

**DENR Administrative Order**  
**No. 2000 – 101**  
**December 21, 2000**

**Subject : Amendments to the Rules and Regulations of the National Pollution Control Commission (1978) Incorporating Permit Regulations Governing Mine Waste and Mill Tailings Storage Structures.**

To further rationalize and harmonize the management of mine and mill tailings storage structures pursuant to Section 1 of Presidential Decree (P.D.) No. 984, otherwise known as the “National Pollution Control Decree of 1976”, Section 2 of P.D. No. 1152, otherwise known as the "Philippine Environment Code", Section 1 of P.D. No. 1586, establishing an "Environmental Impact Statement System", Chapters XI, XV and XVI of Republic Act No. 7942, otherwise known as the 'Philippine Mining Act of 1995', Section 2c of D.A.O. No. 96-37, implementing P.D. No. 1586, and DENR Memorandum Order (D.M.O.) No. 99-32, the DENR hereby issues the following amendments to Chapter V - Permit Regulations of the “Rules and Regulations of the National Pollution Control Commission (1978)”, promulgating P.D. No. 984, for the guidance and compliance of all concerned.

**Section 1 - Rationale**

- a. Under P.D. No. 984, it is declared a national policy to prevent, abate and control pollution of water, air and land for more effective utilization of resources in this country.
- b. Pursuant to Section 19 of P.D. No. 1152, the production, utilization, storage and distribution of hazardous, toxic and other

substances such as mine tailings and other substances that may pollute any body of water of the Philippines resulting from normal operations of industries, water-borne sources, and other human activities, as well as those resulting from accidental spills and discharges, shall be regulated by appropriate Government agencies pursuant to their respective charters enabling legislations.

- c. Under P.D. No. 1586, it is declared policy of the State to attain and maintain a rational and orderly balance between socioeconomic growth and environmental protection.
- d. Under RA No. 7942, it is declared that all mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation through the combined efforts of Government and the private sector in order to enhance national growth in a way that effectively safeguards the environment and protect the rights of affected communities.
- e. As per Section 2c of Article I of D.A.O. No. 96-37, maximum public participation in the Environmental Impact Assessment (EIA) process shall be enhanced to validate the social acceptability of the project or undertaking so as to ensure the fullest consideration of the environmental impact of such project or undertaking.
- f. Under D.M.O. No. 99-32, it shall be the policy of the State that mine wastes and mill tailings produced by mining operators, permit holders and contractors shall be managed in a technically, financially, socially, culturally and environmentally acceptable manner in a way that effectively safeguards the environment and protects the rights of concerned communities.
- g. It is imperative that a standard policy be adopted for the issuance of an Authority to Construct and/or Permit to Operate mine waste and

mill tailings storage structures to harmonize existing policies to achieve complementation and coordination among concerned Government agencies in view of the need to enhance their management.

- h. There is a need to modify the permit regulations as prescribed under the "Rules and Regulations of the National Pollution Control Commission (1978)" to make it more effective and efficient in the discharge of the permit regulations for mine wastes and mill tailings storage structures and responsive to the demands of the times occasioned by the changes in laws.

## **Section 2 - Objective**

- a. To harmonize existing policies to achieve complementation and coordination among concerned Government agencies in view of the need to enhance management of mine wastes and mill tailings storage structures; and
- b. To effectively manage mine wastes and mill tailings in an environmentally sustainable manner with due regard to safety and health, social and cultural concerns.

## **Section 3 – Definition of Terms**

As used in and for purposes of this Order, the following terms shall mean:

- a. "Authority to Construct and Operate - Mill Tailings Storage Structures (ACO-MTSS)" refers to the legal authorization granted by the concerned EMB-RO to construct, operate, maintain, modify or make alterations to any mill tailings, storage structures, as well as the legal authority to rehabilitate the same.

- b. "Authority to Construct and Operate - Mine Wastes Storage Structures (ACO-MWSS)" refers to the legal authorization granted by the concerned EMB-RO to construct, operate, maintain, modify or make alterations to any mine wastes storage structures, as well as the legal authority to rehabilitate the same.
- c. "DENR" refers to the Department of Environment and Natural Resources.
- d. "Environmental Compliance Certificate (ECC)" refers to the document issued by the Secretary or RED certifying that based on the representations of the proponent and the EIS preparers, as reviewed and validated by the EIA Review Committee, the proposed project or undertaking will not cause a significant negative environmental impact; that the proponent has complied with all the requirements of the EIA system; and that the proponent is committed to implement its approved EMP in the EIS or mitigation measures in the IEE.
- e. "EMB" refers to the DENR Environmental Management Bureau Office.
- f. "EMB-RO" refers to the concerned DENR Environmental Management Bureau-Regional Office.
- g. "MGB" refers to the DENR Mines and Geosciences Bureau-Central Office.
- h. "MGB-RO" refers to the concerned DENR Mines and Geosciences Bureau-Regional Office.
- i. "RED" refers to the concerned Regional Executive Director of the DENR Regional Office.
- j. "Secretary" shall mean the Secretary of the DENR.

- k. "Social Acceptability" refers to the result of a process mutually agreed upon by and among the DENR key stakeholders and the proponent to ensure that the valid and relevant concerns of stakeholders, including affected communities, are fully considered and/or resolved in the decision-making process for granting or denying the issuance of an ECC.

Other terms used in this Order shall have their meaning as defined in the above-quoted Act, PDs, DAOs, and DMO.

#### **Section 4 - Permit Regulation Governing Mine Waste and Mill Tailings Storage Structures**

No mine waste and mill tailings storage structures shall be constructed, operated and/or maintained unless the same are covered by a current and valid Environmental Compliance Certificate (ECC) issued by the DENR and an Authority to Construct and Operate (ACO) issued by the concerned Environmental Management Bureau Regional Office (EMS-RO) of the DENR.

#### **Section 5 – Social Acceptability**

Section 1.0 Article IV of D.A.O. No. 96-37 provides that the acceptability of the environmental impact of the project or undertaking can only be fully determined through meaningful public participation, transparent Environmental Impact Statement (EIS) process and the issuance of the corresponding ECC. The ECC for the project carries with it the social acceptability of the mine waste and mill tailings storage structures: *Provided*, That the integrity of the mine wastes and mill tailings storage structures have been adequately proven in the EIS.

## **Section 6 - Filing Fees for Applications**

A fee as prescribed by the DENR shall be paid to the EMB-RO upon filing of each of the following applications:

- a. For Authority to Construct and Operate a Mine Wastes Storage Structure;
- b. For Authority to Construct and Operate a Mill Tailings Storage Structure;
- c. For transfer of an existing and valid to Construct and Operate by reason of change of mining operators, permit holders and/or contractors; and
- d. For revision of any existing and valid ACO involving modification/alteration of the original design of mine wastes and/or mill tailings storage structures.

Filing fee shall be charged against any application for ACO duty filed with the concerned EMB-RO upon the effectivity of this Order.

## **Section 7 - Application for Authority to Construct and Operate**

An application for an ACO shall be filed and processed as prescribed by the concerned EMS-RO. Application for ACO shall be supported by the official receipt of the filling fee and by other documents, information and data prescribed under the provisions of D.M.O. No. 99-32, in particular Section 27 thereof, which requires an appropriate clearance issued by the concerned MGB RO.

## **Section 8 - Life and General Conditions of the Authority to Construct and Operate**

The ACO shall be valid up to the end of the construction, operation and rehabilitation/decommissioning of the approved final

design of the mine wastes and/or mill tailings storage structures.

Any modification/alteration/change in the original design of mine wastes and/or mill tailings storage structures, prior to its implementation, shall require a submission of the same to the concerned EMB-RO for evaluation and approval, subject to Section 6 and 7 hereof.

### **Section 9 – Monitoring and Audit**

The mine waste and mill tailings storage structure shall be subject to regular monitoring by the Multipartite Monitoring Team pursuant to Section 185 of D.A.O. No. 96-40 and Sections 28 and 29 of D.M.O. No. 99-32.

### **Section 10 - Implementing Guidelines and Instructions**

The EMB in coordination with the MGB may, from time to time, issue such other guidelines, directives and implementing instructions for the orderly and effective implementation of these rules and regulations.

### **Section 11 - Penalty Clause**

In addition to and without prejudice to such other remedies as may, by law, be applicable under the circumstances, any mining operators, permit holders, and/or contractors who willfully violate or grossly neglect to abide by these rules and regulations and which cause environmental damage through pollution shall suffer the penalty as provided for under the above-quoted Act, PDs, DAOs, and DMO.

### **Section 12 – Repealing Clause**

This Order modifies Chapter V Permit Regulations of the “Rules and Regulations of the National Pollution Control Commission

(1978)”. All orders, circulars and issuances which are inconsistent herewith are hereby repealed and/or modified accordingly.

### **Section 13 - Separability Clause**

If any of this rules and regulations is declared unconstitutional or otherwise defective on any grounds, the remaining parts not affected thereby shall remain valid and effective.

### **Section 14 - Effectivity**

This Order shall take effect immediately.

**(Sgd.) ANTONIO H. CERILLES**  
Secretary

Publication:

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