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DENR Administrative Order
No. 2005 - 07

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SUBJECT: AMENDMENTS TO CHAPTER XVIII OF DENR ADMINISTRATIVE ORDER NO. 96 – 40, AS AMENDED, PROVIDING FOR THE ESTABLISHMENT OF A FINAL MINE REHABILITATION AND DECOMMISSIONING FUND

Consistent with the basic policy of the Government to ensure that mining activities attendant to permits, agreements and leases shall be managed in a technically, financially, socially, culturally and environmentally responsible manner to promote the general welfare of the country as well as to the concept of *planning for mine closure/integrated mine closure planning* where the environmental, social and economic considerations associated with a mining project are integrated into every stage of mining operation, especially during the mine closure process; Sections 180, 181, 182, 184, 187, 188, 193, 195, 196, 197 of Chapter XVIII (Contingent Liability and Rehabilitation Fund) of DENR Administrative Order (DAO) No. 96-40 and Section 9.4 of DAO 2003-30, Implementing Rules and Regulations for the Philippine Environmental Impact System, are hereby amended for the guidance and compliance of all concerned.

Section 1. Chapter XVIII of DAO 96-40 is hereby amended to read as follows:

“Section 180. Contingent Liability and Rehabilitation Fund

Cognizant of the need to ensure just and timely compensation for damages and progressive and sustainable rehabilitation for any adverse effect a mining operation or activity may cause, the Department through the Bureau shall institutionalize an environmental guarantee fund mechanism to be known collectively as the Contingent Liability and Rehabilitation Fund (CLRF).

The CLRF shall be in the form of the Mine Rehabilitation Fund, *the Mine Waste and Tailings Fees and the Final Mine Rehabilitation and Decommissioning Fund* and shall be administered by the CLRF Steering Committee as provided for in Section 193 hereof.

Section 181. Mine Rehabilitation Fund

A Mine Rehabilitation Fund (MRF) shall be established and maintained by each operating Contractor/Permit Holder as a reasonable environmental deposit to ensure availability of funds for the satisfactory compliance with the commitments and performance of the activities stipulated in the EPEP/AEPEP during specific project phase. The MRF shall be deposited as a Trust Fund in a Government depository bank and shall be used for physical and social rehabilitation of areas and communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation.

The MRF shall be in two forms, namely:

- a. Monitoring Trust Fund (MTF). This Fund shall be initiated by the Contractor/Permit Holder and shall be deposited in a mutually acceptable Government depository bank for the exclusive use in the monitoring program approved by the MRF Committee.



The MTF shall be in cash and in an amount to be determined by the MRF Committee which shall not be less than the amount of **One Hundred Fifty Thousand Pesos (P 150,000.00)** to cover maintenance and other operating budget for the transportation and travel expenses, cost of laboratory analysis, cost of supplies and materials, cost of communication services, cost of consultancy work and other reasonable expenses incurred by the monitoring team: *Provided*, That the Secretary shall be authorized to increase the said amount when national interest and public welfare so require, upon the recommendation of the Director. The Contractor/Permit Holder shall notify the Chair or the Co-Chair of the MRF Committee of its compliance with the deposit requirement through a certification from the bank.

Authorization for the disbursement from the MTF shall only be given by the designated representatives of both the MRF Committee and the Contractor/Permit Holder. Replenishment of this amount shall be done **quarterly** to correspond to the expenses incurred by the monitoring team.

- b. **Rehabilitation Cash Fund.** The Contractor/ Permit Holder shall set up a Rehabilitation Cash Fund (RCF) for a designated amount to ensure compliance with the approved rehabilitation activities and schedules, including research programs, as defined in the EPEP/AEPEP. The RCF shall be equivalent to ten percent (10%) of the total amount needed to implement the EPEP or Five Million Pesos (P5,000,000.00), whichever is lower. The RCF shall be deposited as a Trust Fund in a mutually agreed Government depository bank: *Provided*, That said amount shall be deposited in four (4) equal quarterly deposits within fifteen (15) calendar days from the beginning of each quarter of the first year following the approval of the EPEP.

A request for withdrawal and disbursement from said amount(s) by the Contractor/Permit Holder shall be based on its EPEP/AEPEP and shall be submitted to the MRF Committee for consideration and approval, copy furnished the CLRF Steering Committee.

In the event of withdrawals from the RCF, the Contractor shall annually replenish the RCF so as to maintain the minimum required amount thereof.

Upon written notification by the Contractor/Permit Holder to the Chair of the MRF Committee that the mine has reached the end of its operating life, the RCF shall, after payment of all outstanding obligations, be terminated and the remaining amount therein, including interests, shall be returned to the Contractor/Permit Holder. In lieu thereof, the Final Mine Rehabilitation and Decommissioning Fund (FMRDF), as stipulated in Section 187-B of these rules and regulations, shall be utilized to fund all decommissioning and/or rehabilitation activities contained in the approved Final Mine Rehabilitation and/or Decommissioning Plan (FMR/DP) for the succeeding years until the objectives of mine closure have been achieved.

Section 182. The Mine Rehabilitation Fund Committee

A Mine Rehabilitation Fund (MRF) Committee shall be created in each Region where active mining operations exist and shall have the following duties and responsibilities:

- a. Conducts preliminary evaluation on the submitted EPEP and consults with credible experts, as may be required, to clarify proposals and to discuss the adequacy of control and rehabilitation measures: *Provided*, That the MRF Committee shall evaluate and approve/disapprove the submitted EPEP for Industrial Sand and Gravel Permit and Quarry Permit.



- b. **Manages, operates, monitors and looks after the safety of the MRFs and FMRDFs and that shall be established and deposited in a Government depository bank in accordance with the provisions of these implementing rules and regulations;**
- c. **Resolves issues involving the progressive mine rehabilitation programs that shall be implemented;**
- d. **Hires credible experts to do independent studies and researches on the environmental, engineering and sociocultural impacts of the projects in order to assist it in making judicious decisions;**
- e. **Ensures that the approved EPEPs/AEPEPs shall be strictly implemented by the Contractors/Permit Holders;**
- f. **Deputizes a Multipartite Monitoring Team (MMT) to serve as its monitoring arm with the Regional Office concerned taking the lead role;**
- g. **Monitors and evaluates the performance of the MMTs and reports its assessments to the CLRF Steering Committee;**
- h. **Ensures that the MTFs, RCFs and FMRDFs shall be kept separate and distinct from one another and maintains independent and specific books of records for all transactions of the said funds of each Contractor/Permit Holder;**
- i. **In the absence of fraud, bad faith or gross negligence on the part of the MRF Committee or any person acting on its behalf, the said Committee shall not be liable for any loss or impairment of the MRFs arising out or in connection with any act done or performed or caused to be done or performed by the said Committee pursuant to the provisions of these implementing rules and regulations;**
- j. **Prepares and submits to the Secretary/Director, within thirty (30) calendar days after the end of each year, an annual report of accomplishments, including audited financial statements and such periodic reports of activities as may be required; and**
- k. **Performs other functions as may be assigned by the Secretary/Director.**

Section 183. Composition of the MRF Committee

The Mine Rehabilitation Fund Committee shall be composed of the following:

- a. **Regional Director as Chair;**
- b. **Regional Executive Director (RED) of the Department as Co-Chair;**
- c. **Regional Director of the Environmental Management Bureau (EMB) as Member;**
- d. **Representative of the Autonomous Regional Government, where this is applicable, as Member;**
- e. **Representative from the Local Government Unit as Member;**
- f. **Representative from the local NGOs and community organizations, including People's Organizations, church or civic organizations, as Member; and**
- g. **Representative of the Contractor/Permit Holder as Member.**

In case the Regional Director and/or the Regional Executive Director could not personally attend a meeting or function of the MRF Committee, he/she shall designate or appoint a representative who shall be duly authorized in writing to have full power and authority to act in his/her behalf.

The Regional Office shall provide the technical, secretariat and administrative supports, as may be deemed necessary, to the Committee.

Section 184. Meetings of the MRF Committee

The Committee shall hold *quarterly* meetings: *Provided*, That any member of the Committee may call a special meeting as he/she may deem necessary: *Provided, further*,



That notices of the meetings stating the date, time, place and agenda therefore shall be sent by the Committee Chair or Co-Chair to all members at least ten (10) working days before the intended date of the meetings.

In all meetings, the presence of at least four (4) members shall constitute a quorum to conduct business. The meetings shall be presided by the Chair or, in his/her absence, by the Co-Chair. In the absence of the Chair and the Co-Chair, the meetings shall be presided by either of their representatives. Unless otherwise provided herein, a majority vote of the members present in the meeting shall be required to give effect to any resolutions or decisions of the Committee. The presiding officer of the meeting shall not vote in any matter brought before the Committee except in case of a tie.

The Committee shall provide the CLRF Steering Committee with a copy of the minutes of its meetings within seven (7) working days after.

Section 185. The Multipartite Monitoring Team

A Multipartite Monitoring Team (MMT) shall be deputized by the MRF Committee, as provided for in Section 182 hereof, to serve as the monitoring arm of said Committee and shall be composed of the following:

- a. Representative from MGB Regional Office as Head;
- b. Representative from Department Regional Office as Member;
- c. Representative from the EMB Regional Office as Member;
- d. Representative of the Contractor/Permit Holder as Member.
- e. Representative from the affected community(ies) as Member;
- f. Representative from the affected Indigenous Cultural Community(ies), if any, as Member; and
- g. Representative from an environmental NGO.

The MMT may request the MRF Committee for technical assistance when deemed necessary. The Head of the MMT shall submit to the MRF Committee, at least five (5) working days before the scheduled regular meetings of the latter, a report on the status and/or result of its monitoring activities as provided for in Section.

Section 186. Disbursements from the MRF

Withdrawal from the MRF shall be made by the Contractor/Permit Holder only with the written instruction to the bank issued by the MRF Committee authorizing the Contractor/Permit Holder to withdraw the amount from the MRF. The amount to be withdrawn shall be in accordance with the AEPEP and shall be approved by the MRF Committee, copy furnished the CLRF Steering Committee.

Any one of the following shall be authorized to issue the instruction to the bank on behalf of the MRF Committee:

- a. The Chair,
- b. The Co-Chair or
- c. The designated representative of either (a) or (b).

In the event that none of the above-mentioned persons issues the instruction to the bank after the lapse of thirty (30) calendar days from the time the written request for instruction is received by them, the Contractor/Permit Holder shall have the authority to sign the instruction on behalf of the MRF Committee and to withdraw the amount in accordance with the approved AEPEP.



Section 187. Final Mine Rehabilitation/ Decommissioning Plan, is hereby amended, to read as follows:

"The Final Mine Rehabilitation and/or Decommissioning Plan (FMR/DP or Mine Closure Plan) shall be integrated in the EPEP submitted by Contractors/Permit Holders to the MRF Committee through the Regional Office and to the CLRF Steering Committee through the Bureau. Using risk-based methodologies/approaches, the FMR/DP shall consider all mine closure scenarios and shall contain cost estimates for the implementation of the FMR/DP, taking in consideration expected inflation, technological advances, the unique circumstances faced by the mining operation, among others: Provided, That such estimates shall be based on the cost of having the decommissioning and/or rehabilitation works done by third party contractors: Provided, further, That the estimates, on a per year basis, shall cover the full extent of work necessary to achieve the objectives of mine closure such as, but shall not be limited to, decommissioning, rehabilitation, maintenance and monitoring and employee and other social costs, including residual care, if necessary, over a ten-year period. The FMR/DP shall be subject to pre-evaluation by the MRF Committee and to final approval by the CLRF Steering Committee.

Detailed guidelines regarding the implementation of this Section shall be formulated by the Secretary through the Director.

Section 187-A. FMR/DP in relation to ECC

The submission and approval of a FMR/DP, in lieu of the Abandonment/ Decommissioning Plan under Section 9.4 of DAO 2003-30, shall be incorporated as a mandatory requirement in the Environmental Compliance Certificate (ECC) being issued by the DENR Secretary, EMB Director, or EMB Regional Director to Contractors/Permit Holders.

Section 187-B. The Final Mine Rehabilitation and Decommissioning Fund

In accordance with Section 71 of RA No. 7942 and Item f, Section 1 of Executive Order No. 270-A, a Final Mine Rehabilitation and Decommissioning Fund (FMRDF) shall be established by each operating Contractor/Permit Holder to ensure that the full cost of the approved FMR/DP is accrued before the end of the operating life of the mine. The FMRDF shall be deposited as a trust fund in a Government depository bank and shall be used solely for the implementation of the approved FMR/DP.

Annual cash provisions shall be made by Contractors/Permit Holders to a Final Mine Rehabilitation and Decommissioning Fund (FMRDF) based on the formula:

$$\text{Annual Provision} = \text{Cost of Implementing the Approved FMR/DP} \times \text{Percentage Required Per Table 1}$$

Based on the expected mine life, the initial annual cash provision shall be made to the MRF Committee within sixty (60) days from the date of the FMR/DP's approval and every anniversary date thereafter: Provided, That, on application by the Contractor/Permit Holder, the MRF Committee may allow a later date for the payment of the first annual provision.

Section 187-C. Disbursements from the FMRDF

Withdrawal from the FMRDF shall be approved by the CLRF Committee upon recommendation by the MRFC based on the approved work and financial plan: Provided, That amounts incurred by the Contractor/Permit Holder for progressive rehabilitation/annual environmental and



enhancement programs pursuant to its EPEP/AEPEP cannot be reimbursed or credited to the FMRDF and shall continue to be governed by relevant provisions of DAO 96-40.

Section 187-D. Progress Reporting

The Contractor/Permit Holder shall submit a progress report, if applicable, containing details of fully, partially, and on-going rehabilitation activities relative to the implementation of the FMR/DP.

The report shall be submitted to the MRF Committee for review and evaluation within thirty (30) days from the end of the term of the preceding work and financial plan, if applicable. The results of the Committee's review and evaluation shall be integrated in the succeeding year's work and financial plan.

Section 187-E. Review of the FMR/DP

The FMR/DP shall be reviewed and/or revised at a date not exceeding two (2) years after its approval and every two (2) years thereafter. The FMR/DP may also be reviewed and/or revised whenever amendments are justified by changes in mining activities; the review and/or revision may be made on the Contractor's/Permit Holder's Initiative or at the request of the Director/Regional Director.

In conjunction with the review and/or revision of the FMR/DP, annual provisions to the FMRDF may be increased or decreased based on such factors as:

- To credit progressive rehabilitation works undertaken by the Contractor/Permit Holder; and
- To account for changes in the nature or cost of work to be done pursuant to the approved FMR/DP.

Section 187-F. Final Relinquishment of Rehabilitated Areas

The Contractor/Permit Holder shall prepare and submit a Final Rehabilitation Report with third party Environmental Audit (FRR with EA) for pre-evaluation by the MRF Committee and final approval by the CLRF Steering Committee, if, based on the assessment of the Contractor/Permit Holder, that the objectives of mine closure, as contained in the approved FMR/DP, have been achieved.

The MRF Committee and/or CLRF Steering Committee may, after due review and evaluation of the FRR with EA, conduct field validation of the reported accomplishments, recommend revision/s to the submitted report, and/or require additional rehabilitation works to be undertaken: Provided, That if residual care is still needed, the Contractor/Permit Holder shall submit a Site Management Plan detailing how the identified residual rehabilitation commitments are to be managed: Provided, further, That the CLRF Steering Committee shall issue a Certificate of Final Relinquishment to the Contractor/Permit Holder signifying approval of the FRR with EA and freeing the Contractor/Permit Holder from any further obligations insofar as the rehabilitated area/s are concerned.

Any remaining amount, based on the Contractor's/Permit Holder's total FMRDF annual provisions as well as MWTF payments, shall be released back to the Contractor/Permit Holder: Provided, That any shortfall in the amount needed to achieve the objectives of mine closure pursuant to the approved FMR/DP and



to implement the Site Management Plan, shall be shouldered by the Contractor/Permit Holder.

Section 188. Penalties

Failure of the Contractor/Permit Holder to establish a Mine Rehabilitation Fund *and a Final Mine Rehabilitation and Decommissioning Fund* shall be sufficient ground to suspend or cancel the mining operations in the areas under contracts.

Section 189. Mine Waste and Tailings Fees Reserve Fund

Mine waste and tailings fees shall be collected semiannually from each operating Contractor/Lessee/Permit Holder based on the amounts of mine waste and mill tailings it generated for the said period. The amount of fees collected shall accrue to a Mine Waste and Tailings (MWT) Reserve Fund and shall be deposited in a Government depository bank to be used for payment of compensation for damages caused by any mining operations. The MWT Reserve Fund shall also be utilized for research projects duly approved by the CLRF Steering Committee which are deemed necessary for the promotion and furtherance of its objectives.

Section 190. Mine Waste and Tailings Fees (MWTF)

The basic fees that shall accrue to the MWT Reserve Fund shall be ₱ 0.05/MT of mine waste produced and ₱ 0.10/MT of mill tailings generated from the mining operations except where such mine waste and mill tailings were utilized in the following manner:

- a. Filling materials for underground mine openings;
- b. Filling materials for surface mine openings: *Provided*, That such materials shall not affect natural drainage systems as may be determined by the Committee or its duly authorized representative;
- c. Filling materials for engineered tailings dams, roads and housing areas: *Provided*, That such areas shall not affect natural drainage systems as may be so determined by the Committee or his/her duly authorized representative: *Provided, further*, That those with tailings impoundment/disposal system that were found to have discharged and/or to be discharging solid fractions of tailings into areas other than the approved tailings disposal area shall pay ₱50.00/MT without prejudice to other penalties and liabilities the Contractor/Lessee/Permit Holder shall be subject to under other existing laws, rules and regulations: *Provided, finally*, That said amount shall accrue to the MWT Reserve Fund;
- d. Concreting and manufacture of concrete products; and
- e. Mine waste impounded for future use: *Provided*, That a two-year work program on the utilization of the said materials shall be submitted together with the semiannual report: *Provided, further*, That said materials shall be utilized for its beneficial use within a period of two (2) years. Mine waste materials, which are not utilized within the two-year period, shall be charged the corresponding fee of ₱ 0.05/MT. Non-submission of the work program shall mean disqualification from exemption from payment of fees.

Mining companies utilizing engineered and well-maintained mine waste and tailings disposal systems with zero-discharge of materials/effluent and/or with wastewater treatment plants which consistently meet Department standards shall also be exempted from payment of mine waste and tailings fees.

The Secretary, upon the recommendation of the Director, is authorized to increase the said fees when national interest and public welfare so require.



Section 191. Payment of Mine Waste and Tailings Fees Due

Mine waste and tailings fees shall be payable to the Bureau within forty-five (45) calendar days after the end of each semester. They shall be based on the sworn semiannual report (MGB Form No. 18-1) that shall be submitted to the Bureau, copy furnished the concerned Regional Office, by each operating Contractor/Lessee/Permit Holder stating, among others, the following:

- a. The amounts of mine waste and/or mill tailings produced, contained/stored/impounded and/or utilized; and
- b. The manner by which the mine waste and/or mill tailings produced was utilized.

Contractors/Lessee/Permit Holders with no mine waste nor mill tailings generated shall likewise submit sworn semiannual reports stating that for the said period no such materials were generated from their operations.

Section 192. Penalties

Non-submission of semiannual reports shall mean non-availment of the exemption from payment of mine waste and tailings fees and a penalty of ₱ 5,000.00

Failure to comply with payments of the mine waste and tailings fees provided under Sections 190 and 191 hereof shall mean a ten percent (10%) surcharge on the principal amount for every month of delay.

The Contractor/Lessee/Permit Holder shall be duty bound to pay for damages incurred due to previously exempted mine waste and tailings as described in Section 190 hereof.

Payments for the mine waste and tailings generated, which were previously requested for exemption from payment of fees but were denied based on the verification report, shall be remitted to the Bureau within sixty (60) calendar days upon receipt of notice. Failure to comply with the said provision shall mean a ten percent (10%) surcharge on the principal amount for every month of delay.

Section 193. The Contingent Liability and Rehabilitation Fund Steering Committee

An Interagency Contingent Liability and Rehabilitation Fund (CLRf) Steering Committee shall be created and shall have the following duties and responsibilities:

- a. Evaluates and approves/disapproves the submitted EPEP, *FMRDP*, and consults with credible experts and advisory body(ies), as may be required, to clarify proposals and to discuss the adequacy of control and rehabilitation measures;
- b. Monitors the MRFs that shall be established and deposited in a Government depository bank in accordance with the provisions of these implementing rules and regulations;
- c. **Monitor the FMRDFs that shall be established pursuant to these rules and regulations;**
- d. Resolves issues involving the final mine rehabilitation and decommissioning that shall be implemented;
- e. Hires credible experts to do independent studies and researches on the environmental, engineering and sociocultural impacts of the projects in order to assist it in making judicious decisions;
- f. Monitors and evaluates the performance of the MRF Committees;
- g. Administers the Mine Waste and Tailings Fees Reserve Fund;
- h. Evaluates and decides on all applications for compensation for damages and awards compensations therefore;
- i. Prescribes documentary requirements for applications for compensation for damages;



- j. Appoints and/or designates members of the Technical Working Group to serve as the technical staff of the Committee and Regional Investigation and Assessment Teams, as provided for in Sections 196 and 198 hereof, to assist the Committee in the investigation and assessment of the claims for compensation for damages: *Provided*, That the Committee shall exercise general supervision over them;
- k. Provides appropriate funds from the MRFs and MWT Reserve Fund for the development and implementation of research and other special projects, which are deemed necessary in promoting the environmental objectives of these implementing rules and regulations;
- l. Implements duly approved guidelines, rules and regulations;
- m. Formulates policy recommendations to strengthen the environmental provisions of these implementing rules and regulations for consideration of the Secretary;
- n. Recommends to the Secretary the granting of allowances to officials and personnel performing functions and duties relative to the effective implementation of these implementing rules and regulations;
- o. Prepares and submits to the Secretary, within thirty (30) calendar days after the end of each year, an annual report of accomplishments and such periodic reports of activities, as may be required; and
- p. Performs other functions as may be assigned by the Secretary.

Section 194. Composition of the CLRF Steering Committee

The CLRF Steering Committee shall be composed of the following officials or their duly authorized representatives:

- a. Director as Chair;
- b. Director of Environmental Management Bureau as Vice-Chair;
- c. Director of Lands Management Bureau as Member;
- d. Director of Forest Management Bureau as Member;
- e. Director of Bureau of Soils and Water Management as Member;
- f. Director of Bureau of Plant Industry as Member;
- g. Director of Bureau of Fisheries and Aquatic Resources as Member;
- h. Administrator of the National Irrigation Administration as Member; and
- i. Assistant Director of the Bureau as Committee Coordinator.

In case the Chair and/or the Vice-Chair can not personally attend a meeting or function of the CLRF Steering Committee, he/she shall designate or appoint a representative, who shall be duly authorized in writing to have full power and authority to act in his/her behalf.

The Bureau shall provide the secretariat and administrative supports, as may be deemed necessary, to the CLRF Steering Committee.

Section 195. Meetings of the CLRF Steering Committee

The Committee shall hold *quarterly* meetings: *Provided*, That any member of the Committee may call a special meeting as he/she may deem necessary: *Provided, further*, That notices of the meetings stating the date, time, place and agenda therefore shall be sent by the Committee Chair or Vice-Chair to all members at least ten (10) working days before the intended date of the meetings.

In all meetings, the presence of at least five (5) members shall constitute a quorum to conduct business. The meetings shall be presided by the Chair or, in his/her absence, by the Vice-Chair. In the absence of the Chair and the Vice-Chair, the meetings shall be presided by either of their representatives. Unless otherwise provided herein, a majority vote of the members present in the meeting shall be required to give effect to any

resolutions or decisions of the Committee. The presiding officer of the meeting shall not vote in any matter brought before the Committee except in case of a tie.

Section 196. The Technical Working Group

To assist the CLRF Steering Committee, a Technical Working Group (TWG) shall be created in the Bureau and shall have the following functions:

- a. Acts as technical staff to the CLRF Steering Committee;
- b. Receives, processes and evaluates the submitted EPEP *and FMR/DP* as to its form and substance, imposes additional requirements and documentation deemed necessary and consults with credible experts, including the Director of the Philippine Social Science Council, Director of the National Museum, Offices of the Northern and Southern Cultural Communities, as well as other advisory body(ies) that may be required to clarify proposals and to discuss the adequacy of control and rehabilitation measures;
- c. Conducts annual environmental audit to ensure that the approved EPEPs/AEPEPs *and FMR/DPs* shall be strictly implemented by the Contractors/Permit Holders;
- d. Conducts continuing studies and research on policy options, strategies and approaches to effective implementation of environmental protection and enhancement programs and recommends such measures as may be required to address therefore to the Committee;
- e. Verifies the amounts of mine waste and mill tailings generated by Contractors/Lessees/ Permit Holders;
- f. Computes and collects the mine waste and tailings fees to be paid by Contractors/ Lessees/Permit Holders;
- g. Receives, processes, evaluates and conducts preliminary investigations, if necessary, of claims for damages and submits appropriate recommendations to the CLRF Committee;
- h. Assists in the investigation and assessment of claims for damages and submits appropriate recommendations to the CLRF Steering Committee;
- i. Develops, packages and recommends research and other special projects concerning mining and the environment;
- j. Determines/estimates/prepares the cost of rehabilitating damaged industrial, commercial, residential, agricultural and forest lands, marine and aquatic resources and placer and lode small-scale mining areas caused primarily by mining operations;
- k. Coordinates and monitors the activities of the Regional Investigation and Assessment Teams (RIAT) as provided for in Section 193 hereof;
- l. Drafts guidelines, rules, regulations, resolutions and other documents in connection with the environmental provisions of these implementing rules and regulations; and
- m. Performs other functions as may be assigned by the CLRF Steering Committee.

Section 197. Contingent Liability and Rehabilitation Steering Committee Administrative Fund

The Director shall ensure that adequate budget shall be allocated every year from its regular appropriation for the CLRF Steering Committee and shall include sufficient maintenance and operating budgets for actual field and travel expenses needed during mine site inspections, cost of in-house and external training, monthly honoraria for members of said Committee, cost of supplies and materials, cost of communication services and adequate capital outlay for the purchase of required photocopying machines, computers, microfiche machines and other support equipment.

The Director shall likewise allocate adequate financial support from the MRFs and for the cost of consultancy and other expenses that are deemed necessary in carrying out the functions of the Committee related to EPEP *and FMR/DP* evaluation and monitoring.



Section 198. The Regional Investigation and Assessment Teams (RIAT)

To assist the CLRF Steering Committee in the investigation and assessment of the claims for compensation for damages, there shall be Regional Investigation and Assessment Teams (RIAT), which shall be composed of representatives from the Regional Offices and other member agencies whose services are deemed needed. The RIAT shall be headed by the Regional Director and shall have the following functions:

- a. Provides advice to interested parties on matters related to claims for compensation for damages under these implementing rules and regulations;
- b. Provides applications and other related forms to prospective claimants for damages;
- c. Receives applications for compensation for damages under these implementing rules and regulations;
- d. Conducts field investigations and assessments of claims for damages (MGB Form No. 18-3) and submits reports to the CLRF Steering Committee through the TWG;
- e. Creates, whenever and wherever deemed necessary, Local Task Forces to assist the RIAT in carrying out its functions; and
- f. Performs other functions that may be assigned by the Director.

Section 199. Application for Compensation for Damages

Compensable damages are those damages caused by any mining operations on lives and personal safety; lands, agricultural crops and forest products, marine life and aquatic resources,

cultural and human resources; and infrastructure and the revegetation and rehabilitation of silted farm lands and other areas devoted to agriculture and fishing.

The following are qualified to apply for compensation for damages:

- a. Any individual, in the event of loss or damage to his/her life, personal safety or property;
- b. Any private owners of damaged infrastructures, forest products, marine, aquatic and inland resources;
- c. Any applicant or successor-in-interest for damage to private lands who holds title or any evidence of ownership;
- d. Any applicant or successor-in-interest for damage to alienable and disposable lands;
- e. Any agricultural lessors, lessees and share tenants for damage to crops; and
- f. Any Indigenous Cultural Community in case of damage to burial grounds and cultural resources.

Provided, That any damage caused to the property of a surface owner, occupant or concessionaire, as provided for in Chapter X on Surface Rights, shall be governed by the pertinent provisions of said chapter.

Application for compensation for damages under these implementing rules and regulations shall be filed in a prescribed application forms (MGB Form No. 18-2) with the Regional Investigation and Assessment Teams within thirty (30) calendar days from the occurrence of the damage.

Applications should be supported by the following documents:

- a. Proof of ownership, such as tax declaration, perfected land titles, homestead and free patent. It should be understood, however, that tax declarations shall be honored as proof of ownership only for the purposes of compensation under these implementing rules and regulations;
- b. Receipt of expenditures for improvements made in the affected property(ies); and
- c. Other requirements that may be required by the CLRF Committee.



Section 200. Evaluation of and Compensation for Claims for Damages

The following guidelines shall apply in the evaluation of claims for damages under these implementing rules and regulations:

- a. Amounts paid as compensation for claims for damages shall be drawn from the mine waste and tailings fees collected from Contractor(s)/ Lessee(s)/Permit Holder(s), as may be determined by the CLRF Steering Committee: *Provided*, That in case the assessed amount of damage exceeds the mine waste and tailings fees paid for, the concerned Contractor(s)/Lessee(s)/ Permit Holder(s) shall be duty bound to pay for the remaining balance;
- b. Damages to lives and personal safety shall be compensated at an amount as provided for in other pertinent laws;
- c. Damages caused to agricultural lands, which render such lands useless for the traditional purpose for which they were intended for, may be compensated at an amount equivalent to either one of the following, whichever is lower:
 1. The fair market value of the lands as per tax declaration; or
 2. The cost of rehabilitation of the land;
- d. Damages to agricultural lands resulting in partial loss of productivity may be compensated at an amount equivalent to the costs of rehabilitation;
- e. Damages to industrial and residential lands may be compensated at an amount equivalent to the costs of rehabilitation;
- f. Damages resulting in total or partial loss of agricultural crops, forest products and/or inland aquatic resources may be compensated at an amount equivalent to the loss of projected net income therefrom;
- g. Damages to infrastructures may be compensated at an amount equivalent to the costs of rehabilitation to be determined by the CLRF Steering Committee;
- h. The amount of compensation for damages shall be based on the amount claimed or the amount assessed, whichever is lower;
- i. In case of private leased lands, compensation under these implementing rules and regulations shall be paid in accordance with the sharing agreement between the private landowner(s) and the lessee(s). In the absence of such an agreement, seventy-five percent (75%) of the compensation shall be paid to the lessee and twenty-five percent (25%) shall be paid to the landowner;
- j. Damages compensated by the operating mining company(ies) shall no longer be considered compensable under these implementing rules and regulations: *Provided*, That written approval has been secured from the CLRF Steering Committee. Such payment shall be credited to the concerned Contractor/Lessee/Permit Holder for the next paying period. A waiver signed as a condition for payment of such compensation by the Contractor/Lessee/Permit Holder shall also be considered as a waiver under these implementing rules and regulations;
- k. Any damage to burial grounds and cultural resources of an Indigenous Cultural Community shall be compensated in an amount to be determined by said Community, the concerned Local Government Unit and/or the National Museum; and
- l. The decision of the CLRF Committee shall be final and executory unless appealed to the Secretary within thirty (30) calendar days from receipt of the decision."

Section 2. Transitory Provision

Contractors/Permit Holders in existence and with approved EPEPs on the date these rules and regulations become effective shall submit a FMR/DP for review by the MRF Committee and approval by the CLRF-SC before December 31, 2006 or such later date as may be approved by the Secretary.



Section 3. Separability Clause

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

Section 4. Repealing and Amending Clause

All existing orders, rules and regulations, memorandum circulars or directives or part(s) thereof contrary with the provisions of this Administrative Order are hereby repealed, amended and/or modified accordingly. The Secretary shall furthermore have the authority, inter alia, to amend, revise, add to, clarify, supplement, interpret, delete or make exemptions (to the extent not contrary to the Act) to any provision of these rules and regulations with the end in view of ensuring that the Act is implemented, enforced and achieved.

Section 5. Effectivity

This Administrative Order shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation and fifteen (15) days after registration with the Office of the National Administrative Register.




MICHAEL T. DEFENSOR
Secretary

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