	니켈, 백금	MPSA 완료
Agata Gold	Minimax Mineral Exploration Corp.	XIII	금	MPSA 완료
Ampucao CopperPorphyry	Benguet Corporation	CAR	동	광물특허권 취득
Archangel Gold	Gold Phils., Inc.	IV-A	금, 은	MPSA 완료
Alicia Gold	Philippine National Oil Company	IX	금, 동	EP* 취득
Batoto Gold	Philco Mining Corporation	XI	금	MPSA
Berong Nickel	Atlas Consolidated Mining	IV-B	니켈, 철	MPSA 신청 및 출원중

프로젝트	운영자	지역	주광종	진행 상황
Camp 3 Gold	Northern Luzon Exploration and Mining Company	CAR	금	EP 취득
Claveria Copper-Gold	Royal Northern Mining Corporation(Climax Arimco)	I	동, 금	EP 취득
Conner Copper-Gold	Cordillera Exploration Company (Newmont Phils.)	CAR	동, 금	EP 취득
Cordon Gold	Vulcan Industrial and Mining Corp.	II	동, 금	EP 신청 및 출원중
Del Gallego Gold	Kumakata Mining Co. Inc. (Phelps Dodge Explo. Corp.)	IV, V	동, 금	EP 취득
Gambang Gold	Oxiana Philippines, Inc.	CAR	동, 금	EP 취득
Hinonangan Gold	San Christo Mineral Exploration Corp.	VIII	금, 은	MPSA 완료
Hixbar Copper - Gold	Rapu-Rapu Minerals Inc.	V	동, 금, 은	MPSA 완료
Kalaya-an (Makalaya) Gold	Manila Mining Corp.	VIII	동, 금	EP 취득
Kematu Gold	Tribal Mining Corporation	XI	금, 은	MPSA 완료
King-king Epithermal Gold	Benguet Corporation	XI	동, 금	MPSA 완료
Labo Gold	Indophil Resources Phils Inc.	V	금, 은	MPSA 완료
Mabuhay Gold	All Acacia Resources Inc. (Pelican Resources Inc.)	XIII	금, 은	MPSA 신청 및 출원중
Manat Copper-Gold	Alsons Development and Investment Company	XI	동, 금	MPSA 완료
Nalesbitan Gold	El Dore Mining Corp.	V	금	광물 임대 계약 완료
Paco Copper-Gold	Coolabah Mining Corp. and Occidental Mining Corp. (Climax Mining NL)	XIII	동, 금	EP 취득
Panaon Gold	Buena Suerte Mining Corp.	VIII	금, 은	EP 취득

프로젝트	운영자	지역	주광종	진행 상황
Pamplona Sulfur	Altai Phils. Mining Corp. (Crew Minerals Phils, Inc)	VII	황	EP 취득
Panag Gold (COMVAL Area)	Philco Mining Corporation	XI	금	EP 취득
Pantingan Gold	Bataan Minerals Corp. Benguet Corporation	III	금, 은, 동	MPSA 완료
Pantuyan Gold	Vulcan Industrial and Mining Corp.	VIII	금	EP 취득
Pao Gold	Oxiana Phils. Inc..	II	금, 동	EP 취득
Papaya Copper-Gold	Laseter Mining Corporation (Climax Arimco)	II	금, 동	EP 취득
Road 5 M Gold	Boston Mineral Mining Corporation	XI	금, 동	EP 취득
Samar Bauxite	Alumina Mining Phil. Inc.	VIII	알루미늄	MPSA 완료
Sogod Copper-Gold	UP Mines Incorporated	VIII	동, 금	EP 취득
Surigao Gold	Buena Suerte Mining Corp.	XIII	금, 은	EP 취득
Southern Negros Gold	Philippine National Oil Company	VI	금, 동	EP 취득
Sta. Cruz Nickel	Benguet Corporation	III	니켈, 크롬, 백금	MPSA 완료
Tagpura Copper	Philco Mining Corporation	XI	동	EP 신청 및 출원 중
TMC Gold	Teresa Marble Corporation	VI	금, 동	MPSA 완료
Tabuk Copper	Wolfand Resources, Inc.	CAR	동, 납, 아연	EP 취득
Tongonan Gold	Philippine National Oil Company	VIII	금, 동, 은	EP 신청 및 출원 중

MPSA : 생산물분배계약; Mineral Production Sharing Agreement

EP : 광물 탐사권; Exploration Permit

자료원 : Mines and Geosciences Bureau

### 3. 우리나라 참여현황 및 전망

- 우리나라의 對필리핀 자원개발 진출사업은 총 13개이며, 누적 총 투자액은 약 U\$26,033천불임. 이중 현재 진행 중인 사업은 Lapu-Lapu 동광 프로젝트 1개 뿐임.

〈對필리핀 광물자원개발 사업 진출현황〉

광산명	단계	광종	위치	진출	종료	추진업체 (지분)	투자액 (천불)	현황
Lapu-Lapu	개발	동/금	라푸 라푸	2002		LG, 광진공(26%)	14,810	생산
T'boli	개발	금	루손	2004		KADI Korea(50%)	-	중단
Hinoban	개발	동	세부	2001		대진자원(70%)	-	중단
Cagayan	조사	금	민다 나오	2001		골드킹코리아(35%)	-	중단
Bohol	조사	망간	보홀	1994		도한광업(95%)	891	중단
마이닛바람게이	조사	금	루손	1995		우봉주(100%)	-	중단
금필	조사	금	보홀	1998		금해물산(100%)	-	중단
Cebu	개발	유연탄	세부	1997	1999	삼탄(60%)	2,183	종료
Didiopi	종료	동/금	루손	1999	2000	LG, 광진공(33%)	7,036	종료
Catanduanes	종료	유연탄	세부	1997	1998	삼탄(60%)	233	종료
Basay	종료	동	바사이	1991	1992	평산(100%)	266	종료
C-square	종료	크롬	보홀	1991	1993	한비(100%)	614	종료
계	13개	7개					26,033	

참고 : 광진공은 대한광업진흥공사

자료원 : 산업자원부 신고기준 (2006년 10월)

- 현재 필리핀 광물자원개발 계획에 한국의 대한광업진흥공사(KORES)와 LG상사가 참여하여, 구리 및 금을 생산하고 있으며, SK도 필리핀 광업시장에 진출하기 위한 활로를 모색하고 있음.

## 〈對필리핀 광물자원개발 참여현황〉

날짜	프로젝트명	국내 참여업체	내용	지분율(투자액)
2001년	Didipio Project	LG 상사, 광진공	2001년부터 개발 시작, 2003년에 Dingkidi 에서 Copper-Gold 생산, LG-Nikko에 공급	호주 Climax사 - 42% LG 상사 - 24% 영국국영은행 CDC - 16% 광진공 - 10%
2003년 2월 3일	Rapu-Rapu Polymetallic Project	LG 상사, 광진공	프로젝트 참여 계획 발표	-
2004년 6월 30일	-	광진공	광진공, DENR과의 필리핀 광물자원의 과학적 조사를 위한 양해각서(MOU) 체결	-
2004년 12월	Rapu-Rapu Polymetallic Project	LG 상사, 광진공	Rapu-Rapu 지역의 Copper 개발 착수 발표	호주 Lafayette사 - 76% (US\$3,500만) LG 상사 - 15.6% (US\$600만) 광진공 - 10.4% (US\$400만)
2005년 12월 12일	Rapu-Rapu Polymetallic Project	LG 상사, 광진공	2005년 12월 말 부터 Rapu-Rapu 지역의 Copper 생산 발표, 연간 구리 3만 8천 톤, 아연 2만 5천 톤 생산 예정; 한국 기업이 광물 판매권 확보	호주 Lafayette사 - 76% (US\$3,500만) LG 상사 - 15.6% (US\$600만) 광진공 - 10.4% (US\$400만)
2008년 4월 22일	Rapu-Rapu Polymetallic Project	LG 상사, 광진공	구리, 아연 등 복합광산 지분 70% 확보(주도적 경영권 취득)	LG상사 - 42% 광진공 - 28% MSC(Malaysia Smelting Corp.) - 30%

참고 : 광진공은 대한광업진흥공사임.

DENR - Department of Environment and Natural Resources

자료원 : LG 상사 및 대한광업진흥공사 보도 자료(2003, 2005, 2008)

- 2005년 12월 노무현 대통령의 필리핀 국빈 방문을 통해 필리핀과 광물자원의 개발, 협력 및 정보공유에 관한 양해각서(MOU)를 체결하였으며, 이를 통해 양국 간 광물자원 개발의 실질적인 협력을 구축하는 계기가 되었음.
- 대통령의 국빈방문 이후, 현재까지 급격한 투자확대는 없지만 향후 점차적으로 협력 확대가 가능할 전망이다.

### 〈우리기업 필리핀 광산투자 현황〉

#### LG상사, 필리핀 구리광산 인수

- 구리·아연 등 복합광산 지분 70% 확보…주도적 경영권 취득
- 비철금속 등 산업용원자재 해외개발 프로젝트 본격 가속화
- 인근지역 금·동광·니켈 등 유망광산 추가 확인

LG상사(대표이사 구본준 부회장)는 대한광업진흥공사와 16일(수) 홍콩에서 구리·아연 등이 생산되는 복합광산 필리핀 라푸라푸(Rapu Rapu) 프로젝트 합작개발을 위한 주주계약서 체결을 가졌다.

이번 계약은 한국 측 합작법인인 Philco(LG상사·대한광업진흥공사)의 라푸라푸 프로젝트에 대한 지분추가매입 건으로 한국 측은 기존 보유지분 26%를 포함해 총 70%(LG상사 42%, 광진공 28%)의 지분을 확보함으로써 광산에 대한 주도적 경영권을 취득, 라푸라푸 프로젝트의 개발 및 운영 그리고 판매를 주도할 수 있게 되었다. 나머지 지분 30%는 말레이시아 제련업체 MSC(Malaysia Smelting Corp.)社가 보유하고 있다.

라푸라푸 프로젝트의 전량 판매권을 보유한 LG상사는 이번 광진공과의 주도적 운영사업권 획득을 통해 구리 등 비철금속의 안정적이고 장기적인 공급기반을 확보할 수 있게 되었으며, 자원 및 산업용 원자재 전문상사로서의 위상을 공고히 해나갈 수 있는 계기를 마련하였다.

라푸라푸 프로젝트는 라푸라푸섬(필리핀 수도 마닐라가 위치한 루손섬 남동 375 km 부근에 위치) 남쪽 부근에 매장된 동정광 개발 사업으로 LG상사와 대한광업진흥공사가 6:4의 비율로 2007년 2월부터 생산에 들어갔다. 연간 구리 1만1천 톤, 아연 1만3천 톤의 생산 규모이며, 향후 지분인수 비용을 포함하여 총 4천340만 달러를 투자하여 프로젝트의 개발 및 운영에 대한 본격적인 박차를 가할 계획이다.

특히 LG상사는 지난 2000년 초부터 필리핀 라푸라푸 섬의 비철금속 자원경제성과 잠재성을 파악하여 라푸라푸 자원개발사업에 뛰어들어 섬 전체에 대한 광업권을 획득하는 등 필리핀에서 적극적인 자원개발사업 행보를 보여왔다.

LG상사의 이번 지분확대는 현 광업권 지역 내에서의 경제성뿐만 아니라 주변광구에서의 금함량이 높은 금·동광체 발견에 따른 것이다. 더욱이 LG상사는 라푸라푸 섬 서쪽 니켈 부존유망지역을 추가로 확보하는 등 다양한 프로젝트를 추진하고 있으며 가까운 미래에 가시적인 성과를 낼 수 있을 것으로 기대하고 있다.

자료원 : LG상사 홈페이지 (2008년 4월 22일자)



## **자원개발 제도 및 절차**

## IV. 자원개발 제도 및 절차

### 1. 자원개발 법령 및 제도

#### ■ 현지 정부의 자원개발 정책 기조

- 필리핀은 1991년 천연자원 및 기타 여러 부문의 외국인 투자 유치 및 활성화를 위해 종전의 투자법 중, 외국인들의 국내 진출 시 제약될 수 있는 요소들을 경감할 수 있는 새로운 외국인 투자 기본법 (Foreign Investment Act of 1991 - Republic Act No. 7042)을 수립했음.

#### 〈종합 투자법의 주요 내용〉

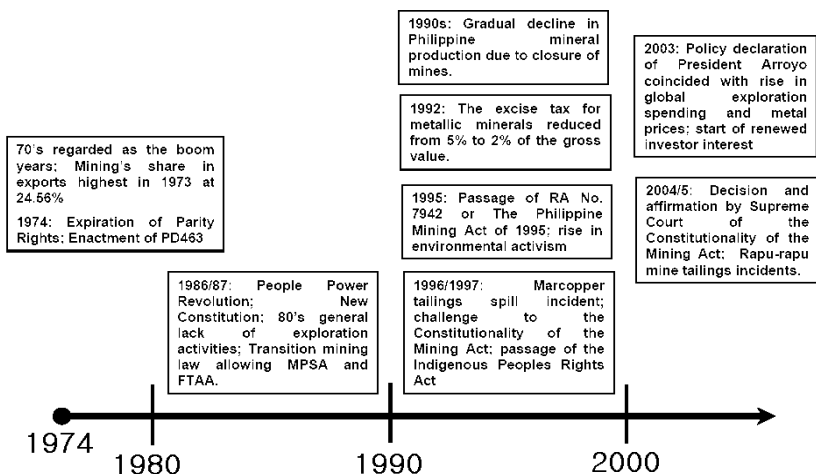
외국인 투자자의 기본적 권리	세제 혜택(Incentive)
투자금의 송환 시, 시장 환율에 따라 투자원금을 송환할 수 있는 권리	설립 후 4년간 소득세 (Income tax) 면제
투자과실로 인한 본국 송금 시, 투자시점의 환율로 송금할 수 있는 권리	광산개발(또는 위탁시설)을 위한 부품 및 광산개발용 자본재 수입 시 면세혜택
1. 국가의 공공복리를 위한 목적 이외의 기타 목적을 위한 투자 2. 몰수, 및 징발로부터 보호될 수 있는 권리	계약자와 관련된 세금(Contractor' Tax) 면제
필리핀 정부의 위탁 시설에 대한 무제한의 사용 허가권	노동비용 추가 시 추가분의 비용 인정
외국인 고용 허가권	

자료원 : 필리핀 종합 투자법(Omnibus Investment Code of 1987)  
한국 자원정보서비스(KOMIS)

- 1987년 외국인 투자를 촉진하기 위하여 그간 분산되어 있던 투자관련 법규를 통합하는 종합 투자법(Omnibus Investment Code of 1987)을 제정, 투자절차 및 인가절차를 대폭 간소화함. 또한 종합 투자법에는 외국인 투자자의 기본 권리와 각종 세제 혜택(Incentive)도 명시하고 있음.

## ■ 자원개발 관련 법령 및 제도 변화

### 〈필리핀 자원관련 타임 테이블〉



- 2004년 1월 16일, 필리핀 아로요 대통령에 의해 발표된 행정 명령 270호(Executive Order No. 270)는 정부의 효과적인 광물 개발 계획을 수행함에 있어 다음의 12가지 원칙을 강조하고 있음.
  - 국가 경제 발전을 위해 광물 산업 투자의 중요성 인식
  - 투명하고 안정적이며 예측 가능한 투자를 위한 정책 설립

- 광물과 광산품의 부가가치 추구
  - 소규모 광물 지역의 합법화 또는 중요성 인식
  - 광물의 채광과 활용에 효과적인 기술 채택
  - 광물 자원의 운영에 있어서 환경 보호, 제도의 완화 및 진보적인 발전을 위한 제도의 통합
  - 생물의 다양성과 소규모 섬의 생태계를 포함하여 채광으로 인해 영향 받을 지역들의 생태학적 보전 노력
  - 복합 토지 이용의 체제와 광물들의 지속적인 활용
  - 폐기 광산들의 재활용 및 복구
  - 광업으로 인한 경제·사회적 이익의 공정한 분배
  - 공동체의 권리에 대한 일반적인 의식과 존중 강화
  - 광물산업과 주주들과의 끊임없고 의미심장한 만남을 위한 공공단체 설립
- 필리핀 투자청(BOI)은 '2006년 투자우선계획(2006 Investment Priorities Plan)'에 '광물자원의 탐사 및 개발(Exploration and Development of Mineral Resources)'의 투자항목을 추가시켰으며, 그 내용은 다음과 같음.

### 법령 7942호에 근거한 광물의 탐사, 채광, 채석, 가공 분야

- 광물 협약에 명시된 광물 자원의 탐사 및 개발은 개척 분야 자격을 획득할 수도 있음. (주: 소득세 면제 기간에 해당 없음)
- (강바닥, 동굴, 해안 채광 제외) 금속 및 비금속 광물의 채광, 채석, 처리
  - a. 광물 처리에 관련된 채광 또는 채석은 소득세 면제 기간을 획득할 수 있음. 생산물의 직접 수출업은 인센티브 기간에 해당 사항 없음.
  - b. 채석/채광 없이 광물을 처리할 경우에는 인센티브의 수혜를 받을 수 없음. 정렬, 분쇄, 세척, 건조 및 유사 작업과 같은 단순 작업은 2가지 이상을 함께 진행하여야 면세의 혜택을 받을 수 있음. 분말 분쇄, 비금속 광물에 대한 화학 세척도 면세를 받을 수 있음.
  - c. 채광 및 골재 처리는 소득세 공제를 받을 수 없음.
  - d. 채석/채광 작업 동반 유무에 상관없이 대리석 처리 작업은 필리핀 회사의 경우 생산물의 50%를, 외국계 회사의 경우 70%를 수출하여야만 함.
  - e. 광물 처리작업은 수도권지역(NCR)을 제외한 곳에 위치하여야 함. 일반적으로 금융기술협력협약(FTAAs)의 승인을 받은 채광 프로젝트는 소득세 면제 기간을 받을 수 없음.

#### ○ 소규모 광업의 정의(Small-Scale Mining)

- 1995년 3월 국내 경제 및 광업개발의 활성화를 위하여 제정된 ‘필리핀 광업법(Philippine Mining Act of 1995-Republic 7942)’은 주로 대규모 광업(Large-Scale Mining)에 대해 규정하고 있음.
- 소규모 광업이란 1991년에 제정된 ‘국민의 소규모 광업법-필리핀 공화국법 7942(People’s Small Scale Act of 1991-Republic Act 7942)’와 ‘대통령 포고령 463(Presidential Decree No. 463)’에 의해 규정되어진 광업으로서, 일반적으로 금, 은, 크롬과 같은 금속성 광물은 20헥타르 이하, 고령토, 규토, 대리석 등의 비금속성 광물은 5헥타르 이하에 해당하는 부분에 대해서만 광물개발이 허용되는 광업을 말함.

- 필리핀 투자 네거티브(negative) 리스트에는 외국인이 소규모 광산에 투자할 수 없다고 명시되어 있음.

#### ■ 자원개발 관련 각종 인허가 절차 및 허가 기간

- 1970년대 광업부문의 침체 이후 1995년에 제정한 광산업 허가 등에 관한 법규 제7942호를 통해 관련 규정을 보완했으며, 외국인에 대한 참여 규정도 세분화하여 명시하였음. 광산업 분야에 대한 외국인 투자는 아래의 4가지로 구분하여 사업 허가 및 소유권을 규정하고 있음. (Guideline on foreign investments under the Philippines Mining Act of 1995 - R.A 7942)

#### 〈자원개발 관련 각종 인허가별 허가 기간 및 지분율〉

허가 종류	최대허가 면적(Ha)		허가기간	외국인 최대 소유범위	비고
	육상	해상			
탐사권(EP) Exploration Permit	개인-3,240	개인-8,100	2년(2년씩 재계약 총 6년까지)	100%	허가 기간은 금속성 광물 기준임
	기업-32,400	기업-81,000			
자금 및 기술 지원 계약(FTAA) Financial or Technical Assistance Agreement	81,000	324,000	25년(추가 25년 재계약)	100%	계약 지역의 기반시설 및 개발비로 최소 5,000만 불 이상 투자해야함.
생산물분배계약(MPSA) Mineral Production Sharing Agreement	개인-810	5,000	5년(5년씩 재계약 총 25년까지)	40%	허가 면적은 금속성 광물 기준임
	기업-5,000				
광산물 가공권(MPP) Mineral Processing Permit	-	-	5년(5년씩 재계약 총 25년까지)	100%	-

자료원 : Mines and Geosciences Bureau

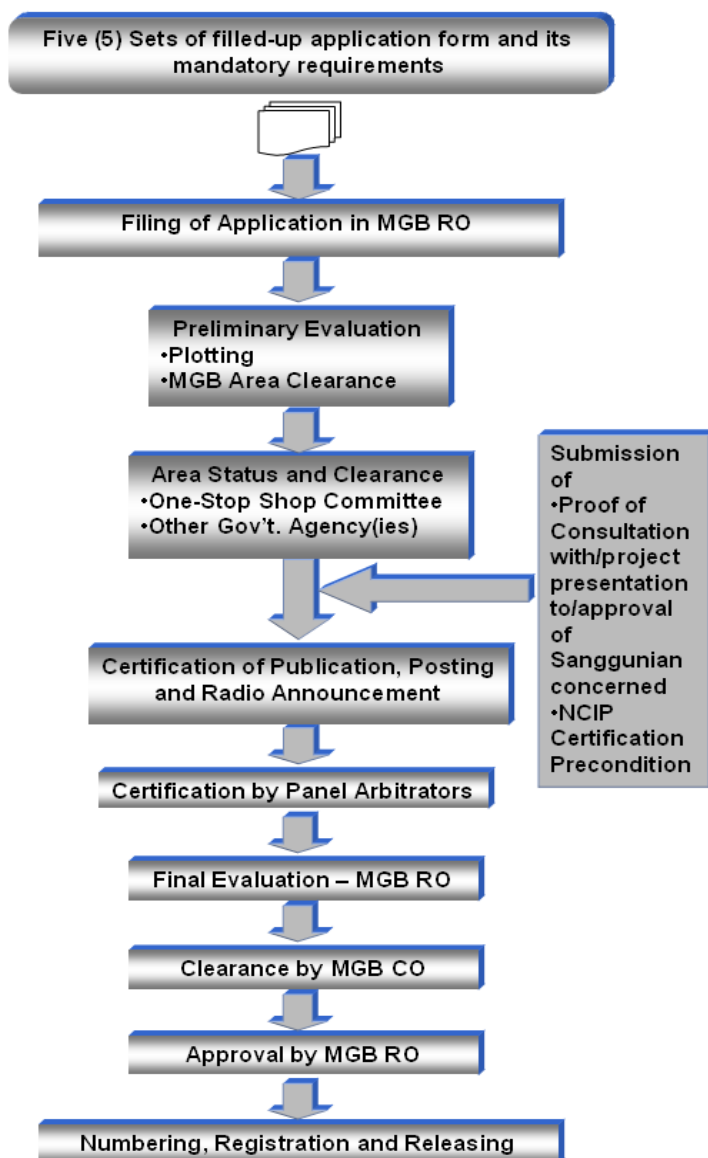
- 탐사권(Exploration Permit)은 필리핀 내에서 광물자원을 탐사할 수 있도록 허용하는 권리로서 자국민 뿐만 아니라 외국기업 또는 개인도 100% 지분을 가지고 사업을 진행할 수 있고, 탐사작업을 통하여 광물개발 가능성을 입증하게 되면 광업권 신청을 할 수 있음.
- 권리 기간은 2년이며, 2년이 지나면 2년씩 최대 8년까지 탐사권(EP)을 연장할 수 있음. 탐사를 위한 최대 허용면적은 육상의 경우 32,000ha이며, 해상의 경우 81,000ha임.
- 광물 가공권(Mineral Processing Permit)은 채굴된 광물에 대해 자국민, 외국의 개인 또는 기업이 100% 지분을 가지고 광물을 가공할 수 있는 권리임.
- 재정 및 기술지원 계약(Financial or Technical Assistance Agreement)은 광물의 탐사, 개발 및 활용을 위한 재정 또는 기술 지원을 목적으로 대규모 프로젝트에 적용되는 광업권으로서, 정부와 사업자간 체결되는 계약임. 외국 기업 또한 100% 참여할 수 있음.
- 계약기간은 25년이며, 기간 만료 후 25년 이내 기간으로 연장할 수 있음. 재정 및 기술지원을 위한 최대 허용면적은 육상의 경우 81,000ha이며, 해상의 경우 324,000ha임.
- 생산물분배계약(Mineral Production Sharing Agreement)은 광산 개발지역 내에서 사업자가 독점적으로 광물을 생산할 수 있는 권리로서, 정부가 생산자와 광산 생산물을 공유하며, 기본적 계약 형태는 정부는 광물 소유, 회사는 광산 운영 및 광물을 채취하는 기능을 담당하는 것임. 이 경우 외국의 개인 또는 기업은 최대 40%(필리핀 자본 60%이상 참여)까지만 지분 확보 가능

- 계약기간은 25년이며, 기간 만료 후 위와 같은 조건으로 25년 이내 기간으로 연장할 수 있음. 생산물분배계약을 위한 최대 허용면적은 육상의 경우 816,200ha이며, 해상의 경우 40,500ha임.
- 재정 및 기술지원 계약(FTAA), 및 생산물분배계약(MPSA)은 자원의 탐사, 개발 및 활용(생산)까지 비슷한 성격을 가지고 있으나 MPSA는 FTAA(외국인 지분 100% 허용)와 달리 외국인의 지분을 최대 40%까지만 허용하고 있음. 단 FTAA의 경우 MPSA와는 달리 최소 미화 50백만 달러를 광산 개발에 투자해야 함.

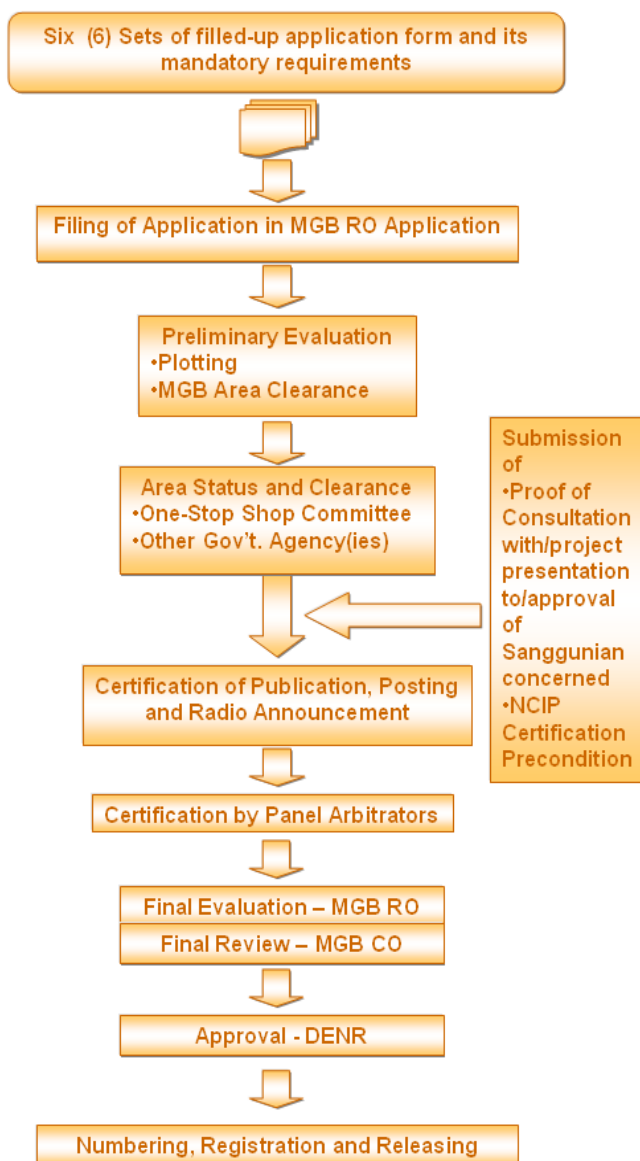
#### ■ 개발 계약의 형태 및 절차

- 개발 계약의 형태에는 정부가 생산자와 광산 생산물을 공유하는 생산물분배계약(MPSA; Mineral Production Sharing Agreement)이 있으며, 정부가 지하광물을 소유할 뿐만 아니라 생산요소를 투입하여 공동생산하는 방식인 공동생산계약(CA; Co-production Agreement), 그리고 민간회사가 공동투자하여 자산을 공동소유하고 정부는 자산 소득과 총생산물로부터 지분을 공유하는 민관합작 방식(JVA; Joint Venture Agreement)이 있음. 이 경우 외국인 회사 지분소유가 40%까지 가능함.

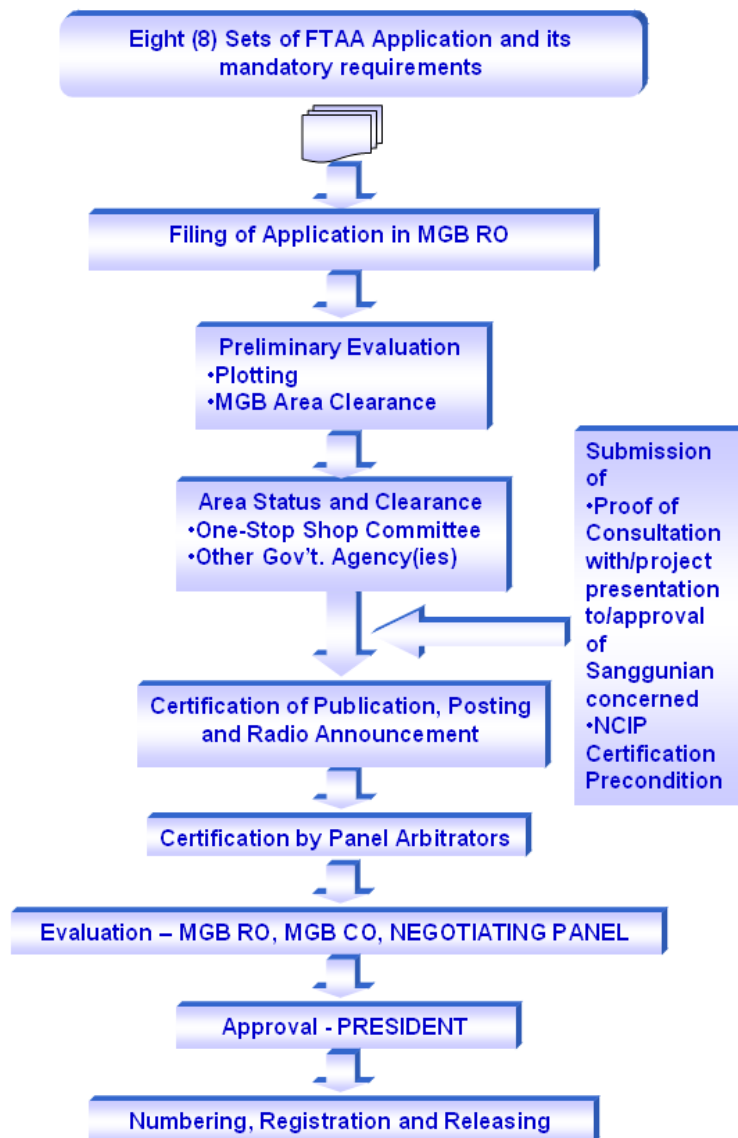
## 〈탐사권 인허가 절차도〉



## 〈생산물분배계약 인허가 절차도〉



# 〈재정 및 기술지원 계약 인허가 절차도〉



## 2. 자원개발 관련 규제 및 인센티브

### ■ 자원개발 기업 의무, 탐사·개발 규제사항 등 법상 규제

- 광업 분야의 외국인 투자지분율은 외국인 투자자의 투자 금액뿐만 아니라 광업시작 당시 필리핀 광산지구과학국(MGB)과 맺은 광업권에 따라 외국인은 최대 40% 또는 100%까지 지분율을 소유할 수 있으며, 동 내용은 필리핀 광업법(Philippine Mining Act of 1995)에 명시되어 있음.
- 100% 외국 지분 허용 광업법 : 탐사권(Exploration Permit), 광물 가공권(Mineral Processing Permit), 재정 및 기술지원 계약권(Financial or Technical Assistance Agreement)등이며, 재정 및 기술지원 계약권을 취득하기 위해서는 최소 5,000만 달러 이상을 투자해야함.
- 40%까지 외국 지분허용 광업법 : 생산물분배계약(Mineral Production Sharing Agreement)은 광산 개발 지역 내에서 사업자가 독점적으로 광물을 생산할 수 있는 권리로서, 이 경우 외국의 개인 또는 기업은 투자금액에 상관없이 최대 40%(필리핀 자본 60%까지 참여)까지만 계약 지분을 확보할 수 있도록 제한
- 소규모 광업의 제약 조건
  - 필리핀 소규모 광업법(People's Small-Scale Mining)에 따르면, 소규모 광산업자(Miner)는 필리핀 시민권을 소유한 개인 또는 기업이 할 수 있다고만 명시하고 있으며, 외국인 또는 외국기업 참여에 관한 내용은 명시되어있지 않음. 따라서 외국인/기업은 동 사업에 광산업자로서 참여 할 수 없음.

- 그러나 동법은 ‘광물 가공업자(Processor)’로서의 소규모 광업참여에는 제한적 요인을 두고 있지 않아, 외국인/기업은 광물 가공업자의 형태로 소규모 광업 개발 계획에 참여 할 수 있음.
  - 소규모 광업에 참여하고자 하는 기업은 우선 해당 프로젝트의 소규모 광산업자(Miner)와 광물 생산을 위한 광물가공 참여계약을 체결해야 하며, 동 계약 체결 후 가공업자(Processor)는 필리핀 광산 지구과학국(MGB)으로부터 ‘광물 가공 허가권(Mineral Processing Permit)’을 취득해야 함.
  - 계약기간의 경우, 소규모 광물 가공업자의 계약기간은 해당 프로젝트 광산업자와 지방 정부(Local Government Unit)와의 계약기간에 따라 유동적임. 참고적으로 광산업자는 최대 2년간의 계약기간을 가질 수 있으며, 계약 기간 만료 시 광산업자는 필리핀 지방 정부(LGU) 및 광산지구과학국(MGB)의 규정 준수여부에 따라 동기간을 연장할 수 있음.
  - 생산 이익금 또는 광물 분배는 광산업자와 가공업자와의 계약조건에 따라 분배할 수 있으며, 이익금 및 광물 분배에 관하여 외국인/기업에 대한 제한적인 요소는 없음.
- 환경기준 부합, 환경적합성조사가 필수적임.
  - 원주민 보호법(IPRA; Indigenous People’s Representation Act)에 따른 조상전래의 토지에 대하여 개발 전 사전주민의 동의가 필요함(FPIC; Free and Prior Informed Consent).
  - 필리핀 천연자원은 1995년도에 제정된 공화국법 7942호(Republic Act No. 7942 AN ACT INSTITUTING A NEW SYSTEM OF MINERAL RESOURCES EXPLORATION, DEVELOPMENT,

UTILIZATION AND CONSERVATION)에 의해 외국인 지분비율이 정해져 있음.

- 석탄자원 개발은 외국인 지분을 최대 40%까지(필리핀인 60%이상)만 허용하고 있음. 1995년 필리핀 라모스 전 대통령이 천연자원에 대한 내·외국인의 자유로운 탐사, 개발 및 활용을 명시한 공화국 법 7942호를 제정하였으나 석탄자원은 동 법에 포함되지 않았음.
- LNG자원의 경우 LNG의 탐사 및 시추, 생산을 위한 외국인 투자 지분은 최대 40%까지만 허용하고 있음. 단, CNG를 수입하여 LNG를 가공하는 설비에는 외국인 투자 지분을 100% 허용하고 있음.

#### ■ 수출·판매 부과금, 로열티 등 세제상 규제

- 광업개발 관련 세제로는 중앙정부의 직접세와 지방정부의 직접세, 내국인을 위한 직접세, 그리고 간접세로 나뉨.
- 기타 부담금
  - 최초 자본투자액의 10% 이상의 환경관련 시설투자(최초 자본투자액의 10%)
  - 복구사업비(연간 직접 채광 및 선광비용의 3~5%에 상당)
  - 광산공동체 발전, 과학 및 기술개발 기금(채광 및 선광비용의 1%)

### 〈중앙정부의 직접세 내역〉

세금 내역	내용
거래 주식에 대한 자본 소득세	거래액의 5~10%
정부의 부가세(FTAA의 경우)	계약자에 따라 다름
관리비	부두 및 항구 사용비, 라디오, 소화기, 자동차 운전, 전문 기술 등의 License 비용
법인 소득세	과세대상 소득의 35%
광물의 물품세	광물 총생산액의 2%
관세	화학류 : 3~7%, 폭발물 : 3~15% 기계, 전기 장치 : 3~15%, 차량, 항공, 선박류 : 3~10%
수입된 장비, 물품, 서비스에 대한 부가가치세	10%
생산 광물에 대한 로열티	시장 가격에 따른 광물 생산액의 5%
인지세	거래의 종류에 따라 차등 적용
양도소득세	10~20%
외채 이자 지급에 대한 원천징수세	외채 이자 납부금의 15%
외국인 주주 배당금에 대한 원천징수세	배당금의 15%

자료원 : Mines and Geosciences Bureau

### 〈지방정부의 직접세 내역〉

세금 내역	내용
지방 사업세	최대 2% (자치제에 따라 다름)
부동산세	부동산가의 2%, (동산은 과세대상에서 제외)
특별 교육세	부동산가의 1%
등록세	등록된 활동에 따라 비율이 다름
취득세(occupation fees)	광물 매장지가 아닌 지역-연간 50페소/ha 광물 매장지인 경우-연간 100페소/ha
사회세(communitiy tax)	연간 최대 10,500페소
기타 지방세	지방 정부의 규정에 따라 세율 및 종류가 다름

자료원 : Mines and Geosciences Bureau

## 〈내국인을 위한 직접세 내역〉

세금 내역	내용
토지 소유자 및 권리 행사권자의 로열티	토지 소유자/권리권자와 광업 건축업자와의 협상 조건에 따라 다름
광원주민에 대한 로열티	광물 총생산액의 최소 1%

자료원 : Mines and Geosciences Bureau

## 〈간접세 내역〉

세금 내역	내용
연료세	연료 1리터당 1.63페소
연료의 수입 관세	연료 1리터당 0.36페소
노동자 급여에 대한 원천징수세	필리핀 국세청 관련법에 따라 적용
권리 행사권자의 로열티에 대한 원천징수세	로열티의 20%
은행 이자 소득에 대한 원천징수세	이자 소득액의 20%
외국기업이 본사로의 소득 송금 시 송금액에 대한 원천징수세	송금액의 15%
기술이전 시 로열티에 대한 원천징수세	로열티의 15%
기타 원천징수세	

자료원 : Mines and Geosciences Bureau

## ■ 환경관련 규제

- 필리핀은 광산개발에 따른 환경보존을 위해 각종 환경부담금을 부과하고 있으며 광산개발 완료 후 개발지역 복원과 10년간의 유지보수 및 모니터링을 의무화하여 이에 대한 비용부담을 규정하고 있음.

## 〈필리핀 광산개발 환경규정 주요 내용〉

환경관련 규정	부과금액
환경보존 활동 프로그램 (Environmental Work Program)	자원개발비용의 최소 10%
최초 환경인프라 지출 (Initial expenditures for environmental infrastructures)	프로젝트 개발비용의 최소 10%
광산 복원 기금(Mine Rehabilitation Fund) 1) 복원 현금기금(Rehabilitation Cash Fund) 2) 모니터링 신탁기금(Monitoring Trust Fund)	연간 채굴 및 가공 직접비의 3~5% 또는 5백만 페소 중 적은 금액 모니터링팀에서 사용할 수 있는 5만 페소(소진 시 재공급)
환경신탁기금(Environmental Trust Fund)	소진 시 재공급되는 5만 페소의 기금(광산폐기물 등의 보상에 사용)
광산폐기물 보존 기금 (Mine Waste and Tailings Reserve Fund) 오염자 지불원칙(Polluter Pays Principle)	광산폐기물 1톤당 0.05~0.1페소 (광산 폐기물로 인한 손해배상에 사용) 허가되지 않은 장소에 폐기물 처리 시 메터릭톤당 50페소
최종 광산복원 및 개발중지 계획 (Final Mine Rehabilitation/ Decommissioning Plan)	환경, 사회적 관점에서의 복원계획과 10년간의 유지보수 모니터링 비용

자료원 : Mines and Geosciences Bureau

### ■ 외국인 투자시의 인센티브, 감면 또는 특혜

- 필리핀 광산법(Philippine Mining Act of 1995) 및 RA 7942에 의거, 광산 투자업체는 광물에 대한 물품세를 2~5%에서 1~2%로 인하받으며, 최대 81,000헥타르를 채굴할 수 있음.
- 또한 사업 시작 시 최초 10년 이내에 발생한 운영손실을 최초 5년간 과세소득으로부터 공제받을 수 있음.

- 최초 착수비용의 회수를 지원하기 위하여 첫 5년간 국세가 면제, 소득세 부과 시 고정자산에 대한 누진적 감가상각, 오염방지시설에 대한 면세를 제공받을 수 있음.
- 외국 근로자 채용관련 인센티브, 수입관세절차 간소화 등 수입 통관상 혜택을 받을 수 있음.
- 자본, 과실 및 이자 송금, 장비 취득 자유, 정보보호 등 투자보장을 받을 수 있음.

### 3. 자원개발 관련 인프라 현황

#### ■ 운송 인프라

- The World Economic Forum(2004) 보고서에 따르면 필리핀 인프라의 순위는 전세계 102개 국가 중 89위로 인도네시아(51위)와 베트남(76위)보다 열악함.
- 7,000여개의 섬으로 이루어진 필리핀은 운송 인프라 부문이 취약함. 필리핀 전역의 도로 포장률은 21%이며, 국도의 경우 62%에 불과함. 더불어 교통체제의 미비로 여객 및 화물수송에 어려움을 겪고 있음. 현재까지 필리핀 정부가 구상하는 중장기 경제개발을 통한 발전 전략의 대부분이 도로 및 교량건설 등 공공인프라 확충에 집중되어 있음.
- 총 도로의 길이는 29,369.70km이며, 도로망의 절반은 매우 부실하게 관리되고 있음.

- 철도는 루존(Luzon ; 마닐라가 위치한 섬)을 제외하고는 농장을 가로지르는 사설 철도망이 전부임.
- 해상 운송의 경우, 외국 회사의 진입이 제한되어 국내 선사들이 노선별로 독점 또는 단합을 하고 있어 해상 운송비가 타국보다 높은 수준

### 〈필리핀 도로 현황〉

Region	Current Length	Road Condition				
		Good	Fair	Poor	Bad	No Assessment
CAR	1,845.85	371.69	826.55	345.98	294.11	7.53
NCR	1,031.79	-	-	-	-	1,031.79
Region I	1,609.60	339.87	550.80	283.46	378.12	57.34
Region II	1,764.98	326.41	693.94	300.10	426.98	17.54
Region III	2,031.61	399.20	549.38	391.14	652.37	39.52
Region IV-A	2,404.50	1,048.95	682.28	279.43	315.57	78.25
Region IV-B	2,185.39	417.51	821.40	555.85	281.42	109.21
Region V	2,197.00	402.88	645.00	388.84	536.59	223.69
Region VI	2,880.06	542.13	970.87	639.15	726.77	1.14
Region VII	2,036.50	757.44	635.38	272.54	280.82	90.32
Region VIII	2,372.63	272.74	764.02	412.58	631.97	291.31
Region IX	1,218.01	282.51	515.25	262.41	149.95	7.90
Region X	1,682.22	328.58	611.84	354.86	386.16	0.78
Region XI	1,447.23	418.97	593.93	176.78	257.20	0.36
Region XII	1,303.91	236.04	574.72	305.18	187.76	0.21
Region XIII	1,358.44	276.92	415.30	356.49	309.59	0.14
Total	29,369.70	6,421.85	9,850.67	5,324.79	5,815.39	925.22

자료원 : Department of Public Works & Highways

## 〈필리핀 철도 현황〉



자료원 : Department of Transportation & Communications

### ■ 노동력 조달

- 필리핀 총 인구 91,077,287명중 15세 이상 노동 가능 인구수는 약 55,393,000명으로 추정됨. 광산업에 종사하는 노동자의 수는 174천명으로 집계되었음. 광산업에 종사하는 노동자의 일일 급여는 201.04 페소(2005년 기준)로 2, 3차 산업 종사자중 최저의 임금을 받는 것으로 나타남.

## 〈2007년 필리핀 최저 임금〉

(단위: 페소)

지 역	2~3차 산업	1차 산업	
		농 장	기 타
NCR	P 325.00 - 362.00	P 325.00	P 325.00
CAR	233.00 - 245.00	216.00 - 227.00	216.00 - 227.00
I	210.00 - 230.00	210	185
II	215.00 - 223.00	203.00 - 211.00	203.00 - 211.000
III	236.00 - 287.00	221.00 - 257.00	201.00 - 241.00
IV-A	224.00 - 300.00	204.00 - 275.00	184.00 - 255.00
IV-B	225.00 - 237.00	188.00 - 197.00	168.00 - 177.00
V	183.00 - 226.00	194.00 - 204.00	174.00 - 184.00
VI	215.00 - 235.00	195.00 - 203.00	193
VII	205.00 - 250.00	185.00 - 232.00	185.00 - 232.00
VIII	228	209	209
IX	225	200	180
X	229.00 - 244.00	217.00 - 232.00	217.00 - 232.00
XI	248.00 - 250.00	238.00 - 240.00	217.00 - 219.00
XII	229.5	212	209
XIII	220	210	190
ARMM	200	200	200

자료원 : 필리핀 노동청(Department of Labor and Employment)

- 과거 광업산업의 부진으로 그간 대학에서 기술자 배출이 충분하지 않았으며, 기존의 기술자들도 근무조건이 좋은 해외로 진출함으로써 최근 광업 활성화에 따른 인력 부족현상 시현

## ■ 기술력 수준

- 필리핀은 자원을 개발할 수 있는 자체 기술과 자본이 절대적으로 부족하여 이를 보완하기 위해 외국인 투자유치를 적극적으로 추진하고 있음. 따라서 개발 프로젝트의 주도적인 위치에 서서 사업 참여를 모색할 필요가 있음.

## 4. 자원개발 유관기관/기업/네트워크

### ■ 정부 및 지방 주무부처

기관/기업명	담당자	성격	홈페이지	전화번호	이메일
Department of Environment and Natural Resources	ATIENZA, JOSE L. JR (Secretary; 장관)	환경 규제	www.denr.gov.ph	(63-2)929-6626	osec@denr.gov.ph
Mines and Geosciences Bureau	지역 또는 부서별 상이	자료 제공 및 인증서 발급	www.mgb.gov.ph	(63-2)928-8642/9120	entral@mgb.gov.ph
Board of Investments	권홍철 소장 (코리안 데스크)	투자관련	www.boi.gov.ph	(63-2)899-8872	-
Securities and Exchange Commission	지역 또는 부서별 상이	사업자 등록 및 타 사업자 재무제표확인	www.sec.gov.ph	(63-2)726-0931~39	mis@sec.gov.ph

## ■ 연구소 및 기술평가 기관

기관/기업명	담당자	성격	홈페이지	전화번호	이메일
Department of Science and Technology(DOST)		연구소	www.dost.gov.ph	-	dostmis@dost.gov.ph
Chamber of Mines of The Philippines	Mr. Art Disini Mrs. Nelia Halcon	협회	www.chamberofminesphilippines.com	(63-2)635-4123	comp@vasia.com
Philippine Mineral Exploration Association	Mr. Tony Robbins	협회	-	(63-2)810-1399	-

## ■ 유력 입찰 · 개발 관련 현지에이전트

기관/기업명	담당자	성격	홈페이지	전화번호	이메일
Philippine Information Agency	-		www.pia.gov.ph	(63-2)926-5123	-
Hilmarc's Construction	-	개발사		(63-2)726-9471	-
Makati Development	Mr. Raul M. Irlanda	개발사		(63-2)807-7935/8588	info@mdc.com.ph
Philippine National Construction	Mr. Arthur N. Aguilar	개발사	www.pncc.com.ph	(63-2)631-8431/5084	pnccnet@globe.lines.com.ph
FF Cruz & Co. Inc.	-	개발사	-	(63-2)336-1184	-
DM Consunji, Inc.	Mr. Docot. Nestor	개발사	www.dmcinet.com	(63-2)888-3191	nadocot@dmci.net.com
EEI	Mr. Ferdinand Del Prado	개발사	www.eei.com.ph	(63-2)635-0817	fery@eei.com.ph
Screeders Builders	-	개발사	www.screedersconcretesspecialist.com.ph	(63-2)900-2452	screeders@screedersconcretesspecialist.com.ph

### ■ 법률 및 조세 자문기관

기관/기업명	담당자	성격	홈페이지	전화번호	이메일
ACCRA Law Office	Atty. Eusebio Tan (Managing Partner)	법무법인	www.accalaw. com	(63-2)816- 0119/812- 4897	accra@accralaw. com
RMBSA Law Office	Atty. Ricardo J. Romulo (Managing Partner)	법무법인	www.rmbsa. net	(63-2)848- 0114/815- 3172	rmbsa@rmbsa. com
PUNO & PUNO Law Offices	Atty. Rosella Puno-Mapa (Managing Partner)	법무법인	www.punolaw .com	(63-2)631- 1261/2517	info@punolaw. com
Villaraza & Angangco Law Office	Atty. F. Arthur L. Villaraza (Managing Partner)	법무법인	www.cvclaw. com	(63-2)818- 9877~80 (63-2)816- 7057	villaraza..angan gco@cvclaw. com
Quisumbing Torres Law Offices	Atty. Ricardo Castro (Managing Partner)	법무법인	-	(63-2)819- 4700/816- 0080	-
Calos J. Valdes & Associates	Ms. Linda Onez	회계법인	-	(63-2)892- 5931	cjva@greendot. com
KPMG Laya Mananghaya & Co.	Mr. Pacifico M. Castaneda	회계법인	-	(63-2)885- 7000	pcastaneda@ kpmg.com
Punongbayang & Araullo CPA's	Mr. Gabriel M. Oledan	회계법인	-	(63-2)886- 5511	gabriel.moleda @pna.ph

## ■ 금융기관

기업명	형태	연락처
Al-Amanah Islamic Bank of the Philippines	Universal Banks	(63-2)816-4258/893-4350
Allied Banking Corporation	Universal Banks	(63-2)816-3311/818-7961
Banco de Oro - EPCI, Inc.	Universal Banks	(63-2)636-6060; 633-9842; 702-6001; 702-6000
Bank of the Philippine Islands	Universal Banks	89-100
China Banking Corporation	Universal Banks	(63-2)841-1101
Development Bank of the Philippines	Universal Banks	(63-2)818-9511~20/893-8958
Hongkong and Shanghai Banking Corporation	Universal Banks	(63-2)830-5300/5211
ING Bank N.V.-Manila Branch	Universal Banks	(63-2)840-8888/840-8881/ 479-8888/479-8881
Land Bank of the Philippines	Universal Banks	(63-2)522-0000 local 7388/ 551-2200/405-7388
Metropolitan Bank & Trust Company	Universal Banks	(63-2)898-8000/812-4341
Philippine National Bank	Universal Banks	(63-2)551-2950/891-6258
Philippine Trust Company	Universal Banks	(63-2)524-9061
Rizal Commercial Banking Corporation	Universal Banks	(63-2)894-9000
Security Bank Corporation	Universal Banks	(63-2)818-7677/867-6733/ 818-6788/867-6788
Standard Chartered Bank	Universal Banks	(63-2)886-7888
Union Bank of the Philippines	Universal Banks	(63-2)892-0011/893-8613
United Coconut Planters Bank	Universal Banks	(63-2)811-9000/841-0740

## ■ 주요 활동기업

### ○ 한국기업

기관/기업명	홈페이지	전화번호	이메일
LG 상사	www.lgicorp.com	(63-2)848-6499	kimsc@lg.co.kr
대한광업진흥공사	www.kores.or.kr	(82-2)840-5600	koreshome@korea.or.kr

## ○ 프로젝트별 주요 현지기업

프로젝트	현지 기업명	담당자	연락처
Palawan HPP Project	Coral Bay Nickel Corp.	Takanori Fujimura	Fax No. (63-2)750-1530
Rapu Rapu Polymetallic Project	Rapu Rapu Minerals Inc.	Andrew McIlwain	(63-2)813-4131/893-9349
Canatuan Gold Project	TVI Resources Dev. Phils., Inc.	Eugene T. Mateo	(63-2)687-5028
Teresa Gold Project	Lepanto Consolidated Mining Co.	Bryan Ya	(63-2)812-0451/ (074)452-8082
Sto. Tomas II Copper Expansion Project (Padcal)	Philex Mining Corporation	Dr. Walter W. Brown	(63-2)631-1381 to 88
Adlay-Cagdianao-Tandawa (ACT) Nickel Project	Surigao Integrated Resources Corporation	Honorio Tolentino	(63-2)637-5771/637-3086
Didipio Copper-Gold Project	Australasia Philippines Mining Inc.	Rob P. Thompson	(63-2)892-6643/ (63-917)836-4586
Akle Cement Project	Eagle Cement Corporation	Manny Teng	(63-2)727-7577/ 726-7016
Carmen Copper Project (Toledo)	Atlas Consolidated Mining and Development Corp.	Alfredo C. Ramos	(63-2)635-2387
Masbate Gold Project	Filminera Resources Corp.	Engr. Rolando Amores	(63-2)811-3451/ 811-3463
King-King Copper - Gold Project	Benguet Corp.	Benjamin Philip Romualdez	(63-2)812-1380/ 752-0715
Nonoc Nickel Project	Nonoc Processing Corp./Philnico	Evaristo Narvaez, Jr.	(63-2)817-9258
Far Southeast Copper-Gold Project	Lepanto Consolidated Mining Co.	Felipe Yap	(63-2)812-0451/ (63-74)452-8102
Itogon Gold Project	Itogon Suyoc Mines, Inc.	Ignacio R. Ortigas	(63-2)631-4330
Siana Gold Project	Greenstone Resources Corp.	Mr. Gregory Edwards	(63-86) 826-2510

프로젝트	현지 기업명	담당자	연락처
Colet Copper-Gold Project	Colet Mining & Development Corporation	Joel D. Muyco	(63-2)743-7671/ 740-1852
Tampakan Copper Proj.	Sagittarius Mines, Inc./Indophil, Inc.	Mr. Paul G. Dominguez	(63-2)752-1440/ 43
Boyongan Copper Project	Silangan Mindanao Mining Co. Inc./Philex Gold Phils., Inc.	Dr. Walter W. Brown	(63-2)631-1381 to 88
Direct State Development Project	Natural Resources Mining Dev. Corp.	Artemio Disini	(63-2)928-6837
Hallmark Nickel project (Pujada)	Blue Ridge Minerals Corporation/ Asiaticus/BHP Billiton	Laureano Barrios	(63-2)892-6611
Mindoro Nickel Project	Aglubang Mining Corp./Crew Minerals Inc.	Henry E. Fernandez	(63-2)687-4161
San Antonio Copper Project	Marcopper Mining Corp.	Ralph Ante	(63-2)852-0905
Batong Buhay Gold Project	Natural Resources Mining Dev. Corp.	Artemio Disini	(63-2)928-6837
Amacan Copper Project	Natural Resources Mining Dev. Corp.	Artemio Disini	(63-2)928-6837

## ○ 프로젝트별 주요 해외기업

프로젝트	해외 기업명	담당자	연락처
Rapu Rapu Polymetallic Project	Lafayette NL - Australia	Roderick Wyatt	(61-8)9321-9161
Canatuan Silver-Gold Project	TVI Resources Development Philippines, Incorporated	Eugene Mateo	(63-2)687-5028
Sto. Tomas II Copper Expansion Project (Padcal)	Pan Pacific Copper		(63-2)631-1381
	Nippon Mining Holdings Group	Akihiko Nomiyama	www.shinnikko-hd.co.jp/english/
	Mitsui Mining and Smelting Co., Ltd.	-	www.mitsui-kinzoku.co.jp/en/

프로젝트	해외 기업명	담당자	연락처
Adlay-Cagdianao-Tandawa (ACT) Nickel Project	QNI Phils. Inc. / BHP Billiton	-	(63-2)637-5771/ 637-3086
Didipio Copper-Gold Project	Climax Mining Ltd.	Jim Askew	(63-2)892-6643/ (63-917)836-4586
Carmen Copper Project(Toledo)	Toledo Copper Plc. Of London, England	Mr. George Bujtor	(63-2)817-7104
Masbate Gold Project	Thistle Mining Corporation	Engr. Rolando Amores	(63-2) 811-3451
Nonoc Nickel Project	Jinchuan Non Ferrous Corp. - China	Evaristo Narvaez, Jr.	(63-2)817-9258
Siana Gold Project	Red V Ltd. - Australia	Mr. Gregory Edwards	(63-86)826-2510/ 826-1286
Colet Copper-Gold Project	Copper Resources Corporation	Joel D. Muyco	(63-2)743-7671/ 740-185
Tampakan Copper Proj.	Indophil Resources Phils., Inc.	Mr. Tony Robbins	(63-2)752-1440/43;
Boyongan Copper Project	Anglo American Plc	Paddy Waters	(63-74)444-5929
Hallmark Nickel project(Pujada)	BHP Billiton / Queensland Nickel Inc.	Laureano Barrios	(63-2)892-6611
Mindoro Nickel Project	Crew Development Corp	Jan Vestrum	(63-2)687-4161



# **우리기업의 자원개발 유망 진출분야 및 시사점**

## V. 우리기업의 자원개발 유망 진출분야 및 시사점

### 1. 전략개발 분야 및 우리기업의 참여방안

- 필리핀 광산지구과학국(MGB)에 따르면, 필리핀 전 국토에 매장되어 있는 광물자원, 특히 금속성 광물자원은 8억5천만 톤인데 비해, 연간 생산량(2004년 기준)은 약 99만 톤으로 총 매장량의 약 0.117% 밖에 개발되지 않아 향후 자원개발 잠재력은 무궁무진하다고 할 수 있음.
- 그러나 필리핀 정부는 자원 개발을 할 수 있는 자체 기술과 자본이 절대적으로 부족하여, 1995년 「신광업법(Philippine Mining Act - Republic Act 7942)」과 2004년 12월에 「행정 명령 270번(Executive Order No. 270)」을 제정, 발표하여 외국인 투자를 적극 유치하고 있음.
- 한국의 對필리핀 자원투자 확대를 위하여, 첫째로 프로젝트 리스크를 줄여주려는 정부차원의 지원이 필요할 것으로 보임. 필리핀의 경우, 정치적 위험, 관료주의, 현지문화 등에 따른 불확실성이 높아 민간기업 독자적으로 진출하기에는 위험부담이 높다고 할 수 있음. 따라서 정부차원에서 국가 간 합의도출, 공공금융기관을 이용한 위험담보 등 리스크 감소를 위한 지원이 이루어질 경우, 좀 더 적극적인 진출이 가능할 전망이다.
- 둘째로, 한국 또는 필리핀이 주최하는 전시회 또는 로드쇼(RoadShow)에 적극 참관하여 대형 외국계 전문회사와의 Consortium을 구성, 직접투자의 리스크를 줄이는 방법도 모색해 볼 수 있음.

- 필리핀 광산지구과학국(Mines and Geosciences Bureau)에서 발표한 24가지의 「주요 광물 개발계획(Priority Mineral Development Project)」 외에 40가지의 「광물 탐사 계획(Mineral Exploration Project)」이 있으며, 이중 유망한 광물 탐사계획을 선정, 이를 중심으로 한국기업이 광물 개발 초기단계부터 진출하는 것이 바람직할 것으로 보임.

## 2. 진출 시 유의점 및 참고사항

- 필리핀 정부의 광업 촉진정책 및 광물가격 급등 등 개발의 호기를 맞이하여 기존의 폐쇄된 광산운영이 재개되고 투자가 증가는 한편 추가개발을 위한 광업권 신청이 쇄도하고 있음. 그러나 여전히 필리핀의 정치사회적 여건에 따른 위험이 존재하고 있어 투자자들은 조심스럽게 투자를 결정해야 함.
- 필리핀 투자 및 광업 진출 시에는 주재국의 '투자비자'를 발급받은 후 사업을 진행해야 함.
  - 필리핀은 한국인에게 최대 1년까지 관광비자를 연장해주고 있어 다수의 투자자들이 관광비자를 가지고 초기 사업 활동을 전개하면서 동시에 투자비자를 신청하고 있음. 그러나 관광비자로 사업을 진행하는 것은 한국 투자자에게 큰 약점이며, 필리핀 투자 파트너와 의견 불화 시 투자 파트너의 이민국 신고로 관광비자를 가지고 사업 진출을 모색한 투자자는 필리핀 당국으로부터 강금 또는 강제 추방과 같은 불이익을 당할 수 있음. 이러한 사기 피해 사례가 여러건 접수된 바 향후 투자 및 진출을 희망하는 기업들의 각별한 주의가 요망됨.

- 필리핀 환경운동가 및 일부 지방정부에서는 광산개발을 환경파괴로 규정하고 반대하는 경우가 있어, 광산개발 프로젝트 진출시 현지의 환경관련 지방정부의 정책, 현지 환경운동가들의 활동상황 등도 사전에 점검할 필요가 있음.
- 일부 기업들의 경우, 신속하게 프로젝트를 진행하기 위해 편법을 이용하는 경우도 있으나 이의 경우, 결국 추후에 사업수행에 큰 장애물로 작용할 가능성이 높기 때문에 필히 적법한 절차에 따라 프로젝트를 진행해야 함.



# 부 록

## VI. 부 록

### 1. 광업법

DENR Administrative Order No. 96-40

Series of 1996

December 19, 1996

SUBJECT: 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, whichever 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 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.

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

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

ai. "Force Majeure" means acts or circumstances beyond the reasonable control of Contractor/Permit Holder/Permittee/Lessee including, but not limited to, war, rebellion, insurrection, riots, 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 any public enemy and any cause as herein described over which the affected party has no reasonable control.

aj. "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.

ak. "Forest Reservations" refer to forest lands which have been reserved by the President for any specific purpose or purposes pursuant to P.D. No. 705, or by an appropriate law.

al. "Forest Reserves or Permanent Forests" refer to those lands of the public domain which have been the subject of the present system of classification and determined to be needed for forest purposes pursuant to P.D. No. 705.

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

an. "Government Reservations" refer to all proclaimed reserved lands for specific purposes other than Mineral Reservations.

ao. "Gross Output" means the actual market value of minerals or mineral products from each mine or mineral 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, further*, 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.

ap. "Ground Expenditures" mean the field and laboratory expenditures incurred for searching and delineating new or extension of orebodies in an approved FTAA area, including expenditures for social preparation, pre-feasibility studies and reasonable administrative expenses incurred for the FTAA project. Such expenses include those for geological, geophysical, geochemical and air-borne geophysical surveys, borehole drillings, tunneling, test pitting, trenching and shaft sinking. Contributions to the community and environment-related expenses during the exploration period shall form part of the ground expenditures.

aq. "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.

ar. "Initial Environmental Examination (IEE)" refers to the document required of proponents describing the environmental impact of, and mitigation and enhancement measures for projects or undertakings located in an Environmentally Critical Area (ECA) as listed under Presidential Proclamation No. 2146, Series of 1981, as well as other areas which the President may proclaim as environmentally critical in accordance with Section 4 of P.D. No. 1586.

- as. "Lessee" means a person or entity with a valid and existing mining lease contract.
- at. "Metallic Mineral" means a mineral having a brilliant appearance, quite opaque to light, usually giving a black or very dark streak, and from which a metallic element/component can be extracted/utilized for profit.
- au. "Mill Tailings" means materials whether solid, liquid or both segregated from the ores during concentration/milling operations which have no present economic value to the generator of the same.
- av. "Minerals" refer 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.
- aw. "Mineral Agreement" means a contract between the Government and a Contractor, involving Mineral Production Sharing Agreement, Co-Production Agreement or Joint Venture Agreement.
- ax. "Mineral Land" means any area where mineral resources, as herein defined, are found.
- ay. "Mineral Processing" means the milling, beneficiation, leaching, smelting, cyanidation, calcination or upgrading of ores, minerals, rocks, mill tailings, mine waste and/or other metallurgical by-products or by similar means to convert the same into marketable products.
- az. "Mineral Processing Permit" refers to the permit granted to a Qualified Person for mineral processing.
- ba. "Mineral Products" mean materials derived from ores, minerals and/or rocks and prepared into a marketable state by mineral processing.
- bb. "Mineral Reservations" refer to areas established and proclaimed as such by the President upon the recommendation of the Director through the Secretary, including all submerged lands within the contiguous zone and Exclusive Economic Zone.
- bc. "Mineral Resources" mean any concentration of ores, minerals and/or rocks with proven or potential economic value.
- bd. "Mine Rehabilitation" refers to the process used to repair the impacts of mining on the environment. The long-term objectives of rehabilitation can vary from simply converting an area to a safe and stable condition to restoring the pre-mining conditions as closely as possible with all the area's environmental values intact and establishing a land use capability that is functional and proximate to the land use prior to the disturbance of the mine area.
- be. "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.
- bf. "Mining Area" means a portion of the contract area identified by the Contractor as defined and delineated in a Survey Plan duly approved by the Director/concerned Regional Director for purposes of development and/or utilization, and sites for support facilities.
- bg. "Mining Operations" mean mining activities involving exploration, feasibility study,

development and utilization.

bh. "Mining Permits" include Exploration, Quarry, Sand and Gravel (Commercial, Industrial and Exclusive), Gratuitous (Government or Private), Guano, Gemstone Gathering and Small-Scale Mining Permits.

bi. "Mining Right" means a right to explore, develop or utilize mineral resources.

bj. "Mining Application" means any application for mining permit, Mineral Agreement or FTAA.

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

bl. "Nonmetallic Mineral" refers to a mineral usually having a dull luster, generally light-colored, transmits light, usually giving either colorless or light colored streak from which a nonmetallic element/component can be extracted/utilized for a profit.

bm. "Nongovernmental Organization (NGO)" includes nonstock, nonprofit organizations with qualifications, expertise and objectivity in activities dealing with resource and environmental conservation, management and protection.

bn. "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 of the Exclusive Economic Zone.

bo. "Onshore" means the landward side from the mean low tide level, including submerged lands in lakes, rivers and creeks.

bp. "Ore" means naturally occurring substance or material from which a mineral or an element can be mined and/or processed for profit.

bq. "Ore Transport Permit" refers to the permit that may be granted to a Contractor, accredited dealer, retailer, processor and other Permit Holders to transport minerals/mineral products.

br. "People's Organization (PO)" refers to a group of people which may be an association, cooperative, federation or other legal entity established by the community to undertake collective action to address community concerns and need and mutually share the benefits from the endeavor.

bs. "Permittee" means the holder of an Exploration Permit. The Permittee referred to in previous administrative orders shall mean holders of permits subject of such orders.

bt. "Permit Area" refers to area subject of mining permits.

bu. "Permit Holder" means a holder of any mining permit issued under these implementing rules and regulations other than Exploration Permit.

bv. "Pollution" refers to any alteration of the physical, chemical and/or biological properties of any water, air and/or land resources of the Philippines; or any discharge thereto of any liquid, gaseous or solid wastes; or any production of unnecessary noise or any emission of objectionable odor, as will or is likely to create or to render such water, air and land resources

harmful, detrimental or injurious to public health, safety or welfare, or which will adversely affect their utilization for domestic, commercial, industrial, agricultural, recreational or other legitimate purposes.

bw. "Pollution Control Devices and Facilities" refer to infrastructure, machinery, equipment and/or improvements used for impounding, treating or neutralizing, precipitating, filtering, conveying and cleansing mine industrial waste and tailings, as well as eliminating or reducing hazardous effects of solid particles, chemicals, liquids or other harmful by-products and gases emitted from any facility utilized in mining operations for their disposal.

bx. "Pre-Operating Expenses" refer to all exploration expenses, special allowance, administrative costs related to the project, feasibility and environmental studies and all costs of mine construction and development incurred prior to commercial production.

by. "President" refers to the President of the Republic of the Philippines.

bz. "Private Land" refers to land belonging to any private person or entity which includes alienable and disposable land being claimed by a holder, claimant or occupant who has already acquired a vested right thereto under the law, including those whose corresponding certificate or evidence of title or patent has not been actually issued.

ca. "Public Land" refers to land of the public domain which has been classified as agricultural land, mineral land, forest or timber land subject to management and disposition or concession under existing laws.

cb. "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.

cc. "Quarrying" means the process of extracting, removing and disposing quarry resources found on or underneath the surface of public or private land.

cd. "Quarry Permit" refers to the permit granted to a Qualified Person for the extraction and utilization of quarry resources on public or private land.

ce. "Quarry Resources" refer to any common rock or other mineral substances as the Director may declare to be quarry resources such as, but not limited to, andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clays for potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders and volcanic glass: *Provided*, That such quarry resources do not contain metals or metallic constituents and/or other valuable minerals in economically workable

quantities: *Provided, further*, That nonmetallic minerals such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and semiprecious stones and other nonmetallic minerals that may later be discovered and which the Director declares to be of economically workable quantities, shall not be classified under the category of "Quarry Resources".

cf. "Regional Director" means the Regional Director of any Regional Office.

cg. "Regional Office" means any of the Regional Offices of the Mines and Geosciences Bureau.

ch. "Secretary" means the Secretary of the Department.

ci. "Service Contractor" means a person or entity who enters into an agreement to undertake a specific work related to mining or quarrying operations of a Contractor/Permit Holder/Permittee/Lessee.

cj. "Special Allowance" refers to payment to the claimowner or surface right owners particularly during the transition period from P.D. No. 463 and Executive Order No. 279, Series of 1987.

ck. "Stakeholders" refer to person(s)/entity(ies) who may be significantly affected by the project or undertaking, such as but not limited to, Contractor/Permit Holder/Permittee/Lessee, members of the local community industry, Local Government Units (LGUs), Nongovernmental Organizations (NGOs) and People's Organizations (POs).

cl. "State" means the Republic of the Philippines.

cm. "Tailings Disposal System" refers to a combination of methods, equipment and manpower used in handling, transporting, disposing and/or impounding mill tailings.

cn. "Waste Dump" refers to a designated place where the mine waste are accumulated or collected.

co. "Utilization" means the extraction, mineral processing and/or disposition of minerals.

## CHAPTER II

### GOVERNMENT MANAGEMENT

#### Section 6. Authority of the Department

The Department is the primary Government agency responsible for the conservation, management, development and proper use of the State's mineral resources including those in reservations, watershed areas and lands of the public domain. The Department shall have the following authority, among others:

a. To promulgate rules and regulations as may be necessary to implement the intent and provisions of the Act;

- b.To enter into Mineral Agreements on behalf of the Government or recommend FTAA to the President upon endorsement of the Director;
- c.To enforce applicable related laws such as Administrative Code, Civil Code, etc.; and
- d.To exercise such other authority vested by the Act and as provided for in these implementing rules and regulations.

The Secretary may delegate such authority and other powers and functions to the Director.

## Section 7.Organization and Authority of the Bureau

The Mines and Geosciences Bureau shall be a line bureau primarily responsible for the implementation of the Act pursuant to Section 100 thereof.It shall be comprised of a Central Office and the necessary regional, district and such other offices as may be established in pertinent administrative orders issued by the Secretary.The staff Bureau created under Department Administrative Order No. 1, Series of 1988, shall become the Central Office of the Mines and Geosciences Bureau while the Mines and Geosciences Development Services created pursuant to Department Administrative Order No. 41, Series of 1990, shall become the Regional Offices.

The Bureau shall have the following authority, among others:

- a.To have direct charge in the administration and disposition of mineral lands and mineral resources;
- b.To undertake geological, mining, metallurgical, chemical and other researches, as well as mineral exploration surveys: *Provided*, That for areas closed to mining applications as provided for in Section 15 hereof, the Bureau can undertake studies for purposes of research and development;
- c.To confiscate, after due process, surety, performance and guaranty bonds after notice of violation;
- d.To recommend to the Secretary the granting of Mineral Agreements or to endorse to the Secretary for action by the President the grant of FTAA's, in favor of Qualified Persons and to monitor compliance by the Contractor with the terms and conditions of the Mineral Agreements and FTAA's.For this purpose, an efficient and effective monitoring system shall be established to ascertain periodically whether or not these objectives are realized;
- e.To cancel or to recommend cancellation, after due process, mining rights, mining applications and mining claims for noncompliance with pertinent laws, rules and regulations;

- f.To deputize, when necessary, any member or unit of the Philippine National Police (PNP) and barangay, duly registered and Department-accredited Nongovernmental Organization (NGO) or any Qualified Person to police all mining activities;
- g.To assist the Environmental Management Bureau (EMB) under the Department and/or the Department Regional Office in the processing or conduct of Environmental Impact Assessment in mining projects; and
- h.To exercise such other authority vested by the Act and as provided for in these implementing rules and regulations.

The Director may delegate such authority and other powers and functions to the Regional Director.

#### Section 8.Role of Local Government

Subject to Section 8 of the Act and pursuant to the Local Government Code and other pertinent laws, the Local Government Units (LGUs) shall have the following roles in mining projects within their respective jurisdictions:

- a.To ensure that relevant laws on public notice, public consultation and public participation are complied with;
- b.In coordination with the Bureau/Regional Office(s) and subject to valid and existing mining rights, to approve applications for small-scale mining, sand and gravel, quarry, guano, gemstone gathering and gratuitous permits and for industrial sand and gravel permits not exceeding five (5) hectares;
- c.To receive their share as provided for by law in the wealth generated from the utilization of mineral resources and thus enhance economic progress and national development;
- d.To facilitate the process by which the community shall reach an informed decision on the social acceptability of a mining project as a requirement for securing an Environmental Compliance Certificate (ECC);
- e.To participate in the monitoring of any mining activity as a member of the Multipartite Monitoring Team referred to in Section 185 hereof;
- f.To participate as a member of the Mine Rehabilitation Fund Committee as provided for in Sections 182 to 187 hereof;
- g.To be the recipient of social infrastructure and community development projects for the utilization of the host and neighboring communities in accordance with Chapter XIV hereof;
- h.To act as mediator between the Indigenous Cultural Community(ies) and the Contractor(s) as

may be requested;

i.To coordinate with the Department and Bureau in the implementation of the Act and these implementing rules and regulations in their respective jurisdictions.In areas covered by the Southern Philippines Council for Peace and Development (SPCPD), Autonomous Region of Muslim Mindanao (ARMM) and future similar units, the appropriate offices of said units shall coordinate with the Department and Bureau in the implementation of the Act and these implementing rules and regulations; and

j.To perform such other powers and functions as may be provided for by applicable laws, rules and regulations.

### CHAPTER III

#### MINERAL RESERVATIONS

#### AND GOVERNMENT RESERVATIONS

##### Section 9.Establishment, Disestablishment or Modification of Boundary of a Mineral Reservation

In all cases, the Director shall conduct public hearings allowing all concerned sectors and communities, interested Nongovernmental and People's Organizations, as well as Local Government Units, to air their views regarding the establishment, disestablishment or modification of any Mineral Reservation.The public shall be notified by publication in a newspaper of general circulation in the province, as well as by posting in all affected municipalities and barangays, at least thirty (30) days before said hearings are conducted.

The recommendation of the Director shall be in writing stating therein the grounds for the establishment, disestablishment or modification of any specific Mineral Reservation and shall likewise be published after submission to the Secretary.

No recommendation of the Director shall be acted upon by the Secretary unless the preceding paragraph has been strictly complied with.

Upon the recommendation of the Director through the Secretary, the President may, subject to valid and existing rights, set aside and establish an area as a Mineral Reservation when the national interest so requires, such as when there is a need to preserve strategic raw materials for industries critical to national development or certain minerals for scientific, cultural or ecological value.The Secretary shall cause the periodic review of existing Mineral Reservations by detailed geological, mineral and ecological evaluation for the purpose of determining whether or not their

continued existence is consistent with the national interest and upon his/her recommendation, the President may, by proclamation, alter or modify the boundaries thereof or revert the same to the public domain without prejudice to prior existing rights.

In the proclamation of such Mineral Reservations, all valid and existing mining rights shall be respected.

#### Section 10. Government Reservations

For Government Reservations, the Department may directly undertake exploration, development and utilization of mineral resources. In the event that the Department can not undertake such activities, these may be undertaken by a Qualified Person: *Provided*, That the right to explore, develop and utilize the minerals found therein shall be awarded by the President under such terms and conditions as recommended by the Director and approved by the Secretary: *Provided, further*, That such right shall be granted only after exploration reveals the presence of economically potential deposits: *Provided, finally*, That the Permittee who undertook the exploration of said Reservation shall be given priority.

#### Section 11. Mining Operations within Mineral and Government Reservations

Mining operations in Mineral Reservations shall be undertaken by the Department or through a Qualified Person under any of the following modes:

- a. Exploration Permit;
- b. Mineral Agreement;
- c. Financial or Technical Assistance Agreement (FTAA);
- d. Small-Scale Mining Permit; and
- e. Quarry Permit.

Mining operations in Government Reservations shall be first undertaken through an Exploration Permit, subject to limitations prescribed therein, before the same is opened for Mineral Agreement/FTAA application or other mining applications.

Application for Exploration Permit/Mineral Agreement/FTAA/Quarry Permit within Mineral and Government Reservations shall be governed by Chapters V, VI, VII and VIII of these implementing rules and regulations.

## Section 12.Small-Scale Mining Operations within Mineral Reservations

Small-scale mining operations within Mineral Reservations shall be governed by the pertinent rules and regulations provided for in the Mineral Reservations Development Board (MRDB) Administrative Order No. 3, Series of 1984, and MRDB Administrative Order No. 3-A, Series of 1987, as amended, and as may be applicable. Small-scale mining cooperatives covered by R.A. No. 7076 shall be given preferential right to apply for a small-scale mining contract for a maximum aggregate area of twenty-five percent (25%) of a Mineral Reservation subject to valid and existing mining rights.

## Section 13.Payment of Royalty of Minerals/Mineral Products Extracted from Mineral Reservations

The Contractors/Permit Holders/Lesseees shall pay to the Bureau a royalty which shall not be less than five percent (5%) of the market value of the gross output of the minerals/mineral products extracted or produced from the Mineral Reservations exclusive of all other taxes. A ten percent (10%) share of said royalty and ten percent (10%) of other revenues such as administrative, clearance, exploration and other related fees to be derived by the Government from the exploration, development and utilization of the mineral resources within Mineral Reservations shall accrue to the Bureau as a Trust Fund and shall be deposited in a Government depository bank to be allotted for special projects and other administrative expenses related to the exploration, development and environmental management of minerals in Government Reservations.

## CHAPTER IV

### SCOPE OF APPLICATION

## Section 14.Areas Open to Mining Applications

The following areas are open to mining applications:

- a. Public or private lands not covered by valid and existing mining rights and mining applications;
- b. Lands covered by expired/abandoned/canceled mining/quarrying rights;
- c. Mineral Reservations; and
- d. Timber or forest lands as defined in existing laws.

## Section 15.Areas Closed to Mining Applications

Pursuant to the Act and in consonance with State policies and existing laws, areas may be either closed to mining applications or conditionally opened therefor.

a.The following areas are closed to mining applications:

- 1.Areas covered by valid and existing mining rights and mining applications subject to Subsection b(3) herein;
- 2.Old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, tree parks, greenbelts, game refuge, bird sanctuaries and areas proclaimed as marine reserves/marine parks and tourist zones as defined by law and identified initial components of the National Integrated Protected Areas System (NIPAS) pursuant to R.A. No. 7586 and such areas expressly prohibited thereunder, as well as under Department Administrative Order No. 25, Series of 1992, and other laws;
- 3.Areas which the Secretary may exclude based, *inter alia*, on proper assessment of their environmental impacts and implications on sustainable land uses, such as built-up areas and critical watersheds with appropriate barangay/municipal/city/provincial *Sanggunian* ordinance specifying therein the location and specific boundary of the concerned area; and
- 4.Areas expressly prohibited by law.

Mining applications which have been made over the foregoing areas shall be reviewed and, after due process, such areas may be excluded from said applications.

b.The following areas may be opened for mining applications the approval of which are subject to the following conditions:

- 1.Military and other Government Reservations, upon prior written clearance by the Government agency having jurisdiction over such Reservations;
- 2.Areas near or under public or private buildings, cemeteries, archaeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works, including plantations or valuable crops, upon written consent of the concerned Government agency or private entity subject to technical evaluation and validation by the Bureau;
- 3.Areas covered by FTAA applications which shall be opened for quarry resources mining

applications pursuant to Section 53 hereof upon the written consent of the FTAA applicants, except for sand and gravel applications which shall require no such consent;

4.Areas covered by small-scale mining under R.A. No. 7076/P.D. No. 1899 upon prior consent of the small-scale miners, in which case a royalty payment, upon the utilization of minerals, shall be agreed upon by the concerned parties and shall form a Trust Fund for the socioeconomic development of the concerned community; and

5.DENR Project Areas upon prior consent from the concerned agency.

The Bureau shall cause the periodic review of areas closed to mining applications for the purpose of determining whether or not their continued closure is consistent with the national interest and render its recommendations, if any, to the Secretary for appropriate action.

#### Section 16.Ancstral Lands

In no case shall Mineral Agreements, FTAAs or mining permits be granted in areas subject of Certificates of Ancestral Domains/Ancstral Land Claims (CADC/CALC) or in areas verified by the Department Regional Office and/or other office or agency of the Government authorized by law for such purpose as actually occupied by Indigenous Cultural Communities under a claim of time immemorial possession except with their prior consent.

Prior consent refers to prior informed consent obtained, as far as practicable, in accordance with the customary laws of the concerned Indigenous Cultural Community.Prior informed consent should meet the minimum requirements of public notice through various media such as, but not limited to, newspaper, radio or television advertisements, fully disclosing the activity to be undertaken and/or sector consultation wherein the Contractor/Permit Holder/Permittee should arrange for a community assembly, notice of which should be announced or posted in a conspicuous place in the area for at least a month before the assembly: *Provided*, That the process of arriving at an informed consent should be free from fraud, external influence and manipulations.

In the event that prior informed consent is secured in accordance with the preceding paragraph, the concerned parties shall agree on the royalty payment for the concerned Indigenous Cultural Community(ies) which may not be less than one percent (1%) of the gross output.Expenses for community development may be credited to or charged against said royalty.Representatives from the Bureau/concerned Regional Office(s), concerned Department offices, concerned LGUs, relevant NGOs/POs and the Office of the Northern/Southern Cultural Communities may be

requested to act as mediators between the concerned Indigenous Cultural Community(ies) and the Contractor/Permit Holder/Permittee in the negotiation for the royalty payment.

In case of disagreement concerning the royalty due the concerned Indigenous Cultural Community(ies), the Department shall resolve the same within three (3) months. Said royalty shall form part of a Trust Fund for the socioeconomic well-being of the Indigenous Cultural Community(ies) in accordance with the management plan formulated by the same in the ancestral land or domain area: *Provided*, That the royalty payment shall be managed and utilized by the concerned Indigenous Cultural Community(ies).

Pending the enactment by Congress of a law on ancestral lands or domains, the implementation of this Section shall be in accordance with Department Administrative Order No. 2, Series of 1993, and other pertinent laws.

## CHAPTER V EXPLORATION PERMIT

### Section 17. General Provisions

Exploration activities may be directly undertaken by the Bureau or on behalf of the Contractor subject to reimbursement of all expenditures. In the event that the Bureau can not undertake such exploration activities, the same may be undertaken by a Qualified Person in specified areas as determined by the Director.

### Section 18. Term/Maximum Areas Allowed under an Exploration Permit

The term of an Exploration 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 six (6) years: *Provided*, That no renewal of Permit shall be allowed unless the Permittee has complied with all 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.

The maximum area that a Qualified Person may apply for or hold at any one time under an Exploration Permit shall be as follows:

a. Onshore, in any one province -

1. For individuals - twenty (20) blocks or approximately one thousand six hundred twenty (1,620) hectares and
2. For corporations, partnerships, associations or cooperatives - two hundred (200) blocks or approximately sixteen thousand two hundred (16,200) hectares.

b. Onshore, in the entire Philippines -

1. For individuals - forty (40) blocks or approximately three thousand two hundred forty (3,240) hectares and
2. For corporations, partnerships, associations or cooperatives - four hundred (400) blocks or approximately thirty-two thousand four hundred (32,400) hectares.

c. Offshore, in the entire Philippines, beyond five hundred meters (500 m) from the mean low tide level -

1. For individuals - one hundred (100) blocks or approximately eight thousand one hundred (8,100) hectares and
2. For corporations, partnerships, associations or cooperatives - one thousand (1,000) blocks or approximately eighty-one thousand (81,000) hectares.

The permit area is subject to relinquishment as provided for in Section 22(f) hereof.

#### Section 19. Application for Exploration Permit/Mandatory Requirements

Any Qualified Person may apply for an Exploration Permit (MGB Form No. 5-1) with the concerned Regional Office, except for offshore Exploration Permit applications which shall be filed with the Bureau, through payment of the required fees (Annex 5-A) and submission of five (5) sets of the following mandatory requirements:

- a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using National Mapping and Resource Information Authority (NAMRIA) topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
- b. Two-year Exploration Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by

a licensed Mining Engineer or Geologist;

c. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;

d. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) as provided for in Section 168 hereof;

e. Proof of technical competence including, among others, curricula vitae and track records in exploration and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration and Environmental Work Programs;

f. Proof of financial capability to undertake the Exploration and Environmental Work Programs such as the following:

1. For individuals - Statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding year and

2. For corporations, partnerships, associations or cooperatives - Latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments.

g. Photocopy of Articles of Incorporation/Partnership/Association, By-Laws and Certificate of Registration, duly certified by the Securities and Exchange Commission (SEC) or concerned authorized Government agency(ies), for corporations, partnerships, associations or cooperatives;

h. Declaration of the total area covered by approved/pending Exploration Permit(s)/application(s); and

i. Other supporting papers as the Bureau/concerned Regional Office may require or the applicant may submit.

For offshore Exploration Permit applications, the following additional requirements shall be submitted:

a. The name, port of registry, tonnage, type and class of survey vessel(s)/platform(s): *Provided*, That if a foreign vessel is to be used, the expected date of first entry or appearance and final departure of the survey vessel shall be provided and all the necessary clearances obtained;

b. A certification from the Coast and Geodetic Survey Department of the NAMRIA that the

proposed Exploration Work Program was duly registered to provide update in the publication of "Notice to Mariners" together with a list of safety measures to be regularly undertaken to ensure the safety of navigation at sea and prevent accident;

c. An agreement to:

1. Properly identify all installations, vessels and other crafts involved in exploration recognizable to all vessels within reasonable distance;
2. Notify the Bureau thirty (30) calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and
3. Allow the Bureau's authorized personnel, Philippine Coast Guard and other authorized persons during reasonable hours to board the vessel(s) while within the Exclusive Economic Zone.

d. Other supporting papers as the Bureau may require or the applicant may submit.

If the applicant conducts or has conducted exploration in a foreign country(ies), the Department shall verify the relevant requirements through the Philippine Embassy(ies) or Consulate(s) based in such country(ies).

Where the area applied for falls within the administration of two (2) or more Regional Offices, the application shall be filed with the Regional Office where the comparatively larger portion of the area is located, copy furnished the other concerned Regional Office(s) by the applicant within three (3) working days from the date of filing.

The Regional Office shall regularly provide the Bureau with a list, consolidated map and status report of the Exploration Permit applications filed in its jurisdiction.

## Section 20. Area Status/Clearance

Within fifteen (15) working days from receipt of the Exploration Permit application, the Bureau for areas within Mineral Reservations, or the concerned Regional Office(s), for areas outside Mineral Reservations, shall check in the control maps if the area is free/open for mining applications. The Regional Office shall also transmit a copy of the location map/sketch plan of the applied area to the pertinent Department sector(s) affected by the Exploration Permit application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the Regional Office as to the transmittal of said document to the concerned Department sector(s) and/or Government

agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Department sector(s) and/or Government agency(ies). The concerned Department sector(s) must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Regional Offices, the concerned Regional Office(s) which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/clearance is denied, the applicant may appeal the same to the Office of the Secretary.

If the proposed permit area is open for mining applications, the Bureau/concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Bureau/Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of Exploration Permit application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the Regional Director shall exert all efforts to resolve the same.

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

Within fifteen (15) working days from receipt of the necessary area clearances, the Bureau/concerned Regional Office(s) shall issue to the applicant the Notice of Application for Exploration Permit for publication, posting and radio announcement which shall be done within fifteen (15) working days from receipt of the Notice. 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.

The Bureau/concerned Regional Office(s) shall cause the publication of the Notice once a week for two (2) consecutive weeks 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 Bureau/concerned Regional Office shall also cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the Bureau, the concerned Regional Office(s), Provincial Environmental and Natural Resources Office(s) (PENRO(s)), Community Environmental and Natural Resources Office(s) (CENRO(s)) and in the concerned province(s) and municipality(ies), copy furnished 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 two (2) consecutive weeks 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 Bureau/concerned Regional Office(s). The publication and radio announcements shall be at the expense of the applicant.

Within thirty (30) calendar days from the last date of publication/posting/radio announcements, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the publication/posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of publication/posting/radio announcement, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office 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 therefrom.

However, previously published valid and existing mining claims are exempted from the publication/posting/radio announcement required under this Section.

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

## Section 22. Terms and Conditions of an Exploration Permit

An Exploration Permit shall contain the following terms and conditions:

- a. The right to explore shall be subject to valid, prior and existing rights of any party(ies) within the subject area;
- b. The Permit shall be for the exclusive use and benefit of the Permittee or its duly authorized representative and, shall under no circumstances, be used by the Permittee for purposes other than exploration;
- 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 six (6) years: *Provided*, That no renewal of Permit shall be allowed unless the Permittee has complied with the terms and conditions of the Permit and shall not have been found guilty of violation of any provision of the Act and these implementing rules and regulations;
- d. The Permittee shall submit to the Bureau/concerned Regional Office within thirty (30) calendar days after the end of each semester a report under oath of the Exploration Work Program implementation and expenditures showing discrepancies/deviations including the results of the survey, laboratory reports, geological reports/maps subject to semiannual inspection and verification by the Bureau/concerned Regional Office at the expense of the Permittee: *Provided*, That any expenditure in excess of the yearly budget of the approved Exploration Work Program may be carried forward and credited to the succeeding years covering the duration of the Permit;
- e. The Permittee shall submit to the Bureau/concerned Regional Office within thirty (30) calendar days from the end of six (6) months after the approval of the Environmental Work Program (EWP) and every six (6) months thereafter a status report on its compliance with the said EWP;
- f. The Permittee shall annually relinquish at least 20% of the permit area during the first two (2) years of exploration and at least 10% of the remaining permit area annually during the extended exploration period. However, if the permit area is less than five thousand (5,000) hectares, the Permittee need not relinquish any part thereof. A separate report of relinquishment shall be submitted to the Bureau/concerned Regional Office with a detailed geologic report of the relinquished area accompanied by maps at a scale of 1:50,000 and results of analyses and corresponding expenditures, among others. The minimum exploration expenditures for the remaining area after relinquishment shall be based on the approved Exploration Work Program;
- g. The Secretary or his/her duly authorized representative shall annually review the performance of the Permittee;
- h. The Permittee shall submit to the Bureau/concerned Regional Office a final report upon the expiration or relinquishment of the Permit or its conversion into Mineral Agreement or FTAA in a

form and substance comparable to published reports of respected international organizations and shall incorporate all the findings in the permit area, including locations of samples, assays, chemical analyses and assessment of the mineral potential. Such report shall include complete detailed expenditures incurred during the exploration;

i. In case of diamond drilling, the Permittee shall, upon request of the Director/concerned Regional Director, submit to the Bureau/concerned Regional Office a quarter of the core samples which shall be deposited in the Bureau/concerned Regional Office Core Library for reference and safekeeping;

j. Offshore exploration activities shall be carried out in accordance with the United Nations Convention on the Law of the Sea (UNCLOS) and in a manner that will not adversely affect the safety of navigation at sea and will ensure accommodation with other marine activities such as fishing, aquaculture, transportation, etc.;

k. Onshore exploration activities shall be carried out in a manner that will, at all times, safeguard the environment;

l. If the Permittee applies for a Mineral Agreement or FTAA over the permit area, the exploration period covered by the Exploration Permit shall be considered as the exploration period of the Mineral Agreement or FTAA;

m. The Permittee shall comply with pertinent provisions of the Act and these implementing rules and regulations; and

n. Other terms and conditions which the Bureau/concerned Regional Office may deem appropriate.

### Section 23. Registration of Exploration Permit

Upon evaluation that all the terms and conditions are in order and that the subject area has been cleared from any conflict, the Director/concerned Regional Director shall approve and issue the Exploration Permit within thirty (30) calendar days from such evaluation and shall cause the registration of the same to the Bureau/concerned Regional Office after payment of the required fees (Annex 5-A). In case of renewal, the Secretary shall issue the Exploration Permit (MGB Form No. 5-2) within thirty (30) calendar days from the recommendation of the Director.

### Section 24. Rights and Obligations of the Permittee

The Permittee, its heirs or successors-in-interest shall have the right to enter, occupy and explore the permit area, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Exploration

Permit.

#### Section 25. Transfer or Assignment of Exploration Permit

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

#### Section 26. Relinquishment of Areas Covered by Exploration Permit

The Permittee may, at any time, relinquish the whole or any portion of the total permit area by filing a notice of relinquishment with the Bureau/concerned Regional Office.

#### Section 27. Renewal of Exploration Permit

Within sixty (60) calendar days before the expiration of an Exploration Permit, the Permittee may submit to the Bureau, copy furnished the concerned Regional Office, an application to renew the Exploration Permit accompanied by five (5) sets of the following mandatory requirements:

- a. Justification of renewal;
- b. Comprehensive and validated technical report on the outcome of the two-year exploration works, including their environmental effects duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- c. Audited report of expenditures incurred during the exploration period;
- d. Two-year Exploration Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- e. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) as provided for in Section 168 hereof; and
- f. Other supporting papers as the Department/Bureau may require or the applicant may submit.

The Secretary may grant the renewal after field verification by the Bureau/concerned Regional Office of the foregoing requirements, which field verification shall be undertaken at the expense of the Permittee.

#### Section 28. Cancellation of an Exploration Permit

The Director/concerned Regional Director may cancel the Exploration Permit for failure of the

Permittee to comply with any of the requirements and for violation(s) of the terms and conditions under which the Permit is issued. For renewed Exploration Permits, the Secretary upon the recommendation of the Director shall cause the cancellation of the same.

Upon cancellation of the Permit covering areas within Government Reservations, the said areas shall automatically be reverted back to its original status.

#### Section 29. Effect of Relinquishment or Cancellation of Exploration Permit

The foregoing provisions notwithstanding, relinquishment or cancellation shall not release the Permittee from any and all obligations it may have, particularly with regard to ecological management, at the time of relinquishment or cancellation.

#### Section 30. Declaration of Mining Project Feasibility

If results of exploration reveal the presence of mineral deposits economically and technically feasible for mining operations, the Permittee may, 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/concerned Regional Director shall grant the Permittee the exclusive right to a Mineral Agreement or FTAA over the permit area: *Provided*, 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 declaration of mining project feasibility.

The application for Mineral Agreement or FTAA by a Permittee shall be accompanied by five (5) sets of the following mandatory requirements:

- a. Mining Project Feasibility Study (MGB Form No. 5-3);
- b. Complete Geologic Report of the area;
- c. Approved Survey Plan;
- d. Three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
- e. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and

Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;

f.Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable;

g.Proof of financial capability to undertake the activities pursuant to Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable, such as statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding year;

h.Proof of award of the area by the President for areas within Government Reservations; and

i.Other supporting papers as the Department/Bureau may require or the applicant may submit.

The processing of the application for a Mineral Agreement or FTAA shall be in accordance with Chapters VI and VII, respectively, of these implementing rules and regulations.

## CHAPTER VI MINERAL AGREEMENTS

### Section 31.Kinds of Mineral Agreements and Nature Thereof

There are three (3) kinds of Mineral Agreements, namely:

a.Mineral Production Sharing Agreement (MPSA) - an agreement wherein the Government grants to the Contractor the exclusive right to conduct mining operations within, but not title over, the contract area and shares in the production whether in kind or in value as owner of the minerals therein.The Contractor shall provide the necessary financing, technology, management and personnel;

b.Co-Production Agreement (CA) - an agreement between the Government and the Contractor wherein the Government shall provide inputs to the mining operations other than the mineral resources; and

c.Joint Venture Agreement (JVA) - 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.

### Section 32. Eligibility of Applicant for Mineral Agreement

The following Qualified Person may apply for a Mineral Agreement for the exploration, development and utilization of mineral resources:

- a. In case of an individual - must be a Filipino citizen of legal age and with capacity to contract; or
- b. In case of a corporation, partnership, association or cooperative - must be organized or authorized for the purpose of engaging in mining, duly registered in accordance with law, at least sixty percent (60%) of the capital of which is owned by Filipino citizens.

### Section 33. Maximum Areas Allowed under a Mineral Agreement

The maximum area that a Qualified Person may apply for or hold at any one time under a Mineral Agreement shall be as follows:

- a. Onshore, in any one province -

- 1. For individuals - ten (10) blocks or approximately eight hundred ten (810) hectares and
- 2. For corporations, partnerships, associations or cooperatives - one hundred (100) blocks or approximately eight thousand one hundred (8,100) hectares.

- b. Onshore, in the entire Philippines -

- 1. For individuals - twenty (20) blocks or approximately one thousand six hundred twenty (1,620) hectares and
- 2. For corporations, partnerships, associations or cooperatives - two hundred (200) blocks or approximately sixteen thousand two hundred (16,200) hectares.

- c. Offshore, in the entire Philippines, beyond five hundred meters (500 m) from the mean low tide level -

- 1. For individuals - fifty (50) blocks or approximately four thousand fifty (4,050) hectares,
- 2. For corporations, partnerships, associations or cooperatives - five hundred (500) blocks or approximately forty thousand five hundred (40,500) hectares and
- 3. For the Exclusive Economic Zone - a larger area to be determined by the Secretary upon the recommendation of the Director.

The above-mentioned maximum areas that a Contractor may apply for or hold under a Mineral Agreement shall not include mining/quarry areas under operating agreements between the Contractor and a claimowner/Lessee/Permittee/licensee entered into under P.D. No. 463.

#### Section 34. Term of a Mineral Agreement

A Mineral Agreement 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 the same terms and conditions thereof, without prejudice to changes mutually agreed upon by the Government and the Contractor.

After the renewal period, the operation of the mine may be undertaken by the Government or through a Contractor. The contract for the operation of a mine shall be awarded to the highest bidder in a public bidding after due publication of the notice thereof: *Provided*, That the original Contractor shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

#### Section 35. Mandatory Requirements for Mineral Agreement Application

The applicant shall submit at least five (5) sets of the following mandatory requirements depending on the type of agreement applied for:

##### a. For individuals -

1. Location map/sketch plan of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;

2. Two-year Exploration Work Program (MGB Form No. 5-4) or three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;

3. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the

Director;

4.Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;

5.Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable;

6.Proof of financial capability to undertake the activities pursuant to Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable, such as statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding year;

7.Declaration of the total area covered by approved/pending Mineral Agreement(s)/application(s); and

8.Other supporting papers as the Department/Bureau/concerned Regional Office may require or the applicant may submit.

b.For corporations, partnerships, associations or cooperatives -

1.Duly certified Certificate of Registration issued by the Securities and Exchange Commission or concerned authorized Government agency;

2.Duly certified Articles of Incorporation/Partnership/Association and By-Laws;

3.Location map/sketch plan of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;

4.Two-year Exploration Work Program (MGB Form No. 5-4) or three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;

5.When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office.The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the

Director;

6.Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;

7.Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable;

8.Proof of financial capability to undertake the activities pursuant to Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments;

9.Declaration of the total area covered by approved/pending Mineral Agreement(s)/application(s); and

10.Other supporting papers as the Department/Bureau/concerned Regional Office may require or the applicant may submit.

If the applicant conducts or has conducted mining operations in a foreign country(ies), the Department shall verify the relevant requirements through the Philippine Embassy(ies) or Consulate(s) based in such country(ies).

c.For holders of valid and existing mining lease contracts, operating agreements, Quarry Permits/licenses or unperfected mining/quarry claims, the following shall be submitted in addition to the aforesaid requirements, whenever applicable, namely:

1.Certification from the concerned Regional Office that the mining/quarry claims are valid and subsisting;

2.Appropriate environmental report on the rehabilitation of mined-out and/or mine waste/tailings-covered areas and anti-pollution measures undertaken during the mining operations;

3.Environmental Compliance Certificate for any new phase outside of the originally approved operation under the mining project;

4.Mining Project Feasibility Study (MGB Form No. 5-3);

5. Three-year Development/Construction/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
6. Approved Survey Plan of the mining area; and
7. Other supporting papers as the Department/Bureau/concerned Regional Office may require or the applicant may submit.

### Section 36. Filing of Mineral Agreement Applications

The Mineral Agreement application (MGB Form No. 6-1) shall be filed by the applicant either personally or through its duly authorized representative with the Bureau/concerned Regional Office: *Provided*, That any application that transcends into two (2) or more regions shall be filed with the Regional Office which has the largest area covered by the application, copy furnished the other concerned Regional Office(s) by the applicant: *Provided, further*, That a Mineral Agreement application shall be accepted only upon payment of the required fees (Annex 5-A) to the Bureau/concerned Regional Office: *Provided, finally*, That any application with incomplete mandatory requirements shall not be accepted.

The Regional Office shall regularly provide the Bureau with a list, consolidated map and status report of Mineral Agreement applications filed in its jurisdiction.

### Section 37. Area Status/Clearance

Within fifteen (15) working days from receipt of the Mineral Agreement application, the Bureau/concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications. The Regional Office shall also transmit a copy of the location map/sketch plan of the applied area to the pertinent Department sector(s) affected by the Mineral Agreement application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the Regional Office as to the transmittal of said document to the concerned Department sector(s) and/or Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Department sector(s) and/or Government agency(ies). The concerned Department sector(s) must submit the area status/consent/clearance on the proposed contract area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the

area applied for falls within the administration of two (2) or more Regional Offices, the concerned Regional Office(s) which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/clearance is denied, the applicant may appeal the same to the Office of the Secretary.

If the proposed contract area is open for mining applications, the Bureau/concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Bureau/Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of Mineral Agreement application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the Regional Director shall exert all efforts to resolve the same.

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

Within fifteen (15) working days from receipt of the necessary area clearances, the Bureau/concerned Regional Office(s) shall issue to the applicant the Notice of Application for Mineral Agreement for publication, posting and radio announcement which shall be done within fifteen (15) working days from receipt of the Notice. 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.

The Bureau/concerned Regional Office(s) shall cause the publication of the Notice once a week for two (2) consecutive weeks 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 Bureau/concerned Regional Office shall also cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the Bureau, the concerned Regional Office(s),

PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished 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 two (2) consecutive weeks 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 Bureau/concerned Regional Office(s). The publication and radio announcements shall be at the expense of the applicant.

Within thirty (30) calendar days from the last date of publication/posting/radio announcements, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the publication/posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of publication/posting/radio announcement, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office 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 therefrom.

However, previously published valid and existing mining claims are exempted from the publication/posting/radio announcement required under this Section.

No Mineral Agreement shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

### Section 39. Terms and Conditions of a Mineral Agreement

The following terms and conditions shall be incorporated in the Mineral Agreement, namely:

a. A stipulation that the Contractor shall not, by virtue of the Mineral Agreement, acquire any title over the contract/mining area without prejudice to the acquisition by the Contractor of the

land/surface rights through any mode of acquisition provided for by law;

b. Representations and warranties that the Contractor has, or has access to, all the financing and technical capability and technology required to promptly and effectively carry out the objectives of the Agreement with the understanding to timely utilize these resources under its supervision pursuant to the periodic work programs and related budgets, and when proper, providing an exploration period up to two (2) years from date of issuance thereof, renewable for like periods but not to exceed a total term of six (6) years, subject to annual review by the Director in accordance with these implementing rules and regulations;

c. Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the Agreement;

d. A stipulation that the Contractor may relinquish totally or partially the original contract area during the exploration period. After the exploration period and prior to or upon approval of declaration of mining project feasibility, the Contractor shall finally relinquish to the Government any portion of the contract area which shall not be necessary for mining operations and not covered by any declaration of mining feasibility with the corresponding submission to the Bureau/concerned Regional Office of geologic report and pertinent maps in the scale of 1:50,000. The minimum exploration expenditures for the remaining area after relinquishment shall be based on the approved Exploration Work Program;

e. A stipulation that each mining area after final relinquishment shall not be more than five thousand (5,000) hectares for metallic minerals and two thousand (2,000) hectares for nonmetallic minerals: *Provided*, That the Director, with the approval of the Secretary, may allow a Contractor to hold a larger mining area depending upon the nature of the deposit subject to technical verification and evaluation by the Bureau as to the technical/financial capability of the Contractor;

f. A stipulation that the mining operations shall be conducted in accordance with the provisions of the Act and these implementing rules and regulations;

g. A stipulation that the Contractor shall give preference to goods and services produced and offered in the Philippines of comparative quality and cost. In particular, the Contractor shall give preference to qualified Filipino construction enterprises, construction materials and skills available in the Philippines, Filipino sub-contractors for road construction and transportation, and Philippine household equipment, furniture and food;

h. A stipulation that the Contractor is obliged to give preference to Filipinos in all types of mining employment for which they are qualified and that the technology shall be transferred to the same;

i. A stipulation that the Contractor shall not discriminate on the basis of gender and that the Contractor shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;

- j.A stipulation requiring the Contractor to effectively use the best available appropriate anti-pollution technology and facilities to protect the environment and to restore or rehabilitate mined-out areas and other areas affected by mine waste/mill tailings and other forms of pollution or destruction in compliance with the requirements of the ECC and P.D. No. 984.This should be undertaken in coordination with the EMB/Department Regional Office;
- k.A stipulation that the Contractor shall furnish the Government an annual report of its mining operations and records of geologic, accounting and other relevant data, and that book of accounts and records shall be open for inspection by the Government;
- l.A stipulation requiring the Contractor to dispose of the minerals and by-products produced at the highest market price and to negotiate for more advantageous terms and conditions subject to the right to enter into long-term sales or marketing contracts or foreign exchange and commodity hedging contracts which the Government acknowledges to be acceptable notwithstanding that the sale price of the minerals may from time to time be lower, or the terms and conditions of sales are less favorable, than that available elsewhere: *Provided*, That the Bureau is furnished a copy of the said Sales Agreement subject to confidentiality between the Bureau and the Contractor;
- m.A stipulation providing for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the Agreement;
- n.A stipulation that the Contractor shall pay fees, taxes, royalties and other obligations in accordance with existing laws, rules and regulations;
- o.A stipulation that alien employment shall be limited to technologies requiring highly specialized training and experience subject to the required approval under existing laws, rules and regulations;
- p.A stipulation that in every case where foreign technologies are utilized and where alien executives are employed, an effective program of training understudies shall be undertaken;
- q.A stipulation that the Contractor shall conform with laws, rules and regulations regarding, among others, labor, safety and health standards;
- r.A stipulation that the Contractor shall confine its mining operations to its contract/mining area and that it shall not interfere with the rights of other Contractors/Lessees/operators/Permittees/Permit Holders;
- s.A stipulation that the Contractor shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;
- t.A stipulation that the Contractor shall contribute to the development of the host and neighboring communities of the mining area, local geoscience and mining technology in accordance with Chapter XIV hereof;
- u.A stipulation that the Contractor shall comply with its obligations under its Environmental Protection and Enhancement Program (EPEP) and its Annual EPEP, including the allocation of

the prescribed annual environmental expense pursuant to Section 171 hereof;

v.A stipulation that the Contractor shall utilize the best available appropriate and efficient mining and processing technologies;

w.A stipulation that the Contractor shall undertake exploration work on the area as specified in its Agreement based on an approved Work Program: *Provided*, That a negative variance of at least twenty percent (20

x.A stipulation that the Contractor shall submit annually starting from the date of approval of the Agreement, progress reports of the exploration activities in the prescribed form.This shall be accompanied by raw geologic, geophysical and geochemical data plotted in a 1:50,000 scale map, at a minimum.A quarterly report containing activities and accomplishments for each quarter shall also be submitted.At the end of the exploration term, the Contractor shall submit the final report with the detailed list of activities with the corresponding expenditures.The final report shall be accompanied by a 1:50,000 geologic map of the contract area acceptable by international standards.All reports referred to herein shall be submitted to the Bureau/concerned Regional Office;

y.A stipulation that the Mineral Agreement shall be canceled, revoked or terminated for failure of the Contractor to comply with the terms and conditions thereof or for other grounds as provided for in Section 230 hereof;

z.A stipulation that withdrawal by the Contractor from the Mineral Agreement shall not release it from any and all financial, environmental, legal and fiscal obligations under the Agreement;

aa.A stipulation that the Contractor shall comply with all other applicable provisions of the Act and these implementing rules and regulations; and

ab.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.

The Department shall formulate and promulgate such other rules, regulations and guidelines necessary to ensure compliance with the terms and conditions herein stated.

#### Section 40.Transfer or Assignment of Mineral Agreement Application

Transfer or assignment of Mineral Agreement applications shall be allowed subject to the approval of the Director/concerned Regional Director taking into account the national interest and public welfare: *Provided*, That such transfer or assignment shall be subject to eligibility requirements and shall not be allowed in cases involving speculation.

#### Section 41.Evaluation of Mineral Agreement Application

Within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 38 hereof, the concerned Regional Director shall initially evaluate the Mineral Agreement applications in areas outside Mineral Reservations. He/She shall thereafter endorse his/her findings to the Bureau for further evaluation by the Director within fifteen (15) working days from receipt of forwarded documents. Thereafter, the Director shall endorse the same to the Secretary for consideration/approval within fifteen (15) working days from receipt of such endorsement.

In case of Mineral Agreement applications in areas within Mineral Reservations, within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 38 hereof, the same shall be evaluated and endorsed by the Director to the Secretary for consideration/approval within fifteen (15) working days from receipt of such endorsement.

#### Section 42.Temporary Exploration Permit

While awaiting for the approval of the Mineral Agreement application by the Secretary, the Director may, upon the request of the applicant, issue a one-time non-renewable Temporary Exploration Permit (TEP) with a term not exceeding one (1) year to undertake exploration subject to the applicable provisions of Chapter V of these implementing rules and regulations: *Provided*, That the term of the TEP shall be deducted from the exploration period of the Mineral Agreement: *Provided, further*, That in the event that the Mineral Agreement application is disapproved by the Secretary, the TEP is deemed automatically canceled.

#### Section 43.Registration of Mineral Agreement

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 concerned Regional Office for areas outside Mineral Reservations within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The Bureau/concerned Regional Office shall officially release the Mineral Agreement to the Contractor after registration of the same.

Failure of the Contractor to cause the registration of its Mineral Agreement within the prescribed period shall be a sufficient ground for cancellation of the same.

#### Section 44. Rights and Obligations of the Contractor

The Contractor, its heirs or successors-in-interest shall have the right to exclusively conduct mining operations within the contract area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Mineral Agreement.

#### Section 45. Conversion of a Mineral Agreement into Any Other Mode of Mineral Agreement or FTAA

A Contractor may at its option convert totally or partially its Mineral Agreement into another mode of Mineral Agreement or FTAA by filing a Letter of Intent with the Bureau, copy furnished the concerned Regional Office. All revisions to the Mineral Agreement required by its conversion into any other mode of Mineral Agreement or FTAA shall be submitted to the Director within sixty (60) calendar days from the date of filing the Letter of Intent.

Upon compliance by the Contractor with all the requirements and payment of conversion fee (Annex 5-A), the application for conversion shall be evaluated and approved subject to Chapters VI and VII and all other applicable provisions of the Act and these implementing rules and regulations: *Provided*, That the term of the new Mineral Agreement or FTAA shall be equivalent to the remaining period of the original Agreement.

#### Section 46. Transfer or Assignment of Mineral Agreement

A Contractor may file an application for the total or partial transfer or assignment of its Mineral Agreement to a Qualified Person(s) upon payment of an application fee (Annex 5-A) with the Bureau/concerned Regional Office for evaluation. No application shall be accepted for filing unless accompanied by the pertinent Deed of Assignment that shall contain, among others, a stipulation that the transferee/assignee assumes all obligations of the transferor/assignor under the Agreement. Any transfer or assignment of rights and obligations under any Mineral Agreement shall be subject to the approval of the Secretary upon the recommendation of the Director: *Provided*, That any transfer or assignment of a Mineral Agreement shall not be

approved unless the transferor/assignor or Contractor has complied with all the terms and conditions of the Agreement and the provisions of the Act and these implementing rules and regulations at the time of transfer/assignment: *Provided, further*, That any transfer or assignment shall be deemed automatically approved if not acted upon by the Secretary within thirty (30) calendar days from official receipt thereof, unless patently unconstitutional, illegal or where such transfer or assignment is violative of pertinent rules and regulations: *Provided, finally*, That the transferee assumes all the obligations and responsibilities of the transferor/assignor under the Mineral Agreement.

If circumstances warrant and upon the recommendation of the Director, the Secretary may impose additional conditions for the approval of transfer/assignment of the Mineral Agreement.

#### Section 47. Withdrawal from a Mineral Agreement

The Contractor shall manifest in writing its request to the Director, copy furnished the concerned Regional Director, for withdrawal from the Mineral Agreement, if in its judgment the mining project is no longer economically feasible, even after it has exerted reasonable diligence to remedy the cause(s) or situation(s).

After verification and validation by the Bureau and upon compliance or satisfaction of all the Contractor's financial, fiscal, environmental and legal obligations at the time of withdrawal, the Director within a period of thirty (30) calendar days shall send an acceptance notice of withdrawal to the Contractor, cause the opening of the subject area to mining applications and release the Contractor's financial guaranty/performance bond.

#### Section 48. Issuance of Special Mines Permit

All holders of lease contracts which are about to expire and Quarry Permits/licenses with pending Mineral Agreement applications may file an application for Special Mines Permit with the Bureau/concerned Regional Office. A Special Mines Permit (SMP) may be issued by the Director/concerned Regional Director upon clearance by the Secretary and shall be for a period of one (1) year from the expiration of the lease contract or Quarry Permit/license, renewable once, subject to the following conditions and requirements:

a. That the applicant is already operating or has completed the development/construction stage and is ready to begin operations subject to verification by the Bureau;

- b. That the applicant has already submitted a proposed Mineral Agreement;
- c. That the applicant has submitted a one-year Work Program duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
- d. Submission of Environmental Compliance Certificate, including proof of compliance therewith, if applicable;
- e. Submission of Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
- f. Submission of proof of satisfactory Environmental Management Record and Community Relations Record, if applicable;
- g. Posting of Surety Bond prior to registration of the SMP; and
- h. Such other conditions and requirements not inconsistent with 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.

Provided, That quarterly progress production reports shall be submitted by the holders of Special Mines Permits covering the subject areas for the purpose of computing the share of the Government from production as provided for in Chapter XXI hereof. Such share of the Government shall be the excise tax as provided for in R.A. No. 7729.

## CHAPTER VII

### FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT

#### Section 49. Eligibility of Applicant for Financial or Technical Assistance Agreement (FTAA)

Any Qualified Person may apply for an FTAA for large-scale exploration, development and utilization of mineral resources as enumerated in Section 50 hereof.

#### Section 50. Minerals Subject of FTAA

An FTAA may be entered into for the exploration, development and utilization of gold, copper, nickel, chromite, lead, zinc and other minerals: *Provided*, That no FTAA's may be granted with respect to cement raw materials, marble, granite, sand and gravel and construction aggregates.

#### Section 51. Maximum Areas Allowed under an FTAA

The maximum FTAA contract area that may be applied for or granted per Qualified Person in the

entire Philippines shall be as follows:

- a. One thousand (1,000) meridional blocks or approximately eighty-one thousand (81,000) hectares onshore,
- b. Four thousand (4,000) meridional blocks or approximately three hundred twenty-four thousand (324,000) hectares offshore or
- c. Combination of one thousand (1,000) meridional blocks onshore and four thousand (4,000) meridional blocks offshore.

#### Section 52. Term of an FTAA

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 and validated technical report on the outcome of the two-year exploration works, including environmental effects duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- 3. Audited report of expenditures incurred;
- 4. Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- 5. Relinquishment report; and
- 6. Other supporting papers as the Department/Bureau/concerned Regional Office may require or the applicant may submit.

- 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 or from declaration of mining project feasibility; and
- d. Development, construction and utilization - remaining years of 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.

#### Section 53. Filing of FTAA Applications/Mandatory Requirements

The FTAA application (MGB Form No. 7-1) shall be filed with the Bureau for areas inside Mineral Reservations or with the concerned Regional Office for areas outside Mineral Reservations. The proposed contract area shall be closed to other mining applications for minerals mentioned in Section 50 hereof, but shall be open for quarry resources mining applications upon the written consent of the FTAA applicant and verification by the Bureau/concerned Regional Office, except for sand and gravel applications which shall require no consent thereof: *Provided*, That if consent is unreasonably withheld, the case shall be resolved by the Panel of Arbitrators.

Any application that transcends into two (2) or more regions shall be filed with the Regional Office which has the largest area covered by the application, copy furnished the other concerned Regional Office(s) by the applicant.

Upon payment of the required fees (Annex 5-A), an FTAA applicant shall file eight (8) sets of the FTAA proposal accompanied by the following mandatory requirements:

##### a. Upon filing of the proposal -

1. Duly certified Certificate of Registration issued by the Securities and Exchange Commission or concerned authorized Government agency;
2. Duly certified Articles of Incorporation and By-Laws;
3. Location map/sketch plan of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
4. Two-year Exploration Work Program (MGB Form No. 5-4) or three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
5. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the

Director;

6.Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;

7.Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable;

8.Certified copies, if any, of Exploration Permits/contracts, operating contracts, Mining Agreements, leases, permits, transfers, assignments or similar agreements it has entered into with any local or foreign juridical and natural persons;

9.Proof of financial capability to undertake the activities pursuant to Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments;

10.Declaration of the total area covered by approved/pending FTAA(s)/application(s); and

11.Other supporting papers as the Department/Bureau/concerned Regional Office may require or the applicant may submit.

b.Before the approval of the FTAA - Posting of financial guarantee/performance bond and letter of credit or other forms of negotiable instruments from any Government-accredited bonding company or financial institution, in favor of the Government upon notification by the Secretary, which shall be in any foreign currency negotiable with the Bangko Sentral ng Pilipinas or in Philippine Peso in such amount equivalent to the expenditure obligations of the applicant for any year;

c.After the approval of the FTAA but prior to registration of the same - An authorized capital of at least Four Million U.S. Dollars (US\$4,000,000.00) or its Philippine Peso equivalent;

d.Prior to construction, development and/or utilization -

1.Feasibility Study;

2.Approved Survey Plan of the mining area;

3.Environmental Compliance Certificate; and

4.Environmental Protection and Enhancement Program.

Provided, That any application with incomplete mandatory requirements shall not be accepted.

If the applicant conducts or has conducted mining operations in a foreign country(ies), the Department shall verify the relevant requirements through the Philippine Embassy(ies) or Consulate(s) based in such country(ies).

The Regional Office shall regularly provide the Bureau with a list, consolidated map and status report of FTAA applications filed in its jurisdiction.

#### Section 54. Area Status/Clearance

Within fifteen (15) working days from receipt of the FTAA application, the Bureau/concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications. The Regional Office shall also transmit a copy of the location map/sketch plan of the applied area to the pertinent Department sector(s) affected by the FTAA application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the Regional Office as to transmittal of said document to the concerned Department sector(s) and/or Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Department sector(s) and/or Government agency(ies). The concerned Department sector(s) must submit the area status/consent/clearance on the proposed contract area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Regional Offices, the concerned Regional Office(s) which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/clearance is denied, the applicant may appeal the same to the Office of the Secretary.

If the proposed contract area is open for mining applications, the Bureau/concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Bureau/Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from

receipt of said written notice, exclude the same from the coverage of FTAA application: *Provided, further,* That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the Regional Director shall exert all efforts to resolve the same.

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

Within fifteen (15) working days from receipt of the necessary area clearances, the Bureau/concerned Regional Office(s) shall issue to the applicant the Notice of Application for FTAA for publication, posting and radio announcement which shall be done within fifteen (15) working days from receipt of the Notice.The Notice must contain, among others, the name and complete address of the applicant, duration of the FTAA 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.

The Bureau/concerned Regional Office(s) shall cause the publication of the Notice once a week for two (2) consecutive weeks 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 Bureau/concerned Regional Office shall also cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the Bureau, the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished 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 two (2) consecutive weeks in a local radio program and shall consist of the name and complete address of the applicant, area location, duration of the FTAA applied for and instructions that information regarding such application may be obtained at the Bureau/concerned Regional Office(s).The publication and radio announcements shall be at the expense of the applicant.

Within thirty (30) calendar days from the last date of publication/posting/radio announcements, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the

publication/posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of publication/posting/radio announcement, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office 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 therefrom.

However, previously published valid and existing mining claims are exempted from the publication/posting/radio announcement required under this Section.

No FTAA shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

#### Section 56. Terms and Conditions of an FTAA

The following terms, conditions and warranties shall be incorporated in the FTAA, namely:

a. A firm commitment, in the form of a sworn statement during the existence of the Agreement, that the Contractor shall comply with minimum ground expenditures during the exploration and pre-feasibility periods as follows:

Year US \$/Hectare

12  
22  
38  
48  
518  
623

and a minimum investment of Fifty Million US Dollars (\$50,000,000.00) or its Philippine Peso equivalent in the case of Filipino Contractor for infrastructure and development in the contract

area.If a Temporary/Special Exploration Permit has been issued prior to the approval of an FTAA, the exploration expenditures incurred shall form part of the expenditures during the first year of the exploration period of the FTAA.

In the event that the Contractor exceeds the minimum expenditure requirement in any one (1) year, the amount in excess may be carried forward and deducted from the minimum expenditure required in the subsequent year.In case the minimum ground expenditure commitment for a given year is not met for justifiable reasons as determined by the Bureau/concerned Regional Office, the unexpended amount may be spent on the subsequent year(s) of the exploration period.

b.A stipulation that the Contractor shall not, by virtue of the FTAA, acquire any title over the contract/mining area without prejudice to the acquisition by the Contractor of the land/surface rights through any mode of acquisition provided for by law;

c.Representations and warranties that the Contractor has, or has access to, all the financing, managerial and technical capability and technology required to promptly and effectively carry out the objectives of the Agreement with the understanding to timely utilize these resources under its supervision pursuant to the periodic work programs and related budgets, and when proper, providing an exploration period up to two (2) years, extendible for another two (2) years, subject to annual review by the Secretary in accordance with these implementing rules and regulations;

d.Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the Agreement;

e.A stipulation that the Contractor shall relinquish its contract area pursuant to Section 60 hereof;

f.Representations and warranties that, except for payments for dispositions for its equity, foreign investments in local enterprises which are qualified for repatriation, and local supplier's credits and such other generally accepted and permissible financial schemes for raising funds for valid business purposes, the Contractor shall not raise any form of financing from domestic sources of funds, whether in Philippine or foreign currency, for conducting its mining operations for and in the contract/mining area;

g.A stipulation that the mining operations shall be conducted in accordance with the provisions of the Act and these implementing rules and regulations;

h.A stipulation that the Contractor shall perform its activities within the periods expressed in the FTAA plans and work programs, save as may be excused by force majeure;

i.A stipulation that the Contractor shall give preference to goods and services produced and offered in the Philippines of comparative quality and cost.In particular, the Contractor shall give preference to qualified Filipino construction enterprises, construction materials and skills

available in the Philippines, Filipino sub-contractors for road construction and transportation and Philippine household equipment, furniture and food;

j.A stipulation that the Contractor is obliged to give preference to Filipinos in all types of mining employment for which they are qualified and that the technology shall be transferred to the same;

k.A stipulation that the Contractor shall not discriminate on the basis of gender and that the Contractor shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;

l.A stipulation requiring the Contractor to effectively use the best available appropriate anti-pollution technology and facilities to protect the environment and to restore or rehabilitate mined-out areas and other areas affected by mine waste/mill tailings and other forms of pollution or destruction in compliance with the requirements of the ECC and P.D. No. 984.This should be undertaken in coordination with the EMB/Department Regional Office;

m.A stipulation that the Contractor shall furnish the Government an annual report of its mining operations and records of geologic, accounting and other relevant data, and that book of accounts and records shall be open for inspection by the Government;

n.A stipulation requiring the Contractor to dispose of the minerals and by-products produced at the highest market price and to negotiate for more advantageous terms and conditions subject to the right to enter into long-term sales or marketing contracts or foreign exchange and commodity hedging contracts which the Government acknowledges to be acceptable notwithstanding that the sale price of the minerals may from time to time be lower, or the terms and conditions of sales are less favorable, than that available elsewhere: *Provided*, That the Bureau is furnished a copy of the said Sale Agreement subject to confidentiality between the Bureau and the Contractor;

o.A stipulation providing for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the Agreement;

p.A stipulation that the Contractor shall pay fees, taxes, royalties, shares and other obligations in accordance with existing laws, rules and regulations;

q.A stipulation that alien employment shall be limited to technologies requiring highly specialized training and experience subject to the required approval under existing laws, rules and regulations;

r.A stipulation that in every case where foreign technologies are utilized and where alien executives are employed, an effective program of training understudies shall be undertaken;

s.A stipulation that the Contractor shall conform with laws, rules and regulations regarding, among others, labor, safety and health standards;

t.A stipulation that the Contractor shall confine its mining operations to its contract/mining area and that it shall not interfere with the rights of other Contractors/Lessees/operators/Permittees/Permit Holders;

u.A stipulation that the Contractor shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;

v.A stipulation that the Contractor shall contribute to the development of the host and neighboring communities of the mining area, local geoscience and mining technology in accordance with Chapter XIV hereof;

w.A stipulation that the Contractor shall comply with its obligations under its Environmental Protection and Enhancement Program (EPEP) and its Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;

x.A stipulation that the Contractor shall utilize the best available appropriate and efficient mining and processing technologies;

y.A stipulation that the Contractor shall undertake exploration work on the area as specified in its Agreement based on an approved Work Program: *Provided*, That a negative variance of at least twenty percent (20

z.A stipulation that the Contractor shall submit annually starting from the date of approval of the Agreement, progress reports of the exploration activities in the prescribed form.This shall be accompanied by raw geologic, geophysical and geochemical data plotted in a 1:50,000 scale map, at a minimum.A quarterly report containing activities and accomplishments for each quarter shall also be submitted.At the end of the exploration term, the Contractor shall submit the final report with the detailed list of activities with the corresponding expenditures.The final report shall be accompanied by a 1:50,000 geologic map of the contract area acceptable by international standards.All reports referred to herein shall be submitted to the Bureau/concerned Regional Office;

aa.A stipulation that the FTAA shall be canceled, revoked or terminated for failure of the Contractor to comply with the terms and conditions thereof or for other grounds as provided for in Section 230 hereof.

Should an FTAA be canceled, revoked or terminated, it shall no longer be required to meet the minimum expenditure requirement for the remaining period: *Provided*, That such cancellation, revocation or termination is in accordance with Section 68 hereof.

ab.A stipulation that withdrawal by the Contractor from the FTAA shall not release it from any and all financial, environmental, legal and/or fiscal obligations including settlement of all obligations that should have accrued to the Government during the term of the FTAA;

ac.A stipulation that the Contractor shall comply with all other applicable provisions of the Act and these implementing rules and regulations; and

ad.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.

The Department shall formulate and promulgate such other rules, regulations and guidelines necessary to ensure compliance with the terms and conditions herein stated and to establish a fixed and stable fiscal regime with respect to FTAA's.

#### Section 57. Transfer or Assignment of FTAA Application

Transfer or assignment of FTAA applications shall be allowed subject to the approval of the Director/concerned Regional Director taking into account the national interest and public welfare: *Provided*, That such transfer or assignment shall be subject to eligibility requirements and shall not be allowed in cases involving speculation.

#### Section 58. The Negotiating Panel

An FTAA shall be negotiated by the Department through a Negotiating Panel composed of the following:

- a. The Secretary- Chair
- b. The Director- Vice-Chair
- c. Representative from the Board of Investments  
or Department of Trade and Industry- Member
- d. Representative from the National Economic  
and Development Authority- Member
- e. Representative from the Department of Finance- Member
- f. Representative from the Department's Field  
Operations Office- Member
- g. Representative from the Department's Legal  
and Legislative Affairs Office- Member
- h. Representative(s) from the concerned  
Regional Office(s)- Member(s)

#### Section 59. Evaluation of FTAA Application

Within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 55 hereof, the concerned Regional Director shall initially evaluate the FTAA applications in areas outside Mineral Reservations. He/She shall thereafter endorse his/her findings to the Bureau for further evaluation by the Director within fifteen (15) working days from receipt of forwarded documents. Thereafter, the Director shall endorse the same to the Negotiating Panel for final evaluation.

In case of FTAA applications in areas within Mineral Reservations, within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 55 hereof, the same shall be evaluated and endorsed by the Director to the Negotiating Panel for final evaluation.

The Negotiating Panel shall evaluate the FTAA applications within thirty (30) calendar days from receipt thereof.

In evaluating the FTAA proposal, the Negotiating Panel shall take into consideration the real contributions to the economic growth and general welfare of the country that will be realized, the development of local scientific and technical resources, as well as contribution to community and Local Government development programs.

#### Section 60. Relinquishment of Areas Covered by FTAA

The contract area shall be subject to relinquishment as follows:

- a. At least twenty-five percent (25%) of the original contract area during the first two (2) years of exploration period and at least ten percent (10%) of the remaining contract area annually during the extended exploration period and pre-feasibility study period.
- b. During the exploration or pre-feasibility study period, the Contractor shall finally relinquish to the Government any portion of the contract area which shall not be necessary for mining operations and not covered by any declaration of mining feasibility with corresponding submission to the Bureau/concerned Regional Office of geologic report and pertinent maps in the scale 1:50,000: *Provided*, That each mining area after final relinquishment shall not be more than five thousand (5,000) hectares: *Provided, further*, That the Director, with the approval of the Secretary, may allow a Contractor to hold a larger mining area depending upon the nature of the deposit and subject to Section 50 hereof and technical verification by the Bureau.

c.The Contractor may, at its option, submit to the Bureau/concerned Regional Office a declaration of mining project feasibility over any portion of its contract area prior to the lapse of exploration or pre-feasibility period.In such an event, the Contractor shall have the right to continue its mineral exploration or feasibility studies during the exploration and feasibility periods, respectively, in respect to the remaining contract area.Any mining area declared out of such remaining contract area may be covered by the original Agreement or as a separate FTAA subject to Subsection (b) herein.

A separate report of relinquishment shall be submitted to the Bureau/concerned Regional Office with a detailed geologic report of the relinquished area accompanied by maps at a scale of 1:50,000 and results of analyses and corresponding expenditures, among others.The minimum exploration expenditures for the remaining area after relinquishment shall be based on the approved Exploration Work Program.

Where the Contractor originally derived its rights to the contract area from then claimowners or mining right owners, such part of the contract area relinquished pursuant to the provisions of Subsections (a), (b) and (c) herein shall be reverted back to the Government.Said claimowners or mining right owners shall have preferential rights over the area: *Provided*, That within thirty (30) calendar days from notification of relinquishment by the Contractor, the former shall signify its intention to enter into a Mineral Agreement with the Secretary: *Provided, further*, That all documents necessary for Mineral Agreement application shall be submitted within sixty (60) calendar days from receipt of such intention.

#### Section 61.Negotiation of FTAA

The Negotiating Panel, upon being satisfied of the terms and conditions of the proposed FTAA and with the applicant's compliance with all the requirements, shall recommend its execution and approval to the President.Should the Negotiating Panel, however, find some of the terms and conditions unacceptable, it shall calendar the proposed FTAA for negotiation and shall make the corresponding notification to the applicant.If after the negotiation, the terms and conditions acceptable to the Negotiating Panel have been incorporated in the proposed FTAA, a Resolution to that effect shall be made within fifteen (15) working days and signed, at least, by the majority of the Negotiating Panel.Based on the Resolution, the Secretary shall forthwith recommend the negotiated FTAA application to the President for consideration/approval.The President shall notify Congress of the approved FTAA within thirty (30) calendar days from the date of its

approval.

#### Section 62. Temporary Exploration Permit

While awaiting for the approval of the FTAA application by the President, the Secretary may, upon the request of the FTAA applicant, issue a one-time non-renewable Temporary Exploration Permit (TEP) with a term not exceeding one (1) year to undertake exploration subject to the applicable provisions of Chapter V of these implementing rules and regulations: *Provided*, That the term of the TEP shall be deducted from the exploration period of the FTAA: *Provided, further*, That in the event that the FTAA application is disapproved by the President, the TEP is deemed automatically canceled.

#### Section 63. Registration of FTAA

Upon approval of the FTAA by the President, the same shall be forwarded to the Bureau for numbering. The Bureau/concerned Regional Office shall notify the Contractor to cause the registration of its FTAA within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The Bureau/concerned Regional Office shall officially release the FTAA to the Contractor after registration of the same.

Failure of the Contractor to cause the registration of its FTAA within the prescribed period shall be sufficient ground for cancellation of the same.

#### Section 64. Rights and Obligations of the Contractor

The Contractor, its heirs or successors-in-interest shall have the right to exclusively conduct mining operations within the contract area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the FTAA.

#### Section 65. Conversion of an FTAA into a Mineral Agreement

Subject to verification and validation by the Bureau and to the final approval of the Secretary, where the economic viability of the ores in the contract area is found to be inadequate to justify

large-scale mining operations, the Contractor may, at its option, convert totally or partially its FTAA into a Mineral Agreement. In such cases, the Contractor shall manifest its request for conversion by filing a Letter of Intent with the Department, copy furnished the Bureau/concerned Regional Office. All revisions to the FTAA required by its conversion into a Mineral Agreement shall be submitted to the Secretary within six (6) months from the date of filing the Letter of Intent.

In the case of a foreign Contractor, it shall be given a period of one (1) year from the date of filing the Letter of Intent to satisfy the sixty percent (60%) Filipino equity requirement, subject to an extension of another one (1) year as may be approved by the Secretary taking into consideration the economic and other relevant factors. Upon compliance by the Contractor with all the requirements and payment of conversion fee (Annex 5-A), the application for conversion shall be evaluated and approved subject to Chapter VI hereof and all other applicable provisions of the Act and these implementing rules and regulations: *Provided*, That the term of the new Mineral Agreement shall be equivalent to the remaining period of the FTAA. A copy of the Mineral Agreement shall be submitted to the President.

Failure of the Contractor to meet the sixty percent (60%) equity requirement within the prescribed period shall cause the forfeiture of the Contractor's right to such conversion.

#### Section 66. Transfer or Assignment of FTAA

A Contractor may file an application for the total or partial transfer or assignment of its FTAA to a Qualified Person(s) upon payment of an application fee (Annex 5-A) with the Bureau/concerned Regional Office for evaluation. No application shall be accepted for filing unless accompanied by the pertinent Deed of Assignment that shall contain, among others, a stipulation that the transferee/assignee assumes all obligations of the transferor/assignor under the FTAA. Upon endorsement by the Director, the Secretary may recommend to the President the transfer or assignment of rights and obligations under any FTAA for approval: *Provided*, That any transfer or assignment of an FTAA shall not be approved unless the transferor/assignor or Contractor has complied with all the relevant terms and conditions of the FTAA and the provisions of the Act and these implementing rules and regulations at the time of transfer/assignment: *Provided, further*, That any transfer or assignment shall be deemed automatically approved if not acted upon by the President within thirty (30) calendar days from official receipt thereof, unless patently unconstitutional, illegal or where such transfer or assignment is violative of pertinent rules and regulations: *Provided, finally*, That the transferee assumes all the obligations and responsibilities of the transferor/assignor under the FTAA.

If circumstances warrant and upon the recommendation of the Director, the Secretary may impose additional conditions for the approval of the transfer/assignment of the FTAA.

#### Section 67. Withdrawal from an FTAA

The Contractor shall manifest in writing its request to the Secretary, copy furnished the Director, for withdrawal from the Agreement, if in its judgment the mining project is no longer economically feasible, even after it has exerted reasonable diligence to remedy the cause(s) or situation(s).

After verification and validation by the Bureau and upon compliance or satisfaction of all the Contractor's financial, fiscal, environmental and legal obligations at the time of withdrawal, the Secretary within a period of thirty (30) calendar days shall send an acceptance notice of withdrawal to the Contractor, cause the opening of the subject area to mining applications and release the Contractor's financial guaranty/performance bond.

#### Section 68. Cancellation/Revocation/Termination of an FTAA

An FTAA may be canceled/revoked/terminated, after due process, under any of the grounds provided for in Chapter XXIV of these implementing rules and regulations: *Provided*, That such cancellation/revocation/termination shall not release the Contractor from any and all obligations it may have, particularly with regard to ecological management, at the time of cancellation/revocation/termination.

### CHAPTER VIII

#### QUARRY OPERATIONS

#### Section 69. General Provisions

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, any Qualified Person may apply for a Mineral Agreement subject to Chapter VI of these implementing rules and regulations.

#### Section 70. Provincial/City Mining Regulatory Board

The Provincial/City Mining Regulatory Board shall, among others, accept, process and evaluate applications and determine administrative charges and fees for Quarry, Sand and Gravel, Guano, Gemstone Gathering and Small-Scale Mining Permits duly filed with the same. It shall be chaired by the concerned Regional Director or his/her duly authorized representative with the following members:

- a. Provincial Governor/City Mayor or his/her representative as Vice-Chair,
- b. Small-scale mining representative,
- c. Large-scale mining representative, and
- d. Department-duly accredited environmental Nongovernmental Organization representative.

The concerned Regional Office shall provide the technical secretariat to the Provincial/City Mining Regulatory Board.

#### Section 71. Quarry Permit

Any Qualified Person may apply for a Quarry Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and disposition of quarry resources covering an area of not more than five (5) hectares for a term of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided*, That application for renewal shall be filed before the expiry date of the Permit: *Provided, further*, That the Permit Holder has complied with all the terms and conditions of the Permit as provided herein and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations: *Provided, finally*, That no Quarry Permit shall be issued or granted on any area covered by a Mineral Agreement or FTAA, except on areas where a written consent is granted by the Mineral Agreement or FTAA Contractor.

#### Section 72. Sand and Gravel Permits

##### a. Commercial Sand and Gravel Permit

Any Qualified Person may apply for a Commercial Sand and Gravel Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and disposition of sand and gravel and other loose or unconsolidated materials which

are used in their natural state without undergoing processing covering an area of not more than five (5) hectares for a term of one (1) year from date of issuance thereof, renewable for like period and in such quantities as may be specified in the Permit: *Provided*, That only one (1) Permit shall be granted to a Qualified Person in a municipality at any one time under such terms and conditions as provided herein.

#### b. Industrial Sand and Gravel Permit

Any Qualified Person may apply for an Industrial Sand and Gravel Permit (MGB Form Nos. 8-1 or 8-1A and 8-2 or 8-2A) with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and disposition of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing covering an area of not more than five (5) hectares at any one time for a term of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided*, That any Qualified Person may apply for an Industrial Sand and Gravel Permit with the Regional Director through the Regional Office for areas covering more than five (5) hectares but not to exceed twenty (20) hectares at any one time for a term of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided, further*, That only one (1) Permit shall be granted to a Qualified Person in a municipality at any one time under such terms and conditions as provided herein.

#### c. Exclusive Sand and Gravel Permit

Any Qualified Person may apply for an Exclusive Sand and Gravel Permit (MGB Form No. 8-4B) with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for extraction, removal and utilization of sand and gravel and other loose or unconsolidated materials from public land for its own use covering an area of not more than one (1) hectare for a non-renewable period not exceeding sixty (60) calendar days and a maximum volume of fifty (50) cubic meters: *Provided*, That there will be no commercial disposition thereof.

### Section 73. Gratuitous Permits

#### a. Government Gratuitous Permit

Any Government entity/instrumentality in need of quarry, sand and gravel or loose/unconsolidated materials in the construction of building(s) and/or infrastructure for public use or other purposes may apply for a Government Gratuitous Permit (MGB Form No. 8-3B) with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for a period coterminous with the construction stage of the project but not to exceed one (1) year in public/private land(s) covering an area of not more than two (2) hectares. The applicant shall submit a project proposal stating where the materials to be taken shall be used and the estimated volume needed.

#### b. Private Gratuitous Permit

Any landowner may apply for a Private Gratuitous Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and utilization of quarry, sand and gravel or loose/unconsolidated materials from his/her land for a non-renewable period of sixty (60) calendar days: *Provided*, That there is adequate proof of ownership and that the materials shall be for personal use.

#### Section 74. Mandatory Requirements for Quarry or Commercial/Industrial Sand and Gravel Permit Application

The application for Quarry or Sand and Gravel Permit (MGB Form No. 8-3, 8-3A, 8-4 or 8-4A) shall be filed by the applicant either personally or through its duly authorized representative with the concerned Regional Office/Provincial/City Mining Regulatory Board: *Provided*, That any application that transcends into two (2) or more regions/provinces/cities shall be filed with the Regional Office/Provincial/City Mining Regulatory Board which has the largest area covered by the application, copy furnished the other concerned Regional Office(s)/Provincial/City Mining Regulatory Board by the applicant: *Provided, further*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the concerned Regional Office/Provincial/City Mining Regulatory Board: *Provided, finally*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least two (2) sets of the following mandatory requirements applicable to the type of permit applied for:

a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and

other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;

b.Area clearance from the concerned Government agencies/Local Government Units that may be affected by the permit application or written permission from the landowner(s) and surface owner(s) of the area applied for;

c.Work Program (MGB Form No. 5-4 or MGB Form No. 6-2) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;

d.When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office.The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;

e.Environmental Compliance Certificate prior to extraction, removal and/or disposition and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;

f.Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Work Program and Environmental Protection and Enhancement Program;

g.Proof of financial capability to undertake the activities pursuant to Work Program and Environmental Protection and Enhancement Program, such as the following:

1.For individuals - Statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding three (3) years and

2.For corporations, partnerships, associations or cooperatives - Latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments.

h.Photocopy of Articles of Incorporation/Partnership/Association, By-Laws and Certificate of Registration, duly certified by the Securities and Exchange Commission (SEC) or concerned authorized Government agency(ies), for corporations, partnerships, associations or cooperatives; and

i.Other supporting papers as the concerned Regional Office/Provincial/City Mining Regulatory Board may require or the applicant may submit.

## Section 75. Area Status/Clearance for a Quarry or Sand and Gravel Permit Application

Within fifteen (15) working days from receipt of the permit application, the concerned Regional Office/Provincial/City Mining Regulatory Board shall transmit a copy of the location map/sketch plan of the applied area to the concerned Regional Office/pertinent Department sector(s) affected by the permit application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the concerned Regional Office/Provincial/City Mining Regulatory Board as to transmittal of said document to the concerned Regional Office(s)/Department sector(s)/Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Regional Office(s)/Department sector(s)/Government agency(ies). The concerned Regional Office(s)/Department sector(s) must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Regional Offices/Provincial/City Mining Regulatory Boards, the concerned Regional Office(s)/Provincial/City Mining Regulatory Board which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/clearance is denied, the applicant may appeal the same to the Office of the Secretary.

Within fifteen (15) working days from receipt of the permit application, the concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications.

If the proposed permit area is open for mining applications, the concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of permit application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the concerned Regional Director/Provincial Governor/City Mayor shall exert all efforts to resolve the same.

## Section 76.Posting of a Quarry or Sand and Gravel Permit Application

Within fifteen (15) working days from receipt of the necessary area clearances, the concerned Regional Office(s)/Provincial/City Mining Regulatory Board shall issue to the applicant the Notice of Application for permit for posting which shall be done within fifteen (15) working days from receipt of the Notice. The Notice must contain, among others, the name and complete address of the applicant, duration of the permit applied for, extent of operation 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.

The concerned Regional Office/Provincial/City Mining Regulatory Board shall cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished 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.

Within thirty (30) calendar days from the last date of posting, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of posting, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office 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 therefrom.

No permit shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

## Section 77.Processing/Registration/Issuance of a Quarry or Sand and Gravel Permit

Upon evaluation that all the terms and conditions are in order and that the subject area has been cleared from any conflict, the concerned Regional Director/Provincial Governor/City Mayor shall

approve and issue the Permit within thirty (30) calendar days from such evaluation and shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The concerned Regional Office/Provincial/City Mining Regulatory Board shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same.

#### Section 78. Rights and Obligations of the Quarry or Commercial/Industrial Sand and Gravel Permit Holder

The Quarry or Sand and Gravel Permit Holder, its heirs or successors-in-interest shall have the right to exclusively extract, remove, dispose and/or utilize quarry or sand and gravel resources within the permit area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Permit.

#### Section 79. General Terms and Conditions of a Quarry/Commercial or Industrial Sand and Gravel/Government Gratuitous/Guano/Gemstone Gathering Permit

The following terms and conditions shall be incorporated in the Quarry/Commercial or Industrial Sand and Gravel/Government Gratuitous/Guano/Gemstone Gathering Permit:

- a. No extraction, removal and/or disposition of materials shall be allowed within a distance of one (1) kilometer from the boundaries of reservoirs established for public water supply, archaeological and historical sites or of any public or private works or structures, unless the prior clearance of the concerned Government agency(ies) or owner is obtained. No extraction, removal and/or disposition of materials shall likewise be allowed in offshore areas within five hundred (500) meters distance from the coast and two hundred (200) meters from the mean low tide level along the beach;
- b. The extraction, removal and/or disposition of materials under the Permit shall be confined within the area specified therein, the boundaries of which, according to the application, are established on the ground with prominent marks;
- c. The Permit Holder shall assume full responsibility and be liable for damages to private and/or public property(ies) that may be occasioned by its operations under the Permit;

- d. The Permit Holder shall manage its operations in a technically and environmentally responsible manner to achieve a safe, non-polluting and self-sustaining post disturbance landform;
- e. The Permit Holder shall conduct its operations in accordance with the provisions of the Act and these implementing rules and regulations;
- f. The Permit Holder shall not discriminate on the basis of gender and that the Permit Holder shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
- g. The Permit Holder shall conform to laws, rules and regulations regarding, among others, labor, safety and health standards;
- h. The Permit Holder shall not interfere with the rights of other Permit Holders/operators/Contractors;
- i. The Permit Holder shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;
- j. The Permit Holder shall immediately stop digging and extracting materials the moment man-made articles or artifacts are found. It shall notify the Director of the National Museum of such findings, in which case, the digging shall be under the supervision of the National Museum until said artifacts are recovered; and
- k. The Permit shall be subject to cancellation, revocation and termination as provided for in Section 100 hereof.

#### Section 80. Specific Terms and Conditions of a Quarry or Commercial/Industrial Sand and Gravel or Government Gratuitous Permit

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Quarry or Commercial/Industrial Sand and Gravel or Government Gratuitous Permit:

##### a. For Quarry or Commercial/Industrial Sand and Gravel Permit:

- 1. The Permit shall be for the exclusive use and benefit of the Permit Holder and shall not be transferred or assigned without prior written approval by the concerned Regional Director/Provincial Governor/City Mayor;
- 2. Unless otherwise renewed or amended, the Permit shall *ipso facto* terminate after the whole quantity and kind of materials specified therein have been removed or taken;

- 3.The Permit Holder shall file quarterly with the concerned Regional Office/Provincial/City Mining Regulatory Board a sworn statement of the quantity of materials extracted, removed and/or disposed under the Permit and the amounts of fees paid therefor.At the end of the term, the Permit Holder shall submit to the concerned Regional Office/Provincial/City Mining Regulatory Board a final report with the detailed list of activities and the corresponding expenditures;
- 4.The Permit Holder shall furnish the Government records of accounting and other relevant data from its operations and that book of accounts and records shall be open for inspection by the Government;
- 5.The Permit/permit area can be inspected and examined at all times by the concerned Regional Director/Provincial Governor/City Mayor;
- 6.The Permit Holder shall not, by virtue of the Permit, acquire any title over the permit area, without prejudice to its acquisition of the land/surface rights through any mode of acquisition provided by law;
- 7.The Permit Holder shall pay fees, taxes and other obligations in accordance with existing laws, rules and regulations;
- 8.The Permit Holder shall comply with its obligations under its ECC, Environmental Protection and Enhancement Program (EPEP) and Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;
- 9.The term of the Permit shall be for a period as specified therein from date of issuance thereof: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with the terms and conditions of the Permit and shall not have been found guilty of violation of any provision of the Act and these implementing rules and regulations; and
- 10.The Permit Holder shall comply with pertinent provisions of the Act, these implementing rules and regulations and such other terms and conditions not inconsistent with the Constitution, the Act and these rules and regulations, as well as those which the concerned Regional Director/Provincial Governor/City Mayor may deem to be for the national interest and public welfare.

b.For Government Gratuitous Permit:

- 1.The period of the Permit shall be coterminous with the term of the construction stage of the project but not to exceed one (1) year;
- 2.The concerned Government office shall, whenever practicable, use and utilize its own vehicle(s) and equipment in extracting, hauling and transporting the materials: *Provided*, That the

Permit Holder may enter into a contract with a private person/entity for the purpose of hauling and transporting such materials;

3.The materials authorized to be removed shall be strictly for infrastructure project and in no case shall the same be disposed of commercially, otherwise, persons responsible thereof shall be liable for prosecution under appropriate laws;

4.Unless otherwise amended, the Permit shall *ipso facto* terminate after the whole quantity and kind of materials specified therein have been removed or taken;

5.The Permit Holder shall file quarterly with the concerned Regional Office/Provincial/City Mining Regulatory Board a sworn statement of the quantity of materials extracted, removed and/or disposed under the Permit and the amounts of fees paid therefor.At the end of the term, the Permit Holder shall submit to the concerned Regional Office/Provincial/City Mining Regulatory Board a final report with the detailed list of activities and the corresponding expenditures;

6.The Permit/permit area can be inspected and examined at all times by the concerned Regional Director/Provincial Governor/City Mayor;

7.The Permit Holder shall comply with its obligations under its ECC and Environmental Protection and Enhancement Program (EPEP), including the allocation of the prescribed environmental expense pursuant to Section 171 hereof; and

8.The Permit Holder shall comply with pertinent provisions of the Act, these implementing rules and regulations and such other terms and conditions not inconsistent with the Constitution, the Act and these rules and regulations, as well as those which the concerned Regional Director/Provincial Governor/City Mayor may deem to be for the national interest and public welfare.

#### Section 81.Guano Permit

Any Qualified Person, whose domicile is within the municipality where the area applied for is located, may apply for a Guano Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal, disposition, and/or utilization of loose unconsolidated guano and other organic fertilizer deposits in specific caves and/or confined sites for a term of one (1) year or upon the extraction of the quantity as specified in the Permit: *Provided*, That only one (1) Guano Permit shall be issued for the same cave or area: *Provided, further*, That the maximum area for the Guano Permit that a Qualified Person may hold at any one (1) time shall not be more than five (5) hectares.

##### a.Gratuitous Guano Permit

A Gratuitous Guano Permit (MGB Form No. 8-6) may be granted to an individual for his/her personal use or to any Government agency in need of the material within a specified period and in such quantity not more than two thousand kilograms (2,000 kg).

#### b. Commercial Guano Permit

A Commercial Permit may be granted to a Qualified Person for sale or commercial disposition thereof within a specified period and in such quantity as may be specified thereof.

#### Section 82. Mandatory Requirements for Guano Permit Application

The permit application (MGB Form No. 8-5) shall be filed by the applicant either personally or through its duly authorized representative with the Provincial/City Mining Regulatory Board: *Provided*, That any application that transcends into two (2) or more regions shall be filed with the Provincial/City Mining Regulatory Board which has the largest area covered by the application, copy furnished the other concerned Provincial/City Mining Regulatory Board by the applicant: *Provided, further*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the Provincial/City Mining Regulatory Board: *Provided, finally*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least two (2) sets of the following mandatory requirements applicable to the type of permit applied for:

- a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
- b. Certification from the Barangay Captain that the applicant has established domicile in the area applied for;
- c. Area clearance from the concerned Government agencies/Local Government Units that may be affected by the permit application or written permission from the landowner(s) and surface owner(s) of the area applied for;
- d. Environmental Compliance Certificate prior to extraction, removal, disposition and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
- e. Declaration of the approximate quantity of guano resources available in the permit area applied

for; and

f. Other supporting papers as the concerned Provincial/City Mining Regulatory Board may require or the applicant may submit.

### Section 83. Area Status/Clearance for a Guano Permit Application

Within fifteen (15) working days from receipt of the permit application, the concerned Provincial/City Mining Regulatory Board shall transmit a copy of the location map/sketch plan of the applied area to the concerned Regional Office/pertinent Department sector(s) affected by the permit application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the concerned Provincial/City Mining Regulatory Board as to transmittal of said document to the concerned Regional Office(s)/Department sector(s)/Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Regional Office(s)/Department sector(s)/Government agency(ies). The concerned Regional Office(s)/Department sector(s) must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Provincial/City Mining Regulatory Boards, the concerned Provincial/City Mining Regulatory Board(s) which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/clearance is denied, the applicant may appeal the same to the Office of the Secretary.

Within fifteen (15) working days from receipt of the permit application, the concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications.

If the proposed permit area is open for mining applications, the concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of permit application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and

other concerned stakeholders, the concerned Regional Director/Provincial Governor/City Mayor shall exert all efforts to resolve the same.

#### Section 84.Posting of a Guano Permit Application

Within fifteen (15) working days from receipt of the necessary area clearances, the Provincial/City Mining Regulatory Board shall issue to the applicant the Notice of Application for permit for posting which shall be done within fifteen (15) working days from receipt of the Notice.The Notice must contain, among others, the name and complete address of the applicant, duration of the permit applied for, extent of operation 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.

The Provincial/City Mining Regulatory Board shall cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished 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.

Within thirty (30) calendar days from the last date of posting, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting have been complied with.Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of posting, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office 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 therefrom.

No permit shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

### Section 85.Processing/Registration/Issuance of a Guano Permit

Upon evaluation that all the terms and conditions are in order and that the subject area has been cleared from any conflict, the concerned Provincial Governor/City Mayor shall approve and issue the Permit within thirty (30) calendar days from such evaluation and shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice.Registration is effected only upon payment of the required fees (Annex 5-A).The concerned Provincial/City Mining Regulatory Board shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same.

### Section 86.Rights and Obligations of the Guano Permit Holder

The Guano Permit Holder, its heirs or successors-in-interest shall have the right to exclusively conduct extract, remove, dispose and/or utilize guano resources within the permit area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Permit.

### Section 87.Specific Terms and Conditions of a Guano Permit

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Commercial/Industrial Guano Permit:

- a.The Permit shall be for the exclusive use and benefit of the Permit Holder and shall not be transferred or assigned without prior written approval by the Provincial Governor/City Mayor;
- b.No explosives shall be used in extracting and/or removal of guano;
- c.The Permit Holder shall file quarterly with the Provincial/City Mining Regulatory Board a sworn statement of the quantity of guano extracted, removed and/or disposed under the Permit and the amounts of fees paid therefor.At the end of the term, the Permit Holder shall submit to the Provincial/City Mining Regulatory Board a final report with the detailed list of activities and the corresponding expenditures;
- d.The Permit/permit area can be inspected and examined at all times by the concerned Regional Director/Provincial Governor/City Mayor;

- e. The Permit Holder shall not, by virtue of the Permit, acquire any title over the permit area, without prejudice to its acquisition of the land/surface rights through any mode of acquisition provided by law;
- f. The Permit Holder shall pay fees, taxes and other obligations in accordance with existing laws, rules and regulations;
- g. The Permit Holder shall comply with its obligations under its ECC, Environmental Protection and Enhancement Program (EPEP) and Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;
- h. The term of the Permit shall be for a period of one (1) year from date of issuance thereof or upon the extraction of the quantity as specified in the Permit; and
- i. The Permit Holder shall comply with pertinent provisions of the Act, these implementing rules and regulations and such other terms and conditions not inconsistent with the Constitution, the Act and these rules and regulations, as well as those which the Provincial Governor/City Mayor may deem to be for the national interest and public welfare.

#### Section 88. Gemstone Gathering Permit

Any Qualified Person may apply for a Gemstone Gathering Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and utilization of loose stones useful as gemstones for a term not exceeding one (1) year from the date of issuance thereof, renewable for like periods: *Provided*, That the application for renewal shall be filed before the expiry date of the Permit: *Provided, further*, That the Permit Holder has complied with all the terms and conditions of the original Permit as provided herein and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations.

#### Section 89. Mandatory Requirements for Gemstone Gathering Permit Application

The permit application (MGB Form No. 8-7) shall be filed by the applicant either personally or through its duly authorized representative with the Provincial/City Mining Regulatory Board: *Provided*, That any application that transcends into two (2) or more regions shall be filed with the Provincial/City Mining Regulatory Board which has the largest area covered by the application, copy furnished the other concerned Provincial/City Mining Regulatory Board by the applicant: *Provided, further*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the Provincial/City Mining Regulatory Board: *Provided, finally*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least five (5) sets of the following mandatory requirements:

- a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
- b. Area clearance from the concerned Government agencies/Local Government Units that may be affected by the permit application or written permission from the landowner(s) and surface owner(s) of the area applied for;
- c. Declaration of the approximate quantity of gemstone available in the permit area applied for; and
- d. Other supporting papers as the concerned Provincial/City Mining Regulatory Board may require or the applicant may submit.

#### Section 90. Area Status/Clearance for a Gemstone Gathering Permit Application

Within fifteen (15) working days from receipt of the permit application, the concerned Provincial/City Mining Regulatory Board shall transmit a copy of the location map/sketch plan of the applied area to the concerned Regional Office/pertinent Department sector(s) affected by the permit application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the Provincial/City Mining Regulatory Board as to transmittal of said document to the concerned Regional Office(s)/Department sector(s)/Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Regional Office(s)/Department sector(s)/Government agency(ies). The concerned Regional Office(s)/Department sector(s) must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Provincial/City Mining Regulatory Boards, the concerned Provincial/City Mining Regulatory Board which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional

Office(s) where consent/clearance is denied, the applicant may appeal the same to the Office of the Secretary.

Within fifteen (15) working days from receipt of the permit application, the concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications.

If the proposed permit area is open for mining applications, the concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of permit application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the concerned Regional Director/Provincial Governor/City Mayor shall exert all efforts to resolve the same.

#### Section 91.Posting of a Gemstone Gathering Permit Application

Within fifteen (15) working days from receipt of the necessary area clearances, the Provincial/City Mining Regulatory Board shall issue to the applicant the Notice of Application for permit for posting which shall be done within fifteen (15) working days from receipt of the Notice.The Notice must contain, among others, the name and complete address of the applicant, duration of the permit applied for, extent of operation 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.

The Provincial/City Mining Regulatory Board shall cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished 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.

Within thirty (30) calendar days from the last date of posting, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting have been complied with.Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of posting, with the concerned Regional Office or through any concerned PENRO or

CENRO for filing in the concerned Regional Office 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 therefrom.

No permit shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

#### Section 92. Processing/Registration/Issuance of a Gemstone Gathering Permit

Upon evaluation that all the terms and conditions are in order and that the subject area has been cleared from any conflict, the concerned Provincial Governor/City Mayor shall approve and issue the Permit (MGB Form No. 8-8) within thirty (30) calendar days from such evaluation and shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The concerned Provincial/City Mining Regulatory Board shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same.

#### Section 93. Rights and Obligations of the Gemstone Gathering Permit Holder

The Gemstone Gathering Permit Holder, its heirs or successors-in-interest shall have the right to exclusively conduct extract, remove and dispose loose stones useful as gemstones within the permit area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Permit.

#### Section 94. Specific Terms and Conditions of a Gemstone Gathering Permit

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Gemstone Gathering Permit:

- a. The Permit shall be for the exclusive use and benefit of the Permit Holder and shall not be transferred or assigned without prior written approval by the Provincial Governor/City Mayor;
- b. Gemstone gathering shall be allowed in rivers and other locations except in areas which are expressly prohibited by law;
- c. The removal/gathering of gemstones shall be conducted manually without the aid of any tools or mechanized equipment;
- d. No explosives shall be used in extracting and/or removal of gemstone;
- e. Unless otherwise renewed or amended, the Permit shall *ipso facto* terminate after the whole quantity of gemstones specified therein have been removed or taken;
- f. The Permit Holder shall file quarterly with the Provincial/City Mining Regulatory Board a sworn report of the quantity of gemstones extracted, removed and/or disposed under the Permit, the amounts of fees paid therefor, the quantity/volume of gemstones sold or disposed of during the period covered by the report, their selling prices, the names and addresses of the persons to whom the same were sold, and the quantity/volume of materials left in stock. At the end of the term, the Permit Holder shall submit to the Provincial/City Mining Regulatory Board a final report with the detailed list of activities and the corresponding expenditures;
- g. The Permit/permit area can be inspected and examined at all times by the concerned Regional Director/Provincial Governor/City Mayor;
- h. The Permit Holder shall not, by virtue of the Permit, acquire any title over the permit area, without prejudice to its acquisition of the land/surface rights through any mode of acquisition provided by law;
- i. The Permit Holder shall pay fees, taxes and other obligations in accordance with existing laws, rules and regulations;
- j. The term of the Permit shall be for a period as specified therein from date of issuance thereof: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with the terms and conditions of the Permit and shall not have been found guilty of violation of any provision of the Act and these implementing rules and regulations;
- k. The Permit Holder shall comply with pertinent provisions of the Act, these implementing rules and regulations and such other terms and conditions not inconsistent with the Constitution, the Act and these rules and regulations, as well as those which the Provincial Governor/City Mayor may deem to be for the national interest and public welfare.

Section 95. Records of Extracted/Removed/Disposed Quarry/Sand and Gravel/Guano/Gemstone Resources

The Permit Holder shall keep books of accounts wherein there shall be entered everyday the quantity of quarry/sand and gravel/guano/gemstone resources removed or extracted from the area as well as the quantity disposed of or sold during the day, their selling prices, the names and addresses of the persons or parties to whom the same were sold or disposed of.

All books of accounts and records required to be kept in the preceding paragraph shall be open at all times for the inspection of the representatives of the concerned Regional Director/Provincial Governor/City Mayor. The refusal of the Permit Holder to allow the concerned authorities to inspect the same without justifiable reason shall be sufficient ground for the cancellation of the Permit.

#### Section 96. Surety Bond

To answer for and guarantee payment for whatever actual damages that may be incurred by the quarry or sand and gravel operations, a surety bond of Twenty Thousand Pesos (20,000.00) shall be posted by the applicants, except for those applying for Gratuitous and Exclusive Sand and Gravel Permits.

#### Section 97. Quarry Fee and Taxes to be Paid

All Permit Holders except those for Gratuitous Permits under this Chapter shall pay the required quarry fees (Annex 5-A) to the concerned Provincial/City Treasurer in accordance with pertinent provisions of the Local Government Code: *Provided*, That the Provincial Government and the municipality may enter into a Memorandum of Agreement providing for direct remittance of the share due the municipality or barangay. Likewise, an excise tax on Mineral Products as provided for in R.A. No. 7729 shall be paid upon removal thereof to the Government through the concerned agent or representative of the Bureau of Internal Revenue.

#### Section 98. Renewal of Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit

Within sixty (60) calendar days before the expiration of the Permit, the Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit Holder may submit to the concerned Regional Office/Provincial/City Mining Regulatory Board, an application to renew the Permit accompanied by two (2) sets of the following applicable mandatory requirements:

- a. Justification of renewal;
- b. Comprehensive and validated technical report on the outcome of the operations, including their environmental effects duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- c. Audited report of expenditures incurred during the operations period;
- d. Work Program duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- e. Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof; and
- f. Other supporting papers as the concerned Regional Office/Provincial/City Mining Regulatory Board may require or the applicant may submit.

After field verification by the concerned Regional Office/Provincial/City Mining Regulatory Board of the foregoing requirements at the expense of the Permit Holder, the concerned Regional Director/Provincial Governor/City Mayor may grant the renewal.

#### Section 99. Transfer or Assignment of Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit

A Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit may be transferred or assigned to another Qualified Person(s) subject to the approval of the concerned Regional Director/Provincial Governor/City Mayor.

#### Section 100. Cancellation/Revocation/Termination of a Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit

The Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit may be canceled/revoked/terminated, after due process, by the concerned Regional Director/Provincial Governor/City Mayor based on the following grounds:

- a. Failure to comply with the terms and conditions of the Permit and ECC, if applicable;
  - b. Violation of any provision of the Act and these implementing rules and regulations;
  - c. Failure to pay the excise tax for two (2) consecutive years;
  - d. Any misrepresentation in any statement made in the application or those made later in support thereof;
  - e. If the commodity stipulated in the Permit has been exhausted before the expiry date thereof;
- and

f. When national interest and public welfare so require or for environmental protection or ecological reasons.

Upon cancellation of the Permit, the said areas shall automatically be reverted back to its original status.

#### Section 101. Effect of Cancellation/Revocation/Termination of a Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit

The foregoing provisions notwithstanding, cancellation/revocation/termination of a Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit shall not release the Permit Holder from any and all obligations it may have, particularly regarding ecological management, to the public or private party(ies) at the time of cancellation/revocation/termination.

#### Section 102. Withdrawal from a Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit

The Permit Holder may, by giving due notice at any time during the term of the Permit, apply with the concerned Regional Office/Provincial/City Mining Regulatory Board for the withdrawal of the Permit due to causes which, in the opinion of the Permit Holder, make continued mining operations no longer feasible or viable. The concerned Regional Director/Provincial/City Mining Regulatory Board shall consider the notice and issue his/her decision within a period of thirty (30) calendar days: *Provided*, That the Permit Holder has met all its financial, fiscal, environmental and legal obligations at the time of withdrawal.

## CHAPTER IX SMALL-SCALE MINING

### Section 103. General Provisions

Applications for Small-Scale Mining Permits shall be filed with the Provincial Governor/City Mayor through the concerned Provincial/City Mining Regulatory Board for areas outside the Mineral Reservations and with the Director through the Bureau for areas within the Mineral Reservations.

The guidelines and provisions specified in Mines Administrative Order No. MRD-41, Series of 1984, Department Administrative Order No. 28 and MRDB Administrative Order Nos. 3 and 3A which are the implementing rules and regulations of P.D. No. 1899 and the guidelines and provisions of Department Administrative Order No. 34, Series of 1992 which are the implementing rules and regulations of R.A. No. 7076, insofar as they are not inconsistent with the provisions of these implementing rules and regulations, shall continue to govern small-scale mining operations.

## CHAPTER X SURFACE RIGHTS

### Section 104.Easement Rights

When mining areas are so situated that for purposes of more convenient operations it is necessary to build, construct or install on the mining areas or lands owned, occupied or leased by other persons, such infrastructures as roads, railroads, mills, waste dump sites, tailings ponds, warehouses, staging or storage areas and port facilities, tramways, runways, airports, electric transmission, telephone or telegraph lines, dams and their normal flood and catchment areas, sites for waterwells, ditches, canals, new river beds, pipelines, flumes, cuts, shafts, tunnels or mills, the Permittee/Permit Holder/Contractor, upon payment of just compensation, shall be entitled to enter and occupy said mining areas or lands.

As to the payment of just compensation mentioned in the preceding paragraph, the amount thereof shall be first agreed upon by the parties and in accordance with P.D. No. 512, where appropriate. In case of disagreement, the matter shall be brought before the Panel of Arbitrators for proper disposition.

### Section 105.Entry Into Lands

The holder(s) of mining right(s) shall not be prevented from entry into its/their contract/mining area(s) for the purpose(s) of exploration, development and/or utilization: *Provided*, That written notice(s) at its/their registered address(es) was/were sent to and duly received by the surface owner(s) of the land(s), occupant(s) and concessionaire(s) thereof and that a bond is posted in accordance with Section 108 hereof.

If the surface owner(s) of the land, occupant(s) or concessionaire(s) thereof can not be found, the Permittee/Permit Holder/Contractor or concessionaire shall notify the concerned Regional Director, copy furnished the concerned local officials in case of private land or the concerned Government agency in case of concessionaires, attaching thereto a copy of the written notice and a sworn declaration by the holder(s) of mining right(s) that it/they had exerted all efforts to locate such surface owner(s)/occupant(s)/concessionaire(s). Such notice(s) to the concerned Regional Director shall be deemed notice(s) to the surface owner(s) and concessionaire(s).

In cases where the surface owner(s) of the land(s), occupant(s) or concessionaire(s) thereof refuse(s) to allow the Permittee/Permit Holder/Contractor entry into the land(s) despite its/their receipt(s) of the written notice(s) or refuse(s) to receive said written notice(s) or in case of disagreement over such entry, the Permittee/Permit Holder/Contractor shall bring the matter before the Panel of Arbitrators for proper disposition.

#### Section 106. Voluntary Agreement

A voluntary agreement between a surface owner, occupant or concessionaire thereof permitting holders of mining rights to enter into and use its land for mining purposes shall be registered with the concerned Regional Office. The said agreement shall be binding upon the parties, their heirs, successors-in-interest and assigns.

#### Section 107. Compensation of the Surface Owner and Occupant

Any damage done to the property of the surface owner, occupant, or concessionaire thereof as a consequence of the mining operations or as a result of the construction or installation of the infrastructure mentioned in Section 104 above shall be properly and justly compensated.

Such compensation shall be based on the agreement entered into between the holder of mining rights and the surface owner, occupant or concessionaire thereof or, where appropriate, in accordance with P.D. No. 512.

In case of disagreement or in the absence of an agreement, the matter shall be brought before the Panel of Arbitrators for proper disposition.

#### Section 108. Posting of a Bond

In all cases mentioned in the preceding Section, the Permittee/Permit Holder/Contractor shall post a cash or surety bond from an accredited surety with the concerned Regional Office. The amount of the bond shall be agreed upon by the parties. In case of disagreement, it shall be determined by the Director for areas inside Mineral Reservations and the Regional Director for areas outside Mineral Reservations based on the type of the land and the value of the trees, plants and other existing improvements thereto.

## CHAPTER XI MINERAL PROCESSING PERMIT

### Section 109. General Provisions

No person shall engage in the processing of minerals without a Mineral Processing Permit (MGB Form No. 11-1).

In the case of the small-scale miners, the processing of the mineral ores and minerals they produced, as well as the licensing of their custom mills or processing plants, notwithstanding the provisions of Section 103 hereof, shall continue to be governed by the provisions of R.A. No. 7076 and P.D. No. 1899 and their implementing rules and regulations.

In the case of the Contractors, holders of Quarry and Industrial Sand and Gravel Permits, the approved Work Program for the production period is sufficient requirement for them to process their minerals in lieu of the Mineral Processing Permits.

Those who are presently engaged in the said activity shall secure a Mineral Processing Permit within six (6) months from the effectivity of these implementing rules and regulations.

The term of a Mineral Processing Permit shall be for a period of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with all 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.

### Section 110. Application for Mineral Processing Permit/Mandatory Requirements

An application (MGB Form No. 11-2) for a Mineral Processing Permit shall be filed by a Qualified

Person either personally or through its duly authorized representative with the concerned Regional Office: *Provided*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the concerned Regional Office: *Provided, further*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least five (5) sets of the following mandatory requirements:

- a. Duly certified Certificate of Registration issued by the Securities and Exchange Commission or concerned authorized Government agency;
- b. Duly certified Articles of Incorporation/Partnership/Association and By-Laws;
- c. Location map/sketch plan of the area of the proposed processing plant using NAMRIA topographic map in a scale of 1:50,000;
- d. Feasibility Study including work programs, plant site, mill and plant layout/design, details of technology to be employed in the proposed operation, anti-pollution devices/measures as well as the plant capacity;
- e. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;
- f. Environmental Compliance Certificate;
- g. Proof of technical competence including, among others, curricula vitae and track records in mineral processing and environmental management of the technical personnel who shall undertake the operation;
- h. Proof of financial capability to undertake the activities pursuant to Work Program and Environmental Protection and Enhancement Program, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments;
- i. Interim Importation Permit/certification from EMB on the use of chemicals (e.g. cyanide, mercury) in compliance with R.A. No. 6969;
- j. Brief history of applicant's activities for the last five (5) years, if any;
- k. Supply Contract/Agreement with mining rights holders, if applicable; and
- l. Other supporting papers as the Secretary/Director/concerned Regional Office may require or the applicant may submit.

### Section 111.Processing/Registration/Issuance of a Mineral Processing Permit

Within five (5) working days from receipt of application by the Regional Office, it shall initially evaluate and then forward the same to the Bureau for final review and evaluation by the latter within fifteen (15) working days from receipt thereof. Thereafter, the Director shall endorse the same to the Secretary for consideration/approval within fifteen (15) working days upon receipt thereof.

Upon approval of the application, the Secretary through the Director/concerned Regional Director shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The Director/concerned Regional Director shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same.

### Section 112.Rights and Obligations of the Mineral Processing Permit Holder

The Permit Holder, its heirs or successors-in-interest shall have the right to conduct mineral processing, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Permit.

### Section 113.Terms and Conditions of a Mineral Processing Permit

- a. The Permit shall be for the exclusive use and benefit of the Permit Holder;
- b. The Permit Holder shall assume full responsibility and be liable for damages to private and/or public property(ies) that may be occasioned by its operations under the Permit;
- c. The Permit Holder shall submit to the Bureau/concerned Regional Office production and activity reports prescribed in Chapter XXIX of these implementing rules and regulations. The Director/concerned Regional Director may conduct an on site validation of the submitted reports: *Provided*, That the Permit Holder shall be charged verification and inspection fees thereof;
- d. The Permit Holder shall effectively use the best available appropriate anti-pollution technology and facilities to protect the environment in compliance with the requirements of the ECC and P.D. No. 984. This should be undertaken in coordination with the EMB/Department Regional Office;

- e. The Permit Holder shall conduct its operations in accordance with the provisions of the Act and these implementing rules and regulations;
- f. The Permit Holder shall not discriminate on the basis of gender and that the Permit Holder shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
- g. The Permit Holder shall pay fees, taxes and other obligations in accordance with existing laws, rules and regulations;
- h. The Permit Holder shall conform to laws, rules and regulations regarding, among others, labor, safety and health standards;
- i. The Permit Holder shall comply with its obligations under its ECC;
- j. The term of the Permit shall be for a period of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with all 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.
- k. The Permit Holder shall give preference to goods and services produced and offered in the Philippines of comparative quality and cost. In particular, the Contractor shall give preference to qualified Filipino construction enterprises, construction materials and skills available in the Philippines, Filipino sub-contractors for road construction and transportation and Philippine household equipment, furniture and food;
- l. The Permit Holder shall give preference to Filipinos in all types of employment for which they are qualified and that the technology shall be transferred to the same;
- m. In case of foreign-owned/controlled corporation, representations and warranties that, except for payments for dispositions for its equity, foreign investments in local enterprises which are qualified for repatriation, and local supplier's credits and such other generally accepted and permissible financial schemes for raising funds for valid business purposes, the Permit Holder shall not raise any form of financing from domestic sources of funds, whether in Philippine or foreign currency, for conducting its mineral processing;
- n. Alien employment shall be limited to technologies requiring highly specialized training and experience subject to the required approval under existing laws, rules and regulations;
- o. In every case where foreign technologies are utilized and where alien executives are employed, an effective program of training understudies shall be undertaken;
- p. The Permit Holder shall utilize the best available appropriate and efficient mineral processing technology;
- q. The Permit shall be subject to cancellation, revocation and termination as provided for in Section 115 hereof;

- r. Withdrawal by the Permit Holder from the Permit shall not release it from any and all financial, environmental, legal and/or fiscal obligations;
- s. The Permit Holder shall comply with all other applicable provisions of the Act and these implementing rules and regulations; and
- t. 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.

#### Section 114. Renewal of Mineral Processing Permit

Within thirty (30) calendar days before the expiration of the Permit, the Permit Holder may submit to the concerned Regional Office an application to renew the Permit accompanied by two (5) sets of the following applicable mandatory requirements:

- a. Justification of renewal;
- b. Comprehensive and validated technical report on the outcome of the operations, including their environmental effects duly prepared, signed and sealed by a licensed Mining Engineer or Metallurgical Engineer;
- c. Audited report of expenditures incurred during the operations period;
- d. Work Program duly prepared, signed and sealed by a licensed Metallurgical Engineer; and
- e. Other supporting papers as the concerned Regional Office may require or the applicant may submit.

Any renewal shall be approved by the Secretary upon the recommendation of the Director/concerned Regional Director: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with all 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.

A Temporary Permit to Operate (TPO), which shall be valid for thirty (30) calendar days, shall be issued by the Director while awaiting the approval of the renewal: *Provided*, That succeeding TPOs of same duration shall be issued until the renewal is granted.

#### Section 115. Cancellation/Revocation/Termination of a Mineral Processing Permit

The Mineral Processing Permit may be canceled/revoked/terminated, after due process, by the

Secretary upon the recommendation of the Director/concerned Regional Director based on the following grounds:

- a.Failure to comply with the terms and conditions of the Permit and ECC, if applicable;
- b.Violation of any provision of the Act and these implementing rules and regulations;
- c.Failure to pay the taxes and fees due the Government for two (2) consecutive years;
- d.Any misrepresentation in any statement made in the application or those made later in support thereof; and
- e.When national interest and public welfare so require or for environmental protection or ecological reasons.

The foregoing provisions notwithstanding, cancellation/revocation/termination of a Mineral Processing Permit shall not release the Permit Holder from any and all obligations it may have, particularly regarding ecological management, to the public or private party(ies) at the time of cancellation/revocation/termination.

## CHAPTER XII

### TRANSPORT OF MINERALS/MINERAL PRODUCTS AND CONFISCATION, SEIZURE AND DISPOSITION OF ILLEGALLY-SOURCED MINERALS/MINERAL PRODUCTS

#### Section 116.Scope

Illegally sourced minerals/mineral products are those which are mined, extracted, removed and/or disposed of without authority or permit under existing mining laws, rules and regulations.

#### Section 117.Ore Transport Permit

The transport of all minerals/mineral products by Permit Holders, Contractors, accredited traders, retailers, processors and other mining rights holders must be accompanied by an Ore Transport Permit (MGB Form No. 12-1) issued by the Regional Director or his/her duly authorized representative: *Provided*, That the transport of sand and gravel shall be covered by a Delivery Receipt.

In case of mineral ores or minerals being transported from the small scale mining areas to the custom mills or processing plants, the concerned Provincial/City Mining Regulatory Board shall

formulate its own policies to govern such transport of ores produced by small scale miners.

For MPSA and FTAA Contractors, Ore Transport Permits shall be issued under the Agreements: *Provided*, That a written notice prior to shipment or transport of ores shall be furnished to the concerned Regional Office for the purpose of monitoring mining activities in the contract area: *Provided, further*, That such activity is in accordance with the terms and conditions of the Agreement.

An Ore Transport Permit is not necessary for ore samples not exceeding two (2) metric tons to be used exclusively for assay and pilot test purposes. Instead, a certification regarding the same shall be issued by the concerned Regional Director. For ore samples exceeding two (2) metric tons to be transported exclusively for assay and pilot tests purposes, an Ore Transport Permit shall be issued by the Director for a limited amount based on the type of ore, metallurgical tests to be undertaken and other justifiable reasons as determined by the Bureau.

#### Section 118. Basis of Arrests and Confiscations/Seizures

The absence of any of the foregoing documents shall be considered *prima facie* evidence of illegal mining and shall cause the confiscation/seizure of the minerals/mineral products and the tools and equipment including conveyance used in the commission of the offense in favor of the Government pursuant to P.D. No. 1281, subject to further investigation. If it is found that the minerals/mineral products seized have been mined, extracted or removed without any permit or authority under existing mining laws, rules and regulations, final confiscation can be effected to be followed by the filing of the complaint for theft of minerals. The Bureau officers which include the Regional Director and other Bureau personnel, duly authorized by the Director, and CENRO personnel, duly authorized by the Secretary, shall have authority to arrest offenders and confiscate/seize illegally sourced minerals/mineral products and the tools, equipment and conveyance used in the commission of offense.

#### Section 119. Execution of Sworn Statements

Immediately after seizure of the minerals/mineral products together with the tools, equipment and conveyance used in the commission of the offense, the apprehending Bureau officer shall execute his/her sworn statement or affidavit surrounding the facts of the case in the form hereto attached as MGB Form No. 12-2. He/She shall also take sworn statements or affidavits of

witnesses, if any, in the form hereto attached as MGB Form No. 12 3.

#### Section 120. Assessment and Issuance of Confiscation/Seizure Receipt

The kind, volume or quantity of the seized minerals/mineral products shall be determined immediately and the assessment thereof shall be based on the gross volume or weight without benefit of deduction for natural defects, after which the corresponding seizure receipt shall be issued by the signing Bureau officer, duly acknowledged by the apprehended person(s) or party(ies). In case the apprehended person(s) or party(ies) refuse(s) to acknowledge the seizure receipt, the Local Government authority may attest as to the veracity of said seizure receipt.

#### Section 121. Custody of the Confiscated/Seized Minerals/Mineral Products, Tools, Equipment and Conveyance

This shall be made in accordance with the following procedures:

a. In case of apprehension by the Bureau field officer, the mineral products, tools, equipment and conveyance used shall be deposited with the concerned Regional Office or wherever it is most convenient, for safekeeping. If the transfer of the seized products to the aforesaid offices is not immediately feasible, the same shall be placed under the custody of any licensed mine operator or the nearest local public official such as the Barangay Captain, Municipal/City Mayor, Provincial Governor or the Philippine National Police (PNP), at the discretion of the confiscating officer taking into account the safety of the confiscated items. The apprehending officer is authorized to seek assistance from licensed mine operators to provide transportation facilities for the transfer of the confiscated items from the place of apprehension to the place of custody. In any event, the custody shall be duly acknowledged and received by the official taking custody thereof: *Provided*, That in the case of seizure/confiscation by the Bureau the case shall be referred to the concerned Regional Office for further investigation and disposition;

b. In case of apprehension by the PNP, Economic Intelligence and Investigation Bureau (EIIB), Coast Guard and other Government law enforcement agencies, the apprehending agency shall notify the concerned Regional Office and turn over the seized items thereto for proper investigation and disposition; and

c. For confiscated gold and/or other precious metal(s), the concerned Regional Office shall first determine if they conform with the Bangko Sentral ng Pilipinas (BSP) specifications or requirements for acceptance. If the confiscated gold and/or other precious metal(s) satisfy(ies) the minimum weight requirements but it does not conform with the physical requirements, the

said metal(s) shall be delivered by the accountable officer escorted by security officers to the Bureau/concerned Regional Office Metallurgy Laboratory for processing. In cases where the weight requirement is not satisfied, the Chief Cashier/Accountant of the concerned Regional Office shall store the confiscated metal(s) in a safety deposit box of the nearest reputable banking institution duly accredited by the Department Regional Office. Once the inventory of metal(s) reaches the minimum BSP weight specifications, the Chief Cashier/Accountant shall turn over the confiscated metal(s) to the Metallurgy Office. The latter shall turn over immediately after processing into saleable form the metal(s) to the Chief Cashier/Accountant. In each turnover, accountability is transferred through a Memorandum Receipt.

#### Section 122. Filing of Complaint

The concerned Regional Office shall file the complaint with the proper court for violation of Section 103 of the Act (Theft of Minerals).

The following documents should be attached to the complaint:

- a. Sworn statement of the apprehending/arresting officer (MGB Form No. 12-2);
- b. Affidavits of witnesses, if any (MGB Form No. 12-3);
- c. Copy of the seizure receipt;
- d. Photographs showing the minerals/mineral products seized including the tools, equipment and conveyance used in the commission of the offense; and
- e. Other supporting papers/evidences as the court may require.

#### Section 123. Referral of Complaint

Immediately after the complaint is filed, the Regional Office shall transmit a copy of the complaint and all supporting documents to the Bureau for proper handling and disposition, copy furnished the Department.

#### Section 124. Disposition of Confiscated/Seized Minerals/Mineral Products, Tools, Equipment and Conveyance

The disposition of confiscated/seized minerals/mineral products, tools, equipment and conveyance shall be handled in accordance with the following procedures:

a. The concerned Regional Director or his/her duly authorized representative shall expeditiously sell at public auction and/or dispose in accordance with existing laws, rules and regulations all confiscated/seized minerals/mineral products except the following:

1. Those subject of judicial proceedings where ownership of the minerals is at issue until proper authority is obtained for their disposition from the court where the case is pending;
2. Those earmarked for donation to other Government agencies; and
3. Those identified and determined by the Department for its own needs.

b. For confiscated gold and precious metals, there shall be no bidding as the same shall be sold directly to the BSP. The sale shall be made as follows:

1. If confiscated metals conform with existing BSP specifications, the concerned Regional Office shall prepare a letter of intent or advice to sell confiscated precious metals addressed to the nearest BSP Buying Station Director/Administrator; and
2. The Accountable Officer escorted by Security officers shall finally deliver said metals together with the letter/advice to the BSP Buying Station and receive payment therefor.

c. Confiscated minerals/mineral products except gold and other precious metals shall be disposed of through a Committee on Bids and Awards on Confiscated Mineral Products (CBACMP) which, in all cases, shall be composed of the Regional Director responsible for or having custody over the confiscated minerals or his/her duly authorized representative as Chairman and Local Government Unit (LGU), accredited Nongovernmental Organization (NGO) and COA representatives as members.

d. Confiscated tools and equipment including conveyance used shall be subject to forfeiture in favor of the Government and shall be disposed of, after due process, in accordance with pertinent laws, rules and regulations or policies on the matter.

In cases of confiscated minerals/mineral products that are the subject of court cases, especially those that easily deteriorate like pumice and clay, representations with the proper court shall be made for the immediate disposition thereof through public auction. The proceeds of the sale shall be deposited as the court directs and the same shall be awarded by the latter based on the final court decision. The procedures in handling the sale of confiscated minerals/mineral products through public auction are indicated in Annex 12 A.

#### Section 125. Remittance of Proceeds of Sale

The proceeds of the sale of confiscated minerals/mineral products, after deducting all administrative costs related to the confiscation of the minerals/mineral products and their disposition, shall be remitted by the Chairman of the CBACMP to the Department either in the form of Cashier's or Manager's check immediately upon receipt of the full payment of the bidden mineral products.

#### Section 126.Reporting

a.Individual cases/report of confiscation/seizure shall be reported/sent immediately by the apprehending officer to the concerned Regional Director within twenty four (24) hours who in turn shall send a report to the next higher officer.A detailed report by the apprehending officer must be submitted within three (3) working days from the date of seizure indicating actions taken thereon.If the confiscation/seizure is made with personnel from the Regional Office, the same procedure shall be followed by a report of the concerned Regional Director to the Director.

#### b.Monthly Report

- 1.A Monthly Confiscation Report shall be submitted by the concerned Regional Director together with the status of the confiscated minerals/mineral products; and
- 2.The Director shall consolidate the Monthly Confiscation Reports of all the Regional Directors and in turn forward the same to the Secretary.

#### c.Quarterly Report

The Director shall submit to the Secretary a quarterly report of confiscated minerals/mineral products.

### CHAPTER XIII

#### ACCREDITATION OF PROCESSORS, TRADERS, DEALERS AND RETAILERS IN THE TRADING OF MINERALS/MINERAL PRODUCTS AND BY-PRODUCTS

#### Section 127.Scope

This Chapter covers all minerals and ores including construction materials such as raw sand,

gravel, wash out pebbles and filling materials, semiprocessed mineral products such as, but not limited to rock, concrete aggregates, unpolished decorative stone (such as marble, granite or limestone), tiles and slabs, metallic ore concentrates/tailings, smelter slags, cathodes, ingots, billets, blooms, unrefined precious metals/bars/bullion and agricultural/industrial lime. Exempted are finished/manufactured minerals and metal products such as cement, transit mixed concrete, ceramics, polished decorative stone tiles, refined or alloyed metal sheets, wires, bars, beams, plates, refined precious metal bars, jewelry or ornaments and other mineral products in their final form or stage ready for consumption by end users.

#### Section 128. General Provisions

No person shall engage in the trading of minerals/mineral products and by products either locally or internationally, unless registered with the Department of Trade and Industry (DTI) and accredited by the Department, with a copy of said registration and accreditation submitted to the Bureau.

The traders, dealers and retailers of minerals/mineral products/by products who are not Contractors/Permit Holders/mining right holders are henceforth required to be accredited by the Department.

Contractors/Permit Holders are considered to be registered and accredited for the purpose of trading minerals/mineral products and by products during the effectivity of their Permits or mining rights.

#### Section 129. Mandatory Requirements for Accreditation

The application for Accreditation shall be filed by the applicant with the concerned Regional Office: *Provided*, That an application shall be accepted only upon payment of the required fees (Annex 5-A) to the concerned Regional Office.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least five (5) sets of the following mandatory requirements:

- a. Duly accomplished application form as prescribed in MGB Form No. 13-1;
- b. Copy of the Permit/Contract of the Suppliers/sources of minerals/mineral

products/by products or copy of Certificate of Accreditation in case the source of materials is a trader, dealer or retailer;

c.DTI Registration;

d.Proof of legal source or supply as supported by any of the following documents:

1.Supply Contract/Agreement with a Permit Holder/Contractor/accredited dealer producing the specified minerals/mineral products/by products;

2.Affidavit executed by a Permit Holder/Contractor/accredited dealer to the effect that it is willing or currently selling and will continue to sell or supply the applicant with the minerals/mineral products/by-products specified in the application;

3.Delivery or Purchase Receipts issued by a Permit Holder, Contractor or previously accredited dealer/trader; and

4.Ore Transport Permit (OTP) or Bill of Lading which clearly indicates that the applicant is the consignee of a Permittee or a duly accredited dealer/trader/shipper.

e.Other supporting papers as the concerned Regional Office may require or the applicant may submit.

Provided, That any application with incomplete mandatory requirements shall not be accepted.

#### Section 130.Procedure for Accreditation

The Regional Director who exercises territorial jurisdiction over applicant's business operation shall issue the Certificate.

The following procedures shall be observed on processing of application and issuance of the Certificate of Accreditation:

a.Upon receipt of the application and its supporting documents, the concerned Regional Director shall evaluate and validate them; and

b.Within fifteen (15) working days upon receipt thereof, he/she shall issue the Certificate or reject the application based on merits or demerits, respectively.

The Regional Director shall regularly provide the Director with a list of accredited processors, traders, dealers and retailers of minerals/mineral products and by products filed in its jurisdiction.

#### Section 131.Fees

Each applicant shall pay an application and filing fee (Annex 5 A) to the concerned Regional Office.

#### Section 132.Term of the Certificate of Accreditation

The Certificate of Accreditation (MGB Form No. 13-2) shall have a term of two (2) years from its issuance, renewable for like periods.

#### Section 133.Confiscation, Apprehension and Disposition of Seized Mineral Products

Shipments of minerals/mineral products and by products by non accredited traders and other illegal sources shall be apprehended, confiscated and disposed of in accordance with the provisions of Chapter XII of these implementing rules and regulations.

### CHAPTER XIV DEVELOPMENT OF MINING COMMUNITIES, SCIENCES AND MINING TECHNOLOGY

#### Section 134.Development of Community and Mining Technology and Geosciences

- a.The Contractor/Permit Holder/Lessee shall assist in the development of the host and neighboring communities and mine camp to promote the general welfare of the inhabitants living therein;
- b.The Contractor/Permit Holder/Lessee shall assist in developing mining technology and geosciences as well as the corresponding manpower training and development; and
- c.The Contractor/Permit Holder/Lessee shall allot annually a minimum of one percent (1%) of the direct mining and milling costs necessary to implement Paragraphs (a) and (b) of this Section: *Provided*, That the royalty payment of one percent (1%) of the gross output for the Indigenous Cultural Communities, pursuant to Section 16 hereof, may include the aforementioned allotment to implement Paragraphs (a) and (b) hereof.

#### Section 135.Credited Activities or Expenditures

The following activities or expenditures shall be considered in enhancing the development of mining and neighboring communities:

- a. Establishment and maintenance of community schools, hospitals, churches and recreational facilities which will be open to the general public whether or not they are mine employees;
- b. Construction and maintenance of community access roads, bridges, piers and wharves;
- c. Establishment and maintenance of communication, waterworks, sewerage and electric power systems which are accessible to mine employees and members of the community;
- d. Development and maintenance of community housing projects for mine employees and members of the community;
- e. Establishment of training facilities for manpower development for mine employees and members of the community; and
- f. Establishment of livelihood industries for the dependents of the mine employees as well as for other members of the community.

In addressing the future mine development, the Contractor/Permit Holder/Lessee may involve the concerned communities, Local/National Government or concerned private institutions in the pre-construction and social planning stage.

The following activities or expenditures shall be considered towards the development of mining, geosciences and processing technology and the corresponding manpower training and development:

- a. Advanced studies conducted in the mining area such as, but not limited to, institutional and manpower development and basic and applied research;
- b. Advanced studies, including the cost of publication thereof in referred technical journals or monographs accessible to the local scientific community, related to mining which are conducted by qualified researchers, as construed by the practices at the Department of Science and Technology, who are not employees of the mine;
- c. Expenditures for scholars, fellows and trainees on mining, geoscience and processing technology and related subjects such as community development and planning, mineral and environmental economics;
- d. Expenditures on equipment and capital outlay as assistance for developing research and educational institutions which serve as a venue for developing mining, geoscience and

processing technology and the corresponding manpower training and development; and  
 e. Other activities that the Director may consider upon proper recommendation by the concerned professional organizations and/or research institutions, where appropriate.

#### Section 136. Development of Host and Neighboring Communities

The Contractor/Permit Holder/Lessee shall perform the following:

- a. Coordinate with proper authorities in providing development plans for the host and neighboring communities;
- b. Help create self-sustaining income generating activities, such as but not limited to, reforestation and production of goods and services needed by the mine and the community. Where traditional self-sustaining income generating activities are identified to be present within the host and/or neighboring communities, the Contractor/Permit Holder/Lessee shall work with such communities towards the preservation and/or enhancement of such activities; and
- c. Give preference to Filipino citizens, who have established domicile in the host and neighboring communities, in the hiring of personnel for its mining operations. If necessary skills and expertise are currently not available, the Contractor/Permit Holder/Lessee must immediately prepare and undertake a training and recruitment program at its expense.

#### Section 137. Development of Mining Technology and Geosciences

The Contractor/Permit Holder/Lessee shall, among others, perform the following:

- a. In the course of its operations, produce geological, geophysical, geochemical and other types of maps and reports that are appropriate in scale and which in format and substance are consistent with the internationally accepted standards and practices. Such maps shall be made available to the scientific community in the most convenient and cost effective forms, subject to the condition that the Contractor/Permit Holder/Lessee may delay release of the said information for a reasonable period of time which shall not exceed three (3) years;
- b. Systematically keep the data generated from the contract/mining area such as cores, assays and other related information, including economic and financial, and may make them accessible to students, researchers and other persons responsible for developing mining, geosciences and processing technology subject to the condition that the Contractor/Permit Holder/Lessee may delay release of data to the science and technology community within a reasonable period of

time which shall not exceed three (3) years; and

c. Replicate the data, maps and reports cited in Paragraphs (a) and (b) and furnish the Bureau for archiving and systematic safekeeping which shall be made available to the science and technology community for conducting research and for undertaking other activities which contribute to the development of mining, geosciences and processing technology and the corresponding manpower training and development: *Provided*, That the release of data, maps and the like shall be similarly constrained in accordance with Paragraphs (a) and (b) above.

#### Section 138. Use of Indigenous Goods, Services and Technologies

To the maximum extent compatible with efficient mining operations, the Contractor/Permit Holder/Lessee shall give preference to products, services and technologies produced and offered in the Philippines of comparable quality. In particular, the Contractor/Permit Holder/Lessee shall give preference to Filipino construction enterprises, construct buildings utilizing materials and skills available in the Philippines, employ Filipino subcontractors for road construction and transportation, and purchase Philippine household equipment, furniture and food.

#### Section 139. Donations/Transfer of Facilities

The Contractor/Permit Holder/Lessee shall, within one (1) year from the abandonment, cancellation or termination of the Agreement/Permit/Lease, remove all improvements deemed no longer socially usable after consultation with concerned Local Government Unit(s)/community(ies), on the mining premises found on public land(s). Otherwise, all the social infrastructure and facilities shall be turned over or donated tax-free to the proper Government authorities, national or local, to ensure that said infrastructure and facilities are continuously maintained and utilized by the host and neighboring communities.

#### Section 140. Hiring of Foreigners for Technical and Specialized Work During Mining Operations

All holders or applicants for Mineral Agreement/FTAA/Exploration Permit/Mineral Processing Permit shall give preference to Filipino citizens in all types of mining employment within the country insofar as such citizens are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of the operations. They, however, shall not be hindered from hiring employees of his own selection, subject to the provisions of Commonwealth Act No. 613, as amended, for technical and specialized work which, in his judgment and with the

approval of the Director, requires highly-specialized training or experience in exploration, development or utilization of mineral resources: *Provided*, That in no case shall each employment exceed five (5) years or the payback period of the project as stated in the approved original feasibility study, whichever is longer: *Provided, further*, That each foreigner employed as mine manager, vice president for operations or in an equivalent managerial position in charge of mining, milling, quarrying or drilling operations shall be subject to the provision of Section 141 hereof: *Provided, finally*, That each foreigner employed in a position lower than the managerial level shall be hired on a consultancy basis.

#### Section 141.Requirements for the Employment of Foreigners in Mining Operations

Foreigners that may be employed in mining operations shall:

- a.Present evidence of his/her qualifications and work experience related to his/her position; or
- b.Pass the appropriate Government licensure examination; or
- c.In special cases, may be permitted to work by the Director for a period not exceeding one (1) year: *Provided*, That if reciprocal privileges are extended to Filipino nationals in the country of domicile, the Director may grant waivers or exemptions;
- d.Secure working permits/visa from other concerned Government agency(ies); and
- e.Submit other supporting papers deemed necessary by the Secretary/Director/concerned Regional Director.

## CHAPTER XV

### MINE SAFETY AND HEALTH

#### Section 142.Responsibilities of a Contractor/Permittee/Lessee/Permit Holder and Service Contractor

All Contractors, Permittees, Lessees, Permit Holders and Service Contractors shall strictly comply with all the rules and regulations embodied under Mines Administrative Order (MAO) No. MRD-51, Series of 1991, otherwise known as the "Mine Safety Rules and Regulations."

For new technologies/equipment in mining and milling operations that are not covered under the provisions of MAO No. MRD-51, the Bureau shall formulate the appropriate rules and regulations to govern the same after due consultation with all concerned parties.

### Section 143. Accreditation of Service Contractors

No Service Contractor shall be hired by the Contractor/Permittee/Lessee/Permit Holder to undertake mining/quarrying operations unless they are duly accredited by the Bureau.

The following are the requirements for accreditation:

- a. Duly certified Certificate of Registration issued by the Securities and Exchange Commission or concerned authorized Government agency;
- b. Duly certified Articles of Incorporation and By-Laws;
- c. Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the said activities;
- d. Track record of the technical personnel in undertaking safe mining/quarrying operations and related activities;
- e. Proof of financial capability to undertake mining and quarrying operations and related activities, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments; and
- f. Other supporting papers as the Department/Bureau/concerned Regional Office may require or the applicant may submit.

### Section 144. Submission of Safety and Health Program

The Director shall require a Contractor/Permittee/Lessee/Permit Holder/Service Contractor to submit a Safety and Health Program covering its area of operations within fifteen (15) working days before the start of every calendar year, copy furnished the Regional Office, with the following terms and conditions:

- a. The safety and health program shall include, but shall not be limited to, the following:
  - 1. Standard operating procedures for mining and milling operations;
  - 2. Management and employee training;
  - 3. Good housekeeping;
  - 4. Health control and services;
  - 5. Provisions for personnel protective equipment, etc;

- 6. Monitoring and reporting;
- 7. Environmental Risk Management including an Emergency Response Program; and
- 8. Occupational Health and Safety Management.

b. For the entire duration of the contract period, the Contractor/Permittee/Lessee/Permit Holder shall be responsible in the monitoring of the safety and health program of the Service Contractor: *Provided*, That the former shall ensure the compliance of the latter with existing rules and regulations: *Provided, further*, That the safety records of the Service Contractor shall be included in a separate form in the safety record of the Contractor/Permittee/Lessee/Permit Holder.

c. A Service Contractor shall be required to assign a safety engineer and/or safety inspector if the service area requires close supervision where imminent hazards exist.

#### Section 145. Mine/Quarry Safety Inspection and Audit

The Regional Director or his/her duly authorized representative shall have exclusive jurisdiction over the conduct of safety inspection of all installations, surface or underground, in mining/quarrying operations and monitoring of the safety and health program in a manner that will not impede or obstruct work in progress of a Contractor/Permittee/Lessee/Permit Holder and shall submit to the Director a quarterly report on their inspection and/or monitoring activities: *Provided*, That the Director shall undertake safety audit annually or as may be necessary to assess the effectiveness of the safety and health program.

#### Section 146. Registration of Safety Engineer and Safety Inspector

All Safety Engineers and Safety Inspectors of mining/quarrying operations shall be duly registered with the Regional Office and the corresponding permit shall be issued for this purpose (MGB Form Nos. 15-1, 15-2 and 15-3).

#### Section 147. Qualifications for Registration as Safety Engineer or Safety Inspector

a. For Registration as Safety Engineer:

1. For Permanent Registration -

i. A duly registered and currently licensed Mining Engineer with at least one (1) year supervisory

experience in mining/quarrying operations and/or mine safety work; or  
 ii. A duly registered and currently licensed Engineer, Geologist or Chemist with at least five (5) years experience in mining/quarrying operations and/or mine safety work.

## 2. For Temporary Registration -

Any duly registered and currently licensed Engineer, Geologist or Chemist with at least two (2) years experience as Safety Inspector preferably in the employ of the company.

## b. For Registration as Safety Inspector:

### 1. For Permanent Registration -

i. A graduate in any Engineering, Geology or Chemistry course with at least one (1) year experience in safety work or two (2) years experience in mining operations; or  
 ii. A college undergraduate in any Engineering, Geology or Chemistry course with at least two (2) years experience in safety work or three (3) years experience in mining operations; or  
 iii. At least high school graduate with four (4) years experience in safety work or five (5) years experience in mining operations.

### 2. For Temporary Registration as Safety Inspector -

i. A graduate in any Engineering, Geology or Chemistry course with one (1) year experience in mining operation; or  
 ii. A college graduate in any Engineering, Geology or Chemistry course with at least one (1) year experience in safety work or two (2) years experience in mining operation; or  
 iii. At least high school graduate with two (2) years experience in safety work or three (3) years experience in mining operation.

## Section 148. Mandatory Requirements for the Issuance of Safety Engineer/Inspector Permit

Three (3) copies of the following requirements shall be submitted before the issuance of Safety Engineer/Inspector Permit:

- a. Duly filled-up application form;
- b. Certified photocopy of college diploma or high school diploma, or pertinent credentials, as the

case may be;

c.Certificate of employment (present and previous), signed under oath;

d.Latest photograph, 2 in. x 2 in.; and

e.Registration fees in the amount specified under Annex 5-A.

#### Section 149.Term of Temporary Safety Engineer/Inspector Permit

A Temporary Safety Engineer/Inspector Permit shall have a term of one (1) year from the date of issuance thereof, renewable every year.

#### Section 150.Permit for Electrical/Mechanical Installations

No electrical and/or mechanical installation shall be undertaken inside a mining/quarrying operation compound without a permit issued for the purpose by the concerned Regional Director.

#### Section 151.Applications and Plans for Electrical/Mechanical Installations

a.Application for such installation shall be filed by the Contractor/Permit Holder or his/her authorized representative with the concerned Regional Office accompanied by plans and specifications;

b.Plans shall be prepared in accordance with the provisions of Electrical Engineering Law with respect to electrical installation and Mechanical Engineering Law with respect to mechanical installation, and such plans must conform to the rules and regulations which have been or may be formulated in pursuance of the above-mentioned laws;

c.Application for alteration and/or addition of any electrical or mechanical installations shall be filed in the same manner as for a new installation; and

d.Authority to install shall be issued only after the plans have been cleared and certified to conform with the rules and regulations of the above-mentioned laws.

#### Section 152.Conditions of an Electrical/Mechanical Installations Permit

a.Upon completion of installation but prior to regular operation, an inspection shall be conducted by the concerned Regional Director or his/her duly authorized representative;

b.If upon inspection by the engineers of the concerned Regional Office, the installation is found to be in accordance with the plans and specifications, a written permit good for a period of one (1) year shall be issued; and

c. Application for renewal of an Electrical/Mechanical Permit shall be filed by the Contractor/Permit Holder or his/her authorized representative with the concerned Regional Office at least thirty (30) calendar days before the expiration date of said Permit.

#### Section 153. Charges

The applicant shall bear all expenses in the field inspection including the cost of transportation of the field inspectors from their official station to the mine/quarry and back. In addition, an inspection fee of One Thousand Pesos (1,000.00) per man per day shall be charged to the applicant: *Provided*, That the minimum charge shall not be less than Five Thousand Pesos ( 5,000.00).

#### Section 154. Power to Issue Orders

a. As the need arises, the concerned Regional Director shall require the Contractor/Permittee/Lessee/Permit Holder and Service Contractor to remedy any practice connected with mining or quarrying operations, which is not in accordance with the provisions of MAO No. MRD-51; and

b. The same may summarily suspend, wholly or partially, any activity related to mining/quarrying operations, in case of imminent danger to life or property, until the danger is removed, or until appropriate measures are taken by the Contractor/Permittee/Lessee/Permit Holder/Service Contractor.

#### Section 155. Report of Accidents

a. In case of any incident or accident, causing or creating the danger of loss of life or serious physical injuries, the person in charge of the operations shall report the same to the concerned Regional Office where the operations are situated within twenty-four (24) hours, copy furnished the Bureau. Failure to report the same without justifiable reason shall be cause for the imposition of administrative sanctions prescribed under MAO No. MRD-51; and

b. The Contractor/Permittee/Lessee/Permit Holder/Service Contractor shall furnish the Bureau/concerned Regional Office with the following:

1. Monthly Contractor's/Permittee's/Lessee's/Permit Holder's/Service Contractor's Report of Accident or Sickness (MGB Form No. 15-4);
2. Monthly General Accident Report (MGB Form No. 15-5); and

3.Minutes of the Central Safety Committee meetings.

#### Section 156.Right to Possess and Use Explosives

A Contractor/Permittee/Lessee/Permit Holder/Service Contractor shall have the right to possess and use explosives within its contract/permit/lease area as may be necessary for its mining/quarrying operations upon approval of an application by the Philippine National Police through the recommendation by the concerned Regional Office.

#### Section 157.Requirements in the Application for Purchaser's License, License to Purchase/Transfer Explosives or Blaster Foreman's License for Mining/Quarrying Purposes

No application for Purchaser's License, License to Purchase/Transfer Explosives or Blaster Foreman's License for mining/quarrying purposes (MGB Form No. 15-6) shall be accepted for filing with the Regional Office unless accompanied by a processing/application fee in accordance with the schedule in Annex 5-A and accompanied by four (4) copies of supporting documents prescribed in Annex 15-A.

#### Section 158.Field Inspection of Proposed Storage Facilities (Magazines) and Verification of Blasting Scheme

Immediately after the filing of application for Purchaser's License, the concerned Regional Director shall authorize the conduct of field inspection of storage facilities to determine whether or not the location and specifications of magazines are in accordance with those prescribed under MAO No. MRD-51 and to verify the proposed blasting scheme(s).The applicant shall bear all expenses in the field verification and the cost of transportation of the field investigators from their Official Station to the mine/quarry site and return.

#### Section 159.Approval of the Applications for Purchaser's License, License to Purchase/Transfer Explosives or Blaster Foreman's License for Mining/Quarrying Purposes

Upon satisfaction of all the requirements stated in Section 157 hereof, the application for Purchaser's License, License to Purchase/Transfer Explosives or Blaster Foreman's License for mining/quarrying purposes shall be endorsed by the concerned Regional Office to the Philippine National Police for consideration/approval.

#### Section 160.Filing of Application for Amendment and Renewal of Purchaser's License

Application for amendment of Purchaser's License shall be filed and acted upon in the same manner as for a new Purchaser's License.

Application for renewal of Purchaser's License shall be filed by the holder with the concerned Regional Office at least thirty (30) calendar days before the expiration date of such License.

#### Section 161.Right of Inspection

The Director reserves the right to inspect the mine/quarry explosives magazines and audit records of explosive transactions at the expense of the Purchaser's License holder and at specified rates as may be deemed necessary: *Provided*, That failure to immediately implement, without justifiable reasons, the recommendation(s) to ensure the proper safekeeping and maintenance of explosives and its magazines shall cause for the imposition of administrative sanctions as provided for in MAO No. MRD-51.

#### Section 162.Submission of Reports by Purchaser's License Holders

Holders of Purchaser's Licenses shall be required to keep records of daily explosive transactions and submit to the Director reports of their explosive transactions (MGB Form No. 15-7) and explosives and accessories consumption reports (MGB Form No. 15-8) within fifteen (15) working days after every calendar month.

#### Section 163.Mine Labor

No person under sixteen (16) years of age shall be employed in any phase of mining operations and no person under eighteen (18) years of age shall be employed in an underground mine.

The Bureau shall coordinate with the Department of Labor and Employment in the determination of hazardous operations, processes and/or activities in mining industry in relation to the employment of minors.

#### Section 164.Mine Supervision

All mining and quarrying operations that employ more than fifty (50) workers shall have at least one (1) licensed Mining Engineer with at least five (5) years of experience in mining operations and one (1) registered foreman.

#### Section 165.Coverage of the Magna Carta for Public Health Workers

All personnel of the Bureau, its Regional Offices and other Department Bureaus/Offices, particularly the Environmental Management Bureau, involved in the actual implementation of mines safety, health and environmental laws, rules and regulations shall be covered and entitled to the allowances and other benefits under R.A. No. 7305, otherwise known as the "Magna Carta of the Public Health Workers".As such, funding for this purpose shall be automatically included in the regular budget of the Bureau/Department.

### CHAPTER XVI ENVIRONMENTAL PROTECTION

#### Section 166.General Provision

Consistent with the basic policy of the State to assure the availability, sustainability and equitable distribution of the country's natural resources, the Department adopts the policy that mining activities attendant to permits, agreements and leases shall be managed in a technically, financially, socially, culturally and environmentally responsible manner to promote the general welfare of the country and the sustainable development objectives and responsibilities as provided for in these implementing rules and regulations.

#### Section 167.Environmental Protection Objectives

The environmental protection objectives include the following:

a.Maintenance of sustainable environmental conditions at every stage of the mining operation;

During every stage of the mining operation, as well as after the termination stage thereof, all open pit work areas, underground workplaces, mine waste and tailings impoundment systems, quarry sites and other mining-disturbed landforms, including those disturbed during exploration, shall be progressively rehabilitated to a condition prescribed in the Environmental Compliance Certificate and/or Environmental Protection and Enhancement Program.

b. Establishment of a functional post-disturbance land use capability;

Minesite decommissioning and rehabilitation shall aim to establish a land use capability that is functional and proximate to the land use prior to the disturbance of the mine area, unless other more beneficial land uses are predetermined and agreed in partnership with local communities and Local Government Units.

c. Preservation of downstream freshwater quality;

The quality of surface and ground water emanating from the exploration or contract/lease areas shall be maintained at acceptable levels, as determined from the actual and/or potential downstream water uses.

d. Preservation of sea water quality and natural habitats for marine life;

e. Prevention of air and noise pollution; and

f. Respect for the traditional and/or sustainable management strategies concerning natural resources of Indigenous Cultural Communities and other communities.

#### Section 168. Environmental Work Program (EWP)

Applicants for Exploration Permits, as well as those for Mineral Agreements and FTAA's which shall undertake exploration activities, shall submit to the Bureau for areas within Mineral Reservations or to the concerned Regional Office(s) for areas outside Mineral Reservations an EWP (MGB Form No. 16-1 or MGB Form No. 16-1A) detailing the environmental impact control and rehabilitation activities proposed during the exploration period including the costs to enable sufficient financial resources to be allocated to meet the environmental and rehabilitation commitments.

The EWP shall provide a description of the expected and considered acceptable impacts and shall set out the environmental protection and enhancement strategies based on best practice in environmental management in mineral exploration. It shall include a statement on post-exploration land use potential for various types of disturbed land and extend to the completion of the commitments in the rehabilitation of the disturbed land in a technically, socially and environmentally competent manner. The program shall be based on acceptable, practical and achievable options and demonstrated practice. Finally, the program shall include

implementation schedules, system of environmental compliance guarantees, monitoring, reporting and cost provisions. Where proposed practices are unproven, a research program to prove the impact control and rehabilitation technology shall be required.

The applicants shall furnish the concerned *Sangguniang Panlalawigan* with the said EWP. A status report as to compliance with the EWP shall be submitted to the Bureau/concerned Regional Office within fifteen (15) working days from the end of six (6) months after the approval of the EWP and every six (6) months thereafter.

Detailed guidelines in the preparation of and on compliance with the EWP shall be prescribed by the Secretary through the Director and shall be intended to assist the development of project specific environmental management practices.

#### Section 169. Environmental Protection and Enhancement Program (EPEP)

An EPEP (MGB Form No. 16-2) shall be required to provide the operational link between the environmental protection and enhancement commitments under these implementing rules and regulations, as well as those stipulated in the Environmental Compliance Certificate (ECC) under P.D. 1586 and the Contractor's plan of mining operation: *Provided*, That submission of the EPEP shall complement and not substitute for the requirement for an Environmental Compliance Certificate.

EPEPs are required in the following cases:

- a. Mineral Agreement or FTAA Contractors and other Permit Holders shall submit, within thirty (30) calendar days upon receipt of the ECC, an EPEP covering all areas to be affected by mining development, utilization and processing under their contracts. Environmental impact control and rehabilitation activities proposed during the life of mine shall include costings to enable sufficient financial resources to be allocated to meet the life of mine commitments. Such financial requirements of the EPEP shall be the basis for the lodging of the Mine Rehabilitation Fund; and
- b. Existing MPSA or FTAA Contractors with ECCs and operating mines and quarries may submit, within sixty (60) calendar days from the effectivity of these implementing rules and regulations, an EPEP covering all areas to be affected by development, utilization and processing under their contract and/or lease. Environmental impact control and rehabilitation activities proposed during the remaining life of mine period shall include costings to enable sufficient financial

resources to be allocated to meet the environmental and rehabilitation commitments. Such financial requirements of the EPEP shall be the basis for the lodging of the Mine Rehabilitation Fund.

The EPEP shall provide a description of the expected and considered acceptable impacts and shall set out the life-of-mine environmental protection and enhancement strategies based on best practice in environmental management in mining. It shall include a statement on post-mining land use potential for various types of disturbed land (*inter alia*, pits, waste dumps, tailings-impounding structures and infrastructure sites) and extend to the completion of the commitments in the rehabilitation of the disturbed land in a technically, socially and environmentally competent manner. The program shall be based on practical and achievable options and demonstrated practice. Finally, the program shall include implementation schedules, system of environmental compliance guarantees, monitoring, reporting and cost provisions. Where proposed practices are unproven, a research program to prove the impact control and rehabilitation technology shall be required.

The Contractor shall allocate for its initial environment-related capital expenditures an amount that shall approximate ten percent (10%) of the total capital/project cost or such other amount depending on the environmental/geological condition, nature and scale of operations and technology employed. Initial environment-related capital expenditures may include environmental studies and design cost, waste area preparation, tailings/slime containment/disposal system, mine waste disposal system, wastewater/acid mine drainage treatment plants, dust control equipment, air pollution control facilities, drainage system and other environment-related mitigating measures and capital expenditures.

Detailed guidelines in the preparation of and on compliance with the EPEP shall be prescribed by the Secretary through the Director and shall be intended to assist the development of project specific environmental management practices.

#### Section 170. Processing and Approval of the EPEP

The Contractor/Permit Holder shall submit at least ten (10) legible copies of the EPEP and a complete electronic file in computer diskettes to the Mine Rehabilitation Fund (MRF) Committee (described in Sections 182 and 183 hereof) through the concerned Regional Office for review.

The MRF Committee shall conduct a preliminary evaluation on the submitted document as to its

form and substance and may impose additional requirements and documentation which are deemed necessary. The MRF Committee shall endeavor to complete the evaluation and processing of the EPEP within thirty (30) calendar days from receipt thereof.

All preliminary evaluations shall be consolidated and forwarded to the Contingent Liability and Rehabilitation Fund (CLRF) Steering Committee (described in Sections 193 and 194 hereof) through the Bureau for final evaluation and approval. The EPEP shall be acted upon by the CLRF Steering Committee within thirty (30) calendar days from receipt thereof from the MRF Committee. The Contractor/Permit Holder shall provide each of the concerned Local Government Units with a copy of the approved EPEP not later than thirty (30) calendar days prior to the intended date of commencement of mining operation.

Any change in the approved environmental protection, enhancement and rehabilitation strategies, which entails a variance of minus twenty percent (-20%) of the financial requirements, shall require a submission of a revised EPEP by the Contractor/Permit Holder to the MRF Committee for preliminary evaluation and to the CLRF Steering Committee for final evaluation and approval. The MRF and CLRF Steering Committees shall act on the revised EPEP within the period of assessment as set forth in the preceding paragraphs. The Contractor/Permit Holder shall provide each of the concerned Local Government Units with a copy of the approved revised EPEP not later than thirty (30) calendar days prior to the intended date of effecting the revised EPEP.

#### Section 171. Annual Environmental Protection and Enhancement Program (AEPEP)

To effectively implement the approved EPEP, an Annual Environmental Protection and Enhancement Program (MGB Form No. 16-3) shall be submitted to the Bureau/concerned Regional Office at least thirty (30) calendar days prior to the beginning of every calendar year. Such program shall be based on the approved EPEP and shall be implemented during the year for which it shall be submitted. It shall include, but shall not be limited to, exploration, development, utilization, rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out areas, waste dumps (acid mine drainage control), tailings-covered areas, aquaculture, watershed development and water conservation and socioeconomic development.

A Contractor/Permit Holder shall allocate for its annual environment-related expense a percentage based on the AEPEP which may approximate a minimum of three to five percent (3-5%) of its direct mining and milling costs depending on the environment/geologic condition, nature and scale of operations and technology employed.

#### Section 172. Penalties

Contractors/Permit Holders found operating a mining project without an approved EPEP/revised EPEP shall suffer the penalty prescribed in the Penal Provisions of the Act.

#### Section 173. Organization of a Mine Environmental Protection and Enhancement Office (MEPEO)

All Contractors/Permit Holders shall incorporate in their mine organization structures a "Mine Environmental Protection and Enhancement Office (MEPEO), which shall set the level of priorities and marshal the resources needed to implement environmental management programs. The MEPEO shall be headed preferably by either a licensed Mining Engineer, Geologist or Metallurgical Engineer or by an Environmental Engineer with at least five (5) years experience in actual mining environment work and shall be responsible for addressing the environmental concerns of the Contractor/Permit Holder through adequate and sustainable programs.

#### Section 174. Environmental Monitoring and Audit

To ensure and check performance of and compliance with the approved EPEP/AEPEP by the Contractors/Permit Holders, a Multipartite Monitoring Team (MMT), as described in Section 185 hereof, shall monitor every quarter, or more frequently as may be deemed necessary, the activities stipulated in the EPEP/AEPEP. The expenses for such monitoring shall be chargeable against the Monitoring Trust Fund of the Mine Rehabilitation Fund as provided for in Section 181 hereof. The environmental monitoring reports shall be submitted by the MMT to the MRF Committee and shall serve as part of the agenda during its meetings as mentioned in Section 184 hereof. Said reports shall also be submitted to the CLRF Steering Committee to serve as one of the bases for the annual environmental audit it shall conduct.

An independent environmental audit shall be undertaken regularly by the Contractor to identify environmental risks affecting mining operations to serve as a basis for the development of an

effective environmental management system. The MMT, MRF Committee and CLRF Steering Committee shall be furnished with the results of the said audit.

#### Section 175. Power to Issue Order

The Regional Director in consultation with the Environmental Management Bureau (EMB) and/or Environmental Management and Protected Areas Services (EMPAS) of the Department Regional Office shall require the Contractor/Permittee/Lessee/Permit Holder to remedy any practice connected with mining or quarrying operations which is not in accordance with anti-pollution laws and regulations. The Regional Director may summarily suspend mining or quarrying operations in case of imminent danger to the environment, until the danger is removed or appropriate measures are taken by the Contractor/Permittee/Lessee/Permit Holder.

In situations where mining or quarrying operations are actually endangering the environment or pose imminent danger thereto, the EMB, Pollution Adjudication Board (PAB) or EMPAS may take the remedial measures it may deem imperative to avert such danger and immediately submit a report thereon to the Director/concerned Regional Director for appropriate action.

#### Section 176. Presidential Mineral Industry Environmental Awards

A Presidential Mineral Industry Environmental Awards may be given to exploration or operating mining companies based on their yearly environmental performance and accomplishments. Detailed guidelines in the determination of the recipients of the Presidential Mineral Industry Environmental Awards shall be formulated by the Secretary through the Director.

### CHAPTER XVII

#### ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

#### Section 177. Processing of the Environmental Impact Statement (EIS) and the Initial Environmental Examination (IEE)

The Environmental Management Bureau (EMB)/Department Regional Office, in coordination with the Bureau, shall take primary responsibility for the acceptance, processing, evaluation and monitoring of the Environmental Impact Statements (EISs) and Initial Environmental Examinations (IEEs). The EMB/EMPAS shall have the authority to recommend to the

Secretary/Regional Executive Director (RED) any appropriate action on applications for an Environmental Compliance Certificate (ECC).

#### Section 178.EPEP in Relation to ECC

The preparation, submission and approval of EPEP shall be incorporated as a mandatory conditionality in the ECC being issued by the Secretary/RED or their duly authorized representatives to a Contractor/Permit Holder.The ECC shall be the basis in the preparation of EPEP.

The Bureau and the EMB shall enter into a Memorandum of Understanding to harmonize the promulgation of these implementing rules and regulations and the EIS system.

#### Section 179.Penalties

Contractors/Permit Holders found operating a mining project without an ECC or wilfully violating and grossly neglecting to abide by the terms and conditions of the ECC shall suffer the penalty prescribed in the Penal Provisions of the Act and other pertinent environmental laws.

### CHAPTER XVIII

#### CONTINGENT LIABILITY AND REHABILITATION FUND

#### Section 180.Contingent Liability and Rehabilitation Fund

Cognizant of the need to ensure just and timely compensation for damages and progressive and sustainable rehabilitation for any adverse effect a mining operation or activity may cause, the Department through the Bureau shall institutionalize an environmental guarantee fund mechanism to be known collectively as the Contingent Liability and Rehabilitation Fund (CLRF).

The CLRF shall be in the form of the Mine Rehabilitation Fund and the Mine Waste and Tailings Fees as stipulated in the Act and shall be administered by the CLRF Steering Committee as provided for in Section 193 hereof.

#### Section 181.Mine Rehabilitation Fund

A Mine Rehabilitation Fund (MRF) shall be established and maintained by each operating

Contractor/Permit Holder as a reasonable environmental deposit to ensure availability of funds for the satisfactory compliance with the commitments and performance of the activities stipulated in the EPEP/AEPEP during specific project phase. The MRF shall be deposited as a Trust Fund in a Government depository bank and shall be used for physical and social rehabilitation of areas and communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation.

The MRF shall be in two forms, namely:

a. Monitoring Trust Fund (MTF). This Fund shall be initiated by the Contractor/Permit Holder and shall be deposited in a mutually acceptable Government depository bank for the exclusive use in the monitoring program approved by the MRF Committee

The MTF shall be in cash and in an amount to be determined by the MRF Committee which shall not be less than the amount of Fifty Thousand Pesos (50,000.00) to cover maintenance and other operating budget for the transportation and travel expenses, cost of laboratory analysis, cost of supplies and materials, cost of communication services, cost of consultancy work and other reasonable expenses incurred by the monitoring team: *Provided*, That the Secretary shall be authorized to increase the said amount when national interest and public welfare so require, upon the recommendation of the Director.

The Contractor/Permit Holder shall notify the Chair or the Co-Chair of the MRF Committee of its compliance with the deposit requirement through a certification from the bank.

Authorization for the disbursement from the MTF shall only be given by the designated representatives of both the MRF Committee and the Contractor/Permit Holder. Replenishment of this amount shall be done monthly to correspond to the expenses incurred by the monitoring team for the month.

b. Rehabilitation Cash Fund. The Contractor/Permit Holder shall set up a Rehabilitation Cash Fund (RCF) for a designated amount to ensure compliance with the approved rehabilitation activities and schedules for specific mining project phase, including research programs as defined in the EPEP/AEPEP. The RCF shall be equivalent to ten percent (10%) of the total amount needed to implement the EPEP or Five Million Pesos (5,000,000.00), whichever is lower. The RCF shall be deposited as a Trust Fund in a mutually agreed Government depository bank: *Provided*, That said amount shall be deposited in four (4) equal quarterly deposits within fifteen (15) calendar days from the beginning of each quarter of the first year following the approval of the EPEP.

A request for withdrawal and disbursement from said amount(s) by the Contractor/Permit Holder shall be based on its EPEP/AEPEP and shall be submitted to the MRF Committee for consideration and approval, copy furnished the CLRF Steering Committee.

In the event of withdrawals from the RCF, the Contractor shall annually replenish the RCF so as to maintain the minimum required amount thereof.

For the succeeding years up to the end of the post-decommissioning period of ten (10) years, the MRF shall continue as a Trust Fund as earlier described. Any interests or earnings of the MRF shall be made part thereof to comprise and satisfy the above-mentioned amount required. The Contractor/Permit Holder shall notify the Chair or the Co-Chair of the MRF Committee of its compliance with the deposit requirement through a certification from the bank.

#### Section 182. The Mine Rehabilitation Fund Committee

A Mine Rehabilitation Fund (MRF) Committee shall be created in each Region where active mining operations exist and shall have the following duties and responsibilities:

- a. Conducts preliminary evaluation on the submitted EPEP and consults with credible experts, as may be required, to clarify proposals and to discuss the adequacy of control and rehabilitation measures;
- b. Manages, operates, monitors and looks after the safety of the MRFs that shall be established and deposited in a Government depository bank in accordance with the provisions of these implementing rules and regulations;
- c. Resolves issues involving the progressive mine rehabilitation programs that shall be implemented;
- d. Hires credible experts to do independent studies and researches on the environmental, engineering and sociocultural impacts of the projects in order to assist it in making judicious decisions;
- e. Ensures that the approved EPEPs/AEPEPs shall be strictly implemented by the Contractors/Permit Holders;
- f. Deputizes a Multipartite Monitoring Team (MMT) to serve as its monitoring arm with the concerned Regional Office taking the lead role;
- g. Monitors and evaluates the performance of the MMTs and reports its assessments to the CLRF Steering Committee;

- h.Ensures that the MTFs and RCFs shall be kept separate and distinct from one another and maintains independent and specific books of records for all transactions of the said funds of each Contractor/Permit Holder;
- i.In the absence of fraud, bad faith or gross negligence on the part of the MRF Committee or any person acting on its behalf, the said Committee shall not be liable for any loss or impairment of the MRFs arising out or in connection with any act done or performed or caused to be done or performed by the said Committee pursuant to the provisions of these implementing rules and regulations;
- j.Prepare and submits to the Secretary/Director, within thirty (30) calendar days after the end of each year, an annual report of accomplishments, including audited financial statements and such periodic reports of activities as may be required; and
- k.Performs other functions as may be assigned by the Secretary/Director.

#### Section 183.Composition of the MRF Committee

The Mine Rehabilitation Fund Committee shall be composed of the following:

- a.Regional Director as Chair;
- b.Regional Executive Director (RED) of the Department as Co-Chair;
- c.Representative of the Autonomous Regional Government, where this is applicable, as Member;
- d.Representative from the Local Government Unit as Member;
- e.Representative from the local NGOs and community organizations, including People's Organizations, church or civic organizations, as Member; and
- f.Representative of the Contractor/Permit Holder as Member.

In case the Regional Director and/or the Regional Executive Director could not personally attend a meeting or function of the MRF Committee, he/she shall designate or appoint a representative who shall be duly authorized in writing to have full power and authority to act in his/her behalf.

The Regional Office shall provide the technical, secretariat and administrative supports, as may be deemed necessary, to the Committee.

#### Section 184.Meetings of the MRF Committee

The Committee shall hold quarterly meetings: *Provided*, That any member of the Committee may call a special meeting as he/she may deem necessary: *Provided, further*, That notices of the

meetings stating the date, time, place and agenda therefor shall be sent by the Committee Chair or Co-Chair to all members at least ten (10) working days before the intended date of the meetings.

In all meetings, the presence of at least four (4) members shall constitute a quorum to conduct business. The meetings shall be presided by the Chair or, in his/her absence, by the Co-Chair. In the absence of the Chair and the Co-Chair, the meetings shall be presided by either of their representatives. Unless otherwise provided herein, a majority vote of the members present in the meeting shall be required to give effect to any resolutions or decisions of the Committee. The presiding officer of the meeting shall not vote in any matter brought before the Committee except in case of a tie.

The Committee shall provide the CLRF Steering Committee with a copy of the minutes of its meetings within seven (7) working days after each meeting.

#### Section 185. The Multipartite Monitoring Team

A Multipartite Monitoring Team (MMT) shall be deputized by the MRF Committee, as provided for in Section 182 hereof, to serve as the monitoring arm of said Committee and shall be composed of the following:

- a. Representative from Regional Office as Head;
- b. Representative from Department Regional Office as Member;
- c. Representative of the Contractor/Permit Holder as Member.
- d. Representative from the affected community(ies) as Member;
- e. Representative from the affected Indigenous Cultural Community(ies), if any, as Member; and
- f. Representative from an environmental NGO.

The MMT may request the MRF Committee for technical assistance when deemed necessary. The Head of the MMT shall submit to the MRF Committee, at least five (5) working days before the scheduled regular meetings of the latter, a report on the status and/or result of its monitoring activities as provided for in Section 174 hereof, copy furnished the CLRF Steering Committee.

#### Section 186. Disbursements from the MRF

Withdrawal from the MRF shall be made by the Contractor/Permit Holder only with the written instruction to the bank issued by the MRF Committee authorizing the Contractor/Permit Holder to withdraw the amount from the MRF. The amount to be withdrawn shall be in accordance with the AEPEP and shall be approved by the MRF Committee, copy furnished the CLRF Steering Committee.

Any one of the following shall be authorized to issue the instruction to the bank on behalf of the MRF Committee:

- a. The Chair,
- b. The Co-Chair or
- c. The designated representative of either (a) or (b).

In the event that none of the above-mentioned persons issues the instruction to the bank after the lapse of thirty (30) calendar days from the time the written request for instruction is received by them, the Contractor/Permit Holder shall have the authority to sign the instruction on behalf of the MRF Committee and to withdraw the amount in accordance with the approved AEPEP.

#### Section 187. Final Mine Rehabilitation/Decommissioning Plan

Five (5) years before the final decommissioning of the contract/mining area, the Contractors/Permit Holders shall submit to the MRF Committee through the Regional Office and to the CLRF Steering Committee through the Bureau its final mine rehabilitation and/or decommissioning plan(s), including its financial requirements up to post-decommissioning over a ten-year period for monitoring purposes. The plan shall be subject to pre-evaluation by the MRF Committee and to final approval by the CLRF Steering Committee.

Detailed guidelines regarding the implementation of this Section shall be formulated by the Secretary through the Director.

#### Section 188. Penalties

Failure of the Contractor/Permit Holder to establish a Mine Rehabilitation Fund shall be sufficient ground to suspend or cancel the mining operations in the areas under contracts.

#### Section 189. Mine Waste and Tailings Fees Reserve Fund

Mine waste and tailings fees shall be collected semiannually from each operating Contractor/Lessee/Permit Holder based on the amounts of mine waste and mill tailings it generated for the said period. The amount of fees collected shall accrue to a Mine Waste and Tailings (MWT) Reserve Fund and shall be deposited in a Government depository bank to be used for payment of compensation for damages caused by any mining operations. The MWT Reserve Fund shall also be utilized for research projects duly approved by the CLRF Steering Committee which are deemed necessary for the promotion and furtherance of its objectives.

#### Section 190. Mine Waste and Tailings Fees (MWTF)

The basic fees that shall accrue to the MWT Reserve Fund shall be 0.05/MT of mine waste produced and 0.10/MT of mill tailings generated from the mining operations except where such mine waste and mill tailings were utilized in the following manner:

- a. Filling materials for underground mine openings;
- b. Filling materials for surface mine openings: *Provided*, That such materials shall not affect natural drainage systems as may be determined by the Committee or its duly authorized representative;
- c. Filling materials for engineered tailings dams, roads and housing areas: *Provided*, That such areas shall not affect natural drainage systems as may be so determined by the Committee or his/her duly authorized representative: *Provided, further*, That those with tailings impoundment/disposal system that were found to have discharged and/or to be discharging solid fractions of tailings into areas other than the approved tailings disposal area shall pay 50.00/MT without prejudice to other penalties and liabilities the Contractor/Lessee/Permit Holder shall be subject to under other existing laws, rules and regulations: *Provided, finally*, That said amount shall accrue to the MWT Reserve Fund;
- d. Concreting and manufacture of concrete products; and
- e. Mine waste impounded for future use: *Provided*, That a two-year work program on the utilization of the said materials shall be submitted together with the semiannual report: *Provided, further*, That said materials shall be utilized for its beneficial use within a period of two (2) years. Mine waste materials, which are not utilized within the two-year period, shall be charged the corresponding fee of 0.05/MT. Non-submission of the work program shall mean disqualification from exemption from payment of fees.

Mining companies utilizing engineered and well-maintained mine waste and tailings disposal

systems with zero-discharge of materials/effluent and/or with wastewater treatment plants which consistently meet Department standards shall also be exempted from payment of mine waste and tailings fees.

The Secretary, upon the recommendation of the Director, is authorized to increase the said fees when national interest and public welfare so require.

#### Section 191.Payment of Mine Waste and Tailings Fees Due

Mine waste and tailings fees shall be payable to the Bureau within forty-five (45) calendar days after the end of each semester.They shall be based on the sworn semiannual report (MGB Form No. 18-1) that shall be submitted to the Bureau, copy furnished the concerned Regional Office, by each operating Contractor/Lessee/Permit Holder stating, among others, the following:

- a.The amounts of mine waste and/or mill tailings produced, contained/stored/impounded and/or utilized; and
- b.The manner by which the mine waste and/or mill tailings produced were utilized.

Contractors/Lessees/Permit Holders with no mine waste nor mill tailings generated shall likewise submit sworn semiannual reports stating that for the said period no such materials were generated from their operations.

#### Section 192.Penalties

Non-submission of semiannual reports shall mean non-avallment of the exemption from payment of mine waste and tailings fees and a penalty of 5,000.00

Failure to comply with payments of the mine waste and tailings fees provided under Sections 190 and 191 hereof shall mean a ten percent (10%) surcharge on the principal amount for every month of delay.

The Contractor/Lessee/Permit Holder shall be duty bound to pay for damages incurred due to previously exempted mine waste and tailings as described in Section 190 hereof.

Payments for the mine waste and tailings generated, which were previously requested for exemption from payment of fees but were denied based on the verification report, shall be

remitted to the Bureau within sixty (60) calendar days upon receipt of notice. Failure to comply with the said provision shall mean a ten percent (10%) surcharge on the principal amount for every month of delay.

#### Section 193. The Contingent Liability and Rehabilitation Fund Steering Committee

An Interagency Contingent Liability and Rehabilitation Fund (CLRF) Steering Committee shall be created and shall have the following duties and responsibilities:

- a. Evaluates and approves/disapproves the submitted EPEP and consults with credible experts and advisory body(ies), as may be required, to clarify proposals and to discuss the adequacy of control and rehabilitation measures;
- b. Monitors the MRFs that shall be established and deposited in a Government depository bank in accordance with the provisions of these implementing rules and regulations;
- c. Resolves issues involving the final mine rehabilitation and decommissioning that shall be implemented;
- d. Hires credible experts to do independent studies and researches on the environmental, engineering and sociocultural impacts of the projects in order to assist it in making judicious decisions;
- e. Monitors and evaluates the performance of the MRF Committees;
- f. Administers the Mine Waste and Tailings Fees Reserve Fund;
- g. Evaluates and decides on all applications for compensation for damages and awards compensations therefor;
- h. Prescribes documentary requirements for applications for compensation for damages;
- i. Appoints and/or designates members of the Technical Working Group to serve as the technical staff of the Committee and Regional Investigation and Assessment Teams, as provided for in Sections 196 and 198 hereof, to assist the Committee in the investigation and assessment of the claims for compensation for damages: *Provided*, That the Committee shall exercise general supervision over them;
- j. Provides appropriate funds from the MRFs and MWT Reserve Fund for the development and implementation of research and other special projects, which are deemed necessary in promoting the environmental objectives of these implementing rules and regulations;
- k. Implements duly approved guidelines, rules and regulations;
- l. Formulates policy recommendations to strengthen the environmental provisions of these implementing rules and regulations for consideration of the Secretary;
- m. Recommends to the Secretary the granting of allowances to officials and personnel performing

functions and duties relative to the effective implementation of these implementing rules and regulations;

n.Prepare and submit to the Secretary, within thirty (30) calendar days after the end of each year, an annual report of accomplishments and such periodic reports of activities, as may be required; and

o.Perform other functions as may be assigned by the Secretary.

#### Section 194.Composition of the CLRF Steering Committee

The CLRF Steering Committee shall be composed of the following officials or their duly authorized representatives:

- a.Director as Chair;
- b.Director of Environmental Management Bureau as Vice-Chair;
- c.Director of Lands Management Bureau as Member;
- d.Director of Forest Management Bureau as Member;
- e.Director of Bureau of Soils and Water Management as Member;
- f.Director of Bureau of Plant Industry as Member;
- g.Director of Bureau of Fisheries and Aquatic Resources as Member;
- h.Administrator of the National Irrigation Administration as Member; and
- i.Assistant Director of the Bureau as Committee Coordinator.

In case the Chair and/or the Vice-Chair can not personally attend a meeting or function of the CLRF Steering Committee, he/she shall designate or appoint a representative, who shall be duly authorized in writing to have full power and authority to act in his/her behalf.

The Bureau shall provide the secretariat and administrative supports, as may be deemed necessary, to the CLRF Steering Committee.

#### Section 195.Meetings of the CLRF Steering Committee

The Committee shall hold quarterly meetings: *Provided*, That any member of the Committee may call a special meeting as he/she may deem necessary: *Provided, further*, That notices of the meetings stating the date, time, place and agenda therefor shall be sent by the Committee Chair or Vice-Chair to all members at least ten (10) working days before the intended date of the meetings.

In all meetings, the presence of at least five (5) members shall constitute a quorum to conduct business. The meetings shall be presided by the Chair or, in his/her absence, by the Vice-Chair. In the absence of the Chair and the Vice-Chair, the meetings shall be presided by either of their representatives. Unless otherwise provided herein, a majority vote of the members present in the meeting shall be required to give effect to any resolutions or decisions of the Committee. The presiding officer of the meeting shall not vote in any matter brought before the Committee except in case of a tie.

#### Section 196. The Technical Working Group

To assist the CLRF Steering Committee, a Technical Working Group (TWG) shall be created in the Bureau and shall have the following functions:

- a. Acts as technical staff to the CLRF Steering Committee;
- b. Receives, processes and evaluates the submitted EPEP as to its form and substance, imposes additional requirements and documentation deemed necessary and consults with credible experts, including the Director of the Philippine Social Science Council, Director of the National Museum, Offices of the Northern and Southern Cultural Communities, as well as other advisory body(ies) that may be required to clarify proposals and to discuss the adequacy of control and rehabilitation measures;
- c. Conducts annual environmental audit to ensure that the approved EPEPs/AEPEPs shall be strictly implemented by the Contractors/Permit Holders;
- d. Conducts continuing studies and research on policy options, strategies and approaches to effective implementation of environmental protection and enhancement programs and recommends such measures as may be required to address therefor to the Committee;
- e. Verifies the amounts of mine waste and mill tailings generated by Contractors/Lessees/Permit Holders;
- f. Computes and collects the mine waste and tailings fees to be paid by Contractors/Lessees/Permit Holders;
- g. Receives, processes, evaluates and conducts preliminary investigations, if necessary, of claims for damages and submits appropriate recommendations to the CLRF Committee;
- h. Assists in the investigation and assessment of claims for damages and submits appropriate recommendations to the CLRF Steering Committee;
- i. Develops, packages and recommends research and other special projects concerning mining and the environment;

- j.Determines/estimates/prepares the cost of rehabilitating damaged industrial, commercial, residential, agricultural and forest lands, marine and aquatic resources and placer and lode small-scale mining areas caused primarily by mining operations;
- k.Coordinates and monitors the activities of the Regional Investigation and Assessment Teams (RIAT) as provided for in Section 193 hereof;
- l.Drafts guidelines, rules, regulations, resolutions and other documents in connection with the environmental provisions of these implementing rules and regulations; and
- m.Performs other functions as may be assigned by the CLRF Steering Committee.

#### Section 197.Contingent Liability and Rehabilitation Steering Committee Administrative Fund

The Director shall ensure that adequate budget shall be allocated every year from its regular appropriation for the CLRF Steering Committee and shall include sufficient maintenance and operating budgets for actual field and travel expenses needed during mine site inspections, cost of in-house and external training, monthly honoraria for members of said Committee, cost of supplies and materials, cost of communication services and adequate capital outlay for the purchase of required photocopying machines, computers, microfiche machines and other support equipment.

The Director shall likewise allocate adequate financial support from the MRFs for the cost of consultancy and other expenses that are deemed necessary in carrying out the functions of the Committee related to EPEP evaluation and monitoring.

#### Section 198.The Regional Investigation and Assessment Teams (RIAT)

To assist the CLRF Steering Committee in the investigation and assessment of the claims for compensation for damages, there shall be Regional Investigation and Assessment Teams (RIAT), which shall be composed of representatives from the Regional Offices and other member agencies whose services are deemed needed.The RIAT shall be headed by the Regional Director and shall have the following functions:

- a.Provides advice to interested parties on matters related to claims for compensation for damages under these implementing rules and regulations;
- b.Provides applications and other related forms to prospective claimants for damages;
- c.Receives applications for compensation for damages under these implementing rules and regulations;

- d. Conducts field investigations and assessments of claims for damages (MGB Form No. 18-3) and submits reports to the CLRF Steering Committee through the TWG;
- e. Creates, whenever and wherever deemed necessary, Local Task Forces to assist the RIAT in carrying out its functions; and
- f. Performs other functions that may be assigned by the Director.

#### Section 199. Application for Compensation for Damages

Compensable damages are those damages caused by any mining operations on lives and personal safety; lands, agricultural crops and forest products, marine life and aquatic resources, cultural and human resources; and infrastructure and the revegetation and rehabilitation of silted farm lands and other areas devoted to agriculture and fishing.

The following are qualified to apply for compensation for damages:

- a. Any individual, in the event of loss or damage to his/her life, personal safety or property;
- b. Any private owners of damaged infrastructures, forest products, marine, aquatic and inland resources;
- c. Any applicant or successor-in-interest for damage to private lands who holds title or any evidence of ownership;
- d. Any applicant or successor-in-interest for damage to alienable and disposable lands;
- e. Any agricultural lessors, lessees and share tenants for damage to crops; and
- f. Any Indigenous Cultural Community in case of damage to burial grounds and cultural resources.

Provided, That any damage caused to the property of a surface owner, occupant or concessionaire, as provided for in Chapter X on Surface Rights, shall be governed by the pertinent provisions of said chapter.

Application for compensation for damages under these implementing rules and regulations shall be filed in a prescribed application forms (MGB Form No. 18-2) with the Regional Investigation and Assessment Teams within thirty (30) calendar days from the occurrence of the damage.

Applications should be supported by the following documents:

- a. Proof of ownership, such as tax declaration, perfected land titles, homestead and free patent. It

should be understood, however, that tax declarations shall be honored as proof of ownership only for the purposes of compensation under these implementing rules and regulations;

b.Receipt of expenditures for improvements made in the affected property(ies); and

c.Other requirements that may be required by the CLRF Committee.

## Section 200.Evaluation of and Compensation for Claims for Damages

The following guidelines shall apply in the evaluation of claims for damages under these implementing rules and regulations:

a.Amounts paid as compensation for claims for damages shall be drawn from the mine waste and tailings fees collected from Contractor(s)/Lessee(s)/Permit Holder(s), as may be determined by the CLRF Steering Committee: *Provided*, That in case the assessed amount of damage exceeds the mine waste and tailings fees paid for, the concerned Contractor(s)/Lessee(s)/Permit Holder(s) shall be duty bound to pay for the remaining balance;

b.Damages to lives and personal safety shall be compensated at an amount as provided for in other pertinent laws;

c.Damages caused to agricultural lands, which render such lands useless for the traditional purpose for which they were intended for, may be compensated at an amount equivalent to either one of the following, whichever is lower:

1.The fair market value of the lands as per tax declaration; or

2.The cost of rehabilitation of the land;

d.Damages to agricultural lands resulting in partial loss of productivity may be compensated at an amount equivalent to the costs of rehabilitation;

e.Damages to industrial and residential lands may be compensated at an amount equivalent to the costs of rehabilitation;

f.Damages resulting in total or partial loss of agricultural crops, forest products and/or inland aquatic resources may be compensated at an amount equivalent to the loss of projected net income therefrom;

g.Damages to infrastructures may be compensated at an amount equivalent to the costs of rehabilitation to be determined by the CLRF Steering Committee;

h.The amount of compensation for damages shall be based on the amount claimed or the amount assessed, whichever is lower;

i. In case of private leased lands, compensation under these implementing rules and regulations shall be paid in accordance with the sharing agreement between the private landowner(s) and the lessee(s). In the absence of such an agreement, seventy-five percent (75%) of the compensation shall be paid to the lessee and twenty-five percent (25

j. Damages compensated by the operating mining company(ies) shall no longer be considered compensable under these implementing rules and regulations: *Provided*, That written approval has been secured from the CLRF Steering Committee. Such payment shall be credited to the concerned Contractor/Lessee/Permit Holder for the next paying period. A waiver signed as a condition for payment of such compensation by the Contractor/Lessee/Permit Holder shall also be considered as a waiver under these implementing rules and regulations;

k. Any damage to burial grounds and cultural resources of an Indigenous Cultural Community shall be compensated in an amount to be determined by said Community, the concerned Local Government Unit and/or the National Museum; and

l. The decision of the CLRF Committee shall be final and executory unless appealed to the Secretary within thirty (30) calendar days from receipt of the decision.

## CHAPTER XIX

### CONFLICTS/ADVERSE CLAIMS/OPPOSITIONS

#### Section 201. Creation of Panel of Arbitrators

There shall be a Panel of Arbitrators in the Legal Staff of the Regional Office composed of three (3) members, two (2) of whom must be members of the Philippine Bar in good standing and one (1) a licensed Mining Engineer, Geologist or a professional in a related field all duly designated by the Secretary as recommended by the Director. Those designated as members of the Panel shall serve as such in addition to their work in the Department without additional compensation. The Regional Office shall provide administrative support and structure to the Panel of Arbitrators.

As much as practicable, the members of the Panel shall come from the different bureaus of the Department in the region. The presiding officer thereof shall be selected by the drawing of lots. His/her tenure as presiding officer shall be on a yearly basis. The members of the Panel shall perform their duties and obligations in hearing and deciding cases until their designation is withdrawn or revoked by the Secretary.

#### Section 202. Jurisdiction of Panel of Arbitrators

The Panel of Arbitrators shall have exclusive and original jurisdiction to hear and decide on the following:

- a. Disputes involving rights to mining areas;
- b. Disputes involving Mineral Agreements, FTAA's or Permits;
- c. Disputes involving surface owners, occupants and claimholders/concessionaires; and
- d. Disputes pending before the Regional Office and the Department at the date of the effectivity of the Act: *Provided*, That appealed cases before the Department shall be under the jurisdiction of the Mines Adjudication Board.

The rules and regulations governing the litigation and disposition of cases before the Panel of Arbitrators shall be promulgated by the Mines Adjudication Board as provided for in Section 207 hereof: *Provided*, That cases presently pending before the different Panels may proceed in accordance with the rules promulgated thereby.

#### Section 203. Filing of Adverse Claims/Conflicts/Oppositions

Notwithstanding the provisions of Sections 21, 38 and 55 hereof, any adverse claims, protest or opposition specified in said Sections may also be filed directly with the Panel of Arbitrators within the prescribed periods for filing such claim, protest or opposition as specified in said Sections.

#### Section 204. Substantial Requirements for Adverse Claims, Protests and Oppositions

No adverse claim, protest or opposition involving mining rights shall be accepted for filing unless verified and accompanied by the prescribed docket fee and proof of services to the respondent(s), either personally or by registered mail: *Provided*, That the requirement for the payment of docket fees shall not be imposed on pauper litigants.

Likewise, no adverse claims, protest or opposition shall be entertained unless it contains the names and addresses of the adverse party, protestant, oppositor and the respondent and their respective counsels, if any; a detailed statement of the facts relied upon; the grounds for adverse claim, protest or opposition; and an exhaustive discussion of the issues and arguments raised; together with all supporting plans, documents, data and other documentary evidences and affidavits of all witnesses.

#### Section 205.Period to Decide the Case

The Panel shall render its decision within thirty (30) days, after the submission of the case by the parties for decision.

#### Section 206.Execution and Finality of Decision

The decision of the Panel of Arbitrators shall become final and executory after the lapse of fifteen (15) days from receipt of the notice of decision by the aggrieved party, unless the latter appeals to the Mines Adjudication Board within the same period.Where an appeal is filed, the concerned Panel of Arbitrators shall transmit the notice thereof together with the records of the case within five (5) days to the Mines Adjudication Board.

Upon the finality of the decision of the Panel of Arbitrators, no appeal having taken therefrom, the Chairman of the Panel of Arbitrators shall issue a writ of execution directing the Sheriff of the Regional Trial Courts, with jurisdiction over the area, to implement and execute the writ.

### CHAPTER XX

#### MINES ADJUDICATION BOARD/APPEALS

#### Section 207.Mines Adjudication Board

There shall be a Mines Adjudication Board composed of three (3) members.The Secretary shall be the Chairman with the Director and Undersecretary for Field Operations of the Department as members thereof.The Board shall promulgate its own internal rules and regulations governing its administration and disposition of appealed cases.

The Board shall promulgate the rules and regulations governing the following:

- a.Litigation and disposition of mining cases before the Panel; and
- b.Administration and disposition of appealed cases before the Board.

#### Section 208.Secretariat

The Bureau shall act as the Secretariat of the Board and shall be provided with permanent and

full time administrative support with sufficient funding in its annual budget appropriation.

#### Section 209.Period to Resolve Appeal

The Board shall resolve the appeal within thirty (30) days from submission of the case by the parties for decision.

#### Section 210.Powers and Functions of The Board

The Board shall have the following powers and functions:

- a.To promulgate rules and regulations governing the hearing and disposition of cases before it, as well as those pertaining to its internal functions, and such rules and regulations as may be necessary to carry out its functions;
- b.To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of account, Agreements and other document as may be material to a just determination of the matter under investigation and to testify in any investigation or hearing conducted in pursuance of this Act;
- c.To conduct hearings on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearing at any time and place, refer technical matters or accounts to an expert and to accept his/her report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it and dismiss the mining dispute as part thereof, where it is trivial or where further proceedings by the Board are not necessary or desirable;
- d.To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
- e.To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social and economic stability.

In any proceedings before the Board, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that shall govern. The Board shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceedings before the Board, the parties may be represented by legal counsel. The findings of fact of the Board shall be conclusive and binding on the parties and its decision or order shall be final and executory.

#### Section 211. Petition for Review by Certiorari

The decision of the Board may be reviewed by filing a petition for review with the Supreme Court within thirty (30) days from receipt of the order or decision of the Board.

### CHAPTER XXI

#### GOVERNMENT SHARE IN MINERAL AGREEMENTS/FTAAs

#### Section 212. Government Share in Mineral Production Sharing Agreement

The total Government share in a Mineral Production Sharing Agreement shall be the excise tax on mineral products as provided for in R. A. No. 7729.

#### Section 213. Government Share in Other Mineral Agreements

The share of the Government in Co-Production and Joint Venture Agreements shall be negotiated by the Government and the Contractor taking into consideration: (a) capital investment in the project, (b) risks involved, (c) contribution of the project to the economy and (d) other factors that will provide for a fair and equitable sharing between the parties.

The Government shall also be entitled to compensation for its other contributions which shall be agreed upon by the parties and shall consist, among other things, the Contractor's income tax, excise tax, Special Allowance, withholding tax due from the Contractor's foreign stockholders

arising from dividend or interest payments to the said foreign stockholders, in case of a foreign national, and all such other taxes, duties and fees as provided for in existing laws.

#### Section 214. Government Share in FTAA

The Government share in an FTAA shall consist of, among other things, the Contractor's corporate income tax, excise tax, Special Allowance, withholding tax due from the Contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholder in case of a foreign-owned corporation and all such other taxes, duties and fees as provided for in existing laws.

The Government share in an FTAA shall be negotiated by the Government and the Contractor taking into consideration:

- a. Capital investment of the project;
- b. Risks involved;
- c. Contribution of the project to the economy;
- d. Technical complexity of the project;
- e. Contribution to community and Local Government; and
- f. Other factors that will provide for a fair and equitable sharing between the parties.

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 commercial operation shall be for a period not exceeding five (5) years or until the date of actual recovery, whichever comes earlier.

#### Section 215. Government Share in Mineral Agreements and FTAA's Within Mineral Reservations

For Mineral Production Sharing Agreements, other Mineral Agreements or FTAA within the Mineral Reservations, the Government share shall be in addition to the royalties payable to the Government.

#### Section 216. Place and Manner of Payment and Allocation of Government Share

The Government share in a Mineral Agreement and FTAA as provided for in Sections 212 to 215 hereof, shall be paid to the nearest Bureau of Internal Revenue (BIR) office where the

mining/contract area is located and in accordance with existing BIR rules and regulations.

The Government share in mining operations within Mineral Reservations shall be paid directly to the Bureau in addition to the royalty provided for in Section 13 hereof. The share of the Bureau from this royalty shall be paid separately and directly to the Bureau.

The Government share shall be allocated in accordance with Sections 290 and 292 of R.A. No. 7160, otherwise known as the "Local Government Code of 1991." In case the development and utilization of mineral resources are undertaken by a Government-owned or controlled corporation, the sharing and allocation shall be in accordance with Sections 291 and 292 of the said Code.

## CHAPTER XXII TAXES AND FEES

### Section 217. Taxes

a. Income Tax - After the lapse of the income tax holiday, as provided for in the Omnibus Investment Code of 1987, as amended, the Contractor shall pay income tax provided for in the National Internal Revenue Code, as amended.

b. Excise Tax on Mineral Products - The Contractor shall pay the excise tax on mineral products as provided for in Section 151 of the National Internal Revenue Code, as amended, in accordance with the following:

1. On all metallic minerals, a tax based on the actual market value of the gross output thereof at the time of removal, in case of those locally extracted or produced; or the value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax in the case of importation in accordance with the following schedule:

i. For copper and other metallic minerals except gold and chromite -

#### Period of Production Excise Tax Rate

June 24, 1994 - June 23, 1997 1.0%

June 24, 1997 - June 23, 1999 1.5%

June 24, 1999 and onwards 2.0%

ii. Gold and chromite - a tax of two percent (2%).

2. On all non-metallic minerals and quarry resources, a tax of two percent (2 or the value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax in the case of importation.

### Section 218. Occupation Fees

There shall be collected from any Contractor or Permittee on public or private lands, an annual occupation fee in accordance with the following schedule:

a. For areas outside Mineral Reservations -

1. Exploration Permit - Ten Pesos (10.00) per hectare or fraction thereof per annum;
2. Mineral Agreements and FTAA's - Fifty Pesos (50.00) per hectare or fraction thereof per annum; and

b. For areas inside Mineral Reservations -

1. Exploration Permits, Mineral Agreements and FTAA's - One Hundred Pesos (100.00) per hectare or fraction thereof per annum.

The Secretary is authorized to increase the occupation fees provided herein when the national interest and public welfare so require, upon the recommendation of the Director.

### Section 219. Manner and Place of Payment of Occupation Fees

The occupation fees shall be paid on the date the 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 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.

If the applied area lies in several municipalities, the Director in the case of Mineral Reservations or the Regional Director in the case of areas outside Mineral Reservations shall determine the amount to be paid by the Contractor based on official maps available in the respective offices and endorses the same to the concerned Municipal/City Treasurer. If disagreements arise from this payment later, the Provincial Governor shall decide on the proportionate amount to be paid to the municipalities.

#### Section 220. Allocation of Occupation Fees

Thirty percent (30%) of all occupation fees collected from Permittee/Contractor in onshore mining areas shall accrue to the province and seventy percent (70%) to the municipality where the onshore mining areas are located. In a chartered City, the full amount shall accrue to the concerned City.

#### Section 221. Other Fees and Charges

Filing fees and other charges for services rendered by the Bureau and/or its Regional Office shall be payable in accordance with the fees and charges in Annex 5-A.

### CHAPTER XXIII INCENTIVES

#### Section 222. Incentives Available to Contractors and Permittees

Investment incentives granted under Executive Order No. 226 (EO 226), as amended, and otherwise known as the "Omnibus Investment Code of 1987," the Act and other laws shall be made available to Contractors/Permittees subject to their compliance with the provisions and implementing rules and regulations of the said laws. However, fiscal and non-fiscal incentives sought to be availed of shall require prior approval from the agency administering the incentives.

The incentives granted under Sections 91, 92 and 93 in Chapter XVI of the Act are additional incentives aside from those available under the Omnibus Investment Code of 1987, as

amended. They are available to all Contractors in Mineral Agreements or FTAA's only to the extent in which they are engaged in activities covered by their respective Agreements.

#### Section 223. Availment of Incentives under EO 226, as Amended

Contractors can avail of fiscal and non-fiscal incentives granted under EO 226, as amended, subject to their registration with the Board of Investments (BOI) and compliance with requirements provided for in the order and its rules and regulations. Exploration Permittees registered with BOI can also avail of fiscal incentives under EO 226, as amended, but only for the duration of the Permits or effectivity of EO 226 as amended, whichever comes first. BOI registration and enjoyment of incentives under said registration shall be governed by the Investment Priorities Plan subject to the provisions of EO 226, as amended, applicable rules and regulations and future amendments thereof. The incentives availed of under EO 226 shall be administered by BOI.

No entitlement to any incentive under EO 226 shall accrue to any Contractor prior to the date of approval of its Mineral Agreement or FTAA and/or date of BOI registration, as the case may warrant in the latter.

All mining activities shall always be included in BOI's listing of Investment Priorities Plan.

#### Section 224. Availment of Incentives for Pollution Control Devices

Pollution control devices and facilities as herein defined which were acquired, constructed or installed by Contractors shall not be considered as improvements on the land or building where they are placed, and as such, shall not be subject to real property and other taxes or assessments.

The Contractor shall avail of this incentive in writing to the Director supported by a sworn report containing a detailed list of such devices and infrastructure together with relevant maps or diagrams indicating their location and use in the operations. Such report shall include the acquisition and installation cost of the devices or infrastructure, the corresponding amount of tax exemption availed of by the Contractor. If such devices and infrastructure, after evaluation by the Bureau, were found necessary and appropriate for the operations, the Director shall issue a Certificate of Tax-Exemption covering the declared devices and infrastructure for the purpose of availing of exemption from Local Government taxes and assessment. The Director or his/her

representative shall monitor the utilization of these devices and infrastructure in relation to the Contractor's operation to ascertain that such are used for pollution control purposes.

Separate guidelines to further implement this Section shall be prepared by the Bureau.

#### Section 225. Availment of Incentive for Income Tax-Carry Forward of Losses

A net operating loss without the benefit of income tax-accelerated depreciation incurred in any year during the first ten (10) years of the Contractor's operation may be carried over as a deduction from taxable income for the next five (5) years immediately following the year of such loss: *Provided*, That the net operating loss shall be deducted from the taxable income derived from the activity covered by the Mineral Agreement or FTAA.

Losses incurred in activities other than those pertinent to mining operations can not be carried over. Only such losses attributable to mining operations covered by the Mineral Agreement or FTAA, incurred after the approval of the Mineral Agreement or FTAA and within the ten-year period from date of commercial operation of activity covered by such Agreement shall be considered for purposes of availment of incentives on income tax-carry forward of losses.

Applications for availment of the incentive on income tax-carry forward of losses shall be filed with the Bureau within one (1) month from date of filing with the Bureau of Internal Revenue of the Income Tax Return where net operating loss was deducted.

The following documentary requirements relative to the application for the availment of this incentive should be submitted to the Director:

- a. Two (2) copies of Audited Financial Statement (AFS) and Income Tax Return (ITR) for the year the net operating loss was incurred;
- b. Two copies of the AFS and ITR for the year the net operating loss was partially deducted or statement of projected income for the current year (duly certified by an external auditor) from which the net operating loss may be deducted;
- c. If the Contractor is engaged in an activity other than that covered by the Mineral Agreement or FTAA, the income statement must be aggregated per activity and duly certified by an external auditor; and
- d. Sworn statement issued by the Contractor as to the start of commercial operation of the activity applied for the incentive on income tax-carry forward of losses.

Late filing of application for availment of the incentive on income tax-carry forward of losses shall incur a basic fine of one-half percent (1/2%) of the amount of the net operating loss to be carried over to applicable taxable year as provided for in Section 92 of the Act plus a daily fine of Five Pesos (5.00) but not to exceed One Hundred Thousand Pesos (100,000) which shall be paid to the Bureau.

The net operating loss referred to in this Section shall be computed in accordance with the provisions of the National Internal Revenue Code. The ten-year period prescribed herein shall be counted from the first year of commercial operation in the activity covered by the Mineral Agreement or FTAA. The computation of net operating loss shall be subject to post audit by the Bureau of Internal Revenue.

#### Section 226. Availment of Incentive for Income Tax-Accelerated Depreciation

At the option of the Contractor and in accordance with procedure established by the Bureau of Internal Revenue, fixed assets may be depreciated at the rates authorized under Section 93 of the Act. Fixed assets refer to assets subject to depreciation under the National Internal Revenue Code.

Contractors shall avail of this incentive in writing to the Director accompanied by a sworn report containing detailed list of the fixed assets relevant to the Contractor's operation together with relevant maps and diagrams indicating the location and names of the assets. Such report shall include the applicable book value, expected life in years, depreciation schedule and the fixed asset's use in the Contractor's operation.

This incentive may also be availed of for fixed assets acquired before the date of the approval/conclusion of the Mineral Agreement or FTAA, but only to the undepreciated portion of the fixed assets.

As provided for in Section 93 of the Act, fixed assets may be depreciated as follows:

- a. To the extent of not more than twice as fast as the normal rate of depreciation or depreciated at normal rate of depreciation if the expected life is ten (10) years or less; or
- b. Depreciated over any number of years between five (5) years and the expected life if the latter is more than ten (10) years and the depreciation thereon allowed as a deduction from taxable

income: Provided, That the Contractor notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this Section will be used.

In computing taxable income, the Contractor may at his/her option, deduct exploration and development expenditures accumulated at cost as of the date of the Exploration Permit as well as exploration and development expenditures paid or incurred during the taxable year: *Provided*, That the total amount deductible for exploration and development expenditures shall not exceed twenty-five percent (25%) of the Net Income from mining operations. The actual operation shall be carried forward to the succeeding years until fully deducted.

Net Income from mining operations is defined as gross income from operations less allowable deduction which are necessary or related to mining operations. Allowable deductions shall include mining, milling and marketing expenses, depreciation of properties directly used in the mining operations: *Provided*, That such other deductions allowed by the BIR can also be deducted to arrive at the Net Income. This paragraph shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowances for depreciation.

Either of the following methods shall apply in the treatment of income tax-accelerated depreciation in the income statement:

- a. Accelerated depreciation charges may be shown as among the expense items to be deducted from the Net Income; or
- b. Depreciation expenses at normal life of the assets may be shown as among the expense item to be deducted from the Net Income. The accelerated depreciation would be made only in the adjustment of the taxable income for income computation as an additional expenses.

Section 227. Simultaneous Availment of Incentives under EO 226 and Additional Incentives under the Act

The Contractor may avail of either the incentive on Income Tax-Carry Forward of Losses under Section 92 of the Act or the Income Tax Holiday provided under EO 226, as amended. If the Contractor opts to avail of the Income Tax Holiday incentive under its BOI registration, if and when applicable, then the incentive on Income Tax Carry Forward of Losses under the Act should not be granted to it and vice versa. It should then be a choice between Income Tax Holiday or Income Tax-Carry Forward of Losses, with the choice of the first availment governing the

succeeding availments. There shall be no switching of these two incentives within the entire prescribed period within which the Contractor is entitled to such incentives.

In availing of the Income Tax Holiday incentive under EO 226, as amended, the Contractor shall submit to the BOI a certification from the Director that the Contractor has never availed of the incentives on Income Tax-Carry Forward of Losses under the Act during the term of the Mineral Agreement or FTAA. In the same light, Contractors availing of the incentive on Income Tax-Carry Forward of Losses shall submit a certification from the BOI that the Contractor has never availed of the Income Tax Holiday incentive under EO 226, as amended, during the term of the Mineral Agreement or FTAA.

Incentives on Income Tax-Accelerated Depreciation provided under Section 93 of the Act may be availed of simultaneously with the Income Tax Holiday provided under the BOI registration.

#### Section 228. Conditions for Availment of Incentives

The Contractor's right to avail of incentives under Sections 222 to 227, shall be subject to the following conditions:

- a. Compliance with obligations - The Contractor shall observe and abide by the provisions of the Act and its implementing rules and regulations and take adequate measures to ensure that its obligations thereunder are faithfully discharged;
- b. Compliance with directives - The Contractor shall comply with the directives and instructions which the Bureau may issue from time to time in pursuance of its authority under the law;
- c. Visitorial powers - The Contractor shall allow the duly authorized representatives of the Bureau to inspect and examine its books of accounts and other pertinent records and documents to ascertain compliance with the Act and its implementing rules and regulations and the terms and conditions of the Mineral Agreement or FTAA;
- d. Delinquent Contractors - No availment of incentives may be allowed to a Contractor delinquent in compliance with any of the terms and conditions of the Mineral Agreement or FTAA and/or with the terms and conditions of registration with BOI as the case may warrant, including submission of reports and statistical data which may be required by the Bureau and/or BOI; and
- e. Activities not covered by the Mineral Agreement or FTAA - The Contractor proposing to engage in activities not covered by its Mineral Agreement or FTAA shall install an adequate accounting system segregating the investments, revenues, sales, receipts, purchases, payrolls, costs, expenses and profits and losses of its operations covered by Mineral Agreement or FTAA from

those which are not covered; or the Bureau may, in appropriate cases, require the establishment of a separate entity for the activity covered by the Agreement in order to facilitate the proper implementation of the Act.

#### Section 229. Investment Guarantees

In addition to the above, the Contractor especially foreign investors shall be entitled to the basic rights and guarantees provided in the Constitution and such other rights recognized by the Government as enumerated hereunder:

- a. Repatriation of investments - In the case of foreign investments, the right to repatriate the entire proceeds of the liquidation of the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation;
- b. Remittance of earnings - In the case of foreign investments, the right to remit earnings from the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance;
- c. Foreign loans and contracts - The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from technical assistance contracts;
- d. Freedom from expropriation - There shall be no expropriation by the Government of the property represented by investments or loans or of the property of the enterprise except for public use or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance;
- e. Requisition of investment - There shall be no requisition of the property represented by the investment or of the property of the enterprises except in the event of war or national emergency and only for the duration thereof. Just compensation shall be determined and paid either at the time of requisition or immediately after cessation of the state of war or national emergency. Payments received as compensation for the requisitioned property may be remitted in the currency in which the investments were originally made and at the exchange rate prevailing at the time of remittance; and
- f. Confidentiality - Any information supplied by the Contractor which have been agreed upon by the parties in the negotiation as confidential pursuant to the Act and these implementing rules and regulations shall be treated as such during the term of the project to which it relates. However, the following information shall not be classified as confidential:

1. Production and sales of minerals;
2. Employment;
3. Royalty and tax payments;
4. Metallic and non-metallic reserves;
5. Operational parameters such as mining and milling capacities and rates, mine and mill recoveries, dilution factors, etc.; and
6. Other data as may be agreed upon by the parties.

The term confidentiality refers only to the act of divulging publicly any information classified as such. It does not prevent the Director or his/her representative(s) from using the data internally within the Bureau for monitoring and for policy, planning and research studies. Documents not otherwise covered by a valid confidentiality Agreement between the concerned parties shall be made available to the public upon the filing of an appropriate request duly approved by the authorized officer. Reproduction of such documents shall be allowed upon presentation of an approved written request in sufficient form and payment of reasonable fees.

## CHAPTER XXIV

### CANCELLATION, REVOCATION AND TERMINATION OF A PERMIT/MINERAL AGREEMENT/FTAA

#### Section 230. Grounds

The following are the grounds for cancellation, revocation and termination of a Mining Permit/Mineral Agreement/FTAA:

- a. Violation of any of the terms and conditions of the Permits or Agreements;
- b. Non-payment of taxes and fees due the Government for two (2) consecutive years; and
- c. Falsehood or omission of facts in the application for Exploration Permit, Mineral Agreement, FTAA or other permits which may alter, change or affect substantially the facts set forth in said statements.

#### Section 231. Suspension or Cancellation of Tax Incentives and Credits

- a. Grounds for cancellation/suspension - The Bureau may suspend or cancel wholly or partially any incentive granted under the rules and regulations for any cause including the following:

- 1.Any violation of the Act, rules and regulations implementing the same or of the terms and conditions in the Mineral Agreement or FTAA;
- 2.Any material misrepresentation or false statements made to the Bureau at any time before or after the approval/conclusion of its Mineral Agreement or FTAA;
- 3.Whenever the project ceases to be viable and its continued operation would require additional costs to the economy.In this case, the Bureau shall evaluate the status of the project and shall decide if suspension/cancellation shall be imposed;

b.Withdrawal from the Mineral Agreement or FTAA - Whenever a Contractor decides to withdraw from business or suspend its operations covered by the Agreement, written notice thereof shall be sent to the Director before decision is implemented.Withdrawal from business operations shall automatically cancel the Mineral Agreement or FTAA.Upon such withdrawal, the Contractor shall cease to be entitled to the incentives.The effect of withdrawal from business or suspension of operations covered by the Agreement shall, in each particular instance, be determined by the Bureau, taking into account the reasons therefor; or

c.Refund and penalties - In case of cancellation of the Mineral Agreement or FTAA, the Bureau may in appropriate cases, recommend to other incentive-dispensing agencies the cancellation of registration without prejudice to the imposition of the corresponding penalties and refund of incentives availed of, pursuant to the Act and these implementing rules and regulations and under EO 226, laws creating export processing zones and other laws.

#### Section 232.Effect of Expiration and Cancellation of a Permit and Mineral Agreement/FTAA

Upon the expiration of a Mining Permit/Mineral Agreement/FTAA, the mining operations may be undertaken by the Government through one of its agencies or through a qualified independent Contractor.In the latter case, the contract shall be awarded to the highest bidder in a public bidding held after due publication of the notice thereof.The Contractor/Permit Holder shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

Upon cancellation of a Mining Permit/Mineral Agreement/FTAA, the Director shall cause the same to be entered in the registration book and a notice thereof shall be posted on the bulletin board of the Bureau and Regional Office and the mining area covered thereby shall thereupon be open to new applicants.

Non-payment of taxes and fees causing for the cancellation of a Mining Permit/Mineral Agreement/FTAA shall have also the effect of re-opening the mining area to new applicants.

## CHAPTER XXV SURVEY OF PERMIT/CONTRACT/MINING AREAS

### Section 233. Identification of Meridional Blocks

A system for identifying meridional blocks other than geographic coordinates shall be established by the Bureau. The boundaries of a permit/contract/mining area shall coincide with the full one minute or one-half minute of latitude and longitude based on the NAMRIA map. In cases where such boundaries are not attainable due to geographic features, environmental considerations, existence of adjoining valid mining rights or concessions, other areas closed to mining locations, settlement of conflicts and other justifiable considerations that render it impractical to conform with such requirements, the boundaries shall be defined by specific technical description.

### Section 234. Filing of Application for Survey

A Permittee/Contractor shall file an application for Order of Survey of the perimeter boundary of the permit/contract/mining area simultaneous with the submission of the Declaration of the Mining Project Feasibility and to be accompanied by the following:

- a. One (1) set of certified true copy of approved Exploration Permit/FTAA/Mineral Agreement;
- b. Pertinent documents such as Deed of Assignment and Power of Attorney duly registered with the Bureau/concerned Regional Office;
- c. A notarized Survey Service Contract executed by and between the Permittee/Contractor and the deputized Geodetic Engineer, except when the deputized Geodetic Engineer is employed by the applicant and/or company interested in the survey: *Provided*, That proof of employment of the deputized Geodetic Engineer is submitted;
- d. Affidavit of the deputized Geodetic Engineer representing that he/she can execute the survey

of the area and to submit the complete survey returns thereof within the period prescribed by these implementing rules and regulations;

e.A surety bond (Annex 5-A) for Order of Survey, which shall be forfeited for failure of the deputized Geodetic Engineer to execute and/or comply with his/her obligations; and

f.Proof of payment of the required fees (Annex 5-A).

However, any Contractor or applicant whose MPSA/FTAA Agreement/application was granted/filed in accordance with the implementing rules and regulations of E.O. No. 279, may avail of the provision of this Section.

#### Section 235.Issuance of Order of Survey

Upon verification of the application for Order of Survey (MGB Form No. 25-1) and compliance with the requirements in the preceding section, the Director/concerned Regional Director shall issue the Order of Survey in the prescribed form (MGB Form No. 25-2).

#### Section 236.Mineral Land Surveys

Mineral land surveys shall be executed by Geodetic Engineers of the Bureau/Regional Offices, deputized Geodetic Engineers in private practice and company-employed deputized Geodetic Engineers deputized by the Director/Regional Director.

#### Section 237.Execution of Mineral Land Surveys

Corners of the permit/contract/mining area shall be defined by monuments placed at intervals of about four hundred fifty (450) meters apart.When the boundary lines of the permit/contract/mining area traverses mountain or rolling terrain, the intermediate monuments between corners shall be established on ridges, whenever practicable, in which cases, all consecutive corners shall be intervisible.

The corner monuments of a permit/contract/mining area shall be as follows:

a.20 cm x 20 cm x 50 cm concrete rectangular monuments set 40 cm in the ground for principal corners which fall on points with exact minutes or half minute of latitude and longitude; and

b. 15 cm in diameter x 50 cm long set 40 cm in the ground for other corners of the permit/contract or mining area.

Such corners of the permit/contract/mining area shall be identified by concrete monuments or cement patches on boulders, centered with a hole, spike, pipe or nail and marked with the corresponding corner numbers and survey numbers. The latitude and longitude of the principal corners shall also be indicated on the sides of the concrete monuments when they coincide with the full one (1) minute and/or one-half (1/2) minute of latitude and longitude.

When the permit/contract/mining area adjoins submerged land, a witness corner monument along the boundary leading to the shoreline shall be set on the ground to witness the boundary point-corner of the mining rights at the mean low tide level of the sea or lake. Concrete monuments, galvanized iron pipes, fixed rocks, boulders or stakes and other monuments shall be set to define the corners of the mining rights along the shoreline at mean low tide level.

All area computations, plans and maps of permit/contract/mining areas to be submitted to the Bureau/Regional Office for verification and approval shall be prepared using the Philippine Plane Coordinate System (Annex 25-A).

Should any discrepancy of datum plane between or among tie points arise, proper investigation shall be conducted by the Bureau/concerned Regional Office and a report thereon shall be submitted to form part of the survey returns for further investigation and record purposes.

Survey plans of permit/contract/mining areas recorded under these implementing rules and regulations shall be drawn to scale in drawing ink on the prescribed form (MGB Form No. 25-3).

The execution of mineral lands surveys shall be in accordance with these implementing rules and regulations, as supplemented by the applicable provisions of the Revised Manual of Lands Surveys of the Philippines pursuant to Lands Administrative Order No. 4 dated July 3, 1980: *Provided*, That PRS-92 may be used in the execution of mineral land surveys during the transition period (1993-2000) pursuant to the provisions of Department Administrative Order No. 22, Series of 1994: *Provided, further*, That reference points enumerated in Annex 25-B can still be used if standardized and converted into PRS-92 subject to implementing guidelines that may hereinafter be issued.

#### Section 238. Submission of Survey Returns

Survey returns shall be submitted to the Director/concerned Regional Director within one (1) year from receipt of the Order of Survey and shall consist of the following:

- a. Duly notarized field notes with cover (MGB Form No. 25-4) accomplished, signed and sealed by a deputized Geodetic Engineer;
- b. Azimuth computations from astronomical observations (MGB Form No. 25-5), topographic survey computations (MGB Form No. 25-6), traverse computations (MGB Form No. 25-7), area computations (MGB Form No. 25-8), coordinate conversion - geographic to grid (MGB Form No. 25-9) and coordinate conversion - grid to geographic (MGB Form No. 25-10) and other reference computations, all in sets of original and duplicate, properly accomplished, signed and sealed by a deputized Geodetic Engineer;
- c. Microfilm plan(s) in appropriate scale duly accomplished with the corresponding working sheet thereof;
- d. Descriptive and field investigation report on the permit/contract/mining area in quintuplicate, duly signed by the deputized Geodetic Engineer and authorized assistant, if any, and duly notarized; and
- e. A certification under oath by the Barangay Captain that the survey was actually undertaken in the locality.

Incomplete survey returns shall not be accepted for verification and approval purposes.

Except for reasons of *force majeure*, failure to submit the survey returns within the prescribed period shall cause the cancellation of the Mining Permit/Mineral Agreement/FTAA. If the survey returns are filed through the mail, the date appearing on the postmark shall be considered as the date of filing. However, the Permittee/Contractor/concerned deputized Geodetic Engineer shall notify the Director/concerned Regional Director by telegram/fax message not later than the deadline for the filing of the survey returns that he/she has filed the same through the mail.

Corners and/or location monuments of verified survey returns of mining right areas, in spite of the nullity, cancellation, rejection or abandonment of the mining rights over the surveyed area, shall be preserved as reference marks and the geographic position thereof shall be kept for use in future mineral land surveys, unless otherwise said survey is found to be erroneous by later approved mineral land surveys.

Section 239. Withdrawal of Order of Survey

If the Director/concerned Regional Director finds that the deputized Geodetic Engineer has violated any of the terms and conditions of the Order of Survey or the survey service contract, or has failed to execute the survey and submit the Survey Returns within the prescribed period, the Director/concerned Regional Director shall withdraw the existing authority over the subject area, forfeit the corresponding bond and shall not issue any new Order of Survey in favor of the said deputized Geodetic Engineer without prejudice to any criminal, professional or other liabilities arising out from such failure, violation or misrepresentation.

#### Section 240. Withdrawal of Defective Survey Returns

The deputized Geodetic Engineer or his/her duly authorized representative may withdraw documents within thirty (30) calendar days upon receipt of notice from the Bureau/concerned Regional Office for correction of errors, discrepancies and/or deficiencies of the submitted survey returns. A period of ninety (90) calendar days from the date of withdrawal of the said survey returns is given to the deputized Geodetic Engineer or his/her duly authorized representative to re-submit the same without any extension save for reason of *force majeure*. Failure of the deputized Geodetic Engineer to re-submit the withdrawn survey returns within the prescribed period shall cause the revocation of the survey order and confiscation of his/her surety bond and non-issuance of new survey order over the subject area.

#### Section 241. Field Verification and Approval of Survey Plan

Upon submission of the corrected survey returns, the Director/concerned Regional Director shall cause the immediate field verification of the subject area. Thereafter, the survey plan shall be submitted to the Director/concerned Regional Director for approval of the same within fifteen (15) working days from receipt thereof.

#### Section 242. Non-Transferability of Order of Survey

Order of Survey is non-transferable except in cases of death, physical incapacity of the deputized Geodetic Engineer, or any other causes which render it impracticable to execute the survey, subject to the approval of the Director/concerned Regional Director: Provided, That the execution of the survey shall be completed within the remaining period covered by the original Order of Survey.

## CHAPTER XXVI DRILLING OF AREAS BY THE BUREAU

### Section 243.General Provisions

In line with the policy of the Government to hasten the exploration, development and utilization of the mineral resources of the country and to address the water crisis and other priority concerns of the Government, the Bureau may conduct exploration in any areas other than Mineral Reservations upon its own initiative or upon request by claimant/Contractor/Permittee in areas covered by existing and valid mining claims/contracts/permits: *Provided*, That whatever expenses that may be incurred thereof shall be taken from the appropriation of the Bureau or from the requesting party, as the case may be.

### Section 244.Priority Areas

The Director shall determine whether the area is included in the priority list of areas and contains critical minerals included in the mineral and water development programs of the Government.

If it is ascertained that the area should be explored, a contract between the Contractor/claimant/Permittee and the Director shall be executed to include, among others, a statement that the Bureau shall conduct the necessary geological studies on the area and, if warranted, undertake diamond drilling, test pitting, trenching or auger drilling operations thereon.

In case the drilling reveals substantial ore reserves to warrant commercial mining operations, the Contractor/claimant/Permittee as well as his/her successor(s) or assignee(s) shall then take all steps required to secure any mode of Mineral Agreement.

### Section 245.Reimbursement

Upon completion of exploration activities by the Bureau in open areas other than Mineral Reservations, it shall render a certified report on the total expenses incurred thereon. Any interested party who wish to apply for a mining right shall reimburse to the Bureau the certified amount plus an interest of twelve percent (12%) of the expenses.

### Section 246.Lease of Drilling Equipment

The Director may lease the drilling equipment of the Bureau to Permittees, Lessees, Contractors and Permit Holders desiring to conduct exploration and development work on the area applied for.

Drilling equipment may be leased upon application by any Qualified Person with the Director.

#### Section 247. Preferential Right to Lease

In case there are two or more applications, the Director shall grant the Lease Agreement to the first applicant who has satisfactorily complied with all the requirements.

#### Section 248. Terms and Conditions of the Drilling Lease Agreement

The terms and conditions of the Drilling Lease Agreement are the following:

- a. The lessee shall have an approved Exploration Permit;
- b. The drilling equipment shall be used exclusively for exploration purposes in the areas specified in the Agreement;
- c. The drilling equipment shall not be subleased to any person, partnership or corporation;
- d. The lessee shall satisfactorily comply with all the requirements imposed by the Director;
- e. The lease shall be for a minimum period of three (3) months from the date specified in the Lease Agreement;
- f. The Lease Agreement may be renewed by the Director when the evaluation of the drilling results justifies the continuation of the drilling program: *Provided*, That the lessee has not violated any terms and conditions of the original Lease Agreement;
- g. The Director or his/her duly authorized representative shall see to it that the drill machine pump and accessories are properly used and maintained;
- h. The Director or his/her duly authorized representative may conduct an inspection of the drilling operation at any time during the term of the lease at the expense of the lessee;
- i. The lessee shall pay the daily rental plus a surcharge of 100
- j. The lessee has not violated any terms and conditions of previous Lease Agreement; and
- k. The violation of any terms and conditions of the Lease Agreement shall be a ground for cancellation of the same.

#### Section 249. Rights and Obligations of the Lessee

The following are the rights and obligations of the lessee:

- a. The lessee shall maintain and keep the equipment in good working condition during the term of the lease until it is returned to the Bureau;
- b. The lessee shall replace and/or repair all parts rendered unusable through breakage, loss or abnormal wear during the term of the lease. All parts missing at the time the equipment is returned shall be replaced within one (1) month from the time such equipment are returned. For this purpose, the lessee shall make the required cash deposit. If the lessee returns the equipment in bad condition and fails to restore them into running condition or fails to replace the missing parts or accessories within the allowable time, the lessor shall use the cash deposit and/or forfeit the bond without prior notice to the lessee to put the equipment back into running condition or replace any missing accessories. The lessee shall be required to deposit additional cash to defray the above-mentioned expenses if the original cash deposit for the purpose is insufficient;
- c. Transportation of the drilling equipment and all its accessories from the Bureau and return shall be for the lessee's account;
- d. The lessee shall submit monthly to the Director all the information, data and footage obtained through drilling which shall be treated as confidential. Such information, however, shall be made available to the public after a period of two (2) years;
- e. The lessee shall pay the required monthly rental fee (Annex 26-A);
- f. To guarantee the faithful compliance with the terms and conditions of the Lease Agreement and to answer for any loss and/or damage of the equipment during the term of the lease, the lessee shall file with the Bureau the required surety bond issued by a company accredited by the Insurance Commission, which may either be in cash or with a surety satisfactory to the Director;
- g. The lessee shall pay in advance an amount corresponding to two (2) months rentals and per diems including transportation expenses of one (1) driller upon the signing of the contract of Lease Agreement. The rentals and per diems for succeeding months shall be due and payable at the beginning or the first day of every month;
- h. Rentals not paid within thirty (30) calendar days after they become due and payable shall bear a surcharge of five percent (5%) per month until fully paid. Rentals shall continue to be charged for returned equipment not in running condition and for accessories lost or missing until repaired and replaced respectively; and
- i. Balance of rentals and per diems paid and/or deposits made after termination of the lease shall be applied to pending obligations of the lessee with the lessor. Excess rentals or deposits shall be refunded to the lessee.

#### Section 250. Receipts from Rentals

All rentals fees of drilling equipment shall accrue to the Drilling Fund which shall be used for the purchase of supplies, materials and spare parts needed in the repair of said drilling equipment subject to the provisions of Commonwealth Act No. 246, as amended.

## CHAPTER XXVII

### FISCAL PROVISIONS AND SCHEDULE OF PAYMENTS AND CHARGES FOR WORK WHICH THE BUREAU MAY PERFORM

#### Section 251.Occupation Fees, Rentals, Royalties, Taxes

Proof of payment of the occupation fees shall be submitted to the concerned Regional Office.Holders of mining leases, Quarry Permits and contracts shall submit to the Regional Director evidence that the rentals and taxes on the occupied premises and the royalties due the Government arising out of the operation thereof had been paid when applicable.

#### Section 252.Work Authorized

Consistent with the provisions of Section 7 hereof, the Bureau may perform or accomplish work or service for Government offices, agencies, instrumentalities or private parties and collect payment or charge therefor in accordance with the schedule hereinafter prescribed, which work or service shall include, but shall not be limited to, the following:

- a.To execute surveys of mining claims and other mineral lands for location, patent, permit, contracts, lease or development purposes;
- b.To docket and conduct office and field investigations of conflicting mining locations;
- c.To perform geological, geophysical and geochemical surveys in onshore and offshore areas and make mineralographic, petrologic, petrographic and paleontologic examinations;
- d.To verify and investigate mineral discoveries and locations, exploration and development work;
- e.To perform fire and wet assays and smelting and metallurgical tests of ores and to sample ore piles for shipment;
- f.To check and evaluate ore reserves for the Securities and Exchange Commission, for other Government entities and/or private parties who may request or order for such work;
- g.To perform drafting or projection work;
- h.To issue blue or white prints of survey plan or sketch plan; and
- i.To do such other work and/or service to interested parties as may be requested and which is

within the scope of the functions of the Bureau.

#### Section 253. Mines Survey and Investigation and Monitoring Fund

All payments and charges for work performed or to be performed by the Bureau/Regional Office shall accrue to the Mines Survey, Investigation and Monitoring Fund of the Bureau/Regional Office to be deposited as Trust Fund against which shall be charged expenses in connection with any of the work mentioned in Section 252 hereof, which expenses shall include salaries and wages, travel expenses, supplies and materials, sundry expenses and purchase of furniture and equipment: *Provided*, That any balance in the payment or charge left after the completion of the work requested may be used by the Bureau/Regional Office in the maintenance of the work force and equipment necessary to render the work or services authorized in this order: *Provided, further*, That if the work is discontinued due to some reasonable cause, whatever balance remaining after deducting the expenses already incurred by the Bureau/Regional Office in connection with the work, shall be refunded by the Director/concerned Regional Director to the applicant upon the latter's request.

#### Section 254. Request for Work

Request for survey, investigation, analysis or examination of mineral or rock sample or any other work performed by the Bureau shall be submitted in the form prescribed for the purposes: *Provided*, That if the prescribed form is not available, the request may be made in letter form. The request shall contain, among others, the name and address of the person or entity requesting the work and a full and complete information of the work desired.

#### Section 255. Time of Making Payment

Payment, based on schedule of payments and charges herein prescribed (Annex 5-A), unless otherwise stated, shall first be made by the applicant before any work requested shall be performed or executed.

#### Section 256. Services to Local Government Offices, Instrumentalities or Agencies

For services or work requested by National or Local Government offices, instrumentalities or agencies, the schedule of payments and charges herein prescribed shall apply.

### Section 257.Reservation to Reject Any Job Request

The Bureau may reject any job request when the nature of the work is considered impractical or when the work at hand is of such volume as to prevent the request from being complied with and which will seriously impair the other work of the Bureau or endanger the lives or health of the personnel of the Bureau.

### Section 258.Use of Reports on Work Done

Reports of said investigation, examination, or analysis shall be treated as confidential.However, copies thereof may be furnished other persons upon written request and approval of the person for whom the report was made: *Provided*, That any information and/or data contained in said reports shall be available for official use of the Bureau in connection with its studies of minerals, mines and mineral industry of the Philippines: *Provided, further*, That such reports may be released to the public after the lapse of two (2) years from their submission unless the Secretary and/or the Director directs otherwise.

### Section 259.Work Not Covered by the Schedule

For work or service not covered by this schedule, the payment or charges therefor shall be determined and approved by the Director.

### Section 260.Charges for Fieldwork, In General

Charges for the following fieldwork shall be by man days:

- a.For field verification of approved surveys for contract/mining area, investigation of conflicts, renewal or extension of mining contract and permit, verification of tax-exempt equipment, verification of ore stockpile and umpiring of ore shipments, inspection of mechanical and electrical installation, verification of mining operations done by Permittees/Contractors, verification of explosive magazines and blasting schemes and conducting ventilation, dust and gas surveys, 1,000 per man per day, provided that the minimum charge is 3,000.
- b.For evaluation of mining claims or geological investigation and geological verification of mining properties, 1,000 per man per day, provided the minimum charge is 3,000.
- c.Counting of the number of working days shall start from the day the fieldman leaves his/her official station and ends upon his/her return.

d. In addition to the charges under Paragraphs (a) and (b) above, the applicant or interested party shall pay for the transportation of Bureau personnel from the official station to the area and return, as well as expenses for freight, labor, materials and analyses of samples.

## CHAPTER XXVIII RECORDING SYSTEM AND MINERAL GAZETTE

### Section 261. Mining Recorder Unit

The Bureau and its Regional and other offices shall have a Mining Recorder Unit in their respective offices to receive, record and manage all mining documents submitted by concerned individuals or companies relating to mining rights. However, same unit may be established in Provincial Governor's/City Mayor's Office.

Documents relating to applications for Mineral Agreements, FTAA's, Exploration Permits and Small-Scale Mining Permits in Mineral Reservations shall be registered at the Bureau.

Documents relating to applications for Mineral Agreements, FTAA's and Exploration Permits outside Mineral Reservations and Industrial Sand and Gravel Permits covering more than five (5) hectares shall be registered at the Regional Offices.

Documents relating to applications for Quarry Permits, Sand and Gravel Permits, including Industrial Sand and Gravel Permits covering five (5) hectares or less, Guano Permits, Gemstone Gathering Permits and Small-Scale Mining Permits outside Mineral Reservations shall be registered at the Provincial Governor's or City Mayor's Office where the area applied for is located.

The functions of the Mining Recorder Unit shall include the following:

- a. Pre-processing of applications particularly the documentary provisions of these implementing rules and regulations;
- b. Computation of fees to be paid by the applicant;
- c. Recording of mining documents;
- d. Providing information and advice on the status of applications;
- e. Inputting data relating to applications, contracts and permits into the Mining Rights Management System;

- f.Organizing and maintaining record holdings on mining rights applications in accordance with standard records management practices;
- g.Issuing certifications and copies of mining documents;
- h.Follow-up compliance of requirements needed in the processing of mining rights applications; and
- i.Projection/verification of area applied for either through the mining rights management system or control maps of the unit if free from mining conflict.

#### Section 262.Mining Register

A mining register is a hardbound logbook, arranged in rows and columns, for chronologically recording a set of documents received by the Mining Recorder.

The following shall have their own mining register:

a.Applications for mining rights:

- 1.Exploration Permits;
- 2.Mineral Agreements;
- 3.FTAAs;
- 4.Quarry, Sand and Gravel, Guano, Gemstone Gathering Permits; and
- 5.Small-Scale Mining Permits

b.Mining rights involving:

- 1.Exploration Permits;
- 2.Mineral Agreements;
- 3.FTAAs;
- 4.Quarry, Sand and Gravel, Guano, Gemstone Gathering Permits; and
- 5.Small-Scale Mining Permits

c.Miscellaneous Documents:

- 1.Powers of Attorney;
- 2.Deeds of Assignment/Transfer/Conversion;
- 3.Operating Agreements;

4. Protests or Adverse Claims; and
5. All other instruments concerning or affecting mining rights.

All applications for mining rights shall be recorded in their corresponding mining register with the following information, among others:

- a. Application number;
- b. Date and time of filing;
- c. Applicant's/Proponent's name;
- d. Location;
- e. Area applied for in blocks/hectares;
- f. Official receipt number; and
- g. Amount paid.

For approved mining rights, the contract or permit number and the Contractor's or Permit Holder's name should be recorded in lieu of application number and applicant's/proponent's name, respectively.

All miscellaneous documents shall be recorded in their respective mining registers containing the following information:

- a. Date and time of filing,
- b. Document or application number,
- c. Entity involved,
- d. Document title,
- e. Page number,
- f. Book number,
- g. Year series,
- h. Amount paid and
- i. Official receipt number.

#### Section 263. Administrative Fees relating to Mining Registration

Before any of the documents enumerated in Section 261 can be registered, payment of the required fees in accordance with the rates specified in Annex 5-A shall be made. The amount, receipt number and time of payment shall be recorded in the appropriate mining register.

## Section 264.Registration and Filing Procedures

Upon compliance with the documentary requirements and payment of required fees, all documents subject for registration shall be recorded immediately in the appropriate mining register in black ink by the Mining Recorder.

Copies of applications for mining rights and their supporting documents shall be compiled with and bound in durable folders/boxes arranged chronologically and each page of the document consecutively numbered starting from the bottom page of the earliest document, herein referred to as a marked page.A document inventory report indicating the contents of the folder/box beginning from the marked page number 1 shall be maintained at all times.The document inventory report shall contain the following:

- a.Document control number;
- b.Marked page number(s) of the document; and
- c.Brief description of the document.

The document control number is a unique number recorded in the general receiving and releasing logbook of the Bureau or Regional Office.The Regional Office shall submit to the Bureau an annual document inventory report which shall serve as a guide for easy retrieval and reconstruction of file in case of loss.

For miscellaneous documents, their physical files shall be compiled according to type (that is, Special Power of Attorney, Deed of Transfer, etc.); numbered consecutively in the order of time and date of receipt; and bound in a book form beginning with Book 1 and where practicable, each book to contain two hundred fifty (250) documents.An inventory report of each book shall also be maintained and provided to the Bureau annually.Original copies should be kept as restricted files inaccessible to unauthorized persons.Photocopies or extra duplicate copies, bound in book form, will be kept in shelves as working copies for public use.

Duplicate copies of miscellaneous documents shall be sent to the Bureau within thirty (30) calendar days from date of registration for archiving purposes: *Provided*, That a certified photocopy issued and signed by the Mining Recorder could serve the purpose in the absence of a duplicate copy.

#### Section 265.Mining Document Archive

A national mining document archive shall be established at the Bureau and maintained by its Mining Recorder.Original or duplicate copies of applications/contracts/permits and relevant documents sent by Regional Offices shall be filed in this archive to produce a replica of the regional records.Copies of these documents sent by Regional Offices shall contain the control numbers and the marked page numbers written on the original document to guide the filing of the records.

A microfilm or digital copy of each relevant record, if available, may replace the paper records in the archive.The Bureau shall plan and acquire an efficient and appropriate technology for archiving these documents.

#### Section 266.Mineral Rights Management System

In order to facilitate the mechanical processing and recording of applications/contracts/permits and provide a systematic basis for the management of data relating to applications/contracts/permits, a computer-based Mining Rights Management System shall be established and maintained by the Bureau and its Regional Offices which may be updated and improved as the need arises.This system should not only guide and expedite the mechanical processing of applications but should also be capable of building up a national database and producing reports and maps that may be required by the Bureau and its Regional Offices or requested by its clients and linking or interfacing with other mining industry-related systems which the Bureau may later acquire or develop.

A set of standards covering procedures, programming, data codes, data definitions, training, operating system/platform and related matters shall be established by the Bureau to guide the operation and development of the system.A system documentation and a user's manual shall be produced and maintained for each new version.

A guideline on the operation and establishment of the responsibility of the Bureau and its Regional Offices on the implementation of the system is given in Annex 28-A, which may also be updated as the need arises.

#### Section 267.Mineral Resources Database System

A mineral resources database shall also be established at the Bureau and concerned Regional Office(s) to record all exploration and related data from its own projects and those submitted by mining rights holders to serve as repository of such information for national and regional policy and planning studies, monitoring and research purposes. This database should be designed to be accessed by the mining rights management system provided for in the previous Section and other mining industry-related systems to be established or acquired by the Bureau.

#### Section 268. Mineral Gazette Publication

To provide an official medium for releasing information on mining policy issuances of the Government, mining rules and regulations, current listing of mining rights and their locations on the map, other official acts affecting mining and other information relevant to mineral resources development, a Mineral Gazette of nationwide circulation shall be organized and established by the Bureau. This Gazette shall be published at least annually and be made available to libraries of the Department, the Bureau, its Regional Offices, U.P. Law Center, the National Library, appropriate information offices or Provincial Governments and Municipal Offices and such other places as may be determined by the Director: *Provided*, That such Gazette shall also be made available for subscription to the public at a reasonable price.

#### Section 269. Recording System and Publication Fund

The Director and Regional Directors shall ensure that adequate budget shall be allocated every year from their regular appropriations to effect and sustain the physical filing and recording setup, the publication of the Mineral Gazette and the development, operation and maintenance of Mining Rights Management System, the mineral resources database system and other mining industry-related system which the Bureau may establish or acquire.

Funds to be allocated for the Mining Rights Management System shall include adequate capital outlay for the purchase of the required softwares, hardwares and support equipment and their subsequent upgrades. Funds shall also be provided for transportation and travel expenses needed in troubleshooting, in-house training, repairs and upgrading of hardwares and related equipment, cost of supplies and materials, cost of external training, subscription services and cost of communication services for data exchange and system coordination.

## CHAPTER XXIX

### REPORTING REQUIREMENTS AND FINES

## Section 270. Reporting Requirements

Every Contractor/Permittee/Permit Holder or holder of a Mineral Processing Permit or its operator is required to submit the following reports:

### a. Monthly Report On Production, Sales and Inventory of Metallic Minerals and Employment

A Contractor or its operator or holder of Mineral Processing Permit shall submit to the Director a sworn Monthly Report on Production, Sales and Inventory of Metallic Minerals and Employment as prescribed in MGB Forms Nos. 29-1 to 29-9, whichever mineral is applicable, within fifteen (15) working days after the end of each calendar month.

### b. Monthly Report On Production, Sales and Inventory of Non-Metallic Minerals and Employment

In the case of Mineral Agreements, FTAAs or Mineral Processing Permits involving non-metallic minerals, a Contractor or its operator or Permit Holder shall submit to the concerned Regional Director, copy furnished the Director, a sworn Monthly Report on Production, Sales and Inventory of Non-Metallic Minerals and Employment as prescribed in MGB Form No. 29-10 within fifteen (15) working days after the end of each calendar month.

### c. Quarterly Report on Production, Sales and Inventory of Quarry Resources (Except Sand and Gravel) and Employment

A holder of a Quarry Permit or its operator shall submit to the Provincial Governor/City Mayor, copy furnished the Director and concerned Regional Director, a sworn Quarterly Report on Production, Sales and Inventory of Quarry Resources and Employment as prescribed in MGB Form No. 29-11 within fifteen (15) working days after the end of each calendar quarter.

### d. Monthly Report on Production, Sales and Inventory of Industrial Sand and Gravel and Employment

A holder of an Industrial Sand and Gravel Permit or its Operator shall submit to the Director, copy

furnished the concerned Regional Director, a sworn Monthly Report on Production, Inventory and Sales of Industrial Sand and Gravel and Employment as prescribed in MGB Form No. 29-12 within fifteen (15) working days after the end of each calendar month.

e.Monthly Report on Production and Sales of Commercial Sand and Gravel and Employment

A holder of a Commercial Sand and Gravel Permit or its Operator shall submit to the Provincial Governor/City Mayor, copy furnished the Director and concerned Regional Director, a sworn Monthly Report on Production, Sales and Inventory of Commercial Sand and Gravel and Employment as prescribed in MGB Form No. 29-13 within fifteen (15) working days after the end of each calendar month.

f.Quarterly Report on Production and Sales of Small-Scale Metallic Mines and Employment

The holder of a Small-Scale Metallic Mines Permit shall submit to the Provincial Governor/City Mayor, copy furnished the Director and concerned Regional Director, a sworn Quarterly Report on Production and Sales of Small-Scale Metallic Mines and Employment as prescribed in MGB Form No. 29-14 for metallic minerals other than gold or MGB Form No. 29-15 for gold mineral only, within fifteen (15) working days after the end of each calendar quarter.

g.Integrated Annual Report

A Contractor or Mineral Processing Permit Holder or its operator shall submit to the Director a sworn Integrated Annual Report using prescribed MGB Form No. 29-16 within two (2) months after the end of each calendar year.

A holder of a Quarry Permit or its Operator shall likewise submit same report (MGB Form No. 29-16) to the concerned Provincial Governor/City Mayor, copy furnished the Director and the concerned Regional Director, within two (2) months after the end of each calendar year.

All books of accounts, reports and correspondences shall be filed and kept by the Contractor/Quarry Resources Permit Holder or its Operators and shall be open at all times for verification by the Director or its duly authorized representative.

A Small-Scale Mining Permit Holder shall submit to the Provincial Governor/City Mayor, copy furnished the Director and the concerned Regional Director, a sworn Integrated Annual Report

for Small-Scale Mines as prescribed in MGB Form No. 29-17 within two (2) months after the end of each calendar year.

#### h. Quarterly Energy Consumption Report

A Contractor or Mineral Processing Permit Holder or its Operator shall submit to the Director, copy furnished the concerned Regional Director, a Quarterly Energy Consumption Report using prescribed MGB Form No. 29-18 within fifteen (15) working days after the end of each calendar quarter.

A holder of a Quarry Permit or its Operator shall submit to the Provincial Governor/City Mayor, copy furnished the Director and the concerned Regional Director, a Quarterly Energy Consumption Report using prescribed MGB Form No. 29-18 within fifteen (15) working days after the end of each calendar quarter.

#### i. Quarterly Drilling Report

A Contractor or Permittee conducting any drilling project or a lessee of a Bureau drill machine shall submit to the Director, a sworn Quarterly Drilling Report in its contract area/Permit Holder/project area within thirty (30) calendar days at the end of each calendar quarter. This drilling report shall include, among others, a description of the geology, a topographic-drill collar location map in 1:50,000 scale and corresponding drill section showing geology, structures and orebody, if applicable; and the core log which shall contain the coordinates of the collar elevation, drill inclination, direction and length and the physical/chemical analysis of the cores.

#### j. Annual Mineral Reserve Inventory Report

A Contractor or its operator shall submit to the Director, copy furnished the concerned Regional Director, an Annual Mineral Reserve/Resources Inventory Report using the prescribed MGB Form No. 29-19, on or before the end of the first quarter of each calendar year.

For areas outside Mineral Reservations, a holder of Quarry, Sand and Gravel and Small-Scale Mining Permit or its operator shall likewise submit the same report (MGB Form No. 29-20) to the concerned Provincial Governor/City Mayor, copy furnished the Director and the concerned Regional Director, on or before the end of the first quarter of each calendar year. For areas within

Mineral Reservations, the Permit Holder or its operator shall submit the same report to the Director.

The Contractor/Permittee/operator may submit other types of mineral reserve report provided that the required information data contained in the said form must be included in their report.

k.Monthly General Accident Report

A Contractor, Permit Holder or its operator shall submit to the Regional Office and Bureau within fifteen (15) working days after each calendar month a Monthly General Accident Report using MGB Form 15-5.

l.Monthly Explosive Consumption Report

Holders of Purchaser's License for Explosives shall submit to the Regional Director, copy furnished the Director, a Monthly Explosive Consumption Report within fifteen (15) working days after each calendar month using the prescribed MGB Form 15-8.

m.Semiannual Report on Mine Waste and Tailings Generated

Refer to relevant section in these implementing rules and regulations.

n.Semiannual Status Report on the Environmental Work Program

Refer to relevant section in these implementing rules and regulations.

o.Quarterly Report on Production, Sales and Inventory of Small-Scale Mines Within Mineral Reservation

The holder of a Small-Scale Mining Permit within Mineral Reservation shall submit to the Director, a sworn and verified Quarterly Report on Production, Sales and Inventory of Small-Scale Mines Within Mineral Reservations as prescribed in MGB Form No. 29-20 within thirty (30) calendar days after the end of each calendar quarter.

p.Annual and Quarterly Status Report based on Work Program of MPSA/FTAA Contractor

Refer to relevant Sections of these implementing rules and regulations.

q. Annual Land Use Report

A Contractor or its operator shall submit to the Director a sworn annual land use report within sixty (60) calendar days after each calendar year.

r. Other reports as may be required by the Director

The Contractor of a Mineral Agreement or the holder of a Quarry Permit, any of the Sand and Gravel Permits, Guano Permit, Gemstone Gathering Permit or Small-Scale Mining Permit is also required to submit reports (a) to (h) mentioned in this Section, whichever is applicable to its operation, even when there is no production for a given period. The report, however, should indicate the causes or reasons why there was no production for the period. The Director, concerned Regional Director and in the case of quarry resources and Small-Scale Mining Permits, the Provincial Governor/City Mayor shall be promptly notified in writing before implementation of any mine suspension or mine closure.

Submission of the applicable report cited above shall be made part of the terms and conditions of Mineral Agreements, FTAA, Exploration Permit, Quarry Permit, Sand and Gravel Permit, Guano Permit and Gemstone Gathering Permit.

Section 271. Fines

In case of late or non-submission of any of the reports mentioned in Section 270 (a) to (h) and (o), the following fines shall be imposed:

a. Late submission of any of the required reports including copies to be furnished to the Director and concerned Regional Director.

Basic Fine/Daily Fine

1st Violation 1,000.00/10.00

2nd Violation 2,000.00/20.00

3rd Violation and 3,000.00/30.00

subsequent violations

b. Non-submission of any of the required reports after one (1) month from the prescribed reporting period.

Basic Fine/Daily Fine

1st Violation 2,000.00/20.00

2nd Violation 3,000.00/30.00

3rd Violation and 5,000.00/50.00

subsequent violations

Provided, That a late report classified under non-submission category shall not pay the accumulated fine in (a) but instead pay the fines imposed in (b) of this Section: *Provided, further,* That the total fine for non-submission of any of the required reports at any one time shall not exceed Ten Thousand Pesos (10,000.00).

c. Failure of the Contractor or holder of any of the quarry resources permits or its Operator to submit any of the reports prescribed in the preceding Section three (3) months after the third violation or failure to pay fines within one (1) year shall be sufficient ground for cancellation or non-renewal of a permit, Mineral Agreement or FTAA.

In case of late or non-submission of reports mentioned in Section 270 (h) to (q) except (m), a fine of One Thousand Pesos (1,000.00) shall be imposed. The Secretary may adjust the above-mentioned fines from time to time as conditions may warrant such changes.

Payment of fines involving the herein cited reports shall be made to the Treasurer or Cashier of the following offices:

a. Provincial Governor/- MGB Form No. 29-11

City Mayor- MGB Form No. 29-13

- MGB Form No. 29-14

- MGB Form No. 29-15

- MGB Form No. 29-17

- MGB Form No. 29-18

b. Regional Director- MGB Form No. 29-10

(for Mineral Agreements and FTAA's)

c. Director- MGB Forms No. 29-1 to 29-9

- MGB Form No. 29-16

- MGB Form No. 29-18

- MGB Form No. 29-12

## CHAPTER XXX

### TRANSITORY AND MISCELLANEOUS PROVISIONS

#### Section 272. Non-Impairment of Existing Mining/Quarrying Rights

All valid and existing mining lease contracts, permits/licenses, leases pending renewal, Mineral Production Sharing Agreements, FTAA granted under Executive Order No. 279, at the date of the Act shall remain valid, shall not be impaired and shall be recognized by the Government: *Provided*, That the provisions of Chapter XXI on Government share in Mineral Production Sharing Agreement and of Chapter XVI on incentives of the Act shall immediately govern and apply to a mining Lessee or Contractor unless the mining Lessee or Contractor indicates its intention to the Secretary, in writing, not to avail of said provisions: *Provided, further*, That no renewal of mining lease contracts shall be granted after the expiration of its term: *Provided, finally*, That such leases, Production-Sharing Agreements, FTAA's shall comply with the applicable provisions of these implementing rules and regulations.

All pending applications for MPSA/FTAA covering forest land and Government Reservations shall not be required to re-apply for Exploration Permit: *Provided*, That where the grant of such FTAA applications/proposals would exceed the maximum contract area restrictions contained in Section 34 of the Act, the applicant/proponent shall be given an extension of one (1) year, reckoned from September 13, 1996, to divest or relinquish pursuant to Department Administrative Order No. 96-25 in favor of the Government, areas in excess of the maximum area allowance provided under the Act. For this purpose, a Special Exploration Permit of limited applications and activities shall be issued by the Secretary upon the recommendation of the Director, subject to the terms and conditions specified in the Permit and pertinent provisions of Chapter V hereof: *Provided*, That an area permission shall be granted likewise by the Secretary to undertake limited exploration activities in non-critical forest reserves and forest reservations and such other areas within the jurisdiction of the Department. In other areas, however, the applicant/proponent shall secure the necessary area clearances or written consent by the concerned agencies or parties, as provided for by law: *Provided, further*, That the time period shall be deducted from the life of the MPSA/FTAA and exploration costs can be included as part

of pre-operating expenses for purposes of cost recovery should the FTAA be approved: *Provided, finally*, That this provision is applicable only to all FTAA/MPSA applications filed under Department Administrative Order No. 63 prior to the effectivity of the Act and these implementing rules and regulations.

All pending applications for Industrial Sand and Gravel Industrial Permit covering more than five (5) hectares with the Local Government Unit shall be endorsed to the concerned Regional Office for its processing, evaluation and approval.

### Section 273. Recognition of Valid and Existing Mining Claims and Lease/Quarry Applications

Holders of valid and existing mining claims, lease/quarry applications shall be given preferential rights to enter into any mode of Mineral Agreement with the Government until September 14, 1997: *Provided*, That failure on the part of the holders of valid and subsisting mining claims, lease/quarry applications to exercise their preferential rights within the said period to enter into any mode of Mineral Agreements shall constitute automatic abandonment of the mining claims, quarry/lease applications and the area thereupon shall be declared open for mining application by other interested parties.

### Section 274. Separability Clause

If any clause, sentence, section or provision of these implementing rules and regulations is held or declared to be unconstitutional or invalid by a competent court, the remaining parts of these implementing rules and regulations shall not be affected thereby.

### Section 275. Repealing and Amending Clause

Department Administrative Order No. 95-23 and all orders, rules and regulations inconsistent with or contrary to the provisions of these implementing rules and regulations are hereby repealed or modified accordingly. The Secretary shall furthermore have the authority, *inter alia*, to amend, revise, add to, clarify, supplement, interpret, delete, or make exemptions (to the extent not contrary to the provisions of the Act) to any provision of these implementing rules and regulations with the end in view of ensuring that the Act is appropriately implemented, enforced and achieved.

Section 276.Effectivity

These implementing rules and regulations shall take effect fifteen (15) days following its complete publication in two newspapers of general circulation.

**VICTOR O. RAMOS**

Secretary

## 2. 서식 견본

### ■ 광물가공허가권 신청서

Republic of the Philippines  
Department of Environment and Natural Resources  
**MINES AND GEOSCIENCES BUREAU**  
North Avenue, Quezon City

#### APPLICATION FOR MINERAL PROCESSING PERMIT

Application No. \_\_\_\_\_ Date Filed \_\_\_\_\_

Applicant \_\_\_\_\_  
(Business Name of Individual, Corporation, Partnership)

Name of Responsible Corporate Official, Proprietor, Owner, Attorney-In-Fact  
\_\_\_\_\_

Date of SEC Registration \_\_\_\_\_  
(If Corporation or Partnership)

Business Address \_\_\_\_\_

Civil Status \_\_\_\_\_

Citizenship \_\_\_\_\_

#### PLANT OPERATIONS :

Capacity \_\_\_\_\_

Processes to be Employed \_\_\_\_\_  
(Please include flowsheet of planned operation)

Feed (Inputs) and Specifications \_\_\_\_\_

Mineral Products and Specifications \_\_\_\_\_

Name/s of Supplier/s	Address	Permit/Lessee/Contract No.
----------------------	---------	----------------------------

a. \_\_\_\_\_

- b. \_\_\_\_\_  
 c. \_\_\_\_\_  
 d. \_\_\_\_\_  
 e. \_\_\_\_\_

(Use back page if space is not enough)

1. In accordance with the provisions of the DENR Administrative Order No. 96-40, or the Revised Implementing Rules and Regulations of RA No. 7942, the undersigned citizen of the \_\_\_\_\_ for and in behalf of \_\_\_\_\_.

(Business Name)

hereby applies for a Mineral Processing Permit.

2. The applicant agrees that the statements made in the application or made later in support hereof, shall be considered as conditions and essential parts of the permit that may be granted by virtue thereof and any falsehood in these statements or omissions of facts which may later change, or effect substantially the facts set forth in said statements shall be sufficient ground for the cancellation of the permit granted.
3. The applicant further binds himself to submit additional requirements should the DENR Secretary or the Director of MGB Regional Office concerned deem if necessary for purposes of determining his qualification for the permit applied for.
4. This application is filed for the exclusive use and benefit of the applicant and neither directly nor indirectly for the benefit of any other person, corporation or partnership.
5. The foregoing statements are hereby certified to be true to the best of the applicant's knowledge and belief.
6. An application fee of P \_\_\_\_\_ has been paid under Official Receipt No. \_\_\_\_\_ dated \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
 Applicant

T.I.N. \_\_\_\_\_

## ACKNOWLEDGEMENT

Republic of the Philippines )  
Province of \_\_\_\_\_)s.s.  
City/Municipality of \_\_\_\_\_)

Subscribed and sworn to before me that at the place aforesaid on this \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_\_, affiant exhibited to me his/her Community Tax Certificate No.  
\_\_\_\_\_ issued at \_\_\_\_\_ on the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
**NOTARY PUBLIC**

Until Dec. 31, 19 \_\_\_\_\_

PTR No. \_\_\_\_\_

Doc. No. \_\_\_\_\_  
Page No. \_\_\_\_\_  
Book No. \_\_\_\_\_  
Series of \_\_\_\_\_

## ■ 생산분배계약 신청서

Republic of the Philippines  
Department of Environment and Natural Resources  
**MINES AND GEOSCIENCES BUREAU**  
Quezon City

### Application for Mineral Production Sharing Agreement

Application No.: \_\_\_\_\_

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Business Phone No.: \_\_\_\_\_ Fax No: \_\_\_\_\_

For Corporation, Partnership, Association or Cooperative:

Board of Directors and Officers:

<u>Name</u>	<u>Position</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Capitalization:

Authorized	=	P _____
Subscribed	=	P _____
Paid-Up	=	P _____

Citizenship of Stockholders and Percentage of Holdings:

<u>Nationality</u>	<u>Subscribed</u>	<u>Paid-Up</u>
Filipino	_____ %	_____ %
American	_____ %	_____ %
Canadian	_____ %	_____ %
Australian	_____ %	_____ %
Others (pls. specify) _____	_____ %	_____ %

Mineral Commodity \_\_\_\_\_

Size of Area (hectares) \_\_\_\_\_

Location of Applied Area \_\_\_\_\_

(Please indicate the boundaries and/or the technical description of the area in a separate sheet to be attached as Annex "A" of this document)

In accordance with the provisions of the Philippine Mining Act of 1995 and DENR Administrative Order No. 96-40 otherwise known as the Revised Implementing Rules and Regulations promulgated thereunder, the undersigned, for and in behalf of \_\_\_\_\_ hereby applies for a Mineral Production Sharing Agreement to extract and dispose \_\_\_\_\_ subject to the following conditions:

1. The statements made in this application or made later in support thereof, shall be considered as conditions and essential parts of the Agreement that may be granted and any omission of facts which may alter, change, or affect substantially the facts set forth in said statements shall be sufficient cause for the cancellation of the granted.
2. The applicant further binds itself to submit additional requirements should the Regional Director concerned deems necessary for purposes of determining his/her qualification for the grant of the permit applied for.
3. The application is filed for the exclusive use and benefit of the applicant and not either directly or indirectly for the benefit of any other person, corporation or partnership and the area is applied for the sole purpose of its development and operation, and not for speculation.
4. The foregoing statements are hereby certified to be true to the best of the applicant's knowledge and belief.
5. The application fee of \_\_\_\_\_ had been paid under Official Receipt No. \_\_\_\_\_ dated \_\_\_\_\_ at \_\_\_\_\_.

I \_\_\_\_\_, the person executing this application, being first sworn, depose and say: that I have read or have caused the foregoing application to be read to me, that I thoroughly understand the same; that each and every statement in said application is true and correct.

\_\_\_\_\_  
Applicant

TIN \_\_\_\_\_

## ACKNOWLEDGEMENT

Republic of the Philippines \_\_\_\_\_ )  
 Province of \_\_\_\_\_ )s.s.  
 City/Municipality of \_\_\_\_\_ )

**SUBSCRIBED AND SWORN** to before me at the place aforesaid, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. The affiant exhibited to me his/her Community Tax Certificate No. \_\_\_\_\_ issued at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
 NOTARY PUBLIC

Until Dec. 31, 19\_\_\_\_

PTR No. \_\_\_\_\_

Doc. No. \_\_\_\_\_

Book No. \_\_\_\_\_

Page No. \_\_\_\_\_

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## INSTRUCTION

1. This application shall be accomplished in quintuplicate, two copies to be retained by the applicant, one copy to be retained by the MGB Regional Office and the remaining copies to be forwarded to the MGB Central Office.
2. All pertinent information required shall be given, inapplicable words cancelled and all blanks shall be filled up.
3. Application not accompanied with all the required documents shall not be accepted.

## ■ 소규모광업권 신청서

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
MINES AND GEOSCIENCES BUREAU  
QUEZON CITY

APPLICATION FOR SMALL SCALE MINING PERMIT TO CONTRACT  
AND DISPOSE OF MINERAL RESOURCES

NUMBER: DATE FILED: TIME FILED:

FILED AT THE:

NAME OF RESERVATION:

MINERAL COMMODITY APPLIED FOR: EXPECTED MONTHLY PRODUCTION  
(Metric Tons)

SIZE OF AREA: SURVEYED BY: DATE SURVEYED:  
(Hectares)

SITIO: BARANGAY:

MUNICIPALITY: PROVINCE:

NAME OF APPLICANT:

RESIDENCE:

MAILING ADDRESS:

DATE OF BIRTH: SEX:

CIVIL STATUS:

CITIZENSHIP:

IF MARRIED.

NAME OF SPOUSE:

IF PARTNERSHIP, CORPORATION

ASSOCIATION OF COOPERATIVE: NAME

SITUS/PLACE OF OPERATION:

DATE OF REGISTRATION:

LIFE:

NAME OF PERSON(S) WHO WILL ACT AS LIAISON:

1. In accordance with the provision of Republic Act No. 7942 and its implementing rules and regulations and other related laws, the undersigned \_\_\_\_\_ for and in behalf of \_\_\_\_\_ by virtue of the attached duly notarized Special Power of Attorney or Board Resolution, as the case may be, hereby applies for a SMALL SCALE MINING PERMIT to extract the above stated mineral commodity for commercial purposes on the area described. (Please state the boundaries and/or technical description on the attached corresponding survey plan).

2. The application fee of P \_\_\_\_\_ and the occupation fee of P \_\_\_\_\_ for the first calendar year have been paid under Official Receipt No. \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_\_, Philippines.

3. This application is filed for the exclusive use and benefit of the applicant and neither directly or indirectly for the benefit of any person, corporation, partnership, association or cooperative and the area mineralized and not applied for speculation purposes.

4. The applicant agrees (in case of gold production) that all gold produced from the permit area shall be sold to the Bangko Sentral ng Pilipinas or its authorized representatives.

5. The applicant also agrees to submit additional requirements should the Mines and Geosciences Bureau Director deem it necessary for the purpose of determining his qualification

for the grant of the permit applied for.

6. The applicant further agrees that the statements made in the application or made later in support thereof, shall be considered as conditions and essential parts of the permit that maybe granted by virtue thereof and any falsehood in these statements or omission of facts which may alter, change or effect substantially the facts set forth in said statements shall be sufficient cause for the denial of this application or cancellation of the permit granted.

Republic of the Philippines)

Province \_\_\_\_\_) S.S>

City/Municipality\_\_\_\_\_)

I, \_\_\_\_\_, the person executing this affidavit for this application being first duly sworn depose and say: that I have read or have caused the foregoing application read to me: that I thoroughly understand the same and that each every statement in said application is true and correct.

\_\_\_\_\_  
Affiant/Applicant

T.A.N. \_\_\_\_\_

SUBSCRIBED AND SWORN to before me at the place aforesaid on this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, the affiant/applicant exhibited to me his/her Residence Certificate No. \_\_\_\_\_ issued at \_\_\_\_\_ on \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

NOTARY PUBLIC

My commission expires on December 31, 19 \_\_\_\_\_

PTR No. \_\_\_\_\_

DOC NO. \_\_\_\_\_:

PAGE NO. \_\_\_\_\_:

BOOK NO. \_\_\_\_\_:

SERIES OF \_\_\_\_\_:

## ■ 탐사권 신청서

Republic of the Philippines  
Department of Environment and Natural Resources  
**MINES AND GEOSCIENCES BUREAU**  
North Avenue, Diliman, Quezon City

### Application for Exploration Permit

Application No. \_\_\_\_\_

Applicant :

Address :

Business Phone/Fax Nos.:

For Corporation, Partnership, Association or Cooperative:

Name	Position
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Capitalization:

Authorized P \_\_\_\_\_

Subscribed P \_\_\_\_\_

Paid-Up P \_\_\_\_\_

Citizenship of Stockholders and Percentage of Holdings

Nationality	Subscribed	Paid- Up
Filipino	_____ %	_____ %
American	_____ %	_____ %
Canadian	_____ %	_____ %
Australian	_____ %	_____ %
Others, pls. specify _____	_____ %	_____ %

Mineral Commodity Applied \_\_\_\_\_

Area to be explored \_\_\_\_\_ hectares

Location of Applied Area \_\_\_\_\_

(Please indicate the technical description of the area in a separate sheet to be attached as Annex "A" of this document.)

In accordance with the provisions of the Philippine Mining Act of 1995 and DENR Administrative Order No. 96-40 otherwise known as the Revised Implementing Rules and Regulations promulgated thereunder, I, \_\_\_\_\_ for and in behalf of \_\_\_\_\_ hereby applies for Exploration Permit on the areas described herein, subject to the following:

1. The statements made in this application or made later in support thereof, shall be considered as conditions and essential parts of the permit that may be granted by virtue thereof and any falsehood or omission of facts which may alter, change, or affect substantially the facts set forth in said statements shall be sufficient cause for the cancellation of the Permit when granted.
2. The applicant further agrees to submit additional requirements that the Regional Director concerned deems necessary for purposes of determining his qualification for the grant of the Permit applied for.
3. The application is filed for the exclusive use and benefit of the applicant and not either directly or indirectly for the benefit of any other person, corporation or partnership and the area is applied for the sole purpose of exploration, and not for speculation.
4. The foregoing statements are hereby certified to be true to the best of the applicant's knowledge and belief.
6. The application fee of \_\_\_\_\_ had been paid under Official Receipt No. \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_.

I \_\_\_\_\_, the person executing this affidavit for this application, being first duly sworn, depose and say: that I have read or have caused the foregoing application to be read to me, that I thoroughly understand the same; that each and every statement in said application is true and correct.

\_\_\_\_\_  
Affiant/Applicant

T.A.N. \_\_\_\_\_

## ACKNOWLEDGEMENT

Republic of the Philippines \_\_\_\_\_ )  
 Province of \_\_\_\_\_ ) S. S.  
 City/Municipality of \_\_\_\_\_ )

**SUBSCRIBED AND SWORN** to before me at the place aforesaid, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_. The affiant exhibited to me his/her Community Tax Certificate No. \_\_\_\_\_ issued at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
**NOTARY PUBLIC**

Until Dec. 31, 19 \_\_\_\_\_

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Doc. No. \_\_\_\_\_

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## INSTRUCTION

1. This application shall be accomplished in quintuplicate, two copies to be retained by the applicant, one copy to be forwarded to the MGB Central Office and the remaining copies for the MGB Regional Office.
2. All pertinent information required shall be given, inapplicable words, cancelled and all blanks shall be filled up.
3. Application not accompanied with all the required documents shall not be accepted.

## 필리핀 자원개발진출가이드

발행인 | 조 환 익

편집인 | 박 기 식

발행처 | KOTRA

발행일 | 2008년 12월

주 소 | 서울시 서초구 염곡동 300-9  
서초우체국 사서함 101호

전 화 | 3460-7114(대표)

홈페이지 | [www.kotra.or.kr](http://www.kotra.or.kr)

\* 낙장, 파본은 교환해 드립니다.