

**DENR Administrative Order
No. 97-04
March 4, 1997**

**SUBJECT : Rules and Regulations Governing
the Industrial Forest Management
Program**

Pursuant to Presidential Decree No. 705, as amended, and Executive Order No. 278, dated July 25, 1987, and in order to promote ecological stability, productivity, sustainability and equity in the use of forestlands, the following rules and regulations governing the establishment and development of Industrial Forest Plantations for industrial purposes are hereby promulgated.

CHAPTER I

POLICIES, OBJECTIVES AND DEFINITION OF TERMS

Section 1. *Policies and Objectives.* The Department of Environment and Natural Resources shall:

- (a) Adhere to its policy to promote the rehabilitation and restoration of degraded forestlands through appropriate reforestation and afforestation programs;
- (b) Promote the responsible management of suitable portions of brushlands and open and denuded forestlands for industrial purposes that will ensure adequate supply of timber and other forest products primarily for domestic requirements and secondarily for export markets; and
- (c) Promote ecologically sound, equitable, socially acceptable, and culturally appropriate management of natural forests, forest plantations and lands under its jurisdiction.

- (d) Encourage the private sector to engage in the establishment and development of industrial forest plantations in the country's brushlands, open and denuded lands.
- (e) Ensure equitable access to forests and forest resources of forest-dependent communities by involving them in the development and management of forestlands.

Sec 2. *Priority to Ancestral Domain Recognition, Community-Based Forest Management Strategies and Socialized Industrial Forest Management Program.* Consistent with Executive Order No. 263 (1995), the DENR adopts community-based forest management as the national strategy for sustainable forest management and as such, the Department shall prioritize community-based forest management over other DENR programs. The recognition of ancestral domain/land claims, the protection of the integrity of IPAS sites, programs/projects such as Community Forestry Program (CFP), Integrated Social Forestry Program (ISFP), Socialized Industrial Forest Management Program (SIFMA), Integrated Protected Areas System (IPAS), and Indigenous Cultural Community (ICC) claims in accordance with DAO No. 2, series of 1993, and pertinent laws, rules and regulations, and similar projects shall be pursued proactively by the Department and shall be prioritized in case of conflict with the IFMA program.

Sec.3. *Definition of Terms.* The following terms are to be understood and interpreted as follows for purposes of this Order:

- 3.1. Brushland — A degraded area dominated by a discontinuous cover of shrubby vegetation.
- 3.2. CDMP — Comprehensive Development and Management Plan to be submitted by an IFMA Holder with six (6) months from the date an IFMA is entered into

- 3.3. CENRO — Community Environment and Natural Resources Office
- 3.4. DENR — Department of Environment and Natural Resources
- 3.5. EMB — Environmental Management Bureau
- 3.6. FMB — Forest Management Bureau
- 3.7. Forest-Dependent Communities — Communities within and outside the IFMA Area that are dependent thereon for their livelihood
- 3.8. IFMA Area — A delineated area of brushland and/or open and denuded forestland under the jurisdiction of the DENR and covered by an IFMA
- 3.9. IFMA Holder — A qualified person, corporation or cooperative who has entered into an IFMA with the DENR
- 3.10. Industrial Forest Management Agreement (IFMA) — A production sharing agreement entered into by and between the DENR and a qualified applicant, which grants to the latter the right to develop, utilize and manage a specified area, consistent with the principle of sustainable development and in accordance with a Comprehensive Development and Management Plan, and under which both parties share in its produce
- 3.11. Industrial Forest Plantation (IFP) — Any tract of brushland or open and denuded forestland principally planted to timber-producing species compatible with the ecological and biophysical characteristics of the area, but not excluding rubber and/or non-

timber species such as rattan and bamboo, to support wood-processing facilities and/or to supply wood energy requirements

- 3.12. LGU — Local Government Unit
- 3.13. NGO — Non-Government Organization
- 3.14. Natural Forest — An area with an existing stand of naturally grown trees of dipterocarp, premium, and other classified commercial species, as well as other naturally associated forest flora and fauna
- 3.15. Open and Denuded Land — An area that has been depleted of its natural forest cover and is predominantly covered by grasses, herbaceous species, or bare soil
- 3.16. PENRO — Provincial Environment and Natural Resources Office
- 3.17. Protection Forest — All types of forests that, under existing laws and regulations, may not be utilized for timber-production and which include old growth forests, mossy forests, sub-marginal forests, forests on slopes 50% or over, all strips at least twenty (20) meters in width bordering banks of rivers with channels at least five (5) meters wide, mangrove forests along shorelines and other forest areas that are determined by the DENR to be environmentally sensitive
- 3.18. RED — Regional Executive Director
- 3.19. RTD — Regional Technical Director for Forestry
- 3.20. Secretary — Secretary of Environment and Natural Resources

CHAPTER II

IFMA Areas

Sec 4. *Areas Available for IFMA.* IFMAs may cover all grasslands, brushlands, and open and denuded forestlands under the jurisdiction of the DENR; *provided*, that areas subject of vested rights, licenses, permits or management agreements may be made available for IFMA by prior express and written agreement of the holder thereof; *provided further*, that areas enumerated in Sec. 6 hereof shall not be available for IFMA.

Patches of residual natural forests within the IFMA Area that are too small to be managed separately shall be maintained and enhanced as protection forests, the management of which shall be the responsibility of the IFMA Holder.

Sec. 5. *Size of the Area.* The minimum area that may be covered by an IFMA is not less than 500 hectares and the maximum area is 20,000 hectares; *provided*, that an IFMA Holder may hold more than one IFMA simultaneously but the aggregate total size of the IFMA Areas held by any one Holder shall not exceed 40,000 hectares; *provided, further*, that the principle of social equity shall always be considered in the granting of an IFMA.

Sec.6 *Prohibited Areas.* In no case shall IFMAs be awarded in areas classified or to be classified under the National Integrated Protected Areas System (NIPAS) except when they fall within buffer zones, or subject of Certificates of Ancestral Domain/Land Claims (CADC/CALC) or of any other tenurial instrument issued by the DENR under the Integrated Social Forestry Program, Community Forestry Program, and other people-oriented forestry programs. Areas covered by pending applications for Certificate of Ancestral Domain/Land Claim shall not be open to applications for IFMA until the DENR, after due notice and

hearing in accordance with DAO No. 2, series of 1993, or other pertinent rules and regulations, shall have denied or rejected with prejudice such application for CADC/CALC. Those areas verified by the appropriate office of the DENR to be actually occupied by indigenous cultural communities under a claim of time immemorial possession shall likewise not be open to applications for IFMA without the prior informed consent and express and written agreement of the occupants, which shall be obtained in accordance with customary law where appropriate, or until the claim shall have been resolved.

Sec. 7. *Environmental Impact Assessment.* No IFMA shall be awarded without the submission by the IFMA applicant of a Project Description (PD) or Initial Environmental Examination (IEE) and the issuance of an Environmental Compliance Certificate (ECC) by the Regional Office concerned. After an IFMA has been awarded, the submission of an Environmental Impact Statement (EIS) by the IFMA Holder and the issuance of an ECC by the Secretary shall be conditions precedent to the approval of the Comprehensive Development and Management Plan (CDMP).

Sec. 8. Applications for Conversion or Expansion. All applications for conversion of Timber License Agreements into IFMAs and/or for expansion of IFMA Areas shall be deemed as new applications for IFMA and shall be subject to the pertinent requirements and procedures contained in these regulations.

CHAPTER III

IDENTIFICATION AND PREPARATION OF AREAS FOR IFMA

Sec. 9. *Identification, Evaluation, and Delimitation of Potential IFMA Areas.* The CENROs shall identify potential IFMA Areas with the aid of the latest forest resource information and other baseline

data. They shall also evaluate on the ground the availability and suitability thereof with respect to site and forest conditions, environmental limitations, conflicting land and resource claims and legal encumbrances. The PENROs shall maintain a data0. base of all potential IFMA Areas within their jurisdiction, as well as the following information:

- 9.1. Description of the rain conditions by elevation and slope class;
- 9.2. Community demographic profile including information on ethnic groupings, areas actually cultivated, and others.

Sec. 10 *Approval of IFMA Areas.* Upon verification of the availability and suitability of the potential IFMA Areas, the PENRO shall conduct information dissemination, through print and broadcast media, in English and in the language in common use in the region. Information dissemination shall identify and describe areas designated as suitable for IFMA and shall describe the objectives of IFMA as a land management instrument.

The PENRO shall then inform, in writing, the concerned LGUs and, together with their representatives, shall validate on the ground the feasibility of the proposed IFMA areas. The validated areas, endorsed by the concerned LGUs, shall then be indicated in a map of appropriate scale which map, together with all pertinent data and information, shall be forwarded through channels to the DENR Secretary for approval.

Within fifteen (15) days from notice of the approval by the Secretary of an IFMA Area or set of areas, the RED shall inform the concerned LGUs thereof and shall cause the publication of the said approval.

The approved map and all other documents shall be furnished the Director of the FMB for data base management and monitoring purposes.

Sec. 11. *Register of Available IFMA Areas.* Each Regional Office shall maintain a Register containing the location and description of all areas that have been determined to be suitable and available for IFMA, including a general prescription for the management and development of the area into different uses as well as restrictions as may be necessary. It shall maintain a comprehensive data base that can be used as a basis in evaluating the suitability and availability of the areas that have not been previously delineated for IFMA. The Register shall be accessible to local communities, local government units and other stakeholders at any reasonable time. The right of local stakeholders to ask for information on IFMAs in their areas shall not be impaired.

CHAPTER IV

QUALIFICATION OF APPLICANTS

Sec. 12. *Qualified Applicants.* Qualified applicants for IFMA are the following:

- 12.1. Filipino citizens of legal age; and
- 12.2. Corporations, partnerships, associations or cooperatives duly registered under Philippine laws, at least sixty percent (60%) of the capital of which is owned and controlled by Filipino citizens.

Sec. 13. *Eligibility Requirements.* In addition to the qualification requirements set forth in the preceding section, applicants shall be required to satisfy the following eligibility requirements:

- 13.1. Environmental Management Record — The applicant must present proof of its present technical and financial capability to undertake resource protection and conservation, rehabilitation of degraded areas, and similar activities. An applicant with previous experiences in natural resource use ventures must have demonstrated an exemplary regard for the environment in its past natural resource use ventures.

- 13.2. Community Relations Record — If an applicant is a current or former holder of TLA and/or any other permit, lease, license or agreement issued by the DENR, the applicant must submit proof of its community relations record. This record may consist of, but is not limited to, proof of its socio-cultural sensitivity, the character of its past relations with local communities cultural appropriateness and social acceptability of its resource management strategies.

The Regional Office concerned shall ensure that the qualification and eligibility requirements are met by the applicants in considering such applications. The evaluation of evidences of the environmental management and community relations records of the applicant shall be subject to review by the Environmental Management Bureau (EMB), the Forest Management Bureau (EMB), and other appropriate DENR offices.

Sec. 14. *Other Requirements for Application.* Applicants for IFMA shall submit to the DENR, through the concerned CENRO, the following documentation, together with an application as shown in Annex "A" and an application fee in the amount set forth below:

- 14.1. Project Description in accordance with DAO No. 21, series of 1992, and other pertinent rules and regulations;

- 14.2. If the applicant is a corporation, partnership, association or cooperative:
 - 14.2.1. Certified copy of Certificate of Registration with the Securities and Exchange Commission (SEC) and/or the Cooperative Development Authority (CDA);
 - 14.2.2. Articles of Incorporation and By-laws and a list of present Officers and Stockholders, duly certified by the Board Secretary;
 - 14.2.3. Audited financial statements for the two (2) preceding years if the applicant was already in existence; and
 - 14.2.4. A resolution authorizing the officers to file the application in behalf of the corporation, partnership, association or cooperative, duly certified by the Board Secretary;
- 14.3. Receipt of income tax payments for the preceding two (2) years;
- 14.4. If the applicant is a TLA holder and/or holder of any other permit, lease or license covering utilization of forestland, forest resources or other natural resources, or is owned, affiliated, connected or related directly or indirectly with holders of such permit, lease or license, proof of satisfactory performance of such permit, lease or license set out in the prescribed format shown in Annex "B";
- 14.5. Proof of financial capability to undertake initial activities such as perimeter survey and preparation of a comprehensive development and management plan, as well as evidence of access to financial resources to plant at least 50% of the plantable area;

- 14.6. Proof of technical competence to comply with the terms and conditions specified in the Standard IFMA, or proof of ability to hire the services of technically competent personnel supported, as appropriate, by a statement of relevant background and experience, the biodata of qualified personnel, and/or an agreement with a qualified organization; and

An application fee shall be paid to the DENR in the following amounts: (1) P12,000.00 for areas larger than 500 hectares up to 2,000 hectares; (2) P14,000.00 for areas larger than 2,000 hectares up to 5,000 hectares; (3) P15,000.00 for areas larger than 5,000 hectares up to 10,000 hectares; (4) P20,000.00 for areas larger than 10,000 hectares up to 15,000 hectares; and (5) P25,000.00 for areas larger than 15,000 hectares up to 20,000 hectares. Application fees may be adjusted upon review by the DENR.

CHAPTER V

AWARDING OF IFMAS AND APPROVAL OF CDMPS

Sec. 15. *Processing of Applications.*

- 15.1. In the CENRO — The CENRO shall accept and process IFMA applications on a first come-first served basis. Upon receipt of the application, the CENRO shall verify whether the area is available and whether it is within the approved areas for IFMA. Likewise, the CENRO shall evaluate the qualifications of the applicant and the completeness of the documents submitted. If all are found in order, the CENRO shall determine on the ground the physical conditions of the area, the presence of actual occupants, soil

condition, vegetation, topography and other ecological factors that will ensure success of the plantation, and other pertinent information. The CENRO shall then process the documents and forward all papers to the PENRO with comments and recommendations within thirty (30) days from receipt of the application.

15.2. In the PENRO — Upon receipt of the application and all pertinent documents, the PENRO shall review and evaluate the same. If all are found in order, the PENRO shall, within one (1) month from receipt thereof, schedule and conduct consultative meetings with the affected community residents, in consonance with the guidelines provided in Annex "C" of this Order, for the purpose of ascertaining the acceptability of the project. This consultative meetings shall be duly documented and the documentation shall include the nature and extent of community participation, the benefits that would accrue to the community and the sketch of the potential IFMA Area covered by the consultation. Within ten (10) days after the final consultative meeting, the PENRO shall prepare and endorse the application to the concerned RED with comments and recommendation and the documentation on the consultative meetings.

15.3 In the DENR Regional Office — In the Regional Office, the Regional Technical Director for Forestry (RTD) shall have the documents evaluated. If all are found in order, the RTD shall prepare the agreement in the form shown in Annex "D" of this Order and, within ten (10) days from receipt of the PENRO's recommendation, shall forward the agreement and all other pertinent documents to the RED with corresponding recommendation. The RED shall review the IFMA application and other documents and, within ten (10) days from receipt of the RTD's recommendation, shall either deny the application or

forward the same with recommendation to the DENR Central Office for consideration and approval. Within fifteen (15) days from receipt of an order of denial, the IFMA applicant may appeal the same to the Undersecretary for Field Operations or to the Secretary, as the case may be.

- 15.4 In the DENR Central Office — The IFMA shall be approved, or a notice denying the application shall be issued, within thirty (30) days from receipt by the DENR Central Office of the application and documents. Such approval or denial shall be final, without prejudice to the right of the IFMA Holder or other interested party to file an appeal from the decision of the Undersecretary for Field Operations or a motion for reconsideration of the decision of the Secretary, within fifteen (15) days from receipt of the decision. Copies of the IFMA or of the notice of denial, as the case may be, shall be furnished the FMB, the PENRO, the CENRO, and the concerned LGUs.

Sec. 16. *Responsibility of the FMB.* The FMB shall be primarily responsible for the proper receipt, recording, safekeeping and evaluation of documents pertaining to potential IFMA Areas, and shall endorse the approval of an IFMA to the Undersecretary for Field Operations or to the Secretary.

Sec. 17. *Preparation and Issuance of IFMA.* An IFMA, together with a final sketch plan of the area, shall be prepared, the final approval of which shall be made by the following DENR officials:

- 17.1. For Areas 10,000 hectares and below — the Undersecretary for Field Operations, with the concurrence of the Undersecretary for Environment and Programs Development and the Undersecretary for Legal and Legislative Affairs and Attached Agencies.

17.2. For Areas Over 10,000 Hectares — the Secretary.

Sec. 18. *Approval of CDMPs.* Approval a CDMP shall be made by the corresponding official who approved the IFMA.

CHAPTER VI

TERMS AND CONDITIONS OF INDUSTRIAL FOREST MANAGEMENT AGREEMENTS

Sec. 18. *Duration of an IFMA.* An IFMA shall have a duration of twenty-five (25) years and shall be renewable for another twenty-five (25) years; provided, that all the conditions of the IFMA and other pertinent laws and regulations have been complied with.

Sec. 19. **Responsibilities of All IFMA Holders.** The following are the responsibilities of all IFMA Holders:

- 19.1 Within six (6) months from the date an IFMA is entered into, the IFMA Holder shall submit a Comprehensive Development and Management Plan (CDMP) in the form shown in **Annex "E"** of this Order, which shall be subject to the approval of the Secretary or the Undersecretary for Field Operations, as the case may be. The submission of an Environmental Impact Statement (EIS) by the IFMA Holder and the issuance of an Environmental Compliance Certificate (ECC) by the Secretary are conditions precedent to the approval of the CDMP.
- 19.2 IFMA Holders shall comply with all the conditions of the ECC.

- 19.3. Within six (6) months from the date an IFMA is entered into, the IFMA Holder shall delineate and mark on the ground the boundaries of the IFMA Area and the boundaries of the natural forest and protection forest contained therein.
- 19.4. IFMA Holders shall plant principally timber-producing species compatible with the ecological and biophysical characteristics of the area, but not excluding rubber and/or non-timber species such as rattan and bamboo, to support wood-processing and manufacturing facilities and/or to supply water, wood and energy requirements. They shall plant on open and denuded land and brushland portions of their IFMA Areas, as indicated and in accordance with the schedules set out in the approved Comprehensive Development and Management Plan (CDMP); *provided*, that at least five percent (5%) of the area available for plantation shall be planted within twelve (12) months, at least fifty percent (50%) within three (3) years, and the total are within five (5) years from the date the CDMP was approved; *provided, further*, that in IFMA Areas larger than 500 hectares up to 6,000 hectares, at least 300 hectares must be planted within the first twelve (12) months; *provided, finally*, that the survival rate shall be at least 80% of the required stocking density per species.
- 19.5. IFMA Holders may plant up to ten percent (10%) of suitable portions of open and denuded areas and brushlands within their IFMA Areas for permanent agricultural use; *provided*, that such development is included in the approved Comprehensive Development and Management Plan.
- 19.6. IFMA Holders shall protect their IFMA Areas from forest fires and other forms of forest destruction and shall place their employees or workers under the direction of government foresters or other

authorized agents of the Secretary whenever required for the purpose of controlling such destruction.

- 19.7. IFMA Holders shall not cut any tree, regardless of species, in their IFMA Areas growing in areas with slopes of 50% or over, or within strips of land at least twenty (20) meters in width bordering rivers and streams, or within twenty (20) meters from either side of public roads, nor trees growing within protection forest. Any such areas found within the IFMA Area that are bereft of trees shall be reforested by the IFMA Holder and shall be kept permanently under tree cover.
- 19.8. IFMA Holders shall reforest all areas within their IFMA Areas that are open and denuded land or brushland, or along banks of streams with channels less than five (5) meters in width.
- 19.9. IFMA Holders shall protect and conserve unique, rare and endangered trees, palms and wildlife, identified as such under existing laws, rules and regulations, that are found within their IFMA Areas.
- 19.10. IFMA Holders shall ensure the adequate protection of any natural forests that may be found within the IFMA Area. Cutting shall not be allowed unless absolutely necessary; provided that, before any cutting is conducted, permit shall be required of the IFMA holder.
- 19.11. IFMA Holders shall immediately prevent or arrest gully erosions within the IFMA Area
- 19.12. IFMA Holders shall not introduce exotic species that are untested under Philippine conditions into the IFMA Area without prior

written clearance from the DENR Secretary in accordance with existing rules and regulations.

- 19.13. To ensure effective forest management, IFMA Holders shall employ a registered forester at least as forest operations manager or at any top level management position.
- 19.14. IFMA Holders shall not unreasonably impede, obstruct or in any manner prevent the passage through their IFMA Areas of authorized licensees, lessees, permittees and/or other persons.
- 19.15. IFMA Holders shall prepare, maintain and periodically update a register of all families and communities residing within their IFMA Areas and shall furnish the concerned CENRO a copy of the register, including periodic updates.
- 19.16. IFMA Holders shall construct permanent structures or roads within their IFMA Areas only in accordance with the approved Comprehensive Development and Management Plan.
- 19.17. IFMA Holders shall submit to the DENR Annual Accomplishment Reports in the form prescribed in Annex "F" of these regulations.
- 19.18. IFMA Holders shall at all times recognize and respect the rights of indigenous cultural communities to their ancestral domains.
- 19.19. IFMA Holders shall comply with all laws, rules and regulations protecting workers' rights and promoting community development.

19.20. In developing the CDMP, IFMA Holders shall integrate gender concerns including the equitable participation of women in implementing the CDMP and enjoying the fruits thereof.

Sec. 20. *Responsibilities of the DENR.* The following conditions shall be observed by the DENR with respect to all IFMAs:

20.1. The DENR shall ensure that the Environmental Impact Assessment, notice, consultation, posting and delineation requirements and procedures prescribed in these regulations are strictly complied with.

20.2. The DENR shall, upon request, make available to the IFMA Holder all information it possesses regarding the land, resources and dependent communities within or adjacent to the IFMA Holder's area.

20.3. The DENR shall, in cooperation with the LGUs, assist IFMA Holders and host communities in the development and execution of mutually beneficial agreements.

Sec. 21. *Transfers.* No transfer, exchange, sale or any conveyance of rights and privileges acquired by virtue of an IFMA shall be effective without the prior express approval of the DENR Secretary.

The IFMA Holder shall submit a Letter of Intent to execute such conveyance to the DENR Secretary. The IFMA Holder shall likewise furnish a copy of the Letter of Intent to the concerned Regional Office and to local stakeholders within five (5) working days from the execution thereof.

The concerned Regional Offices and local stakeholders shall have the right to transmit their written positions on the proposed conveyance

within fifteen (15) working days from receipt of the Letter of Intent. The Secretary shall endeavor to consider these positions in deciding the matter.

The Secretary shall render a decision on the matter within thirty (30) working days from date of actual receipt of the Letter of Intent. The decision of the Secretary on the matter shall be final and executory, without prejudice to the right of the IFMA Holder to file a written motion for reconsideration within fifteen (15) days from receipt of the decision.

Sec. 22. *Conditions of Transfer.* Subject to the aforesaid procedure, the transfer of an IFMA may be authorized by the Secretary under all of the following conditions:

- 22.1. The IFMA has been in existence for at least three (3) years;
- 22.2. The IFMA Holder has been faithfully complying with the terms and conditions of the IFMA, including implementation of the Comprehensive Development and Management Plan;
- 22.3. The transferee is qualified to hold an IFMA;
- 22.4. There is no evidence that such transfer or conveyance is being made for purposes of speculation;
- 22.5. The transferee shall assume all the obligations of the transferor;
and
- 22.6. For IFMA Areas in which development is being financed by loan funds, the consent of the financing institution(s) has been obtained.

Sec. 23. *Compensation to the IFMA Holder.* After due consideration of the agreed government share, IFMA Holders shall be

entitled to receive compensation from the government for the fair market value of the remaining permanent improvements, including plantation crops, introduced by the IFMA Holders into the IFMA Areas, under the following circumstances:

- 23.1. Termination of the IFMA without just cause; or
- 23.2. Reduction of the IFMA Area without just cause.

The fair market value of permanent improvements shall be decided upon by a committee composed of one representative each from the DENR and the affected IFMA Holder, and a qualified independent appraiser whose appointment shall be mutually agreed upon by both the DENR and the IFMA Holder. The DENR and the IFMA Holder shall bear equally the costs of such appraisal. The decision of the appraisal committee shall be binding on the parties.

Sec. 24. *Notice of Breach of the IFMA.* In the event of default or breach of any of the provisions of an IFMA by either party, the other party may, by written notice to the party in default or breach, require the same to be remedied within thirty (30) days from receipt of such notice.

Sec. 25. *Suspension of IFMA.* If any violation by the IFMA Holder of the provisions of the IFMA is reported, the Secretary, depending on the gravity of the violation or any adverse effect arising therefrom on the forest land and resources, may either give Notice of Breach or suspend and give Notice to Cancel the IFMA. Within fifteen (15) days from receipt of a Notice of Suspension or Cancellation, the IFMA Holder may file a motion for reconsideration with the Office of the Secretary.

Sec. 26. *Grounds for Cancellation of IFMA.* Any of the following violations shall be sufficient grounds for cancellation of an IFMA:

- 26.1. If the IFMA was obtained through fraud, misrepresentation or omission of material facts existing at the time of filing of the application. For purposes of this provision, fraud shall include exerting direct or indirect intervention or influence in the procurement of a community's consent to an IFMA project;
- 26.2. Violation of any of the conditions of the ECC;
- 26.3. Fraudulent warranties of environmental management or community relations record or absence of showing thereof;
- 26.4. Violation of any of the terms and conditions of the IFMA, failure to comply with or perform the obligations imposed in the IFMA, or violation of other pertinent laws, rules regulations or policies affecting the exercise of the IFMA;
- 26.5. Failure to submit a Comprehensive Development and Management Plan within six (6) months from the date the IFMA is entered into, failure to implement the approved Comprehensive Development and Management Plan, or conducting any operation in violation of the said plan;
- 26.6. Failure to protect the IFMA area; *provided*, that an IFMA shall not be subject to cancellation if the damage to the IFMA area or to its improvements results from *force majeure*;
- 26.7. Abandonment of the area as evidenced by absence of the IFMA Holder, whether actual or constructive, for a period of six (6) months or more; and
- 26.8. Failure by the IFMA Holder to implement or adopt agreements made with communities and other relevant sectors.

When an IFMA has been awarded in violation of Sections 4, 5, 6, 7, 8 and 13 of these rules and regulations, the IFMA concerned shall be automatically canceled.

CHAPTER VII

INCENTIVES AND GOVERNMENT SHARE

Sec. 27. ***Incentives.*** All IFMA Holders shall be entitled to the following incentives:

- 27.1. IFMA Holders may interplant secondary crops between trees within areas designated for IFP in their IFMA Areas; *provided*, that such will not cause adverse impacts on biodiversity as indicated in a prior Environmental Impact Assessment study.
- 27.2. All trees planted by the IFMA Holder, except for those retained or planted for environmental protection purposes, shall belong to the IFMA Holder who shall have the right to harvest, sell and utilize such trees and crops.
- 27.3. The DENR shall allow an IFMA Holder to export logs, lumber and other forest products harvested from the IFMA plantation, in accordance with the government allocation system.
- 27.4. All plantation products derived from an IFMA Area shall be exempt from forest charges.
- 27.5. There shall be no restriction on the use of the IFMA and the improvements in the IFMA Area as collateral for obtaining loans for the improvement of the IFMA Area; *provided*, that there is prior approval by the issuing authority of the IFMA.

Sec 28. *Government Share.* The government share in the IFMA shall be negotiated between the IFMA applicant and the DENR based on the following factors:

- 28.1 Plantation establishment and maintenance costs;
- 28.2 Harvesting schedule;
- 28.3 Kind of products to be harvested;
- 28.4 Projected volume of harvest;
- 28.5 Market price of timber products; and
- 28.6 Variation in applicable rate of interest of financial investment.

The amount of the government share shall remain unchanged for the duration of the IFMA, unless renegotiated and mutually agreed upon by the DENR and the IFMA Holder.

CHAPTER VIII

MONITORING AND CONTROL

Sec. 29. *Monitoring and Evaluation.*

29.1. Reporting System — The FMB shall prepare a simplified reporting format to be accomplished by the CENRO. The PENRO shall analyze and consolidate the report and submit the same to the FMB through the RED with comments and recommendations on policy and program implementation. The FMB shall prepare and submit regular national consolidated reports to the Secretary.

29.2. Site Monitoring and Evaluation — A team composed of representatives of the concerned LGU, an NGO, and the CENRO, with the latter as team leader, shall regularly monitor and evaluate

the progress of the IFMA within the CENRO jurisdiction. The status indicators shall include, among others, the following:

- 29.2.1. Seedling production by species;
- 29.2.2. Area and date planted by species;
- 29.2.3. Environmental protection and mitigating measures;
- 29.2.4. Progress maps showing the area planted by year, including the species planted;
- 29.2.5. Pictures and other visual documentation;
- 29.2.6. Issues and problems in the implementation and recommendation to improve the project implementation.

Sec. 30. Program Management. The Program shall be managed and implemented through the following DENR Offices:

- 30.1. The FMB shall be the National Coordinating Office of the Program and it shall have the following functions and responsibilities:
 - 30.1.1. To develop, formulate and recommend policies, rules and regulations related to program development and implementation;
 - 30.1.2. To review and evaluate potential IFMA sites and submit a report thereon to the Secretary for approval;
 - 30.1.3. To coordinate the implementation and execution of the IFMA:

- 30.1.4. To evaluate program implementation and update the DENR by providing periodic reports on activities and accomplishments of the program:
- 30.1.5. To establish institutional linkages with other government and non-government agencies as appropriate at the national level to improve program implementation; and
- 30.1.6. To keep complete and systematic files of, and updated information on, all IFMAs issued and other pertinent documents related to the program.
- 30.2. The RED, assisted by the RTD, shall be responsible for the effective implementation of the program in the region. The Forest Resources Development Division shall act as the regional repository of all data and information. The RED shall submit periodic reports to the Secretary, through the FMB, on program implementation including IFMA monitoring and evaluation.
- 30.3. The PENRO shall be responsible for the effective implementation of the program in the province and shall evaluate periodic reports submitted by the CENRO and forward the same, together with the findings and recommendations, to the RED. The PENRO shall maintain a data base for all IFMAs within the province.
- 30.4. The CENRO shall be directly responsible for implementing the program within its jurisdiction, in coordination with other concerned government and non-government units. The CENRO shall be further responsible for site identification, processing of IFMA applications, and monitoring and evaluation of the program implementation. The CENRO shall submit periodic reports thereon to the PENRO for evaluation.

CHAPTER X

MISCELLANEOUS PROVISIONS

Sec. 31. *Transitory Provisions.* Upon approval by the Secretary of the IFMA areas, existing applications for IFMA shall be processed immediately. Existing applications shall have priority with respect to the areas applied for; provided, that if there are two or more applications already existing over the same area, the prior applicant shall be preferred.

These regulations shall apply to valid and subsisting IFMAs but shall not impair vested rights.

Sec. 32. *Repealing Clause.* DAO No. 60, series of 1993, and all other regulations, memoranda, circulars, issuances, or parts thereof, that are inconsistent with the provisions of this Order are hereby repealed or modified accordingly.

Sec. 33. *Separability Clause.* If any provision of this Order is held invalid, all the other provisions not affected thereby shall remain valid.

Sec. 34. *Effectivity.* This Order shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

(Sgd.) VICTOR O. RAMOS
Secretary