



JUN 29 2010

MEMORANDUM ORDER

No. 2010- 07

SUBJECT: DELEGATING THE AUTHORITY TO ISSUE MINERAL ORE EXPORT PERMITS TO THE DIRECTOR, REGIONAL DIRECTOR OF THE MINES AND GEOSCIENCES BUREAU CONCERNED AND THE PROVINCIAL GOVERNORS/ CITY MAYORS CONCERNED, AMONG OTHERS

To ensure the timely and efficient issuance of Mineral Ore Export Permits (MOEPs) pursuant to the provisions of Department of Environment and Natural Resources (DENR) Administrative Order (DAO) No. 2008-20 in re: *Issuance Of Mineral Ore Export Permit (MOEP) for Transport / Shipment Outside the Philippines Of Mineral Ores, Including Tailings*, and consistent with the pertinent provisions of Republic Act (R.A.) No. 7942, the Philippine Mining Act of 1995, the authority to issue MOEPs is hereby delegated to the Director, Regional Director of the Mines and Geosciences Bureau (MGB) concerned and Provincial Governors/Mayors of highly urbanized(independent) cities concerned, subject to the following guidelines:

SECTION 1. COVERAGE

For the MGB Director, the delegated authority shall cover the issuance of MOEP to first-time MOEP applicants in accordance with the provisions of Section 5 hereof.

For the MGB Regional Director, the delegated authority shall cover mineral/s or ore/s sourced from areas covered by all types of mining contracts/permits issued by the DENR, including its attached agencies and corporate arms, and those that are to be exported by mineral or ore traders and retailers duly accredited by the MGB pursuant to Chapter XII of DAO No. 96-40, as amended, the implementing rules and regulations of R.A. No. 7942, subject to Section 5 hereof.

In the case of the Provincial Governor/City Mayor concerned, the delegated authority shall cover mineral/s or ore/s, excluding tailings, sourced from areas covered by the following mining permits issued by him/her:

- a. Small-scale Mining Permits;
- b. Small-scale Mining Contracts;
- c. Quarry Permits;
- d. Sand and Gravel Permits; or
- e. Other permits that are expressly provided for in R.A. No. 7942 and DAO No. 96-40, as amended, its implementing rules and regulations; and Presidential Decree No. 1899 and R.A. No. 7076, the small-scale mining laws, and Mines Administrative Order No. MRD-41 and DAO No. 34, Series of 1992, their respective implementing rules and regulations;

Provided, That for mineral(s) and/or ore(s) sourced from areas covered by mining permits other than those enumerated above, the processing and approval or

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disapproval of MOEP applications shall remain with the MGB Regional Director concerned.

SECTION 2. CONDITIONS

1. The applicable provisions of DAO No. 2008-20 and DENR Memorandum Order (DMO) No. 2008-04 in re: *Clarificatory Guidelines in the Implementation of Department Administrative Order No. 2008-20 in re: Mineral Ore Export Permit* with regard to the processing of MOEP applications, and terms and conditions of the MOEPs to be issued shall be strictly implemented.
2. The provisions of the small-scale mining law and DAO NO. 96-40, as amended, on the maximum production limit of 50,000 tons of mineral/s and/or ores/s annually for every small-scale mining permit shall be strictly followed.
3. Upon issuance of the MOEP by the Provincial Governor/City Mayor concerned, it shall be submitted to the MGB Regional Office concerned for review and *confirmation*.

The MGB Regional Office shall have a maximum of forty-eight (48) hours from receipt of the MOEP to complete the review: *Provided*, That, the MOEP shall be deemed valid/confirmed if not acted upon or denied within forty-eight (48) hours after receipt by the MGB Regional Director concerned.

For that purpose, a copy of the MOEP accompanied by each of the following documents shall be submitted to the MGB Regional Director concerned:

- a. Ore Transport Permits(OTPs) or Delivery Receipts(DRs) as the case may be;
- b. Field validation report duly approved by the MGB Regional Director concerned and containing, among others, information such as the validity of the pertinent mining permit/contract, grade, the verification of the source of the mineral/ore and estimated volume and value of the said commodity;
- c. Mining permit;
- d. Original or certified true copy of the proof of payment of excise tax; and
- e. Sales/marketing agreement/contract.

As evidence of confirmation, the copy of the MOEP shall bear the stamp "CONFIRMED" countersigned by the MGB Regional Director concerned. Such confirmed MOEP shall then be returned to the MOEP holder, and the copy of the confirmed MOEP, together with the supporting documents, forwarded to the MGB Director.

SECTION 3. FILING OF AN MOEP APPLICATION

For the purpose of this Memorandum Order, an application for MOEP shall be filed directly to the MGB Director, Regional Director concerned or Provincial



Governor/City Mayor concerned, as the case may be, within 60 calendar days before the actual date of transport or shipment of the mineral/s or ore/s. The pertinent application shall be accompanied by the following documents:

1. Original and duly accomplished MOEP application form under DAO No. 2008-20.
2. Original or certified true copy of the pertinent OTPs/DRs.

(Note: The MGB Regional Director concerned shall be the authorized signatory for issuance of OTP/DR in the case of mining permit/contract issued by the DENR.)

3. Field validation report duly approved by the MGB Regional Director concerned and containing, among others, information such as the validity of the pertinent mining permit/contract, grade, the verification of the source of the mineral/ore and estimated volume and value of the said commodity.
4. Original or certified true copy of the mining permit/contract.
5. Original or MGB-certified true copy of the Certificate of Accreditation by the MGB, if the MOEP applicant is engaged in mineral trading.
6. Original or certified true copy of the sales/purchase/marketing contract or purchase order.
7. Original or certified true copy of the proof of payment of excise tax or guarantee/surety bond as prescribed in Section 4 of DMO No. 2008-04.
8. Where the mineral(s) and/or ore(s) is sourced from a Mineral Reservation, proof of payment of royalty pursuant to the pertinent provisions of R.A. No. 7942 and DAO No. 96-40, as amended.
9. Original or certified true copy of the final sales/invoice receipt of the previously exported similar mineral(s) or ore(s), if any.
10. Other supporting documents as the Director, Regional Director of the MGB and Provincial Governor/City Mayor concerned, as the case may be, may require or the MOEP applicant may submit.

After finding that the pertinent MOEP application is complete and in order, the MGB Director or the Regional Director concerned of the MGB shall issue the MOEP within forty-eight (48) hours from receipt of the said application: *Provided*, That, in cases where the MOEP was issued by the MGB Regional Director, the copy of the same, together with the supporting documents, shall be forwarded to the MGB Director within forty-eight (48) hours upon such issuance, for review: *Provided, further*, That if the MGB Director finds that such issuance of the MOEP is not proper, the authority of the concerned MGB Regional Director to issue MOEP shall be assumed by MGB Director until such time that the matter is rectified.

SECTION 4. COMPLIANCE WITH THE FISCAL OBLIGATIONS UNDER THE MOEP

The bond posted in accordance with the rules and regulations of the Bureau of Internal Revenue (BIR) shall continue to be a form of compliance for the issuance of the MOEP in relation to the payment of excise tax pursuant to Section 4 of DMO No. 2008-04: *Provided*, That proof of actual payments of excise tax, accompanied by the corresponding final sales invoice/receipt, shall be submitted to the MGB Regional Office concerned within 30 days after the end of the calendar quarter: *Provided, further*, That failure of the mining company/trader/exporter to

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comply with this requirement shall be a sufficient ground to deny its succeeding application for MOEPs.

For mineral(s) or ore(s) exports not covered by a bond on excise tax, the proof of payment of excise tax shall form part of the requirements for an MOEP application, hence, Item No. 7 of Section 3 above: *Provided*, That where such excise tax payment is less than that actually due as reflected in the final sales/invoice receipt, the difference thereof shall be immediately paid and the corresponding proof of payment shall form part of the requirements for the succeeding application for MOEP.

Where the mineral(s) and/or ore(s) subject of an MOEP application is sourced from a Mineral Reservation, the proof of payment of royalty shall likewise form part of the requirements for the said MOEP application, hence, Item No. 8 of Section 3 above. For this purpose, all payments of royalty shall be made in the MGB Regional Office concerned: *Provided*, That where such royalty payment is less than that actually due as reflected in the final sales/invoice receipt, the difference thereof shall be immediately paid and the corresponding proof of payment shall form part of the requirements for the succeeding application for MOEP.

The proof of compliance with the above fiscal obligations under the MOEP(s) shall be submitted by the MGB Regional Office concerned thru a report submitted to the MGB Director on a quarterly basis, for monitoring purposes.

SECTION 5. FIRST-TIME MOEP APPLICANTS

All first-time MOEP applications shall be filed directly to the MGB Director for the issuance of the MOEPs: *Provided*, That when issued, succeeding MOEP applications of the same MOEP applicant shall be processed and, if warranted, approved by the MGB Regional Director concerned in accordance with the provisions of this Order.

For the purpose of this Order, first-time MOEP applicants shall refer to the following:

1. MGB-accredited mineral or ore trader and retailer with MOEP application for mineral(s) or ore(s) to be exported under a sales/purchase/marketing contract or purchase order involving first shipment: *Provided*, That an MOEP applicant shall also be considered a first-time MOEP applicant when the pertinent application involves a new sales/purchase/marketing contract or purchase order;
2. Mining contractor and permit holder with MOEP application for mineral(s) or ore(s) sourced from a new mining area: *Provided*, That a new mining area shall refer to a "*portion of the contract area identified by the Contractor as defined and delineated in a Survey Plan duly approved by the Director/Regional Director concerned for purposes of development and/or utilization, and sites for support facilities;*"¹ and
3. MOEP applicant with application for mineral(s) or ore(s) to be exported/transported for the purpose of metallurgical bulk testing and other similar purpose(s): *Provided*, That the pertinent MOEP application

¹ Item ae, Sec. 3, R.A. No. 7942

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covers mineral/s or ore/s sourced from areas with mining contract/permit issued by the DENR, including its attached agencies and corporate arms, and that such mineral(s) or ore(s) export/transport is in accordance with an MGB-approved work program.

SECTION 6. VOLUME OR TONNAGE OF MINERALS/S OR ORE/S FOR SHIPMENT UNDER AN MOEP

An MOEP may be issued authorizing the shipment of the same material/s in a quantity equivalent to a one-year requirement of an applicant as contemplated under Section 6 of DMO No. 2008-04: *Provided*, That such MOEP shall only be issued only to a mining contractor, permit holder or permittee and not to mineral/ore traders and retailers.

SECTION 7. REPEALING CLAUSE

This Order supersedes DMO No. 2009-01 in re: *Delegating the Authority to Issue Mineral Ore Export Permits Under Certain Types of Mining Permits to the Provincial Governors Concerned*, and any other memorandum orders and circulars inconsistent herewith.

SECTION 8. EFFECTIVITY

This Memorandum Order shall take effect fifteen (15) days after publication in a newspaper of general circulation and receipt of a copy hereof by the Office of the National Administrative Register.


HORACIO C. RAMOS
Acting Secretary




Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES



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