

**DENR Administrative Order
No. 2000-25
March 09, 2000**

SUBJECT : Implementing Rules and Regulations of Executive Order No. 153 - "Authorizing the Utilization of Offshore Areas Not Covered by Approved Mining Permits and Contracts as Sources of Dredgefill Materials for Government Reclamation Projects and for Other Purposes".

Pursuant to *Section 4 of Executive Order No. 153* "Authorizing the Utilization of Offshore Areas Not Covered by Approved Mining Permits and Contracts as Sources of Dredgefill Materials for Government Reclamation Projects and for Other Purposes", the following Implementing Rules and Regulations are hereby promulgated:

SECTION I. Rationale

It is in the public interest to prioritize government projects to enhance the delivery of services vital to the Government's economic and social development programs, and that it is very necessary to ensure adequate, low cost and continuous supply of raw materials in order not to hamper or delay the implementation of projects by the Government, or of large scale projects that involve the interests of the State, such that sand, gravel and other dredgefill materials from offshore submerged lands which are highly suitable raw materials for Government Reclamation Projects and other civil works related to government projects, may be developed and utilized by the State.

Section 2. Definition of Terms

The following terms whether singular or plural shall mean:

- a. **"Aggregates"** refer to unconsolidated or loose sand, gravel or boulder on the seafloor that is suited for reclamation, concreting and other engineering works.
- b. **"Borrow area"** refers to an area that had been *technically* delineated or Identified as source area of Seabed Quarry Resources.
- c. **"DAO 96-37** as revised refers to the DENR Administrative Order No. 96-37 of 1996 which revises and strengthens the Implementing rules and regulations of the Environmental Impact System (EIS).
- d. **"DAO 96-40** refers to the revised implementing rules and regulations of RA 7942 otherwise known as the Philippine Mining Act of 1995.
- e. **"Dredgefill Materials"** refer to suitable materials taken from the seabed which may be used for reclamation without undergoing processing.
- f. **"Environmental Compliance Certificate (ECC)"** refers to the document issued by the Secretary or the Regional Executive Director certifying that based on the representations of the proponent and the preparers (the proponent's technical staff or the competent professional group commissioned by the proponent to prepare the environmental impact statement and other related documents), as reviewed and validated by the Environmental Impact Assessment Review Committee (EIARC), the proposed project or undertaking will not cause a significant negative environmental impact; that the proponent has complied with all the requirements of the Environmental Impact System; and that the proponent is committed to implement its approved Environmental Management Plan in the Environmental Impact Statement or mitigation measures in the Initial Environmental Examination.

- g. **"Environmental Impact Assessment (EIA)"** refers to the process of predicting the likely environmental consequences of implementing projects or undertakings and designing the appropriate preventive, mitigating and enhancement measures.
- h. **"Environmental Protection and Enhancement Program (EPEP)"** refers to the comprehensive and strategic environmental management plan for the life of the offshore mining project on which the EPEP's are based and implemented to achieve the environmental objectives, criteria and commitments including protection and rehabilitation of the disturbed environment.
- i. **"Environmental User's Fee"** refers to the fee to be collected from any Contractor or Permittee/Permit Holder who makes use of the nearshore/offshore areas or its tributary rivers and streams for the purpose of seabed quarrying/dredging operations.
- j. **"Environmental Work Program (EnWP)"** refers to the comprehensive and strategic Coastal and Offshore environmental management plan to achieve the environmental objectives, criteria and commitments including protection and rehabilitation of the disturbed environment during the exploration period.
- k. **"Exploration Work Program (ExWP)"** refers to the detailed outline of activities and financial plan to be followed in searching or prospecting for marine mineral resources by geophysical, geological, drilling and other means for the purposes of determining their existence, extent, quality and quantity and the feasibility of mining them for profit.
- l. **"Government Reclamation Projects"** refer to reclamation of areas under water whether foreshore, offshore or inland being or to be undertaken by the National Government by and through the Public Estates Authority (PEA) or by any person or entity authorized by the latter under a proper contract including reclamation projects of any government units or agencies or corporations authorized to reclaim under existing laws. All these reclamation projects are undertaken with the approval of the President of the Philippines and in consultation with PEA pursuant to P.D. 3-A and E.O. 525.

- m. **"Government Seabed Quarry Permit"** refers to permit issued by the Secretary, upon the recommendation of the Director, to a Qualified Person or Government Agency/Instrumentality, to utilize the areas not covered by approved mining permits/contracts, including areas covered by pending mining rights applications, In connection with Government Reclamation Projects and for other purposes.
- n. **"Law of Seas"** refers to the International covenant approved by UNCLOS in 1982 that establishes the comprehensive framework for the regulation of all ocean spaces and contains provisions governing the limits of national jurisdiction over ocean spaces, access to the seas, navigation, protection and preservation of marine environment, and exploitation of its living and non-living resources, scientific research and seabed mining.
- o. **"Marine Habitat"** refers to the natural breeding, spawning and feeding places of marine organisms that are ecologically important for their preservation and propagation such as fish sanctuary, refuge and protected areas.
- p. **"Mineral Reservations"** refer to areas established and proclaimed as such by the President upon recommendation of the Director through the Secretary, including all submerged lands within the Philippine Territory and Exclusive Economic Zone.
- q. **"Mineral Resources"** mean any concentration of ores, minerals and/rocks with proven or potential economic value.
- r. **"Mining Operations"** mean mining activities involving exploration, feasibility study, development and utilization of mineral resources.
- s. **"NIPAS Act (R.A. 7586)"** refers to Republic Act No. 7586 of 1992, an Act providing for the establishment and management of the National Integrated Protected Areas System.
- t. **"Qualified Person"** means any Filipino Citizen of legal age and with capacity to contract; or a corporation, partnership, association or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development, duly registered in accordance with

law, at least 60% of the capital of which is owned by Filipino Citizens, with a minimum authorized capitalization of 10 Million pesos and a minimum paid up capital of 2.5 Million Pesos, with a satisfactory environmental and community relations track record, if applicable.

- u. **"PD 1152"** refers to the Philippine Environmental Code of 1977
- v. **"PD 1586"** refers to the Presidential Decree establishing an Environmental Impact System including environmental management related measures and for other purposes.
- w. **"R.A. 7942"** refers to the Philippine Mining Act of 1995, An act institutionalizing a new system, of mineral resources exploration, development, utilization and conservation.
- x. **"Seabed Quarry Resources"** refer to sand, gravel, boulders and other aggregates or loose materials from the seabed which may be used without undergoing processing : *Provided*, That such seabed quarry resources do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities: *Provided, further*, That nonmetallic minerals such as, bull quartz, quartz or silica, sand, sand and pebbles, precious and semiprecious stones and other nonmetallic minerals that may later be discovered and which the Director declares to be of economically workable quantities, shall not be classified under the category of "Seabed Quarry Resources".
- y. **"Seabed Quarrying"** means the process of extracting, removing and/or disposing quarry resources found in offshore areas.
- z. **"Special Exploration Permit"** a permit issued by the Secretary, upon recommendation by the Director to an applicant of a GSQP who has not conducted any exploration work, or to a qualified Government Entity/Instrumentality that is going to conduct exploration over the offshore/submerged land area.
- aa. **"Winning Bidder/Awardee"** refers to an entity duly accredited under Philippine Laws who is financially and technically capable to finance and undertake a reclamation project in accordance with

PEA approved guidelines, and is an awardee of a government reclamation project.

All other terms which are not defined herein, shall have the same meaning as those in Sec. 5 of DENR-DA 0 96-40.

SECTION 3. Authority of DENR/NRDC

The Department of Environment and Natural Resources (DENR) shall be the primary government agency responsible for the conservation, management, development and proper use of the State's marine mineral resources including those in reservations, watershed areas and public domain.

Mineral exploration and development in existing Mineral Reservations and such other reservations that may thereafter be established, shall be undertaken by the DENR or through a Qualified Per.-;on in accordance with the DAO 96-40. The right to explore, develop and utilize the minerals therein shall be awarded by the Secretary of DENR under such terms and conditions as recommended by the Director of the Mines and Geosciences Bureau (MGB) and approved by the Secretary of the DENR.

The DENR shall issue the permits, to include those providing for the exploration and utilization of Borrow Areas covered by Government Reclamation Projects. Likewise, the DENR shall regularly monitor, verify, validate and regulate all exploration and dredging activities of Government Reclamation Projects, subject to all applicable valid and existing rules and regulations;

The Natural Resources Development Corporation (NRDC), as the corporate arm of the DENR, is responsible to help promote the development of the country's natural resources. NRDC, as a Government Corporation, may conduct Mining Operation for the development of Mineral Resources, including seabed quarrying in

existing Mineral Reservations, offshore areas and submerged lands within the Philippine Territory.

If applicable, the DENR, or through NRDC, shall collect the management fees, service fees, environmental user's fees and other fees in connection with Government Reclamation Projects.

SECTION 4: Authority of the MGB

The Mines and Geosciences Bureau (MGB) shall have the direct charge in the administration and disposition of mineral lands and mineral resources, and shall undertake geological, mining, metallurgical, chemical and other researches as well as geological and exploration surveys.

The management of Mineral Reservations established by law and those declared by the President, and the manner of disposition of the minerals found therein shall be under the jurisdiction of the MGB.

The MGB shall promulgate the necessary rules and regulations for the implementation of the Philippine Mining Act (R.A. 7942), including the procedural guidelines that shall govern offshore mining and seabed quarrying.

SECTION 5: Authority of PEA

All Government Reclamation Projects shall be undertaken by the Public Estates Authority (PEA) or through a proper contract executed by it with any person or entity: *Provided*, That reclamation projects of any National Government Entity/instrumentality authorized under its charter or other existing laws shall be undertaken in consultation with and under the supervision and regulation of PEA.

All Government Reclamation Projects shall be approved by the President of the Philippines upon recommendation by the PEA. PEA shall also be responsible for the identification of Borrow Areas as sources of Dredgefill Materials for all Government Reclamation Projects, subject to verification by DENR with respect to environmental concerns.

The PEA shall be responsible for the approval of bids or awards for contracts of work for Government Reclamation Projects. The winning bidder or Project Contractor/Awardee shall have priority for the use of PEA-identified borrow areas not covered by approved mining permit/contract including those offshore areas covered by pending mining application, subject to the qualification requirements under R.A. 7942 regarding the right to explore, develop, utilize and dispose of mineral resources. .

SECTION 6: Authority to Utilize Areas Not covered by Approved Mining Permits/Contracts as Borrow Areas for Government Reclamation Projects

The Government thru the DENR, NRDC and PEA, has the right to utilize offshore areas not covered by approved mining permits/contracts, including areas covered by pending mining applications, as borrow areas for dredgefill materials for existing and future Government Reclamation Projects.

Surveys, sampling, site selection, dredging, and related operations in borrow areas shall be subject to monitoring by the DENR, for compliance with *R.A. 7942, DAO 96-40, PD 1152, PD 1586, DAO 96-37* as revised, *NIPAS Act (R.A. 8556), UN Law of the Seas* and all their implementing rules and regulations.

SECTION 7: Authority to Utilize Areas Not covered by Approved Mining Permits/Contracts as Borrow Areas for Government Projects Other than Government Reclamation Projects

When public interest so requires, to ensure adequate, low-cost and continuous supply of raw materials, and in order not to hamper or delay the implementation of its priority projects, the Government may exercise its right to utilize the areas not covered by approved mining permits/contracts, including areas covered by pending mining rights applications. **Provided,** That the proposed permit/borrow area(s) shall be first subjected to technical and environmental evaluation/verification by the Bureau at the expense of the concerned Government Entity/instrumentality or a Qualified Project Contractor.

SECTION 8: Scope of Seabed Quarrying

The following areas are open to Seabed Quarrying applications:

- a. Offshore areas not covered by valid and existing mining rights;
- b. Offshore areas covered by expired/abandoned/cancelled offshore mining and quarrying rights;

In addition to the areas closed to Mining Applications (MA) under Sec. 15(a) of DAO 96-40, the following offshore areas are also excluded from seabed quarrying/dredging applications:

- a. Less than 1,500 meters (m) distance from the nearest coastline (mean low tide level) of land or island(s) and where the seabed depth is less than 30 m measured at mean sea level;
- b. Less than 1,000 m distance from the nearest boundary of a declared National Integrated Protected Area System (NIPAS) component or Protected Area such as marine park/reserve, fish sanctuary, etc.;

- c. Less than 500 m from all sides of production oil rigs and platforms, piers/ports, navigational sea lanes;
- d. Less than 2,000 m distance from both sides of submarine cables, pipelines, bridges and other facilities/infrastructures, unless written consent is obtained from the concerned party;
- e. Less than 1,000 m distance from coral reefs, shoals and banks with endangered Marine Habitat as delineated by PAWB-DENR; and,
- f. Exclusion/buffer corridors of 15 seconds of geographic coordinates, approximately measuring 450 m wide, as reckoned from the boundary/perimeters of valid and existing Permit/Contract Mining Areas.

Areas closed to mining application, however, may be declared open by the President, upon recommendation of the Secretary, for the expedient delivery of priority government programs/projects of national interest with due consideration to technical, environmental and social aspects.

SECTION 9: Special Exploration Permit

The Secretary, upon recommendation by the Director; may issue a **Special Exploration Permit (SEP)** to an applicant of a GSQP who has not conducted any exploration work over the applied area or to a Qualified Government Entity/instrumentality that is going to conduct exploration over the offshore/submerged land area: *Provided*, That the applicant has paid the required filing and processing fees: *Provided, further*, That the Applicant shall submit to the Bureau a location map on 1:50,000 scale, an Exploration Work Program (**ExWP**) and an Environmental Work Program (**EnWP**), proof of technical and financial

capability, and a certificate of environmental and community track records, if applicable.

The term of an SEP shall be for a period of **two (2) years** from date of issuance thereof, renewable for like period: **Provided**, That no renewal of Permit shall be allowed unless the Permittee has complied with all the terms and conditions of the Permit and has not been found guilty of violation of any provision of the Mining Act and these implementing rules and regulations

SECTION 10: Mandatory Requirement of SEP

Any Qualified Person may apply for an SEP with the Bureau, through payment of the required fees and submission of five (5) sets of the following mandatory requirements:

- a. Location map/sketch plan of the proposed *Permit Area* showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using National Mapping and Resource Information Authority (NAMRIA) topographic map in scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
- b. Two-year Exploration Work Program (ExWP) (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- c. When applicable, a satisfactory Environmental Management record and Community Relations Record as determined by the Bureau in consultation with the environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;

- d. Environmental Work Program (EnWP) (MGB Form No. 16-1 or 16-1A) as provided for in Section 168 of DAO 96-40,
- e. Proof of Technical Competence including, among others, curricula vitae and track records in exploration and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration and Environmental Work Programs;
- f. Proof of financial capability to undertake the Exploration and Environmental work Programs such as the following:
 - 1. For Individuals - Statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding year and
 - 2. For corporations, partnerships, associations or cooperatives - Latest Audited Financial Statement and where applicable, Annual Report, for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments.
- g. Photocopy of Articles of Incorporation/Partnership/ Association, By-Laws and Certificate of registration, duly certified by the Securities and Exchange Commission (SEC), or concerned authorized Government agency(ies), for corporations, partnership, associations or cooperatives;
- h. A stipulation that the Permittee shall undertake exploration work on the area as specified in its Agreement based on an approved Work Program: **Provided**, That a negative variance of at least twenty percent (20%) in the Work Program and corresponding expenditures shall be subject to approval of the Director;
- i. The name, port of registry, tonnage, type and class of survey vessel(s)/platform(s): **Provided**, That if a foreign vessel is to be

used, the expected date of first entry or appearance and final departure of the survey vessel shall be provided and all the necessary clearances obtained;

- j. A certification from the Coast and Geodetic Survey Department of the **NAMRIA** that the proposed Exploration work Program was duly registered to provide update in the publication of "Notice to Mariners" together with a list of safety measures to be regularly undertaken to ensure the safety of navigation at sea and prevent accident;
- k. An Agreement to:
 - Properly identify all installations, vessels and other crafts involved in exploration recognizable to all vessels within reasonable distance;
 - Notify the Bureau thirty (30) calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and
 - Allow the Bureau's authorized personnel, Philippine Coast Guard and other authorized persons during reasonable hour to board the vessel(s) while within the Exclusive Economic Zone.
- l. Other supporting papers as the Bureau may require or the applicant may submit.

If the applicant conducts or has conducted exploration in a foreign county(ies), the DENR shall verify the relevant requirements through the Philippines Embassy(ies) or Consulate(s) based in such county(ies).

Section 11: Area Status/Clearance for SEP/GSQP Applications

The applicant of an SEP/GSQP in connection with a Government Reclamation Project, shall secure area clearances for the proposed borrow sites from the following agencies:

- a. Mines and geosciences Bureau (MGB);
- b. Public Estates Authority (PEA);
- c. Bureau of Fisheries & Aquatic Resources (BFAR) Office concerned;
- d. Department of Transportation and Communications (DOTC) office concerned;
- e. Local Government Unit(s) concerned if within municipal waters;
- f. Department of Energy (DOE); and,
- g. Other government agencies/entities concerned, if applicable.

Within fifteen (15) working days from the receipt of the **SEP** Application, the Bureau shall check in the control maps if the area is free/open for seabed quarrying applications. The Bureau shall also transmit a copy of the location map/sketch plan of the applied area to the pertinent Department sector(s) affected by the application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the government for their information. Upon notification of the applicant by the Bureau as to the transmittal of said document to the concerned Department sector(s) and/or Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Department sector(s) and/or Government agency(ies). The concerned Department sector(s)/government agency(ies) must submit the status/consent/clearance on the proposed borrow area within thirty (30) working days from receipt of the notice: Provided, that the concerned Department sector(s)/government agency(ies) can not unreasonably deny area clearance/consent without legal and/or technical basis. Any denial on Area clearance by the concerned Department sector(s)/government agency(ies) shall be appealable to the DENR Secretary/Office of the President.

If the proposed Permit Area is **open for Seabed Quarrying applications**, the Bureau shall give written notice to the applicant to pay the corresponding Bureau clearance fee: *Provided:* That if a portion of the area applied for is not open for quarrying/mining applications, the Bureau shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of the SEP application.

SECTION 12: Postings of SEP/GSQP Applications

Within fifteen (15) working days from receipt of the necessary area clearances, the Bureau shall issue to the applicant the Notice of Application for **SEP/GSQP** for posting which shall be done within fifteen (15) working days from receipt of the Notice. The Notice must contain, among others, the name and complete address of the applicant, duration of the agreement applied for, extent of operation to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed Permit Area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

The Bureau shall cause the posting for one (1) week of the Notice on the bulletin boards of the Bureau and concerned Regional Office(s).

Within fifteen (15) calendar days from the last date of posting the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting have been complied. Any adverse claim, protest or opposition shall be filed directly, within fifteen (15) calendar days from the last date of posting with the Bureau for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim,

protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days therefrom.

No **SEP/GSQP** shall be approved unless the requirements under this Section are fully complied with and any adverse claim or dispute involving rights to mining areas and concessionaires thereto is finally resolved by the Panel of Arbitrators.

SECTION 13: General terms and Conditions of the SEP

- a. Conduct a preliminary ecological profiling to establish pre-quarrying conditions and submit a preliminary environmental examination of the area.
- b. The Permit shall be for the exclusive use and benefit of the Permittee or its duly authorized representative and, shall under no circumstances, be used by the Permittee for purposes other than exploration.
- c. The term of the SEP shall be for a period of two (2) years from date of issuance and registration thereof, renewable for a like period. Renewal of the permit shall cause the relinquishment of at least fifty percent (50%) of the permit area.
- d. The Permittee shall post a Financial Performance Surety of P 1 million to cover any accidental damages of property, loss of lives, or destruction of seabed during the conduct of the exploration work.
- e. The Permittee shall submit to the Bureau a separate report on the relinquishment with a detailed geologic report of the relinquished area incorporating therein borehole and sampling data, seismic data/profiles and geophysical/oceanographic data accompanied by maps at a scale of 1:50,000, results of analyses and corresponding

expenditures, among others. The minimum exploration expenditures for the remaining area after relinquishment shall be based on the approved ExWP.

- f. The Permittee shall submit to the Bureau within thirty (30) calendar days after the end of each semester a status report under oath on its compliance with ExWP implementation and expenditures showing discrepancies/deviations including the results of the survey, laboratory reports, geological reports/maps subject to semiannual inspection and verification by the Bureau at the expense of the Applicant: ***Provided***, That any negative deviation of at least twenty percent (20%) in the Work Program and corresponding expenditures shall be subject to approval of the Director.
- g. The Permittee shall submit to the Bureau within thirty (30) calendar days from the end of six (6) months after the approval of the EnWP and every six (6) months thereafter a status report on its compliance with the said EnWP;
- h. In case of core sample drilling, the Permittee shall, upon request of the Director, submit to the Bureau a quarter of the core samples which shall be deposited in the Core Library for reference and safekeeping;
- i. The Secretary or his/her duly authorized representative shall annually review the performance of the Permittee;
- j. Right of the Government to exercise visitorial powers over the Permit Area, including the right to station representative(s) thereat and at the Permittee's survey platform;
- k. Exploration shall be carried out in accordance with the United Nations Convention on the Law of the Sea (UNCLOS) and in a manner that will not adversely affect the safety of navigation at sea

and will ensure accommodation of other marine activities, such as, fishing, aquaculture, transportation, etc.;

1. No exploration and/or extraction of minerals shall be undertaken within the areas dosed to mining/quarrying;
- m. The Permit shall be subject to cancellation, revocation and termination as provided for in Section 20 hereof;
- n. The Permittee shall comply with pertinent provisions of the Mining Act and these implementing rules and regulations;
- o. Other terms and conditions which the Bureau/concerned Regional Office may deem appropriate.

SECTION 14: Identification and Prioritization of Borrow Pit Areas for Government Reclamation Project.

The DENR may directly undertake the exploration, identification and delineation of potential Borrow Areas as sources of dredgefill materials for reclamation projects upon initiative or request for technical assistance from PEA.

The PEA and its Contractor(s) may undertake the identification of such borrow areas, subject to the following requirements;

- i.* Initially conduct exploration survey over selected offshore areas under a Special Exploration Permit (SEP) to be issued by DENR subject to compliance with the mandatory requirements under **Section 11** hereof;
- ii.* In the event that the PEA or its Project Contractor/Awardee has undertaken the necessary exploration to the effect that there are sufficient data for the identification and delineation of potential borrow areas as validated by the DENR-MGB, PEA or its Project

Contractor/Awardee shall be exempted from securing an **SEP** and instead secure a **GSQP**.

Areas already identified by PEA as Borrow Areas for Government Reclamation Projects shall be prioritized for utilization in connection with said reclamation projects. For this purpose, PEA shall submit to DENR the list of Identified Borrow areas, their technical descriptions and location maps within two (2) months after the effectivity of these implementing guidelines, subject to the verification/validation by the DENR with respect to environmental concerns. Areas being utilized already by PEA as borrow areas for reclamation projects prior to the effectivity of E.O. 153 shall be governed by the provision of Section 25 hereof.

Section 15: Government Seabed Quarry Operations

Seabed Quarrying may be undertaken by the DENR through its corporate arm, the NRDC, or through a Qualified Person or Government Entity/Instrumentality under any of the following modes:

- a. ***Government Seabed Quarry Permit (GSQP)***; - to be issued to any Qualified Government Entity/Instrumentality or a Qualified Project Contractor/Awardee of a government priority project for a period co-terminus with the particular project;
- b. ***Government Dredging Permit (GDP)*** - to be issued to any Qualified Person or Government Entity/Instrumentality for projects that require declogging, clearing, widening and deepening of flood control waterways, sealanes, ports and harbors as part of maintenance dredging. Dredging activities related to government reclamation project are exempted from securing a **GDP**.

The DENR shall formulate the guidelines for issuance of a **GDP**.

In the case of a **GSQP**, the Secretary, upon the recommendation of the Director, may issue a **GSQP** to a Qualified Person or Government Agency/Instrumentality: *Provided*, That the proposed permit/borrow area(s) shall be first subjected to technical and environmental evaluation/verification by the Bureau at the expense of the concerned Government Entity/Instrumentality or a Qualified Project Contractor/ Awardee.

In the case of Government Reclamation Projects under **PEA** which is a Government Entity/Instrumentality mandated to administer and coordinate all Government Reclamation Projects, the Secretary shall issue the **GSQP** to the winning Bidder or Project Contractor/Awardee of a particular Government Reclamation Project: *Provided*, That the said Project Contractor/Awardee satisfies the requisites of a **Qualified Person** as defined in *DENR Memorandum Order No. 99-10: Provided, further*, That a Qualified Government Entity/Instrumentality may also be issued the **GSQP** in lieu of the Project Contractor/Awardee which falls to meet the requisite of a Qualified Person.

In the event that a Winning Bidder or Project Contractor/Awardee of a Government Reclamation Project is deemed not to be a Qualified Person by the **DENR**, the **NRDC** shall be issued the **GSQP** by the Secretary to undertake the Seabed dredging/quarrying operation for the particular Government Reclamation Project: *Provided*, That the **NRDC** may avail of the services of a Qualified Service Contractor(s) or, enter into a Memorandum of Agreement (MOA) with other Qualified Government Entity(ies)/Instrumentality(ies) to undertake the said Seabed dredging/quarrying operations.

The coverage of the **GSQP** shall specifically be for DENR-evaluated borrow areas which shall be not more than 10,000 hectares and with a term co-terminus with the particular Government

Reclamation Project: *Provided*, That the borrow areas shall, ipso facto, revert back to the jurisdiction of DENR after the Government Reclamation Project: *Provided, further*, That offshore areas which are not utilized for any existing or proposed reclamation projects or programs of PEA or the concerned Government Entity/instrumentality shall remain within the jurisdiction of the DENR.

SECTION 16: Requirements for a GSQP Application

Subject to full compliance with the requirements of the SEP, a Qualified Government Entity/Instrumentality or Qualified Project Contractor/Awardee may apply with the Bureau for a **GSQP** (MGB Form No. 8-3c) upon payment of the required filing and processing fees, for the extraction, removal and commercial disposition of Seabed Quarry Resources: *Provided*, That the **GSQP** shall be co-terminus with the project

SECTION 17: Area Clearance and Posting of GSQP Applications

The procedural guidelines on Area Clearance and Posting of **GSQP** Applications shall be in accordance with those embodied in **Sections 11 and 12**, respectively, hereof.

SECTION 18: General Terms and Conditions of the GSQP

The following terms and conditions shall be incorporated in the **GSQP**

- a. No extraction, removal and/or disposition of materials shall likewise be allowed in offshore areas within one thousand five hundred (1,500) meters distance from the coast, and within two hundred (200) meters landward from the mean low tide level along the beach and wherein the seabed depth is less than 30 meters as measured from the mean sea level;

- b. The extraction, removal and/or disposition of materials under the Permit shall be confined within the area specified therein, the boundaries of which, according to the application, are established on the ground with prominent marks;
- c. The Permit shall be for the exclusive use and benefit of the Permittee and shall not be transferred or assigned without prior written approval of the Director;
- d. The Permit Holder shall assume full responsibility and be liable for damages to private and/or public property(ies) that may be occasioned by its operations under the Permit;
- e. The Permit Holder shall post a Financial Performance Surety of P 1 Million to cover any accidental damages to property, the loss of lives, or the destruction of the seabed during the conduct of the dredging operations;
- f. The Permit Holder shall manage its operations in a technically and environmentally responsible manner to achieve a safe, non-polluting and self-sustaining post disturbance landform;
- g. The Permit Holder shall conduct its operations in accordance with the provisions of the Mining Act and these implementing rules and regulations;
- h. The Permit Holder shall not discriminate on the basis of the gender and that the Permit Holder shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
- i. The Permit Holder shall conform to laws, rules and regulations regarding, among others, labor, safety and health standards;

- j. The Permit Holder shall not interfere with the rights of other Permit Holders/ Operators/Contractors/Awardees.
- k. The Permit Holder shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;
- l. The Permit Holder shall immediately stop digging and extracting materials the moment man-made articles or artifacts are found. It shall notify the Director of the National Museum of such findings, in which case, the digging shall be under the supervision of the National Museum until such artifacts are recovered;
- m. The Permit shall be subject to cancellation, revocation and termination as provided for in Section 20 hereof; and,
- c. Other terms and conditions that the Bureau may require.

SECTION 19: Environmental Protection, Health and Safety

Applicants for, and Holders of Government Seabed Quarrying and/or Dredging Permit(s), including Project Contractors/Awardees, shall be governed by the provisions in Chapters XVI, XVII, and XVIII of DAO 96-40.

Every Project Contractor/Awardee/Permit Holder/Project Sub-Contractor operating in the seabed areas shall abide by the provisions of Sec. 181 of DAO 96-40: ***Provided***, That the Monitoring Trust Fund Mentioned in Sec. 181 (a) of DAO 96-40 shall not be less than One Hundred Thousand Pesos (P100,000.00).

A Permit Holder/Project Contractor/Awardee shall submit an annual Safety and Health Program covering its area of operations within fifteen (15) working days before the start of every calendar year, ***Provided***, That the Bureau shall have jurisdiction to conduct inspection

of all mining operations and installations: *Provided, further,* That the Bureau shall undertake safety and health audit annually or as often as necessary to assess the effectiveness of the Safety and Health Program.

SECTION 20: Cancellation/Revocation/Termination of Permit

After due process, an SEP, GSQP or GDP may be cancelled/revoked/ terminated by the Secretary, upon recommendation of the Director, based on any or all of the following grounds:

- a. Failure to comply with the terms and conditions of the Permit and/or ECC/EPEP/SHP;
- b. Failure to pay fees, royalties and taxes due the government for two (2) consecutive years without valid ground;
- c. Any misrepresentation in any statement made in the application or those made later in support thereof;
- d. Violation of any provision of the Mining Act and these implementing rules and regulations.

Upon cancellation of the Permit, the dredged areas shall be rehabilitated immediately by the Permit Holder in accordance with his approved EPEP and rehabilitation plan.

The foregoing provisions notwithstanding, cancellation/revocation/termination of a GSQP shall not release the Permit Holder from any legal and financial obligations it may have.

SECTION 21: Taxes, Royalties and Fees

Save in cases provided by law, taxes and royalties shall be collected from the Permittees/Permit Holders and/or Contractors/Subcontractors.

The DENR or thru NRDC is authorized to collect management, service, environmental user's and other fees from the Permittees/Permit Holders and/or Contractors/Subcontractors.

A basic fee of Five Pesos (P5.00) per cubic meter of seabed dredgefill material quarried/dredged by the contractor/Permit Holder shall be collected by DENR/NRDC as Management/Service/Environmental User's Fees. The fees collected shall be shared among the DENR/NRDC, PEA and the Local Government Units concerned(S) in the following manner; 40% to NRDC; 40% to PEA and 20% to Local Government Units concerned.

SECTION 22: Inter-Agency Coordinating Committee

There shall be created a permanent Inter-Agency Coordinating Committee composed of two (2) representatives each from the DENR, MGB and PEA who shall promote cooperation, coordinate the agencies activities and administer technical assistance concerning the identification, selection and evaluation of borrow areas. Funds for the said Committee shall be provided by PEA and NRDC.

SECTION 23. Penal Provisions

As per Sec. 102 of RA 7940, any person undertaking exploration work without the necessary permit shall, upon conviction, be penalized by a fine of not exceeding Fifty Thousand Pesos (P50,000.00)

As per Sec. 103 of RA 7942, any person extracting minerals and disposing the same without a mining agreement, lease, permit,

license, or steals minerals and ores or the products thereof from mines or mills or processing plants, shall, upon conviction, be imprisoned from six (6) months to six (6) years or pay a fine from Ten Thousand pesos (P10,000.00) to Twenty Thousand Pesos (P20,000.00), or both, at the discretion of the appropriate court. In addition, he shall be liable to pay damages or compensation for the minerals removed, extracted, and disposed of. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, partnership, or corporation.

SECTION 24: Non-Impairment of Vested Rights

Borrow areas which are utilized for any existing and proposed reclamation projects of PEA shall be within the jurisdiction of PEA.

All existing extraction permits issued, or valid contracts entered into by the PEA involving borrow areas already surveyed, assessed, quantified and tested, as of the date of effectivity of E.O. 153 shall remain valid, shall not be impaired, and shall be recognized by the DENR-MGB: *Provided*, That Section 21 hereof pertaining to the collection of fees shall apply.

Section 25: Transitory Provision

Upon signing of the IRR, the MGB-DENR shall issue a permit to PEA for the continued use of all its existing and identified borrow pits prior to issuance of E.O. 153, for the following approved and on-going government reclamation projects:

Manila Bay Reclamations and	-	San Nicholas Shoal Maragondon Borrow Pit Area
Cebu South Reclamation	-	Maasin Borrow Pit Area

North Cebu Reclamation - Malapascua Borrow Area

PEA and DENR shall jointly undertake the exploration of proposed borrow areas for purposes of technical and environmental evaluation and verification.

SECTION 26: Separability Clause

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

SECTION 27: Repealing and Amending Clause

All orders, rules and regulations inconsistent with or contrary to the provisions of these implementing rules and regulations are hereby repealed or modified accordingly.

SECTION 28: Effectivity

These implementing rules and regulations shall take effect fifteen (15) days following its complete publication in two newspapers of general circulation, and fifteen (15) days after registration with the office of the National Administrative Register.

APPROVED By:

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