

HIGHLIGHTS OF THE PROPOSED MANUAL OF OPERATIONS FOR THE DEVOLVED FUNCTIONS OF THE MINES AND GEOSCIENCES BUREAU (MGB), DENR ON SMALL-SCALE MINING TO THE LOCAL GOVERNMENT UNITS AND FOR OTHER PURPOSES

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OBJECTIVE

The objective of this Order is to provide guidelines and procedures in the implementation of MGB devolved functions and to assist the Local Government Units (LGUs) on the effective implementation of devolved MGB functions *and in order* to develop their own capabilities to initiate and manage programs and projects that will lead to the sustainable development of the country's mineral resources.

RELEVANT LAWS

- A. **RA No. 7160** – The Local Government Code of 1991
- B. **RA No. 7942** – The Philippine Mining Act of 1995
- C. **RA No. 7076** – The People’s Small-Scale Mining Act of 1991
- D. **PD No. 1899** – Establishing Small-Scale Mining as a New Dimension In Mineral Development

- E. DAO 92-30** – Guidelines for the Transfer and Implementation of DENR Functions Devolved to the Local Government Units
- F. DAO 92-37** – Amending Certain Provisions of DENR Administrative Order No. 30, Series of 1992 re: Guidelines for the Transfer and Implementation of DENR Functions Devolved to the Local Government Units
- G. PD 1586** – Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes

DEVOLVED FUNCTIONS RELATED TO MINING

The following Mines and Geosciences Bureau's functions have been devolved to the Local Government Units **subject to the supervision, control and review by the DENR as provided for under R.A. 7160.** In the enforcement of the SSM laws, the following are the authorities and responsibilities:

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- A. Enforcement of the small-scale mining laws in areas outside government mineral reservations, subject to policies and guidelines of the DENR: Provided, that areas within DENR project areas and other government reservations shall be subject to clearance/s from the government agency/ies concerned.

B. Issuance of the following permits and other instruments for quarry and small-scale mining operations:

1. Quarry Permit
2. Commercial Sand and Gravel Permit
3. Industrial Sand and Gravel Permit covering an area of not more than five (5) hectares
4. Exclusive Sand and Gravel Permit
5. Government/Private Gratuitous Permit
6. Guano Permit
7. Gemstone Gathering Permit

8. Pebble Picking Permit under DAO 28, series of 1992
9. Gold Panning and Sluicing Permit
10. Small-scale Mining Permit for metallic and non-metallic resources covering areas of not more than twenty (20) hectares.
11. Processor's Permit
12. Ore Transport Permit
13. Delivery Receipt
14. Mineral Ore Export Permit
15. Safety Inspector Permit
16. Small-scale Mining Contract

Provided: That the issuance of small-scale mining permits/ contracts under the provisions of P.D. 1899 and R.A. 7076 and issuance of permits for sand and gravel and other quarry resources shall be subject to an area clearance from concerned MGB Regional Office and from other government agencies as required, and shall upon recommendation by the Provincial/City Mining Regulatory Board and be subject for the approval by the Provincial Governor or City Mayor. The imposition of fees and charges for the devolved functions shall be provided through a local ordinance issued by the concerned LGU.

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- C. Adjudication of conflicts involving quarry /small-scale mining operations by the P/CMRB.
 - D. Enforcement of safety, health and environmental and social development and management rules and regulations.
 - E. Issuance of Cease and Desist or Stoppage Orders for quarry/ small-scale mining operations upon the recommendation of the P/CMRB.

RETAINED FUNCTIONS OF THE DENR/ MGB

- A. Approval of Mineral Agreements, Exploration Permits, Financial or Technical Assistance Agreements (FTAA), ISAG Permit for areas exceeding five (5) hectares but not more than twenty (20) hectares.
- B. Mineral Processing Permit (MPP) as authorized under R.A. 7942, and its IRR.
- C. Adjudication of cases involving mining rights and applications.
- D. Approval of small-scale mining permits in mineral reservations.
- E. Issuance of Ore Transport Permit for the transport of mineral ores/minerals/mineral products and by-products, including gold bullions originating from small-scale mining areas within mineral

- F. Issuance of certification to transport ore samples below two (2) Metric Tons for assay and pilot test purposes.
- G. Issuance of permit to install and operate mechanical and electrical equipment *and appliances* for mine, processing plant, quarry and other mines ancillary facilities.
- H. Issuance/ processing/*endorsement* of the following permits/ licenses:
 1. Purchaser's/ Blaster's foreman license
 2. Safety engineer permit
 3. Safety inspector's permit

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- I. Issuance of Certificate of Accreditation for *traders, dealers and retailers for minerals/mineral products and by-products.*
 - J. *Mineral Ore Export Permit issued for large-scale and small-scale within mineral reservation as per DMO. 2010-07.*
 - K. Other functions as provided for under the Philippine Mining Act of 1995 (R.A. No. 7942).

ROLES OF DENR AND LGU

A. Roles of DENR

In accordance with Section 17 of R.A. 7160 or the Local Government Code of 1991 as implemented by DAO No. 30, Series of 1992, as amended, the DENR Secretary, in its exercise of supervision, control and review powers over the devolved functions, shall:

1. Conduct periodic monitoring and evaluation of the implementation of devolved functions to the LGUs;
2. Alter, modify, nullify or set aside after due process decisions or actions of the LGUs which, in the implementation of the devolved functions, are inconsistent with national policies;
3. Conduct an investigation and, when necessary, recommend to the LGU the prosecution of erring parties in the implementation/ enforcement of the devolved functions.

4. Provide technical assistance to the LGUs for the establishment or operation of custom mills to process minerals or ore-bearing minerals;
5. Require the LGUs to regularly submit through the P/CMRB to the DENR, the minutes of meetings of the P/CMRB, issued permits/CDOs and other instruments issued by the LGUs; and
6. Provide the necessary technical and information assistance to the provinces and cities to enable the latter to perform their mines and geosciences devolved functions effectively and for the greater benefit of their constituents. Through the Regional Office and the Provincial/ Community Environment and Natural Resources Office, it shall also assist the Provincial/ City Mining Regulatory Board.

B. Roles of LGU

1. Require environmental protection in granting Mining Permits/ Contracts. In this connection, the required Environmental Compliance Certificate (ECC) shall be mandatory prior to the issuance of such permits/ contracts;
2. Protect the mineral resources within their jurisdiction from illegal extraction;
3. Take responsibility in the custody of **seized** and **confiscated** minerals/mineral products/by-products **and the tools and equipment including conveyance;**
4. Filing of complaint against the offenders with the proper court;

5. Establish an Environment and Natural Resources Office and incorporate therein a Mineral Administration Section manned by technical/ mining officers to manage and administer the devolved Mines and Geosciences Bureau functions and the other devolved DENR functions, as provided for in Section 184, Article 14 of the Local Government Code of 1991;
6. To ensure that relevant laws on public notice, public consultation and public participation are complied with;
7. 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;

8. To receive their share as provided for by law in the wealth generated from the utilization of mineral resources and thus enhance the economic progress and national development; and
9. 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 ECC;

PROVINCIAL/ CITY MINING REGULATORY BOARD

- A. *The Provincial/ City Mining Regulatory Board created under Republic Act No. 7076 shall exercise the following powers and functions, subject to review by the Secretary of the DENR:*
1. Segregates, reserves and declares small-scale mining areas.
 2. Recommends the awarding and issuance of contracts to small-scale miner's cooperative.
 3. Formulates its own internal rules and regulations governing its administration and disposition of cases and implements rules and regulations related to R.A. No. 7076.

4. Settle disputes, conflicts or litigations over conflicting claims within a people's small-scale mining area within ninety (90) days upon filing of protests or complaints: *Provided*, That any aggrieved party may appeal within fifteen (15) days from the Board's decision to the DENR Secretary for final resolution, otherwise, the same is considered final and executory.
5. Performs other functions as may be necessary to achieve the goals and objectives of R.A. 7076.

B. *The Provincial/ City Mining Regulatory Board shall likewise exercise, among others, the following functions as provided for under **Section 24 of R.A. No. 7076**, P.D. 1899 and R.A. No. 7942 and their implementing rules and regulations:*

- 1.** Accepts, processes and evaluate application/s for small-scale mining permits/contracts, quarry, sand and gravel, gemstone gathering, pebble picking, guano, gold panning and sluicing, processor's, ore transport, mineral ore export, private/public gratuitous and safety inspector permits and delivery receipts.
- 2.** Recommends and determines administrative charges and fees in relation to the above application/s to the LGU.

3. Formulates its own internal rules and regulations governing its administration and disposition of cases and implements rules and regulations related to P.D. 1899, R.A. 7076 and R.A. 7942.
4. Settles disputes, conflicts, oppositions, or litigations over conflicting claims involving devolved functions within ninety (90) days upon filing of protests or complaints: *Provided*, That any aggrieved party may appeal within fifteen (15) days from the Board's decision to the DENR Secretary for final resolution, otherwise, the same is considered final and executory.
5. Recommends to the Provincial Governor/ City Mayor the approval/ disapproval of the permits/contracts/ application/s.
6. Performs such other functions as may be

c. Composition of the Board

1. The Board shall be composed of the following:
 - Regional Director of the Mines and Geosciences Bureau concerned or his duly authorized representative as - Chairman.
 - Governor or City Mayor or his/ her duly authorized representative as - Vice-Chairman.
 - One (1) Small-scale Mining Representative – Member
 - One (1) Large-scale Mining Representative – Member
 - One (1) Representative from NGO – Member
2. The **administrative** staff support of the Board shall be provided by the concerned Local Government Units **and the head and technical staff support shall be provided by the concerned Regional**

D. Criteria in Choosing Representative/s to the Board

Representatives to the Board shall be selected taking into consideration the following criteria:

1. Must be a bona fide member of and nominated by the organization he/ she represents.
2. Preferably, he/ she should be residing or have established concern for work in the province or city as the case may be.
3. In case of the absence of nominees for representatives from the *Large-scale and Small-scale mining sectors* from the province/ city, the Regional Director concerned shall recommend one (1) member each to the Board from its permittees/ contractors; and

4. The Representative from a non-government organization must come from an environmental group duly accredited by the DENR and should be based locally within the jurisdiction of the concerned LGU. **Provided that in the event that no DENR accredited environmental group is available, people's organization or civic organization of international standing may be**

E. ~~Consideration~~ Compensation of the Members of the Board

*The members and support staff of the Board shall be entitled to receive honorarium based on meetings attended at the rate prescribed by pertinent laws subject to existing accounting and auditing procedures. **The source of funds for this purpose shall be provided by the concerned LGU.***

Environmental, Safety and Health, and Social Concerns

The Permit/Contract 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:

1. Potential Environmental Impact Report (PEIR), which is a simplified Environmental Protection and Enhancement Program(EPEP),and a Final Mine Rehabilitation /Decommissioning Plan to be reviewed by the MGB and duly approved by the P/CMRB
2. Community Development and Management Program, a simplified Social Development and Management Program to be reviewed by the MGB and duly approved by the P/CMRB.

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.

Procedures, Systems, Flow Chart and Areas of Responsibilities under P.D. 1899, R.A. No. 7942 and R.A. 7076

A. *Filing of Application for Mining Permit*

The Application shall be filed with the LGU through the P/CMRB concerned.

1. *Requirements for the application of Small-Scale Mining Permit for metallic and non-metallic minerals are as follows:*

- a) Duly accomplished and notarized Application form
- b) Survey plan duly signed and sealed by a duly licensed Geodetic Engineer

- c) Project information/description to be prepared by the applicant
- d) If partnership/corporation/association/cooperative, submit registration documents required by the concerned government agency/ies
- e) Payment for required fees and charges
- f) Other requirements as may be required by law or the concerned Board.

2. Requirements for Gold Panning and Sluicing

- a) Duly accomplished and notarized Application form
- b) Sketch plan of the area showing the geographic coordinates of corner 1
- c) Payment of required fees and charges
- d) Other requirements as may be required by law of the concerned Board.

3. Requirements for Quarry or Industrial Sand and Gravel Permit Applications

- a) Duly accomplished and notarized Application form
- b) Survey plan duly signed and sealed by a duly licensed Geodetic Engineer.
- c) Work Program duly prepared, signed and sealed by a licensed mining engineer.
- d) Proof of financial and technical capability
- e) If partnership/corporation/association/cooperative, submit registration documents required by the concerned government agency/ies.
- f) Payment of required fees and charges.
- g) Other requirements as may be required by law or

4. *Requirements for Commercial Sand and Gravel Permit Application*

- a) Duly accomplished and notarized Application form
- b) Survey plan duly signed and sealed by a duly licensed Geodetic Engineer
- c) Project Description/Information
- d) If
partnership/corporation/association/cooperative,
submit registration documents required by the
concerned government agency/ies.
- e) Payment of required fees and charges.
- f) Other requirements as may be required by law or
the concerned Board.

5. Requirements of Government/Private Gratuitous and Exclusive Sand and Gravel Permit Applications

- b) Application letter/application for
- c) Sketch/Survey Plan
- d) Proof of ownership of the land (for private land)
- e) Affidavit that the materials will be for the applicant's proposal use
- f) Affidavit that the materials will be used for the construction of building and/or infrastructure projects.
- g) Project proposal stating where the materials to be taken shall be used and the estimated volume needed.
- h) Payment of Fees
- i) Other requirements as may be required by law

6. Requirements for Application of Gemstone Gathering Permit

- a) Duly accomplished and notarized Application form
- b) Survey plan duly signed and sealed by a duly licensed Geodetic Engineer
- c) Declaration for the approximate quantity of the gemstone available in the area applied for.
- d) Payment of filing and processing fee.
- e) Other requirements as may be required by law or the concerned Board.

7. *Requirements for Application of Special Permit for Pebble Picking*

- a) Duly accomplished and notarized application form.
- b) Copy of Certificate of Registration with the Cooperative Development Authority (CDA).
- c) Sketch Plan prepared by a licensed Geodetic Engineer.
- d) *Certification from the provincial government concerned that it is giving its consent to the applicant to conduct pebble picking activities.*
- e) Certification from the Local Department of Tourism Office and from concerned DENR-Protected Areas and Wildlife Division that the area is not a potential or a declared tourist zone and not declared for conservation/protection purposes, respectively,
- f) Payment of application fee shall be made to the LGU's which have jurisdiction over the area.
- g) Other requirements as may be required by law or the concerned Board.

1. Filing of Application with concerned Provincial Governor/City Mayor through the P/CMRB Secretariat (LGU).
2. Physical checking and evaluation by P/CMRB of the mandatory requirements in support to the application.
3. The P/CMRB through the ENRO-LGU requests for area clearance/status from the concerned DENR Regional Office concerned.
4. MGB Regional Office issues the area clearance/status.
5. If area is in conflict, the Secretariat advises the applicant of appropriate action/s to be taken.
6. If area is free of conflict, the Secretariat causes the posting of Notice of Application for two (2) consecutive weeks at the bulletin boards of the ENRO-LGU, municipality(ies)/city(ies) and

7. The Applicant secures the corresponding certifications of posting and submits the same to the P/CMRB.
8. The P/CMRB through the ENRO-LGU conducts field verification upon payment of the required fees.
9. The P/CMRB undertakes final review/evaluation of the application and submits recommendation/s through Board Resolution to the concerned Provincial Governor/City Mayor for the approval/ denial.
10. The Provincial Governor/City Mayor approves the application upon submission by the applicant of the required Environmental Compliance Certificate (ECC).

The applicant who first filed and registered his/ her application **with complete mandatory requirements**

C. Registration and Releasing of Permit

The Permit holder is required to:

1. Post the surety bond whenever applicable.
2. Register the permit prior to its release.

D. Conversion of SSM Contract to a Large-Scale Mining Operation

In case the small-scale mining contractor would like to convert into large-scale operations, it should submit a written request to the Board. If the request is warranted, it shall be forwarded to the MGB Regional Office. The rules and procedures for large-scale mining under the provisions of R.A. No. 7942 shall govern.

Reportorial Requirements

The Permit / Contract holder shall submit sworn monthly reports on production and sales of mineral resources and employment and taxes paid and sworn integrated report to the concerned P/CMRB, copy furnished the concerned MGB Regional Office.

Late or non-submission of reports shall be ground for cancellation or non-renewal of permit/contract and shall be subject to fines and penalties which shall be determined by the P/CMRB. In the absence of guidelines for such fines and penalties, the provisions of Section 271 of DAO No. 2010-21 shall apply.

Renewal of Permit

- A. The Contractor/ Permit holder shall file the application for renewal with the **Provincial Governor/ City Mayor through the P/CMRB not later than** sixty (60) days prior to the expiration of the contract/permit. Renewal of the contract/permit shall be based, among others, on the complete submission of the mandatory requirements. **Applications for the renewal filed after the expiration shall not be accepted. The area applied for shall be declared open for mining application.**
- B. The P/CMRB may require submission of other supporting documents relevant to the application for renewal.

Adjudication of Mining Conflicts

The adjudication of conflicts within the purview of the devolved functions shall be the responsibility of the Board. The decision of the Board shall be endorsed to the Governor/City Mayor for approval. The decision shall be final and executory after the lapse of 15 days unless the aggrieved party files an appeal to the DENR Secretary within the same period. The decision of the Secretary of DENR is appealable to the Office of the President.

Penalties and Fines

The LGU shall, after due process, impose appropriate penalties and/ or fines for violation of pertinent laws pursuant to the pertinent provisions of R.A. 7076, PD No. 1899 and their implementing rules and regulations. Provided, that the LGU may impose appropriate additional penalties and/ or fines as may be provided for under its local ordinance/s.

THANK YOU

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