

Administrative Order
No. 34
July 14 1991-

SUBJECT: Rules and Regulations to Implement Republic Act No. 7076 Otherwise Known as "Peoples Small Scale Mining Act of 1991"

Pursuant to Section 26 of Republic Act No. 7076, the following rules and regulations are hereby promulgated for the guidance and compliance of all concerned:

**CHAPTER I
TITLE, POLICY AND OBJECTIVES**

Sec. 1 Title. This Administrative Order shall be known as "The Rules and Regulations Governing Areas Declared as People's Small-Scale Mining Areas".

Sec. 2. Policy. It shall be the policy of the State to promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources giving due regard to existing rights as herein provided.

Sec. 3 Objectives. The rules and regulations of this Order are promulgated towards the attainment of the following objectives:

- 3.1 To effect an orderly and systematic disposition of small-scale mining areas in the country;
- 3.2 To regulate the small-scale mining industry with the view to encourage their growth and productivity; and,
- 3.3 To provide technical, financial and marketing assistance and efficient collection of government revenues.

CHAPTER II DEFINITION

Sec. 4 Definition or Terms. The following terms shall be construed to mean as hereunder indicated:

- 4.1 **"Active Mining Area"** refers to an area under actual exploration, development, exploitation or commercial production as determined by the Secretary after the necessary field investigation or verification including contiguous and geologically related areas which are supported by an established geological report, be ongoing to the same clampdown and/or under contract with an operator, but in no case to exceed the maximum area allowed by law;
- 4.2 **"Ancestral Land"** refers to a territory of an Indigenous Cultural Community/ies (ICCs) embracing all lands and natural resources which are in the actual and/or traditional possession of an indigenous cultural community and its members including areas necessary to ensure their economic, social and, cultural welfare;
- 4.3 **"Board"** refers to the Provincial/City Mining Regulatory Board which shall be the implementing agency of the DENR and shall be composed of the DENR's representative as Chairman and members composed of duly appointed representatives from the following Offices/sectors, namely Governor or City Mayor; small-scale miners; large-scale miners, and non-government organization with environmental concerns;
- 4.4 **"Co-Production Agreement"** is the mode of mining agreement whereby the government, aside from inputting the mineral resources for which it gets an agreed share, short of creating a new juridical entity, has other contributions for which it gets another share in addition to the agreed share;
- 4.5 **"Department"** or DENR refers to the Department of Environment and Natural Resources;
- 4.6 **"Director"** refers to the Regional Executive Director (RED) of Department;
- 4.7 **"Environmental Impact"** - means the direct effect of small-scale mining operations to all biological, physical, social, economic and cultural elements;
- 4.8 **"Equipment Utilization Cost"** means all cash expenditures for the operation and utilization of equipment for a single mining unit, which include

fuel, compressed air, utilities, power, supplies, raw materials, lease of equipment, repairs and maintenance;

- 4.9 **"Existing Mining Right"** refers to perfected and subsisting claim, lease, license, contract, or permit covering a mineralized area prior to its declaration as a People's Small Scale Mining Area;
- 4.10 **"Government Production Share"** refers to the share of the government in a Mineral Production Sharing Agreement (MPSA) of the government, joint venture or co-production which may be determined by the Board; In Co-Production and Joint Venture Mining Agreements, the government shall, in addition to receiving government shares for the mineral resources as prescribed above, be entitled to compensation for its other contributions which shall be agreed upon by the parties to the mining agreement;
- 4.11 **"Investment"** means all capital investments sunk by the contractor on a single mining unit to make it operative; including raw materials, additional land and existing capital such as processing plants, mine and hauling equipment, tools, infrastructures, capitalized exploration and development costs, support facilities and working capital. These investments shall not exceed Ten Million Pesos (P 10,000,000.00) during the effectivity of the original contract and its renewal;
- 4.12 **"Joint Venture Agreement"** is the mode of mining agreement whereby the government, aside from inputting mineral resources for which it gets the agreed share, has a contribution to the equity of the intending operator, and for which equity holding it shall receive a proportional share of the profits by way of dividends;
- 4.13 **"Labor Cost"** means all cash expenditure such as salaries, wages, allowances and other benefits, measured on a per metric ton of ore basis, for the remuneration of personnel directly involved in the mining, processing, hauling, handling and storage of ore concentrate/s or finished product on a single mining unit excluding supervisory and administrative personnel;
- 4.14 **"Labor-Intensive"** means a mining operation wherein the ratio of labor cost to equipment utilization cost to produce, process and market one (1) metric ton of ore equals to or not less than one (1);
- 4.15 **"License"** refers to the privilege granted to a person LO legitimately pursue his occupation as a small-scale miner or processor under RA 7076;

- 4.16 **"Mineralized Areas"** refer to areas with naturally occurring mineral deposits of gold, silver, chromite, kaolin, silica, marble, gravel, clay and other mineral resources;
- 4.17 **"Mineral Lands"** refer to those lands in which minerals exist in sufficient quantity and grade to justify the necessary expenditures in extracting and utilizing such minerals;
- 4.18 **"Mineral Production Sharing Agreement (MPSA)"** is the mode of mining agreement whereby the government inputs only the mineral resource and for which it gets an agreed share from the gross output value of the mineral produced, and net mining revenue before income tax;
- 4.19 **"Mining Plan"** refers to a two-year program of activities and methodologies employed in the extraction and production of minerals or ore-bearing materials including the financial plan and other resources in support thereof;
- 4.20 **"Private Lands"** refers to lands belonging to private persons which include alienable and disposable lands being claimed by a holder claimant or occupant who has already acquired a vested right thereto under the law although the corresponding certificate or evidence of title or patent has not been actually issued;
- 4.21 **"Public Lands"** refer to lands of the public domain including patrimonial property of the government;
- 4.22 **"Processor"** refers to a person and/or entity issued a license to engage in the treatment of mineral or ore-bearing materials such as by gravity concentration leaching beneficiation, cyanidation, cutting, sizing, polishing and other similar activities;
- 4.23 **"Secretary"** refers to the Secretary of the Department of Environment and Natural Resources;
- 4.24 **"Single Mining Unit"** means a mining operation covered by a "small-scale mining contract";
- 4.25 **"Small-scale Mining"** refers to mining activities which rely heavily manual labor using simple implements and methods and do not use explosive or heavy mining equipment;

- 4.26 **"Small-scale Miners"** refers to Filipino citizens who individually or in the company of other Filipino citizens, voluntarily form a cooperative duly licensed by the DENR to engage, under the terms and conditions of a contract/license in the extraction or removal of minerals or ore-bearing materials from the ground;
- 4.27 **"Small-scale Mining Contract"** refers to co-production, joint venture or Mineral Production Sharing Agreement between the government and a small-scale mining contractor for the small-scale utilization of a plot of mineral land;
- 4.28 **"Small-scale Mining Contractor"** refers to a cooperative of small scale miners, registered with the Securities and Exchange Commission (SEC) or other appropriate government agency, which has entered into an agreement with the government for the small scale utilization of a plot of mineral lands within a People's Small Scale Mining Area; and,
- 4.29 **"Traditional Small-scale Miners"** refer to Filipino citizens who have a distinctive socio-economic cultural tradition with a subsistence base focused on small-scale mining. They live in stable sedentary communities and employ a mining technology that is labor-intensive and simple; and employs physical separation methods for the extraction of mineral/s and/or metal/s from the ore.

CHAPTER III GENERAL PROVISIONS

Sec. 5 Licensing. Filipino citizens of legal age and with capacity to contract are qualified for a license as Small-Scale Miner and/or Processor. However, the following requirements shall be submitted to the nearest Mines and Geo-Sciences Development Service or CENRO or PENRO:

5.1 Small-Scale Miner

1. Application form duly accomplished as prescribed in Annex A;
2. Payment of application fee of P5.00 to the concerned DENR Regional Office; and
3. Barangay Certificate of Residency that applicant is a bonafide resident of the Barangay for a period of at least six (6) months. .

5.2 Processor

1. Application form duly accomplished as prescribed in Annex B;
2. Payment of application fee of P20.00 to the concerned DENR Regional Office; and
3. Certification on the capacity to perform processing of specific commodities from Regional Technical Director for Mines and Geosciences Development Service.

The license to be issued in Identification Card form, shall be approved by the DENR Secretary or his duly authorized representative and shall have a term of two (2) years and renewable every two (2) years.

Sec. 6 Declaration of People's Small-Scale Mining Areas. The Board created under RA 7076 shall have the authority to declare and set aside People's Small-Scale Mining Areas in sites onshore suitable for small-scale mining operations subject to review by the DENR Secretary thru the Director.

The following onshore areas may be declared by the Board as People's Small-Scale Mining Areas:

- 6.1 Areas already occupied and actively mined by Small-scale Miners before August 1, 1987: Provided, That such areas are not considered as active mining areas: Provided, further, That the minerals found therein are technically and commercially suitable for small-scale mining activities: Provided, finally, That the areas are not covered by existing forest rights or reservations and have not been declared as tourist or marine reserves, parks and wildlife reservations, unless their status as such are withdrawn by competent authority;
- 6.2 Public lands not subject to any existing right;
- 6.3 Public lands covered by existing mining rights which are not active mining areas;
- 6.4 Private lands, subject to certain rights and conditions, except those with substantial improvements or in bona fide and regular use as a yard, stockyard, garden, plant nursery, plantation, cemetery or burial site, or land situated within one hundred meters (100 meters) from such cemetery or burial site, water reservoir or a separate parcel of land with an area of ten thousand square meters (10,000 sq.m.) or less;

- 6.5 **Ancestral lands** with prior consent from the cultural communities concerned. Provided, That, if ancestral lands are declared as People's Small-scale Mining Areas, the members of the cultural communities therein shall be given priority in the awarding of small-scale mining contracts. Provided, further, that in cases where the Indigenous Cultural Communities (ICCs) concerned refuse to allow their area to be declared a people's small scale mining area, their customary rights to their ancestral land shall be recognized and protected;
- 6.6 **Areas occupied by a community of traditional small-scale miners** subject to the approval of the said community. Where they refuse to allow their areas to be declared a People's Small-scale Mining Area, their customary rights under their mining traditions shall be recognized and protected;

In all of the above cases, the laws, rules and regulations protecting the Filipino cultural heritage shall be strictly complied with.

Sec. 7 Procedures in the Declaration or a People's Small- Scale Mining Area. The following shall be observed in the declaration of small scale mining areas:

- 7.1 Petition/Request from any interested party for declaration of an area as People's Small-Scale Mining Area filed with the Board;
- 7.2 Evaluation of area whether same is technically or economically viable;
- 7.3 Identification of other areas technically and economically viable for small-scale mining upon the initiative of the DENR or duly authorized body;
- 7.4 Issuance of notices by the Board to claim owners, operators, private landowners and non-governmental organizations concerned, government agencies and cultural communities for clearance and consent as the case may be;
- 7.5 Posting/publication of notices on provincial or city/municipal halls and/or Mines and Geo-Sciences Development Service Office and other conspicuous places, and/or publication in a newspaper of local or national circulation once a week for two (2) consecutive weeks;
- 7.6 Segregation of proposed areas for small-scale mining purposes upon completion of the necessary documents, subject to review of the Secretary within thirty (30) working days from date of receipt of the proposal for such segregation from the Board.

- 7.7 Declaration of area as People's Small-Scale Mining Area by tile Board in the event that the area to be segregated and declared for such purpose is found to be in order by the Secretary after the thirty (30) day period of review thereof.

Sec. 8 Procedure in Case of Opposition/Protest. Any opposition/protest to the petition/request that an area be declared as a People's Small Scale Mining area shall be filed with the Board not later than fifteen (15) working day after the last publication of the notices as provided for in Section 7 hereof.

The Board shall act on the opposition or protest within fifteen (15) working days after it is submitted for resolution. The decision of the Board may be appealed to the Secretary within five (5) working days from receipt of the decision of the Board. The decision of the Secretary is immediately executory.

Sec. 9 Registration of Small-Scale Miners. All persons undertaking small-scale mining activities shall register as small-settle miners with the Board, which has jurisdiction over the Small-Scale Mining Area. The following requirements shall be submitted in order to be registered:

- 9.1 Small-Scale Miners License issued pursuant to this Order; and
- 9.2 Barangay Certificate of Six (6) Months Residency.

Sec. 10 Application to Enter Into a Small-Scale Mining Contract. Registered small-scale miners may organize themselves into cooperative/s to be qualified for the awarding of a People's Small-scale Mining Contract. Applications as prescribed in Annex C hereof shall be accomplished and submitted together with the following requirements in five (5) copies within five (5) days from the date the application form was secured:

- 10.1 Application fee of Thirty Pesos (P30.00) per hectare or a fraction thereof payable to the concerned DENR Regional Office;
- 10.2 Certified True Copy of Articles of Incorporation; and
- 10.3 Information on the geographical coordinates (latitude and longitude) of the area: applied for, the maximum of which is equal to 1/4 of] meridional block of 15 of latitude and 15" of longitude, containing an approximate area of twenty (20) hectares.

Within fifteen (15) working days upon receipt of the application by the Board, it shall check through the control map if the area is free from conflict. If the area is free, a written notice requesting the applicant to submit a proposed contract shall be sent by the board.

In case of conflict/s, the Board shall resolve the same within five (5) working from the date of the discovery thereof.

Sec. 11 Requirements for Small-Scale Mining Contract. Within ninety (90) calendar days upon receipt of the written notice by the Board referred to in Section 10 hereof, the applicant shall submit the proposed contract indicating therein the following features:

- 11.1 Mode of agreement (i.e., co-production, joint-venture or Mineral Production Sharing Agreement);
- 11.2 Terms and conditions of the contract in conformity with the provisions of Section 13 hereof; and,
- 11.2 Rights of the small-scale mining contractor consistent with the provisions of Section 19 and 20 hereof.

The following documents must be attached to the proposed contract:

- 11.4 Survey plan prepared by a deputized geodetic engineer including field notes cover and duly notarized Descriptive Survey Report
- 11.5 Mining plan prepared by a registered mining engineer; and,
- 11.6 Environmental Compliance Certificate (ECC) issued by the concerned DENR Regional Executive Director.

Provided, That for the purpose of facilitating the submission of proposed contracts, the board may make available sample contracts as guide to applicants in drafting their proposed contracts.

Sec. 12 Award of People's Small-Scale Mining Contract. The Board within fifteen (15) working days upon receipt of the proposed contract shall evaluate, negotiate and award the same, subject to review by the Secretary. Provided that only one people's small-scale mining contract may be awarded at anyone time to a small-scale mining contractor who shall start mining operation within one year from the date of award. Provided, further, that priority shall be given to cooperatives majority of whose

members are residents of the province, city or municipality where the small-scale mining area is located.

Sec. 13. Terms and Conditions of Small-Scale Mining Contract. A contract shall have a term of two (2) years, renewable for like periods subject to verification by the Board as long as the contractor complies with the provisions set forth in RA 7076, and confers upon the contractor the right to mine within the contract area: Provided, That, the small-scale mining contractor shall be under the obligation to:

- 13.1 Undertake mining activities only in accordance with a mining plan duly approved by the Board;
- 13.2 Abide by the mine safety rules and regulations per Memorandum Circular No. MRD-2, Series of 1985, as may be applicable and other rules and regulations which may be promulgated by the DENR Secretary;
- 13.3 Comply with his obligations to the holder of an existing mining right/s, if applicable;
- 13.4 Pay all fees, taxes, royalties or government production share as are now or may hereafter be provided by law;
- 13.5 Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree-cutting, mineral processing and pollution control;
- 13.6 File under oath at the end of each month a detailed production report and annual financial report to the Board; and,
- 13.7 Assume responsibility for the safety of persons working in the mines.

Sec. 14 Worker Health and Safety. To ensure the safety and health of small-scale miners, the following shall be observed:

- 14.1 The contractor must provide adequate sanitation facilities in the form of non-contaminating latrines in accordance with the directions provided by the concerned DENR Regional Office;
- 14.2 The contractor must provide and maintain clean drinking water for all workers;

- 14.3 The contractor shall be responsible for the health and safety of all individual contractors or employees operating within the contract area;
- 14.4 The use of mercury, cyanide or any other poisonous substance must be handled in accordance with provisions as directed by the concerned DENR Regional Office; and,
- 14.5 The contractor must notify the Board within five (5) working days of accidents causing either death or more than five (5) days of lost working time.

Sec. 15 Protection of the Environment. In order to protect the surrounding environment of small-scale mining area, the following shall be complied with by all concerned:

- 15.1 The contractor must ensure that all areas of activity within the contract area are maintained in a clean and organized manner;
- 15.2 The contractor must proceed with the schedule of tailings and waste management and mine site rehabilitation as documented in the approved Mining Plan;
- 15.3 The contractor shall be responsible for the control and proper disposal, where applicable, of all wastes produced as a result of mining operations; and,
- 15.4 The contractor shall comply with all environmental laws, especially with respect to water quality, water course diversion, excess siltation and undue interference with existing agricultural fishing or other legitimate land and water usage.

CHAPTER IV RIGHTS

Sec. 16 Easement Rights. Upon the declaration of People's Small scale Mining Area, the Director, in consultation with the small-scale miner/s, operator claimowner, landowner or lessor of the affected area, shall determine the right of the small-scale miners to existing facilities such as mining and logging roads, private roads port and communication facilities, processing plants which are necessary for the effective implementation of the People's Small-Scale Mining Program, subject to payment reasonable fees to the operator, claimowner, landowner or lessor.

Sec. 17 Rights of Claimowner. In case a site declared and set aside a people's small-scale mining area is covered by an existing mining right, the clampdown and the small-scale miners therein are encouraged to enter into a voluntary and acceptable contractual agreement with respect to the small-scale utilization of the mineral values

from the area under claim. In case of disagreement, the claimowner shall be entitled to the following rights and privileges;

- 17.1 Exemption from the performance of annual work obligations and payment of occupation fees, rental, and real property taxes;
- 17.2 Subject to the approval of the Board, free access to the contract area to conduct metallurgical tests, explorations and other activities, provided such activities do not unduly interfere with the operations of the small-scale miners; and,
- 17.3 Royalty equivalent to one and one half percent (1 1/2%) of the gross value of the metallic mineral output or one percent (1 %) of the gross value of the non-metallic mineral output to be paid to the claimowner: Provided, That, such rights and privileges shall be available only if he is not delinquent in the performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of RA 7076.

Sec. 18 Rights of Private Landowners. The private landowner or lawful possessor shall be notified of any plan or petition to declare his land as a People's Small-scale Mining Area. Said landowner may oppose such plan or file petition in an appropriate proceeding and hearing conducted before the Board. .

If a private land is declared as a People's Small-scale Mining Area, the owner and die small-scale mining contractor are encouraged to enter into a voluntary and acceptable contractual agreement for the small-scale utilization of the mineral values from the private land within thirty (30) days. Provided, That, the owner shall, in all cases, be entitled to die payment of actual damages which may occur as a result of such declaration. Provided, further, that royalties paid to the owner shall in no case exc eed one percent (1 %) of the gross value of the minerals recovered as royalty.

Sec. 19 Rights Under a People's Small-Scale Mining Contract. A people's small-scale mining contract entitles the holder LO a right to mine, extract and dispose of mineral ores for commercial purposes over the area covered thereby. Provided, That in no case shall the contract be subcontracted, assigned or otherwise transferred to a second party.

Sec. 20 Ownership of Mill Tailings. The small-scale mining contractor shall be the owner of all mill tailings produced from the contract area. He may sell the tailings, or have them processed in any custom mill in the area. Provided, that, if the small-scale mining contractor decides to sell its mill tailings, the clampdown or mining operator shall have a preemptive right to purchase said mill tailings at the prevailing market price.

- 22.5 Settles disputes, conflicts or litigations over conflicting claims within ninety (90) days upon filing of protests or complaints; Provided, That any aggrieved party may appeal within five (5) days from the Board's decision to the Secretary for final resolution otherwise the same is considered final and executory; and
- 22.6 Performs such other functions as may be necessary to achieve the goals and objectives of RA 7076.

Sec. 23 Composition of the Provincial/City Mining Regulatory Board. The Board shall be composed of the following:

- 23.1 Representative from the DENR Regional Office concerned - Chairman;
- 23.2 Governor or City Mayor or their duly authorized representative - Member;
- 23.3 One (1) Small-Scale Mining representative - Member or as per Section 24.3 hereof;
- 23.4 One (1) Large-Scale Mining representative - Member;
- 23.5 One (1) representative from a non-government organization - Member; and,
- 23.6 Staff support to the Board to be provided by the Department.

Sec. 24 Criteria in Choosing the Representative/s to the Board. Representatives to the Board shall be selected taking into consideration the hereunder criteria:

- 24.1 He/She must be a bonafide member of and nominated by the organization he/she represents;
- 24.2 Preferably, he/she should be residing or have established concern for work in the province or city as the case may be;
- 24.3 In case of the absence of nominees from the area, the Chamber of Mines and Small-Scale Mining Association shall nominate one (1) representative each to the Board; and,
- 24.4 The representative from a non-government organization must come from an environmental group duly accredited by DENR.

Sec. 25 Compensation or the Members of the Board. The members of the Board shall receive compensation based on meetings attended at the prescribed by pertinent laws subject to existing accounting and auditing procedures.

CHAPTER VI FISCAL AND REGULATORY PROVISIONS

Sec. 26 Payment or Taxes, Government Production Share. Small-Scale Mining contractor shall pay to the government the following:

- 26.1 Income Tax as provided in the National Internal Revenue Code (Sec. 21);
- 26.2 Special Import Tax (If applicable);
- 26.3 Tariff Duties (If applicable);
- 26.4 Value Added Tax as provided in E.O. 273;
- 26.5 Real Property Tax (If applicable);
- 26.6 Excise Tax except gold sold to Central Bank which are considered for export and,
- 26.7 Government Share which shall be paid to the Municipality or City Treasurer where the mining claims are located and shall be apportioned in accordance the Local Government Code of 1991.

Sec. 27 Payment or Fees and Other Charges. The Small-Scale Mining Contractor shall pay to the government the following:

- 27.1 An application fee of Thirty Pesos (p30.00) per hectare or a fraction thereof; and
- 27.2 Occupation fee of Fifty Pesos (P50.00) per hectare or a fraction thereof per year which shall be paid to the municipality where the contract area is local. Provided, That the initial occupation fee shall be paid on the date the contract is approved.

Sec. 28 People's Small-Scale Mining Protection Fund. People's Small-Scale Mining Protection Fund created in Section 20 of RA 7076 which provides for fifteen percent (15%) of the national government's share of the internal revenue tax or production share due the Government shall be used primarily information dissemination and training of small-scale miners on safety, health and

environmental protection, and the establishment of Mine Rescue and Recovery Teams including the procurement of rescue equipment necessary in cases of emergencies such as landslides, tunnel collapse, or the like.

The Fund shall also be made available to address the needs of the small-scale miners brought about by accidents and/or fortuitous events.

The Board will act as trustee of the Fund.

Sec. 29 Rescission or Contracts and Administrative Fines. Awarded contracts may be rescinded on the following grounds:

- 29.1 Non-Compliance with the terms and conditions of the contract and that of existing mining laws, rules and regulations including those pertaining to mine safety, environmental protection and conservation, tree cutting, mineral processing and pollution control;
- 29.2 Non-compliance with the contractor's obligations to existing mining claim holders/private landowners as stipulated in Section 13 17 and 18 of this Order;
- 29.3 Non-payment of fees, taxes, royalties or government share in accordance with this Order and existing mining laws;
- 29.4 Abandonment of mining site by the contractor; and,
- 29.5 Ejection from the People's Small-scale Mining Area of the Contractor by the government for reasons of national interest and security.

When contracts are rescinded for grounds under Sections 29.1 to 29.4 hereof, the Secretary may impose fines of an amount not less than Twenty Thousand Pesos (P20,000.00) but not more than One Hundred Thousand Pesos (P100,000.00). Non-payment of the fine imposed shall render the small-scale mining contractor ineligible for other small-scale mining contracts.

Sec. 30 Reversion of People's Small-Scale Mining Areas. A People's Small-Scale Mining Area may be reverted to the State for proper disposition by the Secretary upon recommendation of the Director when:

- 30.1 It can no longer be economically and efficiently operated on a small-scale mining basis; or

- 30.2 The working conditions endanger the lives and health of the miners; or
- 30.3 Small-scale mining operations cause significant destruction to the environment; or,
- 30.4 There is continuous disturbance of peace and order for three (3) consecutive year causing loss of lives and property.

When the government determines that a small-scale mining area can no longer be legally or feasibly operated on a small scale basis, the Secretary shall:

- a. Provide written notice to all holders of contracts within the area; and
- b. Give each contractor the right of first refusal and reasonable time frame to provide the necessary technical and financial capability to apply for a large-scale mining right; or
- c. Provide reasonable compensation to the contractor for the loss of mining rights, in case of reversion.

CHAPTER VII ASSISTANCE TO SMALL-SCALE MINERS

Sec. 31 Assistance to Small-Scale Miners. The DENR in coordination with other concerned government agencies including Central Bank of the Philippines shall extend the following assistance to Small-Scale Miners:

- 31.1 Organization of small-scale miners into cooperatives;
- 31.2 Technical and financial assistance and social services;
- 31.3 Processing and marketing assistance;
- 31.4 Generation of ancillary livelihood activities; and,
- 31.5 Adequate attention to health and safety standards.

CHAPTER VIII OTHER PROVISIONS

Sec. 32 Sale of Gold. All gold produced by small-scale miners in any mineralized area or mineral land shall be sold to the Central Bank of the Philippines, or

its duly authorized representatives, at prices competitive with those prevailing in the world market regardless of volume or weight

The Director shall furnish the Central Bank with a list of declared small-scale mining areas for its guidance in the establishment of buying stations to fully service the requirements of the small-scale miners thereat as conditions in the areas warrant, as provided for under Section 17 of RA 7076.

However, the minimum weight per bar or disk for delivery and sale to the Central Bank shall not be less than 300 grams. Small-scale miners with less than 300 grams of gold may sell the same to Central Bank's duly authorized representative.

Sec. 33 Establishment and Operation of Custom Mills. The establishment and operation of safe and efficient custom mills to process minerals or ore-bearing materials shall be subject to the following conditions:

- 33.1 Establishment shall be limited to mineral processing zones duly designated the local government unit concerned upon recommendation by the Board;
- 33.2 The establishment of mineral processing zones shall not disrupt existing adaptive technological systems; and,
- 33.3 Custom mills shall be constituted as withholding agents for the royalties, production share or other taxes due the Government. Provided, That as withholding agents such custom mills shall be registered with the BIR.

In mining areas where the private sector is unable to establish custom mills, the Board shall recommend to the government to construct such custom mills if viable.

The Board shall issue licenses for the operation of custom mills and other processing plants subject to pollution control and safety standards.

In the issuance of processor's permit/license, all provisions of the DENR Administrative Order No. 05, Series of 1989, not inconsistent with the provisions of this Order are hereby adopted.

The Department shall establish assay laboratories to cross-check the integrity custom mills and to render metallurgical and laboratory services to miners.

Sec. 34 Areas Not Declared as People's Small-Scale Mining Area. For areas not declared as People's Small-Scale Mining area, the pertinent rules and regulations of Presidential Decree No. 1899 shall apply.

Sec. 35 Mineral Reservations. Mining operations in existing mineral reservations and others as may thereafter be established shall be undertaken by the Government or by a contractor.

CHAPTER IX PENAL PROVISIONS

Sec. 36 Penal Sanctions. Violations of the provisions of RA 7076 and this Order shall be penalized with imprisonment of not less than six (6) years and shall include the confiscation and seizure of equipment, tools and instruments by the Board.

CHAPTER X TRANSITORY PROVISIONS

Sec. 37 Actual Occupation by Small-Scale Miners. Small-scale miners who have been in actual operation of mineral lands on or before August 1, 1987 as determined by the Board shall not be dispossessed, ejected or removed from said areas: Provided, That, they comply with the provisions of this Order.

CHAPTER XI FINAL PROVISIONS

Sec. 38 Repealing Clause. All orders, rules and regulations, and other issuances, or parts thereof, in conflict or inconsistent herewith are hereby repealed and/or modified accordingly.

Sec. 39 Separability Clause. Any section or provision of this Order which may be declared unconstitutional shall not affect the other sections or provisions hereof.

Sec. 40 Effectivity. This Order shall take effect fifteen (15) days after its publication in the Official Gazette or in a national newspaper of general circulation.

RICARDO M. UMALI
OIC, Secretary