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MEMORANDUM CIRCULAR
No. 2007-07

JUL 05 2007

TO : All Undersecretaries, Assistant Secretaries, Bureau Directors, Regional Executive Directors, Regional Directors, Heads of Offices and Attached Agencies, Provincial/City Mining Regulatory Boards

SUBJECT : **CLARIFICATORY GUIDELINES IN THE IMPLEMENTATION OF THE SMALL-SCALE MINING LAWS**

In the interest of the service and for a harmonized implementation of the pertinent provisions of the Small-Scale Mining Laws, namely, Presidential Decree (PD) No. 1899, *Establishing Small-Scale as a New Dimension in Mineral Development* and Republic Act (RA) No. 7076, *An Act Creating a People's Small-Scale Mining Program and For Other Purposes*, these clarificatory guidelines are hereby promulgated for the guidance of all concerned:

I. Co-existence of the Small-Scale Mining Laws

PD No. 1899 and RA No. 7076 shall continue to govern small-scale mining operations. For areas not declared as Peoples' Small-Scale Mining Area (PSSMA) under RA No. 7076, the pertinent rules and regulations of PD No. 1899 shall apply.

Mines Administrative Order No. MRD-41, Series of 1984, Department Administrative Order (DAO) No. 28 and MRDB Administrative Order Nos. 3 and 3A as provided in DAO No. 96-40, as amended, shall continue to be the implementing rules and regulations of PD No. 1899, while DAO No. 34, Series of 1992, shall continue to be the implementing rules and regulations of RA No. 7076.

II. Scope of Small-Scale Mining Permits and Contracts

Small-scale mining operations in areas not declared as PSSMA shall be covered by Small-Scale Mining Permits (SSMPs) issued under PD No. 1899. Small-scale mining operations in PSSMAs declared under RA No. 7076 shall be covered by Small-Scale Mining Contracts (SSMCs) pursuant to the pertinent provisions thereof.

In case where a PSSMA is declared covering SSMP areas, the term of the SSMPs, including their renewal, shall be recognized unless such SSMPs are revoked, cancelled or terminated with cause: Provided, That the SSMP shall have the option to shift to a SSMC pursuant to the provisions of DAO No. 34, Series of 1997.

III. Term of a Small-Scale Mining Permit or Contract

The two (2)-year term of an SSMP is renewable only once: Provided, That the pertinent application shall be filed prior to the expiration thereof, among other requirements. No SSMP shall be renewed unless its two (2)-year term is fully consumed.

In the case of an SSMC, no renewal shall likewise be granted unless its two (2)-year term is fully consumed.

IV. Qualification of Applicant

- A. For P.D. No. 1899, any Qualified Person may apply for an SSMP. For this purpose, a Qualified Person shall mean a Filipino citizen, of legal age, and with capacity to contract, or a corporation or partnership authorized to engage in mining, registered with the Securities and Exchange Commission, at least 60% of the capital of which is owned at all times by Filipino citizens.
- B. For RA No. 7076, only a Filipino small-scale mining cooperative organized by licensed and registered small-scale miners may apply.

V. Maximum Annual Production

For metallic minerals, the **maximum annual production** under an SSMP/SSMC shall be 50,000 dry metric tons (DMT) of ore, while for non-metallic minerals, the maximum annual production shall be 50,000 DMT of the material itself, e.g., 50,000 DMT of limestone, 50,000 DMT of silica, or 50,000 DMT of perlite.

The maximum annual production above shall include low-grade and/or marginal ore, and/or minerals or rocks that are intended for sampling and/or metallurgical testing purpose/s.

VI. Maximum Capital Investment

The maximum capital investment for a single unit small-scale mining operation under PD No. 1899 or R.A. No. 7076 **shall be PHP 10 Million**. This shall cover raw, additional and existing capital, such as processing

plants, mine and hauling equipment, tools, infrastructures, capitalized exploration and development costs, support facilities and working capital.

VII. Reliance on Manual Labor

Small-scale mining operations under P.D. No. 1899 or RA No. 7076 shall be largely artisanal with heavy reliance on manual labor and without the use of explosives and/or blasting accessories. For this purpose, a single unit small-scale mining operation, in open cast or shallow underground, shall be prohibited from using sophisticated and/or heavy equipment, *i.e.*, excavators, loaders, backhoes, dozers, drilling machines and/or related or similar equipment for the extraction and/or breakage of materials, as well as hauling equipment within the mining/permit/contract area.

Hauling equipment for the transport of the ore or mined materials from the mine to the shipping point/market are not included in the prohibited use of sophisticated and/or heavy equipment.

In case non-sophisticated and non-heavy equipment shall be used, the ratio of labor cost to equipment utilization cost of the small-scale mining operations, including the extraction, processing and/or marketing activity(ies), shall not exceed one (1). For this purpose, the rental, lease and/or contracting of such equipment shall be considered as part of the equipment utilization.

VIII. Environmental, Safety and Health, and Social Concerns

The SSMP/SSMC holder shall strictly comply with the environmental, safety and health, and social provisions of R.A. No. 7942, the Philippine Mining Act of 1995, the Small-Scale Mining Laws and their implementing rules and regulations, among others.

In particular, the SSMP/SSMC holder shall comply with the following requirements:

- A. The Environmental Compliance Certificate for a small-scale mining operation shall be secured from the Environmental Management Bureau Regional Office concerned and shall fully conform with the provisions of the Small-Scale Mining Laws, especially with respect to the annual production limit of 50,000 DMT, area of 20 hectares per permit/contract, among others.
- B. The following documents shall be required prior to the start of small-scale mining operation under a SSMP/SSMC:
 1. Potential Environmental Impact Report, which is a simplified Environmental Protection and Enhancement Program, and a Final Mine Rehabilitation/Decommissioning Plan duly

approved by the Mine Rehabilitation Fund Committee concerned.

2. Community Development and Management Program, a simplified Social Development and Management Program, duly approved by the Mines and Geosciences Bureau Regional Office concerned.

- C. Small-scale mining operations shall strictly comply with the provisions of DAO No. 97-30 in re: Small-Scale Mine Safety Rules and Regulations.

This Memorandum Circular shall take effect immediately.


ANGELO T. REYES
Secretary



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

IN REPLYING, PLS CITE:

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