



## ADMINISTRATIVE ORDER

No. \_\_\_\_\_

**SUBJECT: AMENDMENT TO DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES ADMINISTRATIVE ORDER NO. 2010-21 OR THE REVISED IMPLEMENTING RULES AND REGULATION OF REPUBLIC ACT NO. 7942, THE "PHILIPPINE MINING ACT OF 1995"**

Pursuant to Section 8 of Republic Act No. 7942, otherwise known as the "*Philippine Mining Act of 1995*" and in compliance with the Memorandum dated July 6, 2012 of the Office of the President re: "*Implementing and Operationalizing the Mining Policies of the Administration*" pursuant to Executive Order No. 79 dated July 6, 2012 in re: "*Institutionalizing and Implementing Reforms in the Philippine Mining Sector Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources*," the following amendments to Department of Environment and Natural Resources Administrative Order (DAO) No. 2010-21, are hereby promulgated for the guidance and compliance of all concerned:

**Section 1.** Sections 189-192 are hereby amended to read as follows:

**"Section 189. Mine Wastes and Tailings Fees Reserve Fund**

Mine Wastes and Tailings (MWT) fees shall be collected semi-annually from each operating Contractor/ Permit Holder or its operator based on the amounts of mine wastes and tailings it generated for the said period. The amount of fees collected shall accrue to a MWT Reserve Fund and shall be deposited in the Bureau of the Treasury to be used for payment of compensation for damages caused by any mining and mineral processing operations. The MWT Reserve Fund shall also be utilized for the operation of the Regional Investigation and Assessment Team, and for research projects duly approved by the Contingent Liability and Rehabilitation Fund Steering Committee, which are deemed necessary for the promotion and furtherance of its objectives.

**Section 190. Mine Wastes and Tailings Fees**

The basic fees that shall accrue to the MWT Reserve Fund shall be PhP0.10/metric ton of mine wastes and PhP0.15/metric ton of tailings both generated from the mining/quarrying/mineral processing operations: *Provided*, That the amount of MWT fees per semester shall have a minimum of PhP2,500.00, payable by all Contractors/Permit Holders: *Provided further*, That there will be a succeeding increase of (PhP0.05/metric ton)/year for five (5) years for both MWTF. A review after five (5) years shall be conducted to determine if further increase is needed.

Mine wastes and tailings utilized in the following manner will be exempted from payment of MWT fees:

- a. Filling materials for underground mine openings;
- b. Filling materials for surface mined-out areas, roads, housing and other infrastructure projects and tailings storage facility embankment: *Provided*, That such areas shall not affect natural drainage systems as may be

determined by the MRF Committee through MMT: *Provided*, That such areas shall not affect natural drainage systems as may be so determined by the MRFC through the MMT: *Provided, further*, That those tailings that spilled during tailings storage facility failure or were discharged into areas (e.g. river systems, agricultural lands, etc.) other than the approved tailings storage facility area shall pay **₱100.00/MT** without prejudice to other penalties and liabilities, the Contractor/Permit Holder or its operator shall be subject to, under other existing laws, rules and regulations: *Provided, finally*, That said amount shall accrue to the MWT Reserve Fund;

- c. Concreting and manufacture of concrete products; and
- d. Donation to the community: *Provided*, That such materials can be donated as long as it will not affect the environment; *Provided further*, That a written request from the community on the intended use of the said materials should be submitted together with the semi-annual report. Non-submission of the said written request from the community shall mean disqualification from exemption from payment of MWT fees.

In lieu of the mine wastes fee, nickel mines shall pay an amount of PhP1.00/metric ton of ore shipped or a minimum fee of PhP500,000.00 per annum, whichever is higher, to be known as Environmental Damaged Compensation Fee. The amount of fee collected shall accrue to a MWT Reserve Fund and shall be deposited in the Bureau of the Treasury to be used for compensation for damages caused by nickel mining operations.

The Secretary, upon the recommendation of the Director, is authorized to increase the said fees when national interest and public welfare so require.

#### **Section 190-A. Submission of Sworn Semi-Annual Report on the Amount of Mine Wastes and Tailings Produced, Contained and/or Utilized**

All operating Contractors/Permit Holders or its operators shall submit a sworn semi-annual report to the Bureau, copy furnished the Regional Office concerned within fifteen (15) calendar days after the end of each semester using the prescribed format (MGB Form No. 18-1).

A Contractor/Permit Holder or its operator with no mine wastes and tailings generated shall likewise submit sworn semi-annual report stating that for the said period no such materials were generated.

The Regional Office concerned shall conduct semi-annual field verification of the amount of mine wastes and tailings produced, contained and/or utilized by each Contractor/Permit Holder or its operator using the prescribed format (MGB Form No. 18-1a) and submit verification report(s) to the Bureau as basis for periodic audits.

#### **Section 191. Payment of Mine Waste and Tailings Fees Due**

MWT fees shall be payable to the Bureau/Regional Office concerned within forty five (45) calendar days after the end of each semester. Proof of payment of MWT fees to the Bureau shall be furnished to the Regional Office concerned by the Contractor/Permit Holder or its operator.

## **Section 192. Penalties**

Late or non-submission of sworn semi-annual report shall mean non-availment of the exemption from payment of MWT fees and imposition of fines provided under Section 271 hereof.

Failure to comply with payments of the MWT 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/Permit Holder or its operator shall be duty bound to pay for damages incurred due to previously exempted mine wastes and tailings as described in Section 190 hereof.

Payments for the mine wastes and tailings generated, which were previously requested for exemption from payment of fees but were denied based on the verification report of the Regional Office concerned, 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 2. Separability Clause**

If any clause, sentence, section or provision of Order is held or declared to be unconstitutional or invalid by a competent court, the remaining parts shall not be affected thereby.

## **Section 3. Repealing and Amending Clause**

All orders, rules and regulations, issuances and circulars or parts thereof that are inconsistent with or contrary to the provisions of this Order are hereby repealed, amended or modified accordingly.

## **Section 4. Effectivity**

This Order shall take effect fifteen (15) days following its complete publication in a newspaper of general circulation and fifteen (15) days after registration with the Office of the National Administrative Register.

**ROY A. CIMATU**  
Secretary

Recommended Approval:

**ATTY. WILFREDO G. MONCANO**  
Acting Director  
Mines and Geosciences Bureau