

**Administrative Order
No. 32
February 2, 1990**

**SUBJECT: Amendment to DENR Administrative
Order No. 57, Approved on June 23, 1989**

Section 1. Pursuant to Section 5L of Executive Order No. 192, otherwise known as "The Reorganization Act of the Department of Environment and Natural Resources", the following sections of the DENR Administrative Order No. 57 are hereby amended to read as follows:

"Section 5.1 Government Share in the Production - The share of the government shall be composed of a basic share in production or gross revenue plus a share in net revenue determinable through negotiations, taking into account the following considerations: a) capital investment; b) risks involved; c) contribution to the economy; d) and such other factors as will help in determining a sharing that is fair and equitable to both parties. The basic share shall be expressed as percent of production or gross revenue."

"Section 5.2 This section is hereby deleted. Thus, sections 5.3, 5.4, 5.6, 5.7 and 5.8 should be renumbered as sections 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7 respectively."

Section 2. Effectivity - This administrative Order shall take effect upon approval.

Approved: February 6, 1990

FULGENCIO S. FACTORAN, JR.
Secretary

Recommended by:

AUGUSTUS C. FLORES
OIC-Director
Mines & Geo-Sciences Bureau

**Administrative Order
No. 82
November 20, 1990**

**SUBJECT: Procedural Guidelines on the Award of
Mineral Production Sharing Agreement
(MPSA) Through Negotiation**

Pursuant to Section 6 of Executive Order No. 279, the following procedural guidelines on the award of MPSA through negotiation are hereby promulgated for the information and guidance of all concerned:

Section 1. Acceptance of MPSA Application/Proposal - An MPSA Application/ Proposal in twelve (12) sets shall be accepted upon payment to the DENR Regional Office concerned of the following fees:

- a) filing fee - P100.00 per application/proposal
- b) processing fee - P5,000.00 per application/proposal
- c) P.D. 1856 as amended, for a and b - P20.00 per application/proposal

Section 2. Minimum Requirements for MPSA - The minimum requirements for MPSA which shall be checked/verified by the Regional Technical Secretariat (RTS) within fifteen (15) days from submission, shall be the following:

- a) For Individuals
 - i. Certified photocopies of Income Tax Returns for the three (3) immediate preceding years;
 - ii. Proof of sufficiency of capital and/or credit lines;
 - iii. Sworn statement that applicant/proponent is not a dummy of any person or entity; and
 - iv. Authorization to the Secretary of the DENR or his representatives to verify submitted informations.
- b) For Corporations, Partnerships, Associations
 - i. Certified photocopy of Certificate of Registration issued by the Securities and Exchange Commission (SEC) or the concerned authorized government agency;
 - ii. Certified photocopy of the Articles of Incorporation, Partnership/Association and By-laws;

- iii. Personal data sheets of the current directors and officers, including their nationalities, bio-data and relevant experience or annual report;
- iv. Audited financial statement for the three (3) immediate preceding years, if applicable;
- v. Proof of sufficiency of capital and/or credit lines;
- vi. Authorization to the Secretary of the DENR or his representatives to verify submitted informations.

In addition to the above requirements, an applicant/proponent for an integrated MPSA shall submit a two-year exploration work program. Further, it shall commit itself to conduct Environmental Impact Assessment (EIA) and to comply with the requirements of Environmental Compliance Certificate (ECC). Such commitment shall be set forth in writing and the same shall be submitted before actual mining operation starts. Applicant/proponent for a simple MPSA, on the other hand, shall submit a three (3) year construction and development work program or a three (3) year commercial production work program and an ECC.

For holders of unperfected mining rights, the following shall be submitted in addition to the aforesaid requirements:

- 1) Registration/recording of mining/quarry claim; as in case of assignee, duly registered deed of assignment, transfer, etc.;
- 2) Submission of survey returns or technical descriptions covering the subject claims;
- 3) Proof of compliance with the annual work obligations and occupation fees; and
- 4) Appropriate environmental report and anti-pollution measures proposed to be undertaken during the mining operations

Failure to submit the aforementioned requirements shall be a ground for non-processing of the MPSA application/proposal under consideration.

Section 3. Submission of Letter of Intent (LOIs) and MPSAs -
The following shall submit their LOIs and MPSAs within two (2) years from the effectivity of DENR A.O. 57 or until July 17, 1991.

- i. Declaration of Location (DOL) holders, mining lease applicants, exploration permittees, quarry applicants and other mining applicants whose mining/quarry applications have not been perfected prior to the effectivity of DENR Administrative Order No. 57.

- ii. All holders of DOL acquired after the effectivity of DENR A.O. No. 57.
- iii. Holders of mining leases or similar agreements which were granted after effectivity of 1987 Constitution.

Failure to submit letters of intent and MPSA applications/proposals within the prescribed period shall cause the abandonment of mining, quarry and sand and gravel claims.

Section 4. Area Clearance - Within fifteen (15) days from receipt of MPSA application/proposal by the Regional Office concerned, the Regional Technical Secretariat shall check thru map projection if the area is free from any conflict. If the area is found to be free from conflict, the RTS shall give written notice to the applicant/proponent to pay the corresponding occupation fee of ten pesos per hectare for non-reservation area and 100 pesos per hectare for reservation area within fifteen (15) days from receipt of said written notice. Provided, that failure to pay such fee within the prescribed period shall be a ground for non-processing of the proposal under consideration.

If the area is in conflict, the RTS shall resolve the same within five (5) days from date of discovery of the conflict.

Section 5. Survey of the Area Applied For - Within sixty (60) days from filing of the MPSA proposal, the applicant/proponent thereof shall file with the Regional Technical Director (RTD) for Mines an application for an order of survey and the RTD shall approve the same within five (5) days from submission of all the documents/survey requirements. Survey returns shall be submitted to the RED within one year from receipt of the order of survey. However, areas previously surveyed for mining purposes are exempted from this requirement. Failure to submit survey returns within the prescribed period shall be sufficient ground for cancellation.

Section 6. Publication of MPSA Application/Proposal - Within fifteen (15) days from submission of the survey returns, the Regional Executive Director (RED) shall cause the publication of the MPSA application/proposal once a week, for two (2) consecutive weeks in a newspaper of general circulation at the expense of the applicant/proponent. The RED shall also cause the publication of the MPSA application/proposal on the bulletin board of the Mines and Geosciences Bureau for two (2) consecutive weeks and shall require the applicant/proponent to post for the same period the MPSA application/proposal on the bulletin board of the municipal building of the municipality and in that of the DENR Regional Office, where the proposed MPSA contract area is located. Immediately after the expiration of the period of publication, the applicant/ proponent shall file with the RED an affidavit attesting to the fact that the

required publications have been complied with. However, previously published mining lease applications are exempted from the publications required under this section: Provided, that if no adverse claim/protest is filed within thirty (30) days after the first date of publication, the applicant/proponent shall deposit verification fee within fifteen (15) days from completion of the publication. Failure to do so within the period aforesaid shall be a ground for rejection of said MPSA.

Section 7. Adverse Claims - No adverse claim shall be accepted by RED unless verified and accompanied by the prescribed docket fee and proof of services upon the respondent. No adverse claim shall be entertained unless it contains the name/s of the adverse claimants/oppositors, their respective counsel, if any, detailed statements of the facts relied upon, the grounds of the adverse claims/ protest together with all supporting documents and data. Said adverse claim or any protest shall be resolved by the Regional Panel of Investigators (RPI) within thirty (30) days from referral.

Section 8. Verification of Area Applied For - After payment of the P1,000 per man per day verification fee, a geologist/mining engineer and a geodetic engineer both duly licensed and designated/deputized by the DENR Regional Executive Director shall conduct a field verification so as to confirm if the proposed contract area is indeed mineralized, correctly surveyed and properly monumented. Provided, that the minimum verification fee shall be P4,000. The verification team shall submit its report to RTS within 15 days from completion of verification. However, areas previously verified are exempted from this requirement.

Section 9. Acceptance and Evaluation of MPSA Proposal - Within fifteen (15) days from the submission of the verification report to the RTS, the latter shall forward its recommendation together with the MPSA application/proposal and its supporting documents to MGB Technical Secretariat for pre-evaluation. Within fifteen (15) days from receipt of the said recommendation and MPSA application/proposal, the latter shall refer the same for final evaluation to the Sub-Committee if the capital investment is less than one hundred (100) million pesos, or to the Negotiating Panel if the capital investment is at least one hundred (100) million pesos.

Section 10. Negotiation Between the Government and Applicant/Proponent - The MPSA Sub-Committee/Negotiating Panel, upon being satisfied of the terms and conditions of the MPSA applicant/proposal and the qualification of the applicant/ proponent, shall notify the Secretary of its recommendation that the MPSA application/proposal is acceptable. The Secretary, finding the recommendation proper, shall notify the applicant/proponent for the formal signing of the MPSA be remanded to the MPSA Sub-Committee/Negotiating Panel for negotiation. However, if the MPSA Sub-Committee/Negotiating Panel finds some of its terms and conditions unacceptable, a negotiation shall be conducted between the parties in order to conclude a

fair and mutually acceptable terms and conditions of the MPSA application/proposal. It is understood, however, that, in the MPSA, the DENR shall be referred to as the "Government" whereas the applicant/proponent shall be referred to as the "Contractor".

Section 11. Approval of MPSA - Within five (5) days from signing of MPSA by the Secretary, the DENR shall forward the same together with all the supporting documents to the President for approval.

Section 12. Registration and Issuance of MPSA - Upon approval of the MPSA by the President, the MPSA shall then be forwarded, through the DENR, to the MGB Technical Secretariat for MPSA numbering. Thereafter, the Contractor shall cause the registration of its MPSA with the Regional Office concerned after payment of the following fees:

- a) Registration fee - P100.00 per MPSA
- b) P.D. 1856, as amended - P10.00 per MPSA
- c) Regulatory fee - P10.00 per hectare per year during the first year of exploration plus a P5.00 yearly increment for the succeeding years.
- d) Exploration permit fee - P50.00 per hectare per year for offshore exploration instead of the regulatory fee.

It will only be after payment and registration is effected, that the MPSA contract may be released, through the RTS, to the Contractor.

Section 13. Non-Acceptance of Declaration of Location (DOL) - No DOL shall be accepted for Registration after fifteen (15) days from effectivity of these procedural guidelines.

Section 14. Issuance of Interim Mines Permit - All holders of published lease applications, pending quarry and sand and gravel applications, and expiring lease/quarry contracts and MPSAs pending negotiations may upon proper applications with the Secretary be issued Interim Mines Permits for a period of one year or until the issuance of permit, license or agreement whichever comes first subject to the following conditions:

- 1. That the applicant is already operating or about to operate subject to verification by the RTS;
- 2. That the applicant has already submitted a proposed MPSA;
- 3. That the applicant has submitted approved work program, surety bond to be determined by the RTD and an Environmental Clearance Certificate (ECC).

Provided, however, that progress production reports (quarterly) shall be submitted by the holders of the Interim Mines Permits covering the subject areas for the purpose of computing the share of the Government from production. Such interim share of the government shall be based on the MPSA proposal so long as it is not lower than one per cent (1%) of the gross output as defined in Administrative Order No. 57, Series of 1989 exclusive of the excise tax.

Section 15. Separability Clause - If any clause sentence, provision, section of this guidelines shall be held unconstitutional, the remaining parts of this guidelines shall not be affected thereof.

Section 16. Repealing Clause - All orders, rules and regulations inconsistent with or contrary to the provisions of this guidelines are hereby repealed or modified accordingly.

Section 17. Effectivity - This Administrative Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

APPROVED: NOVEMBER 20, 1990

FULGENCIO S. FACTORAN, JR.
Secretary

**Administrative Order
No. 82 - A
December 3, 1990**

**SUBJECT: Amending the Last Sentence of Section
14 of DENR Administrative Order No.
82, Series of 1990 Re: Procedural
Guidelines on the Award of Mineral
Production Sharing Agreement (MPSA)
Through Negotiation**

This will amend the last sentence of Section 14 of DENR Administrative Order No. 82, Series of 1990 to read as follows:

"Such interim share of the government shall be based on the MPSA proposal so long as it is higher than the prevailing excise tax".

Please be guided accordingly.

FULGENCIO S. FACTORAN, JR.
Secretary

**Administrative Order
No. 83
November 22, 1990**

SUBJECT: Lifting of the Ban on the Extraction of Sand and Gravel, Quarrying and Other Related Surface Mining Activities Along Bued River and Kennon Road

WHEREAS, DENR Administrative Order No. 03 dated January 4, 1989 imposed a ban on the extraction of sand and gravel, quarrying and other related surface mining activities along Bued River and Kennon Road particularly within the stretch covered by KM Post 241 (Camp 7, Baguio City) and KM Post 222 (Camp 3, Tuba, Benguet);

WHEREAS, the July 16, 1990 earthquake and the succeeding typhoons that hit the region devastated major portions of Kennon Road with massive landslides resulting in the deposition of huge quantities of rock boulders, sand and gravel along the road and Bued River;

WHEREAS, in order to facilitate the clearing of Kennon Road and correspondingly the Bued River of the Debris at the same time allow the use of the material in the on-going reconstruction of Baguio City and the adjoining areas damaged by the earthquake;

THEREFORE, it is hereby resolved that DENR Administrative Order No. 3, Series of 1989 be lifted until Kennon Road shall have been cleared and totally repaired. The barring down of boulders and quarrying activities, however, shall remain to be banned under this Order.

This Order takes effect immediately.

FULGENCIO S. FACTORAN, JR.
Secretary

**Administrative Order
No. 85
December 10, 1990**

**SUBJECT: Revised Rules and Regulations
Implementing Presidential Decree No.
1251, as Amended, Imposing Fees on
Operating Mining Companies to be Known
as "Mine Waste and Tailings Fees" to
Compensate for Damages to Private
Landowners and for Other Purposes**

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

**Chapter I
DEFINITIONS**

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

- a. Agricultural Crops shall mean crops grown for commercial and industrial purposes or home consumption.
- b. Committee Chairman shall mean the Director of Environmental Management Bureau.
- c. Costs of Rehabilitation shall mean the money value of all inputs necessary to approximate the original condition or use of a damaged property.
- d. Damages shall mean the monetary value of destruction caused on land, agricultural crops, forest products, marine life and aquatic resources; on infrastructures; and the cost of rehabilitation of silted farm lands and other areas devoted to agriculture and fishing caused by pollution due to mine waste and tailings as a result of the operations of mining companies. Such damages are "actual or compensatory damages" under Article 2199 of the New Civil Code of the Philippines.

- e. **Director shall mean the Director of Mines and Geosciences Bureau (MGB).**
- f. **Disturbance Fee shall mean the average value of the goods produced by the qualified claimants as provided for under Section 7.1 hereof, for the last three (3) years multiplied by five (5) years.**
- g. **Evaluation Committee or Committee shall mean the Evaluation Committee created under Presidential Decree No. 1251, as amended.**
- h. **Forest Products shall mean timber, pulpwood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub and flowering plant, the associated water, fish and/or game, scenic, historical, recreational and geologic resources in forest lands.**
- i. **Infrastructures shall mean all civil works such as, but not limited to, roads, bridges, dams and buildings.**
- j. **Inland Aquatic Resources shall mean all fresh water and brackish water plants and animals.**
- k. **Loss of Projected Net Income shall mean estimated unrealized net income as a result of damages based on the average production for the past three (3) years on the same location.**
- l. **Marine Life and Aquatic Resources shall mean all aquatic plants and animals found in marine environment.**
- m. **Mine Waste shall mean soil and rock materials from surface or underground mining operations with no economic value to the generator of the same.**
- n. **Mine Waste and Tailings Fees shall mean fees imposed on all operating mining companies in accordance with Presidential Decree No. 1251, as amended.**
- o. **Operating Mining Companies shall mean partnerships, cooperatives, associations or corporations except small-scale miners legally engaged in or responsible for the conduct of mining activities such as but not limited to, exploration, development, extraction, milling, concentrating, transport and marketing of mineral resources which produce mine waste and tailings as defined in these rules and regulations.**

- p. Reserve Fund shall mean the accrued mine wastes and tailings fees to be used for payment of damages on lands, agricultural crops and forest products, marine life and aquatic resources, the destruction of infrastructure, and the revegetation and rehabilitation of silted farm lands and other areas devoted to agriculture and fishing caused by pollution due to mine waste and tailings as a result of the operation of mining companies as provided for by Section 2 of PD 1251.
- q. Secretary shall mean the Secretary of Environment and Natural Resources.
- r. Tailings shall mean materials whether solid or liquid segregated from the ores during concentration/ milling operations which has no economic value to the generator of the same.

Chapter II ORGANIZATION

Section 2.0. Evaluation Committee - The Evaluation Committee created under Section 3 of PD 1251 shall hereinafter be known as the "Mine Waste and Tailings Damages Evaluation Committee". It shall be composed of the following:

- Chairman - Director, Environmental Management Bureau (EMB)
- Vice-Chairman - Director, Mines and Geosciences Bureau (MGB)
- Members - Director, Land Management Bureau (LMB)
- Director, Forest Management Bureau (FMB)
- Administrator, National Irrigation Administration (NIA)
- Director, Bureau of Plant Industry (BPI)
- Director, Bureau of Fisheries and Aquatic Resources (BFAR)
- Director, Bureau of Soils and Water Management (BSWM)

Section 2.1. Functions of the Committee - The Committee shall have the following functions:

- a. Evaluates and decides on all applications for compensation for damages and awards compensations therefor;

- b. **Implements duly approved guidelines, rules and regulations;**
- c. **Prescribes documentary requirements for applications for compensation for damages;**
- d. **Formulates policy recommendations to strengthen the provisions of this Order for consideration of the Secretary;**
- e. **Appoints and/or designates members of the Technical Working Group and Regional Investigation and Assessment Teams for the effective implementation of this Order and exercise general supervision over them;**
- f. **Provides appropriate funds for the development and implementation of research and other special projects which it deems necessary in promoting the objectives of this Order;**
- g. **Recommends to the Secretary the granting of allowances to officials and personnel performing functions and duties relative to the effective implementation of this Order; and,**
- h. **Performs other functions as may be assigned by the Secretary.**

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

Section 3.0. Technical Working Group - There shall be created a Technical Working Group to assist the Committee in the performance of its functions. It shall be composed of the representative/s from each of the member agencies of the Committee, duly designated by the Committee Chairman, upon recommendation of corresponding Committee Member. The Technical Working Group shall be headed by a Chairman to be appointed by the Committee Chairman.

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

Section 3.1. Functions of the Technical Working Group - The Technical Working Group shall have the following functions:

- a. **Receives, processes, evaluates and conducts preliminary investigation if necessary, of claims for damages and submits appropriate recommendations to the Committee;**
- b. **Develops, packages and recommends research and other special projects;**
- c. **Prepares costings for the rehabilitation of damaged commercial agricultural, industrial and residential lands;**
- d. **Determines/estimates the cost of rehabilitating damaged industrial, commercial, residential and agricultural lands caused primarily by mine waste and tailings;**
- e. **Acts as secretariat to the Committee;**
- f. **Coordinates and monitors the activities of all Regional Investigation and Assessment Teams, and other personnel involved in the implementation of this Order;**
- g. **Verifies the amount of mine waste and tailings generated by operating mining companies;**
- h. **Computes and collects the mine waste and tailings fees to be paid by operating mining companies;**
- i. **Drafts guidelines, orders, resolutions and other documents in connection with the implementation of this Order;**
- j. **Assists in the investigation and assessment of claims for damages and submits appropriate recommendation to the Committee;**
- k. **Handles administrative functions especially on finance and budget; and,**
- l. **Performs other functions as may be assigned by the Committee.**

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

Section 4.0. Regional Investigation and Assessment Teams - Regional Investigation and Assessment Teams may be organized to assist the Committee and the Technical Working Group. The team shall be headed by the concerned DENR Regional Executive Director or his duly authorized representative. The members may be composed of representatives from the agencies/sectors mentioned in Section 2.0 of this Order when their services are needed depending on the nature of the claim. In all investigations, the mining company/ies concerned and the affected party/ies shall be duly represented.

Section 4.1. Functions of the Regional Investigation and Assessment Team - The Regional Investigation and Assessment Team shall have the following functions:

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

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

Section 4.3. Meetings of the Regional Investigation and Assessment Teams - The Regional Executive Director of the DENR, as Chairman, shall call meetings of the Team as often as necessary.

Chapter III MINE WASTE AND TAILINGS FEES

Section 5.0. Mine Waste and Tailings Fees - A semi-annual fee to be known as "Mine Waste and Tailings Fees" shall be imposed by the Secretary on all operating mining companies, upon recommendation of the Evaluation Committee. Such fee shall accrue to the Reserve Fund.

Section 5.1. Basic Fees - Pursuant to Section 1 of PD 1251, all operating mining companies shall pay the following basic fees without prejudice to penalties and other conditions that may be imposed by pertinent Offices:

- a. **Five Centavos (P0.05) per metric ton of mine waste produced;**
- b. **Ten Centavos (P0.10) per metric ton of tailings for companies discharging into tailings impoundment/disposal system duly approved by the concerned DENR Regional Office;**
- c. **Ten Centavos (P0.10) per metric ton of tailings for companies discharging tailings directly into the sea by means of pipelines, launders and/or tunnels.**

Section 5.2. Exemption from Fees - Mine waste and tailings utilized for the following purposes shall be exempted from payment of fees :

- a. **filling materials for underground mine openings;**
- b. **filling materials for surface mine openings provided that such material shall not affect natural drainage systems as may be determined by the Committee or its duly authorized representative;**
- c. **filling materials for civil structures such as engineered tailings dams, roads, housing areas, and similar structures, provided that such areas shall not affect natural drainage systems as may be so determined by the Committee or his duly authorized representative;**
- d. **concreting and manufacture of concrete products; and**
- e. **mine waste impounded for future use provided, however, that said materials shall be utilized for its beneficial use within a period of two (2) years. Mine wastes which are not utilized within the two-year period shall be charged the corresponding fee as stipulated in Section 5.1 hereof.**

PROVIDED, that the utilization of mine waste and tailings for the foregoing purposes shall have prior approval of the Committee: PROVIDED further, that the actual utilization of such materials shall be subject to verification by the Committee or its duly authorized representative/s.

Section 5.3. Payment of Fees - The fees herein imposed shall be payable to the Committee through the Technical Working Group within forty-five (45) calendar days after the end of each semester. They shall be based on a semi-annual report under oath to be submitted by each operating mining company stating among others the following:

- 1) the amount of mine waste and tailings produced, stored/ impounded or the amount of materials that are exempted from the payment of the fees; and
- 2) the manner for which these materials are being utilized.

Chapter IV ADMINISTRATION OF RESERVE FUND

Section 6.0. Administration of Mine Waste and Tailings Fees - Funds collected from the mine waste and tailings fee shall be disbursed only for the following purposes:

- a) compensation of claims for damages duly processed, evaluated, approved and ordered for payment by the Committee Chairman; and
- b) Payment of expenses incurred by the Committee and its Staff representing actual field and travel expenses and monthly allowances in an amount not exceeding P=300,000.00 annually to be taken from the Reserve Fund: PROVIDED that all payments shall be signed by the Committee Chairman and countersigned by the Committee Vice-Chairman.

Section 6.1. Actual Field and Travel Expenses - Actual field and travel expenses shall refer to the costs incurred by the Committee and its Staff while on official travel in connection with their respective functions identified in this Order.

Section 6.2. Monthly Allowances - Pursuant to Section 2.1.g. hereof, the members of the Evaluation Committee and its Staff shall be granted allowable monthly allowances in an amount specified by appropriate accounting rules and regulations and as recommended by the Chairman of the Evaluation Committee to be approved by the Secretary.

Chapter V
APPLICATION FOR COMPENSATION

Section 7.0. Compensable Damages - All damages on private property/ies, the proximate cause of which is pollution due to mine waste and tailings, are compensable which include, among others, the areas mentioned in the succeeding section.

Section 7.1. Qualified Applicants. The following are qualified to apply for compensation in accordance with the damages incurred:

- A. Private owners of damaged infrastructures, forest products, marine, aquatic and inland resources;
- B. For damages to private lands:
 - 1. Any applicant/claimant or his successor-in-interest who holds title to or any evidence of ownership as provided for in Section 7.2.A hereof; and
 - 2. Any applicant/claimant of alienable and disposable lands;
- C. For damages to crops:
 - 1. Agricultural lessors or lessees; and
 - 2. Share tenants.

If the applicant is both owner and tiller of the land, then he may apply for both land and crop damages.

Section 7.2. Application Procedure - Applications for compensation for damages under this Order shall be filed in prescribed application forms with the Regional Investigation and Assessment Teams within thirty (30) working days from the occurrence of the damage.

All applications shall 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 declaration shall be honored as proof of ownership only for the purposes of compensation under this Order;

- b. Receipt of expenditures for improvements made in the affected property/ies; and
- c. Other requirements that may be required by the Committee.

Chapter VI

EVALUATION AND COMPENSATION OF CLAIMS FOR DAMAGES

Section 8.0. The following guidelines shall apply in the evaluation of claims for damages under this Order:

- a. Damages caused to agricultural lands which render such lands useless for the traditional purpose for which it was intended, may be compensated at an amount equivalent to either one of the following:
 - 1. the fair market value of the lands as per latest tax declaration; PROVIDED however, that a quitclaim/waiver to any future claims for compensation shall be executed by the claimant/owner before payment which shall be valid only for the duration of the disturbance equivalent to 5 years; or
 - 2. the costs of rehabilitation of the lands.
- b. Damages to agricultural lands resulting in partial loss of productivity may be compensated at an amount equivalent to the costs of rehabilitation.
- c. Damages to industrial and residential lands may be compensated at an amount equivalent to the costs of rehabilitation.
- d. 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 either one of the following:
 - 1. the loss of projected net income therefrom; or
 - 2. the disturbance fee as provided for in Section 1.f hereof; PROVIDED however, that a quitclaim/waiver to any future claims for compensation shall be executed by the claimant/owner before payment which shall be valid only for the duration of the disturbance equivalent to 5 years.

- e. All quitclaims/waivers signed by the claimant/s shall be binding on the heirs and/or successors-in-interest within the period of the disturbance equivalent to 5 years.
- f. Damages to infrastructures may be compensated at an amount equivalent to the costs of rehabilitation to be determined by the Committee.
- g. The amount of compensation for damages shall be based on the amount claimed or the amount assessed, whichever is lower.
- h. The budget for compensation for claims for damages under the Decree shall be drawn from the aggregate total of the mine wastes and tailings fee collected from operating mining companies accruing in a Reserved Fund without prejudice as to what company caused the damages.
- i. In case of private leased lands, compensation under this Order shall be paid in accordance with the sharing agreement between the private landowner and the lessee(s). In the absence of such an agreement, compensations shall be divided on the following sharing scheme:
 - a) 75% for tenants and 25% for landowners for rice and corn; and
 - b) 50% for tenants and 50% for landowners for crops other than rice and corn.
- j. Damages compensated by the operating mining company/ies shall no longer be considered compensable under this Order, provided that written approval has been secured from the Committee and such payment shall be credited to the concerned mining company/ies for the next paying period. Waiver signed as a condition of payment for such compensation by operating mining company/ies shall also be considered as waiver under this Order.
- k. The decision of the Committee shall be final and executory unless appealed to the Secretary within thirty (30) days from receipt of the decision.

Chapter VII
FINAL PROVISIONS

Section 9.0. Penalty Clause - Failure to comply with the provisions aforesated herein, without justifiable reasons shall subject the mining company to payment of basic fees plus ten percent (10 %) surcharge on the principal amount for every month of delay. In addition, the operator shall be disqualified to avail of the exemptions as provided for under Section 5.2.

FURTHERMORE, those with duly approved tailings impoundment/disposal systems found to have discharged tailings in natural drainage systems, shall be subject to suspension of the mining operations as may be recommended by the Committee to the Pollution Adjudication Board (PAB).

Section 10.0. Separability Clause - Any provision herein which may be declared null and void by a competent court, repealed or modified shall not affect other provisions unless such provision specifically provides otherwise.

Section 11.0. Repealing Clause - All other rules and regulations inconsistent herewith are hereby revoked, repealed or modified accordingly.

Section 12.0. Effectivity. This Order takes effect fifteen (15) days after publication in a newspaper of general circulation.

FULGENCIO S. FACTORAN, JR.
Secretary