

September 4, 2008

**DENR ADMINISTRATIVE ORDER
NO. 2008- 20**

Subject : Issuance of Mineral Ore Export Permit (MOEP) for Transport/ Shipment Outside the Philippines of Mineral Ores, Including Tailings

Pursuant to the Mining Act (RA 7942) and Executive Order No. 469 as amended and in order to eradicate undervaluation, misdeclaration and red tape in the exportation of mineral ores and improve the collection of excise tax on minerals, all transport/shipment of mineral ores, including tailings, outside the Philippines shall be covered by Mineral Ore Export Permit (MOEP), consistent with the following guidelines:

Section 1. Coverage

This Order shall cover the guidelines for the filing, processing and issuance of Mineral Ore Export Permit (MOEP) for the transport/shipment outside the Philippines of all mineral ore(s), including tailings; by permit holders and other mining rights holders, including small scale mining permits.

The exportation of processed minerals, including gold bullions, by permit holders and other mining right holders, including those within the special economic zones, shall continue to be in accordance with existing guidelines and not covered by this Order.

Section 2. Application for MOEP

All exports of mineral ore(s), including tailings are hereby required to apply for Mineral Ore Export Permit (MOEP) from the DENR, prior to loading.

For efficient processing of the MOEP and in order to avoid delays, all applications (Annex 1) for MOEP shall be filed, directly with the Office of the DENR Secretary, sixty (60) calendar days before the actual date of shipping. The volume of mineral ore covered by the application shall not exceed the estimated available volume of mineral ore in the stockpile(s) during the validation/verification.

Section 3. Mandatory Requirements

The mandatory requirements in the acceptance of an application for MOEP are as follows:

- a. Ore Transport Permit (OTP) or Delivery Receipt in the case of sand and gravel permit holders;
- b. Marketing Contract/Sales Agreement with the purchaser;
- c. Copy of the Permit/contract issued to the Permit Holder/ Contractor, and/or Accreditation of traders, retailers, processors, whichever is applicable;
- d. Other supporting papers as the Secretary may require or the applicant may submit.

Section 4. Inter-agency Validation/Processing of MOEP

Within the sixty (60) day period, the DENR Secretary/MDC Chairman shall cause for an inter-agency validation by the DENR/MGB and the DOF/BIR, upon payment of the required verification fee by the applicant as provided for under DENR Administrative Order No. 2005-08, to determine, among others, the grade, volume and value of the mineral ores, including tailings, to be exported. The inter-agency validation report shall be the basis for the computation of the 2% excise tax on minerals and the issuance of the MOEP.

Section 5. Issuance of an MOEP

The DENR Secretary shall issue the MOEP (Annex 2) within ten (10) working days from the completion of validation/verification.

Every transport/shipment outside the Philippines of mineral ore(s), including tailings by permit holders and other mining rights holders, including small scale mining permits, must be accompanied by the MOEP issued by the Secretary and the proof of payment of the required excise tax.

Any transport/shipment outside the Philippines of mineral ore(s), including tailings, without a validly issued OTP and MOEP shall be considered prima facie evidence of illegal mining and shall cause the seizure/confiscation of the mineral ore(s)/tailings, along with the tools, equipment and conveyances used in the transport/shipment of the said materials, and shall serve as sufficient ground for the cancellation of the permit/contract/accreditation/lease agreement.

Section 6. Deployment of DENR Personnel and Monitoring

DENR personnel may be deployed in all public/private ports, sea and air, to monitor exportation of mineral ore(s), including tailings.

For purposes of monitoring, all MOEP holders are hereby required to submit a shipment report, including copies of the Export Clearance issued by the Bureau of Customs and the authenticated receipt issued by the buyer/recipient, to the concerned MGB Regional Office, copy furnished the Office of the Secretary, DENR, within thirty (30) days after the shipment.

Section 7. Penal Sanctions

Any permit holders, including small scale mining permits and other mining rights holders who fail to present the MOEP in the course of transport/shipment of the mineral ore(s), including tailings upon demand by authorized MGB/DENR personnel and other deputies and/or law enforcement authorities, shall be considered as prima facie evidence of illegal mining/theft of minerals and shall be sufficient cause for the seizure/confiscation of the said materials and the tools and equipment, including the conveyances used in the transport/shipment of the said materials.

Acts in violation of this Order shall be sufficient ground for the cancellation of the mining permit, mining contract, accreditation or mining authorization of the party/ies involved.

The provisions of Chapter XII of DAO No. 96-40, as amended, pertaining to execution of sworn statements, assessment and issuance of seizure receipts and confiscation orders, filing of complaints, disposition of seized or confiscated mineral commodities, tools, equipment and conveyance, remittance of proceeds of sale and reporting, among other related concerns, shall apply.

Section 8. Separability Clause

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

Section 9. Repealing Clause

All orders, circulars and policy issuances inconsistent with or contrary to the provisions of this Administrative Order are hereby repealed or modified accordingly.

Section 10. Effectivity

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

(Sgd). JOSE L. ATIENZA, JR.

Secretary

Publication: The Philippine Star, September 16, 2008
Acknowledgement: ONAR, U.P. Law Center, September 16, 2008

ANNEX I

Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

APPLICATION FOR MINERAL ORE EXPORT PERMIT

Application Number : _____
Date Filed : _____
Applicant : _____
(Contractor/Permit Holder/ Dealer/ Retailer/ Mining Right Holder)
Mining Tenement : _____
denominated as : _____

Trader/Retailer/Dealer Accreditation
Number : _____
Date Granted : _____
Expiry Date : _____
Location/Source : _____

Commodity : _____
Specifications : _____
(Ave. grade/metal content/Sp. Gr./Moisture Content, etc.)

Volume/Tonnage
Applied for (Mt/M³) : _____
Sold to : _____
Destination : _____
Mode of Transport : _____
Port Location : _____

Estimated Gross Value
of Commodity : _____
Estimated Excise Tax/
Extraction Fee : _____

1. In accordance with the provisions of the Department of Environment and Natural Resources Administrative Order No. 96-40, as amended, or the Revised Implementing Rules and Regulations of Republic Act No. 7942 or the Philippine Mining Act of 1995, I, _____, for and on behalf of _____
(Business Name)
hereby applies for a Mineral Ore Export Permit (MOEP). Attached is the pertinent Secretary's Certificate/ Special Power of Attorney/ Authorization.
2. The applicant agrees that the statements made in the application or made later in support thereof, shall be considered as conditions and essential parts of the MOEP that may be granted by virtue thereof and any falsehood in these statements or omissions of facts which may later change, or affect substantially the facts set forth in said statements shall be sufficient ground for the cancellation of the MOEP applied for.
3. The applicant further binds himself to submit additional requirements should the DENR Secretary or his authorized representative deem it necessary for the purpose(s) of determining his qualification for the MOEP application.
4. This application is filed for the exclusive use and benefit of the applicant and shall not, in any circumstances, be used neither directly nor indirectly for the benefit of any other person, corporation, association, incorporation or partnership.
5. The foregoing statements are hereby certified to be true to the best of the applicant's knowledge and belief.

Applicant

T.I.N. NO: _____

A C K N O W L E D G E M E N T

Republic of the Philippines)
Province of _____)
City/
Municipality of _____)

Subscribed and sworn to before me that at the place aforesaid on this _____ day of _____, _____ affiant exhibited to me his/her Community Tax Certificate No. _____ issued at _____ on _____.

NOTARY PUBLIC

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

ANNEX I

Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

MINERAL ORE EXPORT PERMIT

Permit Number : _____
Granted to : _____
Date of Issue : _____
Expiry Date : _____
Issued to : _____
(Contractor/Permit Holder/Dealer/ Retailer/ Mining Right Holder)
Mining Tenement : _____
denominated as : _____

Date Granted : _____
Expiry Date : _____
Location/Source : _____
Commodity : _____
Specifications : _____

(Ave. grade/metal content/Sp. Gr./Moisture Content, etc.)
Volume/Tonnage
Applied for (Mt/M³) : _____
Sold to : _____
Destination : _____
Mode of Transport : _____
Port Location : _____

Estimated Gross Value
of Commodity : _____
Estimated Excise Tax/
Extraction Fee : _____

For the Republic of the Philippines
(Grantor)

By:

Secretary
Department of Environment and Natural Resources
ACKNOWLEDGEMENT

Republic of the Philippines)
Province of _____)
City/
Municipality of _____)

Subscribed and sworn to before me that at the place aforesaid on this _____ day of _____, _____ affiant exhibited to me his/her Community Tax Certificate No. _____ issued at _____ on _____.

NOTARY PUBLIC

Doc. No. _____
Page No. _____
Book No. _____
Series of _____