

Chapter III

Small Scale Mining

I. BED CIRCULAR NO. 87-03-001

PROVIDING FOR GUIDELINES AND PROCEDURE TO IMPLEMENT A PROGRAM THAT WILL ALLOW SMALL-SCALE COAL MINING

SECTION 1. Rationale:

Presidential Decree No. 972 introduced the service contract system for the exploration, development and exploitation of domestic coal resources, under the administration of the Bureau of Energy Development (BED). The service contract system, which is a departure from the coal permit and lease systems, envisioned large-scale, capital intensive coal operations over extensive coal blocks as requirements for applicants to qualify for a coal operating contract.

There are, however, areas in the Philippines that have small deposits of coal whose exploitation will not qualify under the requirements of P.D. No. 972, but which nonetheless contain enough coal deposits suitable for small mining. Many of these coal-bearing areas have been traditionally mined by local residents as a source of income and economic livelihood, long before the promulgation of P.D. No. 972 in 1976.

Given clear guidelines consistent with mining safety, systematic exploitation, techniques and accountability to the BED, these small coal deposits could be exploited by local residents/small entrepreneurs under less stringent but more realistic regulations that will essentially recognized coal operations in

these areas as socio-economic projects easily accessible to the people and calculated to uplift their quality of life.

SECTION 2. Definition of Terms

- a) Small-Scale Mining Operations. Pertains to the exploitations of coal under a permit issued by the BED, subject to the terms and condition provided under this Circular.
- b) Applicant. A qualified Filipino citizen, applying for a permit with the BED to engage in Small-Scale Mining Operations.
- c) Permittee. A holder of permit issued by the BED to exploit coal resources.
- d) Coal Operating Contact. A valid and subsisting coal operating contact issued under P.D. No. 972, as amended.
- e) Coal Operator. The holder of a coal operating contract who is authorized by its terms to undertake coal operations.
- f) Supervising Coal Operator. A coal operator who, under the terms of this Circular, is charged with the supervision of the Permittee for the BED.

SECTION 3. Who May Apply.

A Filipino citizen, of legal age, and resident of the place or area where the coal deposit is located, as certified to by its barangay captain and local mayor, may apply for a small scale coal mining permit with the BED.

SECTION 4. Area Open to Small-Scale Mining.

Applications and permits may cover coal areas within a coal operating contract or free areas outside of a coal operating contract, as determined by the BED. A coal permit shall cover a compact and contiguous area of not exceeding five (5) hectares with a geological coal reserve not exceeding 50,000 metric tons.

SECTION 5. Contents of Applications.

All small-scale coal mining operations authorized under Permits issued under this Circular, whether conducted within an area covered by a coal contract or outside the same, shall be undertaken by the Permittee under the administration and supervision of the BED through the supervision of the coal operator in whose coal contract area the small-scale coal operations are located, or in cases where the area is outside a coal operating contract area, through the coal operator nearest the small-scale coal area.

An applicant shall accomplish in triplicate the BED application form provided in Appendix A of this Circular. The duly accomplished application form must be accompanied by the following documents:

- a) Written undertaking or agreement between the applicant and the supervising coal operator to the effect that the supervising coal operator shall supervise and assume responsibility to the BED for the small-scale operations of the applicant or Permittee including the implementation of safety measures

in the area covered by the permit, as approved by the BED.

- b) The survey plan and the corresponding technical description of the area applied for and prepared by a qualified geodetic engineer.
- c) A one-year work program indicating the presence of deposits of coal not suitable for large or medium scale operations under a service contract but which deposits are suitable to small-scale, labor intensive operations.
- d) Written endorsement or clearance from the local Barangay captain and Mayor attesting that applicant is a permanent resident of the province or city or municipality where the small-scale mining operations will be undertaken.
- e) A contract of purchase and sale between the coal operator and the Permittee under which the coal operator shall purchase all the coal, production of the Permittee.

In addition to the above, the applicant must show proof that it has the minimum operating capital of Ten Thousand Pesos, whether in cash or in kind. The necessary proof include bank deposit, real property tax declaration, contract of lease of equipment and such other similar proof as would show that applicant has the requisite means and resources to pursue small-scale mining under Permit.

Applications will be accepted on a "first come, first served" basis. The mere filing of an application does not authorize the applicant to commence and exercise the rights of a Permittee.

Incomplete applications will not be accepted for processing and will not be deemed as filed even if delivered for filing. An application fee of One Hundred Pesos (P100.00) per hectare

shall be paid upon the filing of the application.

SECTION 6. Obligations of the Permittee.

The Permittee shall have the following obligations:

- a) In general, to undertake with due diligence the small-scale coal operations in accordance with the terms and conditions of the Permit.
- b) To remain at all times accountable to the BED through its duly designated supervising coal operator.
- c) To diligently pursue small-scale coal operations in accordance with its approved work program, observing safety measures required by the BED.
- d) To submit as required periodic and other reports to the BED.
- e) To sell all its coal production to its duly-designated supervising coal operator or only to such other coal operator or end-user upon approval by the BED.

SECTION 7. Obligations of the Supervising Coal Operator.

The supervising coal operator shall have the following obligations:

- a) To exercise overall supervision over the conduct of the small-scale operation by the Permittee ensuring its observance of systematic and safe mining techniques and practices required by the BED.
- b) To purchase the coal production of the Permittee to the maximum extent possible that will allow the coal operator to meet its own production commitment with the BED and the buyer.
- c) To account to the BED its purchase from the Permittee through quarterly reports indicating payments to the Permittee.

- d) To deduct 3% from the gross purchase price of coal sourced from the Permittee, and to remit to BED said amount within thirty (30) days from its deduction.

SECTION 8. Period of Term.

A permit shall have period or term of five (5) years from the date of issuance, renewable for additional five (5) year terms thereafter.

SECTION 9. Cancellation or Termination of Permit.

A Permit shall be cancelled or terminated for the following causes:

- a) Expiration of its term or period;
- b) Cancellation by the BED for causes provided in the Permit and/or this Circular;
- c) Failure to comply with duly-issued Circulars of the BED;
- d) Death of Permittee in which case his nearest qualified legal heir shall be given priority to apply for a new permit over the same permit area;
- e) Exhaustion of coal reserves;
- f) Voluntary relinquishment by Permittee.

SECTION 10. Disqualification.

The following are disqualified from applying for a permit:

- a) A coal operator;
- b) Those with pending cases in court for unauthorized coal mining;
- c) Those facing administrative investigation in the BED for unauthorized coal mining;
- d) Those individual convicted of a crime involving violation of P.D. 463, P.D. 972, as amended by P.D. 1174.

SECTION 11. Exclusivity of Permit.

The permits issued under the Circular may not be assigned, transferred, encumbered or otherwise disposed of in any manner without the prior written consent of the supervising coal operator and the BED.

SECTION 12. Miscellaneous Provision.

- a) **Priority.** The Landowner of the coal reserves has priority to a Permit if he or she shall personally reside and operate in the permit area. Otherwise, the actual resident has priority.
- b) **Settlement of Disputes.** Conflicts between the Permittee and the Supervising Coal Operator with respect to rights and obligations that arise out of the Permit issued under the Circular shall be settled amicably between them. In case of failure after exhaustion of all efforts towards amicable settlement, the aggrieved party may file a written complaint in the BED.
- c) **Expeditious Processing or Application.** Dispositive action on complete applications shall come not later than ninety (90) days after its filing as provided in Section 3 hereof. The running of the period is interrupted upon applicant a receipt of notice from the BED requiring the submission of further documents or the performance of any act pertinent to the application, and shall commence to run again upon receipt by the BED of applicant's compliance. Applications which are not diligently prosecuted by applicant shall be deemed automatically

denied if applicant fails to comply with the requirements of the BED within thirty (30) days from receipt of notice to comply.

SECTION 13. Direct Supervision by the BED.

The BED may temporarily supervise directly the Permittee under the following circumstances:

- a) In case of cancellation or expiration of the coal operating contract of the supervising coal operator.
- b) In areas outside an existing coal contract area where there is no coal operator nearby or where the nearest coal operator cannot effectively operate under this Circular.

The temporary supervision of the BED shall continue until the appointment and qualification of a new supervising coal operator.

SECTION 14. The Circular shall take effect upon its approval of the Deputy Executive Secretary for Energy.

Issued this 4th day of March 1987 in Makati, Metropolitan, Manila.

W. R. DE LA PAZ
Acting Director

APPROVED:

VICENTE I. PETERNO
Deputy Executive Secretary For Energy