

**[DENR ADMINISTRATIVE ORDER NO. 85,
December 10, 1990]**

**REVISED RULES AND REGULATIONS IMPLEMENTING
PRESIDENTIAL DECREE NO. 1251, AS AMENDED, IMPOSING
FEES ON OPERATING MINING COMPANIES TO BE KNOWN AS
"MINE WASTE AND TAILINGS FEES" TO COMPENSATE FOR
DAMAGES TO PRIVATE LANDOWNERS AND FOR OTHER
PURPOSES**

Pursuant to the provisions of Section 4 of Presidential Decree No. 1251 mandating the Secretary of the Department of Environment and Natural Resources (DENR) to promulgate rules and regulations implementing the aforesaid decree, the following are hereby issued for the information and guidance of all concerned:

**CHAPTER I
Definitions**

SECTION 1.0 Definition of Terms — As used in and for the purpose of these regulations, the following terms and phrases shall have the corresponding meaning herein below stated:

- a. **Agricultural Crops** shall mean crops grown for commercial and industrial purposes or home consumption.
- b. **Committee Chairman** shall mean the Director of Environmental Management Bureau.
- c. **Costs of Rehabilitation** shall mean the money value of all inputs necessary to approximate the original condition or use of a damaged property.
- d. **Damages** shall mean the monetary value of destruction caused on land, agricultural crops, forest products, marine life and aquatic resources; on infrastructures; and the cost of rehabilitation of silted farm lands and other areas devoted to agriculture and fishing caused by pollution due to mine waste and tailings as a result of the operations of mining companies. Such damages are "actual or compensatory damages" under Article 2199 of the New Civil Code of the Philippines.
- e. **Director** shall mean the Director of Mines and Geosciences Bureau (MGB).
- f. **Disturbance Fee** shall mean the average value of the goods produced by the qualified claimants as provided for under Section 7.1 hereof, for the last three (3) years multiplied by five (5) years.

g. **Evaluation Committee or Committee** shall mean the Evaluation Committee created under Presidential Decree No. 1251, as amended.

h. **Forest Products** shall mean timber, pulpwood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub and flowering plant, the associated water, fish and/or game, scenic, historical, recreational and geologic resources in forest lands.

i. **Infrastructures** shall mean all civil works such as, but not limited to, roads, bridges, dams and buildings.

j. **Inland Aquatic Resources** shall mean all fresh water and brackish water plants and animals.

k. **Loss of Projected Net Income** shall mean estimated unrealized net income as a result of damages based on the average production for the past three (3) years on the same location.

l. **Marine Life and Aquatic Resources** shall mean all aquatic plants and animals found in marine environment.

m. **Mine Waste** shall mean soil and rock materials from surface or underground mining operations with no economic value to the generator of the same.

n. **Mine Waste and Tailings Fees** shall mean fees imposed on all operating mining companies in accordance with Presidential Decree No. 1251, as amended.

o. **Operating Mining Companies** shall mean partnerships, cooperatives, associations or corporations except small-scale miners legally engaged in or responsible for the conduct of mining activities such as but not limited to, exploration, development, extraction, milling, concentrating, transport and marketing of mineral resources which produce mine waste and tailings as defined in these rules and regulations.

p. **Reserve Fund** shall mean the accrued mine wastes and tailings fees to be used for payment of damages on lands, agricultural crops and forest products, marine life and aquatic resources, the destruction of infrastructure, and the revegetation and rehabilitation of silted farm lands and other areas devoted to agriculture and fishing caused by pollution due to mine waste and tailings as a result of the operation of mining companies as provided for by Section 2 of PD 1251.

q. **Secretary** shall mean the Secretary of Environment and Natural Resources.

r. **Tailings** shall mean materials whether solid or liquid segregated from the ores during concentration/milling

operations which has no economic value to the generator of the same.

CHAPTER II Organization

SECTION 2. Evaluation Committee — The Evaluation Committee created under Section 3 of PD 1251 shall hereinafter be known as the "Mine Waste and Tailings Damages Evaluation Committee". It shall be composed of the following:

Chairman - Director, Environmental
Management Bureau (EMB)

Vice-Chairman - Director, Mines and Geosciences
Bureau (MGB)

Members - Director, Land Management
Bureau (LMB)

Director, Forest Management Bureau (FMB)

Administrator, National Irrigation
Administration (NIA)

Director, Bureau of Plant Industry (BPI)

Director, Bureau of Fisheries and Aquatic
Resources (BFAR)

Director, Bureau of Soils and Water
Management (BSWM)

SECTION 2.1 Functions of the Committee — The Committee shall have the following functions:

- a. Evaluates and decides on all applications for compensation for damages and awards compensations therefor;
- b. Implements duly approved guidelines, rules and regulations;
- c. Prescribe documentary requirements for applications for compensation for damages;
- d. Formulates policy recommendations to strengthen the provisions of this Order for consideration of the Secretary;
- e. Appoints and/or designates members of the Technical Working Group and Regional Investigation and Assessment Teams for the effective implementation of this Order and exercise general supervision over them;
- f. Provides appropriate funds for the development and implementation of research and other special projects which it

deems necessary in promoting the objectives of this Order;

g. Recommends to the Secretary the granting of allowances to officials and personnel performing functions and duties relative to the effective implementation of this Order; and,

h. Performs other functions as may be assigned by the Secretary.

SECTION 2.2 Committee Meeting — The Committee shall hold regular monthly meetings. Special meetings may be called by the Committee Chairman as the need arises.

SECTION 3. Technical Working Group — There shall be created a Technical Working Group to assist the Committee in the performance of its functions. It shall be composed of the representative/s from each of the member agencies of the Committee, duly designated by the Committee Chairman, upon recommendation of corresponding Committee Member. The Technical Working Group shall be headed by a Chairman to be appointed by the Committee Chairman.

Under the Technical Working Group there shall be a Technical Secretariat and Administrative Staff to assist the Committee and shall be composed of Mines and Geosciences Bureau (MGB) personnel duly designated by the Committee Chairman upon the recommendation of the Director.

SECTION 3.1 Functions of the Technical Working Group — The Technical Working Group shall have the following functions:

a. Receives, processes, evaluates and conducts preliminary investigation if necessary, of claims for damages and submits appropriate recommendations to the Committee;

b. Develops, packages and recommends research and other special projects;

c. Prepares costings for the rehabilitation of damaged commercial agricultural, industrial and residential lands;

d. Determines/estimates the cost of rehabilitating damaged industrial, commercial, residential and agricultural lands caused primarily by mine waste and tailings;

e. Acts as secretariat to the Committee;

f. Coordinates and monitors the activities of all Regional Investigation and Assessment Teams, and other personnel involved in the implementation of this Order;

g. Verifies the amount of mine waste and tailings generated by operating mining companies;

h. Computes and collects the mine waste and tailings fees to be paid by operating mining companies;

- i. Drafts guidelines, orders, resolutions and other documents in connection with the implementation of this Order;
- j. Assists in the investigation and assessment of claims for damages and submits appropriate recommendation to the Committee;
- k. Handles administrative functions especially on finance and budget; and,
- l. Performs other functions as may be assigned by the Committee.

SECTION 3.2 Technical Working Group Meeting — The Technical Working Group shall hold monthly regular meetings. Special meetings may be called by the Technical Working Group Chairman, subject to prior notice.

SECTION 4. Regional Investigation and Assessment Teams — Regional Investigation and Assessment Teams may be organized to assist the Committee and the Technical Working Group. The team shall be headed by the concerned DENR Regional Executive Director or his duly authorized representative. The members may be composed of representatives from the agencies/sectors mentioned in Section 2.0 of this Order when their services are needed depending on the nature of the claim. In all investigations, the mining company/ ies concerned and the affected party/ ies shall be duly represented.

SECTION 4. Functions of the Regional Investigation and Assessment Team — The Regional Investigation and Assessment Teams shall have the following functions.

- a. Provides advice to interested parties on matters relating to the implementation of this Order;
- b. Provides application and other related forms to prospective claimants for damages;
- c. Receives applications for compensation for damages under this Order;
- d. Conducts field investigations and assessments of claims for damages and submits reports to the Committee, thru the Technical Working Group; and
- e. Performs other functions as may be assigned by the Committee Chairman.

SECTION 4.2 Jurisdiction of Regional Investigation and Assessment Team — For purposes of these rules and regulations and unless otherwise amended, the jurisdiction of the Regional Investigation and Assessment Teams shall follow the present geographical jurisdiction of the country.