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DEPARTMENT OF
ENVIRONMENT AND
NATURAL RESOURCES

DEPARTMENT ADMINISTRATIVE ORDER
No. 71
SERIES OF 1990

AUG 09 1990

SUBJECT: IMPLEMENTING GUIDELINES FOR THE AWARD
AND ADMINISTRATION OF FOREST LAND
MANAGEMENT AGREEMENT (FLMA)

Pursuant to the policies embodied in Executive Order No. 278 dated July 25, 1987, DENR Administrative Orders Nos. 39 and 86, Series of 1988 and DENR Memorandum Circular 11, Series of 1988, (MC 11, S. 88) and to enhance implementation of the National Forestation Program, the following guidelines are promulgated for the award and administration of Forest Land Management Agreement (FLMA).

ARTICLE I

BASIC CONCEPT AND PRINCIPLES

SECTION 1 Under the National Forestation Program, contract reforestation provides initial funding to plant trees/perennials and to protect and maintain the same for approximately three (3) to four (4) years.

SEC. 2 In the last stages of the 3 to 4 year establishment phase, agreements will be signed between the government, represented by the DENR, and communities, NGO's or other qualified parties who will protect, maintain and benefit from the trees/perennials. These agreements shall be called Forest Land Management Agreement's (FLMA). The parties with whom DENR will sign such agreements shall be called Forest Land Managers (FLM'S).

SEC. 3 The FLMA shall entitle the FLM to harvest, process, sell or otherwise utilize the products grown on land covered by the FLMA. Concurrently, the FLM shall be obligated to do the following:

- a) pay the government, through the DENR, a production share of income from sales in an amount adequate to reforest one hectare of denuded land for every hectare of 3-4 year old trees turned over to the FLM;
- b) ensure that trees/perennials are conserved on the land by implementing protection, maintenance, interplanting and replanting;

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- c) generate funds which may be used to reforest additional lands and thus spread the financial and environmental benefits of reforestation;
- d) carry out other responsibilities described in Article V of this Order.

SEC. 4 The government shall invest its production share in rehabilitation and protection of forest lands through reforestation, social forestry and related programs.

ARTICLE II

QUALIFIED PARTICIPANTS

SEC. 5 One major objective of the FLMA is to establish a community-based system for implementing maintenance, protection and management of man-made forests established within the community. In keeping with this objective, the following are qualified to apply for and enter into an FLMA with the DENR:

- 5.1 duly-organized, bona-fide residents of the community who successfully implemented reforestation contracts on the area to be covered by the FLMA;
- 5.2 duly-organized, bona-fide residents of the community who would qualify under the provisions of MC-11, S. '88 to become family or community reforestation contractors but who have not yet been awarded a reforestation contract;
- 5.3 reforestation contractors who are not bona-fide community residents but who have successfully implemented contract reforestation on the site covered by the FLMA (e.g. NGO's), provided they agree to include in the FLMA certain provisions pertaining to equity and community participation that are found in paragraphs 15.3.1 to 15.3.3 of this Order.

SEC. 6 The phrase "duly-organized" in Section 5 (above) shall be understood to mean formal or informal groups, associations or organizations of community residents who have voluntarily agreed to accept and jointly fulfill the obligations of an FLMA and to share equitably in the benefits.

SEC. 7 Although the basic concept of FLMA's is community oriented, bona-fide residents who have successfully implemented family reforestation contracts may enter into an FLMA as individuals, subject to the submission (at the time of application) of a letter of commitment to:

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beginning on the date of joining an existing FLM organization in their community within five (5) years;

(b) incorporate the area covered by their individual FLMA into the area of the FLM they join.

ARTICLE III

TENURE/DURATION/TRANSFERABILITY

SEC. 8 An FLMA shall remain in full force and effect for twenty five (25) years, and shall be renewable for an additional twenty five (25) years provided however that the FLM has complied with the terms and conditions of the FLMA.

8.1 Individual membership in an FLM organization shall revert to the family of the member if the individual is unable to continue implementing his/her responsibilities because of old age, sickness, death or other valid reasons;

8.2 In the case of foundations, NGO's, LGU's, corporations and the like who cannot continue their obligations under the FLMA, or are unable to comply with the provisions of paragraphs 15.3.1 to 15.3.3 of this Order, DENR shall assume jurisdiction and take possession of facilities and other improvements therein and immediately offer the area to other prospective/interested parties who are qualified to become FLMs.

8.3 In the case of an individual FLMA issued pursuant to Section 7 (above), the FLMA shall be transferable to an immediate family member or next of kin who is a bona-fide community resident, provided however that the transferee shall carry out the commitments described in paragraphs "a" and "b" of Section 7.

ARTICLE IV

COVERAGE

SEC. 9. An FLMA may cover land that falls within any of the following categories:

9.1 land that was reforested or otherwise developed by virtue of a contract implemented under the National Forestation Program;

9.2 land that was reforested or otherwise developed under any other program implemented or administered by the DENR that shall be brought under coverage of this Order by virtue of an official action by the Secretary of the DENR.

9.3 on a case-to-case basis and subject to approval by the Secretary of the DENR, lands within officially designated watersheds, reservations, parks or preserves, provided that FLMA operations shall be consistent with the provisions of P.D. 705 (as amended) and with the limited production forest utilization approach described in the Philippine Master Plan for Forestry Development.

SEC. 10 Notwithstanding the provisions of Section 9 (above), no DENR office shall enter into an FLMA covering land that falls within the following categories:

10.1 land that is part of a Timber License Agreement (TLA), Timber Production Sharing Agreement (TPSA), Forest Land Grazing Lease Agreement or Pasture Lease Agreement (FLGA/PLA) or Industrial Forest Plantation (IFP) lease, except in cases where the lease (or other relevant document) has been amended to exclude the area covered by the FLMA.

ARTICLE V

TERMS AND CONDITIONS OF AN FLMA

SEC. 11 BENEFITS OF THE FOREST LAND MANAGER. The FLM shall be entitled to the following benefits:

11.1 the privilege to harvest, process, sell and otherwise utilize the products grown on the land covered by the FLMA subject to the provisions of Section 15 of this Order;

11.2 the privilege to interplant cash crops, fruit trees and other agricultural and/or minor forest products between the existing trees to augment income and provide additional incentives for protection;

11.3 free advice and technical assistance from the DENR on matters pertaining to the obligations of the FLM under the terms and conditions of the FLMA.

SEC 12 OBLIGATIONS OF THE FOREST LAND MANAGER: The FLM shall comply with the following:

- 12.1 maintain and protect the areas covered by the FLMA such that the trees/plants grown thereon are kept in a healthy state and not overcome by weeds or destroyed by fire, pests and diseases, stray animals, vandals or other causes;
- 12.2 carry out all thinning and other activities that are consistent with sound principles of plantation and tree farm management, in accordance with the development and management plan of the area;
- 12.3 replant all trees that are cut down and sold or utilized, or that die or are destroyed by fire, pests and diseases, vandals, stray animals or other causes;
- 12.4 carry out the terms and conditions contained in the FLMA;
- 12.5 provide DENR with a share of the proceeds from the sale of forest products grown on the land covered by the FLMA, pursuant to Article VI of this Order;
- 12.6 comply with the provisions of Article VII of this Order which discuss the establishment, management and disposition of the reforestation guarantee fund.

SEC. 13 BENEFITS TO THE DENR: The DENR shall receive the following benefits:

- 13.1 a share, in the proceeds of total harvest income pursuant to Article VI of this Order; and
- 13.2 reduced cost of operations resulting from fire maintenance and protection of reforested areas by FLM's.

SEC. 14 OBLIGATIONS OF THE DENR: The DENR shall be responsible for the following:

- 14.1 assist the FLM in preparation of a Management Plan for the FLMA;

14.2 provision of free advice and technical assistance to the FLM; and

14.3 ensure tenure to the FLM for the duration of the FLMA.

SEC. 15 SPECIAL PROVISIONS:

15.1 The privilege to cut and utilize poles, pulpwood and/or sawlogs shall be restricted to FLM's who have continuously and effectively protected their site against kaingin, illegal cutting, fire and other forms of destruction or resource depletion (e.g. severe erosion), and who grow useful intercrops between the trees prior to maturity and harvesting. An FLM shall be considered to have complied with protection responsibilities if none of the following indicators of substandard management are found on the FLMA site:

15.1.1 kaingin;

15.1.2 pasturing (except for cut-and-carry forage production);

15.1.3 gully erosion that has not been minimized or overcome by establishing brush dams, check dams, vegetative barriers or other suitable treatments;

15.1.4 the trees/perennials are already five (5) years old but more than ten percent (10%) of the area is dominated by cogon, talahib and similar fire-prone grasses;

15.2 No commercial harvesting of sawlogs, veneer logs or other premium timber logs shall be allowed on protection forest areas (i.e. lands with more than fifty percent [50%] slope). On such areas, harvesting shall be limited to non-timber forest products; pursuant to established rules and regulations (e.g. rattan, decorative shrubs, medicinal plants, useful vines, bamboo). However, firewood may be cut on a selective basis from deformed or diseased branches and stems, subject to DENR guidelines.

15.3 FLMA'S must ensure that benefits accrue to the less privileged sectors of society and in particular to the residents of the community where the FLMA is located. To help ensure that this objective is not overlooked when the FLM is a party other than a duly-organized community group/association (e.g. a former NGO or LGU contractor), all FLMA's issued in such cases shall include the following conditions:

15.3.1 local residents will have first priority for employment in FLMA operations;

15.3.2 starting not later than the fifth year of effectivity of the Agreement, FLMA operations will provide not less than fifty (50) person days of employment annually to the bona-fide community residents for each hectare covered by the FLMA;

15.3.3 the FLMA shall incorporate procedures and a firm commitment to transfer a majority share of ownership and control of the FLMA to bona-fide community residents, along with all privileges and responsibilities included therein, such transfer to be achieved not later than ten (10) years from the original date of issue of the FLMA.

ARTICLE VI

SHARING OF BENEFITS

SEC. 16 The government and the FLM both invest in reforestation of areas covered by FLMA's. Acting through the DENR, the government provides the initial capital during 3 to 4 years of contract reforestation. The FLM furnishes labor, management, protection, replanting and other inputs during all of the succeeding years. Because both parties share the costs, both shall be entitled to a share of the benefits.

GOVERNMENT SHARE

- 16.1 The government shall be entitled to part of the proceeds from the sale of forest products grown on the land covered by the FLMA. The government's share of the proceeds shall be identified and paid as a production share.
- 16.2 The production share shall be equivalent to at least the cost required to reforest one (1) additional hectare for each hectare covered by the FLMA.
- 16.3 The production share shall be due and payable in full to the government, through the DENR by the FLM at such time that the first harvest cycle has been completed for all trees/perennials previously planted during the contract reforestation phase, or within twenty five (25) years after the date of FLMA was signed, whichever comes first.
- 16.4 Since an FLM would normally grow more than one (1) species, and because different species mature at different ages, the anticipated harvest schedule/cycle for each species shall be attached to and form part of the FLMA. By mutual consent of both parties, the harvest schedule may be changed from time to time to account for unforeseen events (e.g. climatic variables).

FLM SHARE

- 16.5 The FLM shall be entitled to the entire balance of the proceeds that is not payable to the government as production share. The FLM's share shall provide funds for paying the costs of maintenance, protection, replanting of the area after each harvest, planting new areas, other operating expenses, and profits for its members.
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SUMMARY

16.6 The provisions of paragraph 16.1 to 16.5 are summarized in the following general formula:

TOTAL HARVEST INCOME = GOVERNMENT SHARE + FLM SHARE

GOVERNMENT SHARE = COST TO REFOREST
(i.e. production share) ONE (1) HECTARE

FLM SHARE = SUM TOTAL OF THE FOLLOWING COSTS:

- a) Maintenance, Protection and Harvesting Operations
- b) Replanting after each harvest
- c) Reforestation of new areas
- d) Profits

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ARTICLE VII

REFORESTATION GUARANTEE FUND

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PRODUCTION SHARE PAYMENT ARRANGEMENTS

SEC. 17 On the fifth year of effectivity of the FLMA, the FLM shall open an interest bearing account in a bank of good standing. This account shall be in the name of the FLM, but the terms and conditions of the account shall stipulate that no withdrawals can be made without the written concurrence of a duly-authorized representative of the DENR. This account shall be identified as a Reforestation Guarantee fund and referred to hereinafter as the fund.

SEC. 18 Beginning either on the first year forest products are harvested, or six (6) years after the original date of issue of the FLMA (whichever comes earlier), the FLM shall make annual deposits into the fund. The amounts deposited shall conform with a formula to be drawn up by DENR pursuant to Section 33, sub-paragraph "d" of this Order.

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SEC. 19 From time to time, the FLM (with DENR's written concurrence) shall withdraw part of the fund and pay the same to the DENR as partial fulfillment of the FLM's obligation to pay government's production share. Each such payment shall be computed and recorded as a percentage of the total amount due as production share.

SEC. 20 When the accumulated percentages of all payments is equivalent to 100% of the amount due as the government's production share, the production share shall be considered paid in full. Thereafter, the FLM (with DENR's written concurrence) shall make further withdrawals to finance additional planting of trees/perennials on lands outside of the area covered by the FLMA, following a plan mutually acceptable to the FLM and DENR. This plan shall (among others) define responsibilities and privileges under the second and succeeding harvest cycles of the FLMA.

SEC. 21 All FLMA's shall include provision for amendment to conform with new laws or regulations that may be promulgated in the future by authorized agencies of government including (but not limited to) the collection of land use fees.

ARTICLE VIII

APPLICATION FOR AND APPROVAL OF AN FLMA

SEC. 22 Parties qualified and interested to enter into an FLMA shall signify their interest by accomplishing and submitting an application on the form prescribed by the DENR.

SEC. 23 The following supporting documents shall be attached to the application:

- a. sketch map of the site applied for;
- b. letter confirming that the applicant has read, understands and will abide by the provisions of this Order.
- c. copies of the latest Inspection Chart Maps (ICM's) covering all lands to be included in the FLMA, in order to indicate the number of trees planted and the survival rate.

SEC. 24 The application for an FLMA shall be submitted to the DENR for evaluation and approval subject to the following delegated authority granted to DENR officials:

Area of FLMA in Hectares (ha)	Recommending Official	Approving Official
from one hundred (100) ha up to one hundred fifty (150) ha	PENRO	RTD Forestry
more than one hundred fifty ha up to two hundred (200) ha	PENRO and RTD Forestry	RED
more than two hundred (200) ha up to two hundred fifty (250) ha	RTD Forestry and RED	ASEC for Field Operations
more than two hundred fifty (250) ha up to five hundred (500) ha	RED and ASEC for Field Operations	USEC for Field Operations
more than five hundred (500) ha	ASEC and USEC for Field Operations	Secretary

SEC. 25 In evaluating the application, the DENR officers concerned shall verify (based on the ICM's) that the survival rate is acceptable to the DENR.

SEC. 26 Exceptions can be made to approve applications for less than one hundred hectares (100 ha) subject to submission of a barangay council resolution, endorsed favorably by the municipal government and forwarded to the PENRO through the CENRO.

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ARTICLE IX

PENALTIES

SEC. 27 The DENR may (a) terminate an FLMA or (b) impose fines on the FLM for any of the following reasons:

- 27.1 failure to comply with the terms and conditions of the FLMA;
- 27.2 failure to make annual deposits into the fund;
- 27.3 failure to pay DENR's production share;
- 27.4 violation of forestry laws.

SEC. 28 If termination or fines are indicated, the procedures hereunder shall be followed by the DENR:

- a. send a written notice to the FLM describing the violations that have been committed, identifying the penalties that will be imposed and giving the the FLM thirty (30) days within which to reply or appeal;
- b. immediately impose the penalties earlier identified if the FLM fails to reply or appeal within the prescribed thirty (30) days;
- c. evaluate any reply or appeal submitted by the FLM by conducting such further investigation or inspection as may be warranted and transmit the findings thereof in writing to the FLM within thirty (30) days from receipt of such reply or appeal;
- d. if still warranted after evaluating the FLM's reply/appeal, impose termination or fines within thirty (30) days after transmitting its findings to the FLM pursuant to paragraph "c" above.

SEC. 29 The imposition of penalties pursuant to Section 27 herein shall not prevent the DENR from initiating civil or criminal action through the appropriate courts of law for violations that cannot be remedied through administrative action.

SEC. 30 The FLM awardee may file a written complaint against any DENR employee whose actions the FLM may consider to be in violation of the provisions of this Order or the terms and conditions of an FLMA. The DENR shall investigate such complaint and file appropriate administrative, civil or criminal action against the concerned employee.

ARTICLE X

ADDITIONAL PROVISIONS

SEC. 31 In view of unique circumstances that may exist in a particular region the concerned Regional Executive Director (RED) may formulate additional provisions deemed appropriate for these circumstances and submit the same for approval by the Secretary. Upon approval thereof, such additional provisions shall apply in the region concerned.

SEC. 32 Within ninety (90) calendar days after effectivity of this Order, the Director of the Office of Special Concerns, in collaboration with the Director of the Forest Management Bureau, shall prepare and distribute the forms needed to implement this Order.

SEC. 33 The issuance of FLMA's shall constitute the first phase of a long range program, one of the main objectives of which is to establish plantations managed under sustained-yield, and characterized by yearly rotational harvests of even-aged stands that provide a predictable and sustainable supply of timber for processing. In order to move ahead toward achieving this objective, the Planning and Policy Studies Office (PPSO) and the Forest Management Bureau (FMB) shall, not later than July 1991, submit for approval by the Secretary, a comprehensive plan containing the following features:

- a) recommended procedures for consolidation of FLMA's into management units of sufficient size to implement sustained-yield yearly rotational harvests of even-aged stands with a minimum area of one-hundred hectares (100 ha);
- b) suggested arrangements for arriving at equitable sharing of ownership and benefits among FLMA holders who consolidate into a single management unit;
- c) recommended procedures for setting aside part of the income derived from the sale of products grown by a consolidated management unit, and using the proceeds to establish trust funds that will guarantee sustained replanting of the land covered by the management unit and planting of expansion areas;

- d) formulas for computing the percentage of income from sales that may be set aside to establish trust funds without jeopardizing the income/profit/financial viability of the management unit;
- e) studies covering anticipated rates of growth and yield, costs for plantation establishment, protection, maintenance, replanting and harvesting, and projected income and profits for not less than twenty (20) of the major species planted in reforestation projects;
- f) recommendations for the possible conversion of consolidated management units into Industrial Forest Plantations (IFP's) with the option to include adjacent areas covered by the Community Forestry Program or the Integrated Social Forestry Program, provided such consolidation will be acceptable and beneficial to the parties concerned;
- g) other recommendations for possible amendments or revisions that may help achieve the objectives of this Order.

ARTICLE X

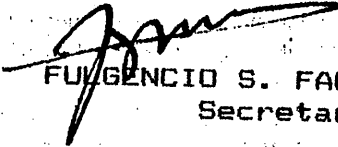
REPEALING CLAUSE

SEC. 34 Any provision of DENR Administrative Orders, Memorandum Circulars or other official issuances not consistent herewith are hereby repealed or amended accordingly.

ARTICLE XI

EFFECTIVITY

SEC. 35 This Order takes effect immediately.


FULGENCIO S. FACTORAN, JR
Secretary