

FORESTRY

**DENR Administrative Order
No. 96-04
February 13, 1996**

SUBJECT : Adoption of a Log Control and Monitoring System

Pursuant to PD No. 705, as amended, and E.O. No. 192 dated 10 June 1987, and in consonance with the sustainable development thrust of the Government, a Log Control and Monitoring System in the DENR is hereby adopted and the following guidelines are hereby issued for the information of all concerned.

Section 1. **Basic Policy** - Sustainability of the timber resources as a tool towards economic productivity and protection of the environment through the maintenance of an adequate balance between resource growth and timber drain are basic policies of Government.

Section 2. Objectives - In consonance with the above policy, there is a need for the establishment of an effective Log Control and Monitoring System (LCMS) with a view to attaining the following objectives:

- 2.1 Standardize gathering of timber resources data for easy storage, retrieval and audit;
- 2.2 Systematize the tracking of log and lumber flows from source to end-users;
- 2.3 Optimize utilization of the timber resources;
- 2.4 Provide information for the updating of timber/mill recovery factors from residual plantation forests;
- 2.5 Improve the collection of forest-derived revenues; and

2.6 Curtail unauthorized cutting, transportation, processing and disposition of timber and wood products.

Section 3. Coverage - The LCMS shall apply to the harvest and disposition of locally-produced logs and lumber under valid and existing license or permits issued by the Secretary or his authorized representatives. The same regulation will also apply to logs and lumber imported in accordance with regulations governing the matter.

Section 4. Aerial Photo Requirement - Timber harvest operations shall be covered by a duly approved Integrated Annual Operations Plan based on forest resources data and information that have been checked and verified using aerial photographs taken and submitted in accordance with DAO No. 92-17 dated 27 April 1992.

Section 5. CTO/CLO Tracking System - As part of the over-all Log Control and Monitoring System herein adopted, a system of tracking transport/shipping documents for timber, lumber, and lumber products using computer and similar state-of-the-art technologies shall be instituted at all levels.

Section 6. Program Support and Training - The Director, ENR-SECAL Program Management Office and the Director, Forest Management Bureau shall provide the necessary staff and financial support for the effective implementation of this order, to include but not limited to the organization of the corresponding field implementing units; assist in the preparation of the necessary action plans and programs; coordinate and monitor FPIS related activities; and the training and orientation of concerned personnel of the DENR and its publics.

Section 7. Forest Charge Deposit - For purpose of clarification, this Administrative Order hereby amends DAO 80, series of 1987, to wit: A deposit equivalent to the estimated forest charges based on the 100% inventory of harvestable trees shall be made before the conduct of harvest operations in any logging set-up or cutting block. A reconciliation between the deposited amount and the

forest charges payable based on the actual scaled volume shall be undertaken immediately after the set-up has been logged-over.

Section 8. Penalty Clause - Forest products extracted transported and/or disposed, which are violative of this Order shall be subject to confiscation, including the conveyances used in transportation of the same and shall be disposed of in accordance with existing laws, rules and regulations. The lessee/permittee who owns the wood commodities shall be penalized by suspension/cancellation of operating permit and such other sanctions as may be imposed under existing rules and regulations. DENR officials who have found and verified to have violated or abetted in the violation of the provisions of this Order shall be dealt with in accordance with existing regulations governing the matter.

Section 9. Implementing Guidelines - For the effective implementation of this order, the Undersecretary for Field Operations is authorized to issue the corresponding guidelines thereof.

Section 10. Effectivity - This Order shall take effect upon acknowledgment from U.P. Law Center and after fifteen (15) days from the date of publication in at least two (2) newspapers of general circulation.

VICTOR O. RAMOS
Secretary

Recommended by:

VIRGILIO Q. MARCELO
Undersecretary for
Field Operations

DELFIN J. GANAPIN, JR.
Undersecretary for
Environment & Program
Development

ROMEO T. ACOSTA
Program Director
ENR-SECAL Program

JOSE D. MALVAS, JR.
Director
Forest Management Bureau

Published at:

TODAY February 19, 1996, p.4
ISYU February 19, 1996, p. 13

**DENR Administrative Order
No. 96 - 05
February 13, 1996**

SUBJECT : Implementation of the Forest Protection Information System (FPIS) in the Department of Environment and Natural Resources (DENR).

Pursuant to Executive Order No. 192 dated 10 June 1987 and in line with the development thrusts of the Department consistent with its mandates, the nationwide implementation of the FPIS as provided in the ENR-SECAL Program shall heretofore be pursued with more vigor under the following guidelines.

Section 1. Program Management - The FPIS Program implementation shall be directly under the control and supervision of the Undersecretary for Field Operation, assisted by a National Advisory Committee which is supported by a Secretariat, the National Technical Working Group (NTWG).

At the field implementing level, the Regional Executive Director (RED) shall likewise be assisted by a Regional Technical Working Group (RTWG).

Section 2. National Advisory Committee - The FPIS National Advisory Committee (FNAC) shall be composed of the Undersecretary for Field Operations as Chairman and the Undersecretary for Environment and Programs Development as Vice Chairman with the following members: Director, Legal Service; Director, Forest Management Bureau; Director, ENR-SECAL PMO; Director, National Forestation Development office (NFDO); Team Leader, Development Alternative, Inc. Technical Assistance (DAITA), Director, Remote Sensing and Resource Data Analysis Department, National Mapping and Resource Information Authority (NAMRIA); and the National Technical Coordinator designated by the Secretary.

The FNAC shall, among others, perform the following functions:

1. Assist the SENR in the effective implementation of the FPIS and its component sub-systems at all levels;
2. Issue policies, guidelines, orders and instructions on the proper implementation of the FPIS;
3. Review and approve national FPIS plans and programs;
4. Facilitate the availment of aerial photographs and the resources information derived therefrom, for the use of the Committee, the National Technical Working Group, or the Director of the Forest Management Bureau in FPIS planning, implementation and monitoring;
5. Provide the necessary assistance in support to the proper implementation of the program.
6. Submit periodic status report to the SENR on matters related to FPIS implementation; and
7. Perform such other functions as may be directed by the SENR.

Section 3. National Technical Working Group - The National Technical Working Group (NTWG) which shall serve as the support group for the National Advisory Committee (NAC) shall be composed of a National Technical Coordinator as head, with the following members: Forest Management Specialists, Legal Specialist, Database Management Specialist, Training Specialist and Finance Specialist.

Under the direction of the FNAC Chairman, the NTWG shall among others, perform the following functions:

1. Provide staff support to the FNAC and act as Secretariat;
2. Recommend policies/guidelines for the effective implementation of the FPIS;

3. Prepare FPIS plans and programs including the budgetary requirements therefor, in coordination with field offices concerned;
4. Facilitate the availment of aerial photographs and the resources information derived therefrom, for the use of the Committee, the National Technical Working Group, or the Director of the Forest Management Bureau in FPIS planning, implementation and monitoring;
5. Provide the necessary assistance in support to the proper implementation of the program;
6. Submit periodic status report to the SENR on matters related to FPIS implementation; and
7. Perform such other functions as may be directed by the SENR.

Section 3. National Technical Working Group

- The National Technical Working Group (NTWG) which shall serve as the support group for the National Advisory Committee (NAC) shall be composed of a National Technical Coordinator as head, with the following members: Forest Management Specialist, Legal Specialist, Database Management Specialist, Training Specialist and Finance Specialist.

Under the direction of the FNAC Chairman, the NTWG shall, among others, perform the following functions:

1. Provide staff support to the FNAC and act as Secretariat;
2. Recommend policies/guidelines for the effective implementation of the FPIS;

3. Prepare FPIS plans and programs including the budgetary requirements therefor, in coordination with field offices concerned;
4. Coordinate, monitor and evaluate FPIS implementation at the Regional, PENRO and CENRO levels;
5. Manage and maintain a data bank appropriate for FPIS operations particularly on matters related to forest resources information, forest protection and law enforcement activities, log control and monitoring, geographic information systems, and the like;
6. Coordinate the training of DENR personnel and those of the private sector as it relates to FPIS implementation; and
7. Perform other related functions as may be assigned by higher authorities.

Section 4. Regional Technical Working Group
- The Regional Technical Working Group (RTWG) which shall directly assist the Regional Executive Director (RED), shall be composed of a Regional Technical Coordinator as head, with the following members: Database Management Specialist; Training Specialist; and a Representative each of the Forest Resources Development Division (FRDD), Forest Resources Conservation Division (FRCD), Planning and Management Division, PENRO and CENRO.

The RTWG shall perform, among others, the following functions:

1. Coordinate and implement the FPIS in their respective regional jurisdiction;
2. Prepare FPIS Regional Plans and Programs and the corresponding budgetary requirements for approval of the Regional Executive Director (RED);
3. Monitor/evaluate FPIS Regional implementation; and

4. Perform other related functions as may be assigned by the RED.

Section 5. Designation of FPIS members -

The Undersecretary for Field Operations is hereby authorized to issue Special Orders designating the individual members of the FNAC and NTWG.

Likewise, the RED is also hereby authorized to issue Special Orders designating the individual members of the RTWG.

As the need arises, additional members may be designated to the working groups herein created to enhance the implementation of the FPIS.

Section 6. Repealing Clause - This Order supersedes all orders and instructions inconsistent herewith.

Section 7. Effectivity - This Order takes effect immediately.

VICTOR O. RAMOS

Secretary

**DENR Administrative Order
No. 96 - 06
February 19, 1996**

SUBJECT : Disestablishment of Communal Forest Parcel I Amd. 2 Located at So. Kalantog, Malicboy, Pagbilao, Quezon.

1. Pursuant to the provisions of Sections 2, 9 and 19 of Presidential Decree No. 705, otherwise known as the Revised Forestry Code of the Philippines, as amended, the Communal Forest Parcel I Amd. 2 of So. Kalantog, Malicboy, Pagbilao, Quezon (Cn. F. 126-2) is hereby revoked.
2. The said disestablished Parcel shall hereafter revert to the category of forest land and to serve the appropriate use and other uses of said forest land that may be determined by the existing land use planning allocation scheme to be enforced.
3. This Order takes effect immediately.

VICTOR O. RAMOS
Secretary

Recommended by:

JOSE D. MALVAS, JR.

**DENR Administrative Order
No. 96 - 13
April 10, 1996**

SUBJECT : Disestablishment of Communal Forest Parcel II Amd. 2 of Pinamalayan, Oriental Mindoro, Located at Barangay Lumang-Bayan, Pinamalayan, Oriental Mindoro.

Pursuant to the provisions of Section 2, 9 and 19 of Presidential Decree No. 705, otherwise known as the Revised Forestry Code of the Philippines, as amended, the established Communal Forest Parcel II Amd. 2 of Pinamalayan, Oriental Mindoro located at Barangay Lumang-Bayan, Pinamalayan, Oriental Mindoro, is hereby revoked.

The established parcel shall hereafter be reverted to the category of forest land for development to any land use or uses as will be determined by appropriate land evaluation, consistent with the established land use planning and allocation scheme to be enforced.

This Order takes effect immediately.

VICTOR O. RAMOS
Secretary

**DENR Administrative Order
No. 96 - 14
April 10, 1996**

**SUBJECT : Further Amending DENR
Administrative Order No. 41, Series
of 1991, Governing the Deputation
of Environment and Natural
Resources Officers.**

In recognition of the role of Multi-Sectoral Forest Protection Committees (MFPCs) as partners in forest protection, information, education and communication campaign, and livelihood development, Section 5 of DENR Department Administrative Order No. 41, Series of 1991, is hereby amended to include an additional provision, as follows:

- 5-A. Documentary Requirements for Multi-Sectoral Forest Protection Committee (MFPC) members. In case of MFPC members, the following are required:
 - 5.A.1 Indorsement from the Chairperson, National MFPC Federation, Regional MFPC or Provincial MFPC;
 - 5.A.2 Judge or Fiscal and Police Clearance; and
 - 5.A.3 Biodata with I.D. picture

All other provisions of DENR Administrative Order No. 41, Series of 1991, as amended shall remain in force and effect.

This Order shall take effect immediately.

VICTOR O. RAMOS
Secretary

DENR Administrative Order

No. 96 - 19

June 07, 1996

SUBJECT : Amendment of Memorandum Order No. 13 Series of 1993 Regarding Delegation of Authority Related to Implementation of ADB/OECF Forestry Sector Project.

In the interest of the service and to promote efficiency and effectiveness in the implementation of the Forestry Sector Project (Loan 2) funded by ADB and OECF, the following authority is hereby delegated to the respective officials.

**A. Administrative Matter
Officials**

Performing

**Recommending
Approval**

**Approving
Officials**

Authority to enter into contracts for community organizing, survey, mapping and appraisal and comprehensive site development and other project related contracts

- 750 hectares and less RTD for Forestry

RED

- more than 750 hectares USEC for Field
Operations

Secretary

B. Financial Matter

Request for Obligation of Allotment and Vouchers for payment

- not exceeding P=15 Million RTD for Forestry RED
- more than P=15 Million USEC for Field Secretary Operations

This order shall take effect immediately and repeals/ supersedes orders or issuances inconsistent herewith.

VICTOR O. RAMOS
Secretary

Recommending Approval:

VIRGILIO Q. MARCELO
Undersecretary for Field Operations

DENR Administrative Order

No. 96-21

June 21, 1996

SUBJECT : Guidelines for the Establishment of Pilot Dipterocarp Plantations.

In line with the policy of the DENR to promote species biodiversity in forest plantations through the establishment of dipterocarp plantations in every province whenever feasible and to support the intensified reforestation efforts under the National Forestation Program, the following guidelines are hereby issued and adopted for the guidance of all concerned.

Sec. 1 Site Identification of Pilot Plantation

- 1.1 Each PENRO shall identify, survey and map an area of at least ten (10) hectares for the establishment of dipterocarp pilot plantations in coordination with the Ecosystems Research and Development Service (ERDS) and the Forest Management Service (FMS), taking into consideration the climate, soil, vegetation and other site factors. A sample Plantation Record Form appears as Annex A.
- 1.2 Preferably, the pilot plantations shall be sited in forestland areas which possess the following criteria:
 - 1.2.1 readily accessible through existing roads or by access trails;
 - 1.2.2 free from squatters/adverse claims;
 - 1.2.3 not too degraded, with historical traces or indicating that the area was once vegetated with dipterocarp species; and

- 1.2.4 adjoining or adjacent to natural dipterocarp stands where seeds and wildlings can be made readily available.
- 1.3 Subject to the foregoing criteria, the following areas may also be considered in the selection of pilot dipterocarp plantations:
 - 1.3.1 existing experimental forests maintained by the ERDS (former FORI experimental forests);
 - 1.3.2 Assisted Natural Regeneration (ANR) areas or brushlands where there is sufficient cover to provide shade to the dipterocarp seedlings/wildlings;
 - 1.3.3 areas inside abandoned or cancelled timber license agreement and permits where the site conditions are still favorable for dipterocarp plantation establishment.

In no case shall the dipterocarp plantation be established in areas covered by existing Timber License Agreement (TLA) or Industrial Forest Management Agreement (IFMA). In addition, no cutting of standing trees shall be allowed for purposes of dipterocarp plantation establishment.

- 1.4 Areas identified consistent with the above criteria and consideration shall be surveyed for purposes of delineating on the ground the metes and bounds thereof as well as the gathering of the necessary biophysical data and information essential in the preparation of the comprehensive area development and management plan. For purposes hereof, the

area shall be divided into ten (10) hectare blocks and further subdivided into one (1) hectare compartments.

Sec. 2 Comprehensive Development Plan. A comprehensive development plan shall be prepared jointly by the Regional Technical Directors (RTDs) for ERDS and FMS. The plan shall take into consideration economic, social, ecological and environmental implications of the project, together with the details on the technical requirements and component activities on plantation establishment, management and maintenance, protection, monitoring and evaluation, and research. A copy of the plan approved by the Regional Executive Director (RED) shall be furnished the Ecosystems Research and Development Bureau (ERDB) and Forest Management Bureau (FMB) Directors.

Sec. 3 Mode of Implementation. Plantation establishment shall be by activity specific contracts. The procedure as regards bidding and awarding of contracts shall be governed by existing rules and regulations most specifically DAO 39, S.88; MC 11, S.88; and DAO 31, S.91.

The total budget allotted for plantation establishment shall not exceed P 12,500.00 per hectare. A separate allocation of P 2,500.00 per hectare shall be provided the Ecosystems Research and Development Service (ERDS) to cover the conduct of built-in researches and joint monitoring. The amounts of P 1,400.00 and P 3,500.00 shall be provided on the first and succeeding two (2) years (second and third), respectively, after plantation establishment for maintenance activities. A reasonable amount for monitoring shall be incorporated in the annual budget of the Regional Office.

The Forest Management Service (FMS) shall be responsible for the processing of the necessary documents. The Regional Executive

Director (RED) shall sign the contract for the DENR upon the joint recommendation of the Regional Technical Directors for Forestry and Research.

The Regional Technical Director for Research shall see to it that the terms and conditions of the contracts are strictly followed.

Sec. 4 Conduct of Built-in Researches. Built-in researches shall be undertaken by the Regional Ecosystems Research and Development Service (ERDS). The types of researches to be undertaken shall be approved by the Regional Executive Director (RED) upon the recommendation of the RTDs for Research and Forestry. A reasonable amount for the conduct of researches shall also be incorporated in the annual budget of the Regional Office.

Sec. 5 Monitoring and Evaluation. On the first year of implementation, a team composed of FMS and ERDS technical personnel shall undertake quarterly monitoring and evaluation on the progress of activity implementation. The said team shall be created and supervised by the RED. From the second year and onwards, however, semestral monitoring and evaluation shall be made by said team. Quarterly and semestral monitoring reports shall be submitted to the RED through the RTDs for Forestry and Research copy furnished the Planing and Policy Service Office (PPSO) of the Central Office, Forestry Management Bureau (FMB) and ERDB.

PPSO, FMB and ERDB shall monitor and evaluate the sites annually.

Sec. 6 Seed Collection, Handling and Seedling Production

Seed Collection and Handling

- 6.1 The contractor shall coordinate with the RED/PENRO/CENRO in order that trained/qualified and authorized DENR personnel shall be dispatched to collect seeds from designated seed production areas in natural stands, established government tree plantations, established industrial tree plantations, private forest tree plantations, or seed orchards established by DENR in accordance with the regulation on forest tree seed production, collection and disposition.
- 6.2 Seeds as source of planting stocks shall be duly certified by the Regional Forest Tree Seed Committee (RFTSC) with respect to its origin and quality.
- 6.3 Dipterocarp seeds shall be placed/packed in air-tight plastic containers (bags/sacks) to maintain high moisture content of the seeds as the seeds have a short viability period of 3-7 days depending on the species.

Seedling Production

- 6.4 To ensure viability, the seeds shall be sown immediately in prepared soil-filled pots with compost, decayed sawdust or rich forest top soil. Potting is to be done in temporary nurseries in the forest where rich forest soil is readily available. The earth-filled containers may be arranged under partial shade of trees.
- 6.5 The most appropriate method of sowing is to sow fresh and dewinged seeds in soil-filled plastic bags (direct potting). Select only the big seeds in potting to ensure high survival and good quality seedlings. Insert larger end first, so that the radicle emerges and grows directly downward and deeper into the soil.

However, a horizontal position may also be suitable. The depth of sowing should be about the average diameter of the seed.

- 6.6 Nursery grown stocks are ready for outplanting one year after germination. Hardening shall be done by gradual removal of shade. Fifty percent (50%) shade should be initially provided and gradually reduced to 25% to simulate conditions in the forest.

Sec. 7 Wildling Collection and Production. If seed collection is not certain, dipterocarp wildlings may be used. The wildlings should be collected when the forest soil is moist/wet to minimize damage to the roots. They should be hardened in the nursery for at least two (2) months up to six (6) months. Suggestions/recommendations on the care of wildlings and potting medium appears as Annex B.

Sec. 8 Vegetative and Other Methods of Propagation. Planting stock production may also be done through vegetative propagation or other methods (macro/micro propagation) which may be found suitable through research.

The procedure in the vegetative propagation by cuttings using the non-mist system is attached as a reference (Annex C).

Sec. 9 Spacing. Considering the silvicultural characteristics and requirements of the Dipterocarp species, together with the relatively high cost of producing quality dipterocarp planting stocks to assure a high degree of success, the regular spacing distance and planting in rows normally prescribed in forest plantation establishment may be dispensed with; Provided, that the density of planted Dipterocarps shall not be less than 280 stems per hectare following the clusted method of planting in combination with nurse trees;

Provided, Further, that the total density to include the nurse trees shall not be less than 1,800 stems per hectare.

Sec. 10 Protection and Maintenance of the Plantation. The plantation and maintenance of the plantation shall be contracted. As stated in item 2, maintenance costs shall be P1,400.00 and P3,500.00 per hectare for the first and succeeding two (2) years, respectively, after plantation establishment shall be provided.

10.1 Forest Fires

The pilot plantation shall be protected from wildfires through the construction of firebreaks/fuelbreaks and the constant presence of laborers who are trained in forest fire control with the necessary firefighting tools and equipment shall be assured.

10.2 Pests and Diseases Control

The plantation should be protected against serious pest/insect infestation and disease infection. Remedial measure should be immediately applied once imminent signs of such danger occurs.

10.3 Weeding

Conduct periodic weeding in the plantations. Strip weeding shall be done three (3) times during the first to the third year and two (2) times during the fourth and fifth year and once a year thereafter or whenever necessary.

10.4 Application of Fertilizers

10.4.1 Apply about five (5) grams of complete fertilizer at the base of each seedling/wildling three (3) months after outplanting. Subsequent application of the same amount shall be done every six (6) months until the fifth year. Future application and dosage determination shall be done only after conducting soil-fertility test. Other soil amendments may be done through the application of animal manure/organic fertilizer.

10.4.2 Should the soil be proven to be infertile, Mycorrhizae, if available, may be applied to enhance growth. Other bio-fertilizers may likewise be applied when and where appropriate.

Sec. 11 Dipterocarp Plantation Establishment in Private Lands. The field offices shall encourage owners of rubber, coconut and fast growing species plantations to venture into Dipterocarp plantation development. As a part of the Department's IEC Program, appropriate technical personnel shall provide the necessary technical assistance.

Sec. 12 Responsibilities of Contracting Parties. The responsibilities of the contracting parties shall be spelled out in the contract to be signed between the contractor and the DENR.

Sec. 13 Effectivity. This Administrative Order shall take effect immediately.

VICTOR O. RAMOS
Secretary

DENR Administrative Order

No. 24

August 23, 1996

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

Pursuant to Executive Order No. 263 dated 19 July 1995, PD No. 705, as amended, Executive Order No. 278 dated 25 July 1987, the Social Reform Agenda and Philippines 2000 program, and in line with the policy of the Government to ensure the development and management of forest land resources on a sustainable basis, promote equitable distribution of natural resources, provide a healthy environment, and promote economic upliftment of the people, the following rules and regulations for the establishment of socialized forest plantations are hereby promulgated.

Sec. 1 Basic Policy. It is the policy of the DENR to ensure the equitable access and sharing of rights to natural resources development and utilization by providing opportunities to the people to participate actively in forest plantation development. In line with this policy, the DENR shall provide security of tenure to the participants through the issuance of a **Socialized Industrial Forest Management Agreement (SIFMA)**.

As an incentive for the participation of qualified three planters, they shall be granted the privilege to benefit from their crops which shall consist primarily of trees for wood production, non-timber species and other cash crops that may be interplanted. Under the program, the general welfare of society shall be enhanced through the resulting environmental enhancement effects of forest cover restoration and the production of forest goods and services, both on-site and off-site.

Sec. 2 Objectives. The **Socialized Industrial Forest Management Program (SFLMP)** is expected to result in:

- 2.1 Increased supply of wood and other forest products;
- 2.2 Accelerated reforestation and rehabilitation of the country's open and denuded forest lands and effective protection of existing natural forests;
- 2.3 Conservation of soil and water, biodiversity and enhancement of environmental conditions in general;
- 2.4 The generation of additional sources of income and livelihood and help in the economic upliftment of the people in the uplands; and
- 2.5 More equitable access to forest resources.

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

- 3.1 **Socialized Industrial Forest Management Agreement (SIFMA)** refers to an agreement entered into by and between a natural or juridical person and the DENR wherein the latter grants to the former the right to develop, utilize and manage a small tract of forest land, consistent with the principle of Sustainable Development.
- 3.2 **SIFMA Holder** refers to a qualified person who has entered into a SIFMA with the DENR.

- 3.3 **Socialized Industrial Forest Plantation (SIFP)** refers to a tract of land planted primarily to trees and other products to support manufacturing and processing facilities and/or to supply wood and energy requirement.
- 3.4 **Brushland** refers to land which is predominantly covered with shrub growth or short, stunted trees or shrubs.
- 3.5 **Open and Denuded Land** refers to land that has been depleted of its natural forest cover and is predominantly covered by grasses, herbaceous species or bare soil.
- 3.6 **DENR** refers to the Department of Environment and Natural Resources.
- 3.7 **Secretary** refers to the DENR Secretary.
- 3.8 **FMB** refers to the Forest Management Bureau
- 3.9 **RED** refers to the DENR Regional Executive Director.
- 3.10 **RTD** refers to the Regional Technical Director for Forestry.
- 3.11 **PENRO** refers to the Provincial Environment and Natural Resources Office.
- 3.12 **CENRO** refers to the Community Environment and Natural Resources Office.
- 3.13 **LGU** refers to the Local Government Unit.
- 3.14 **NGO** refers to the Non-Governmental Organization.

Sec. 4 Areas Available for SIFMA. SIFMAs may cover all grasslands, brushlands and open and denuded forest lands under the jurisdiction of the DENR, including those within government reforestation projects, that are not otherwise to be classified under the National Integrated Protected Areas System (NIPAS) nor subject of Certificate of Ancestral Domain Claims (CADC), Certificate of Ancestral Land Claims (CALC), vested rights, licenses, permits or management agreements; *provided*, that areas subject of CADC, CALC, vested rights, licenses, permits or management agreements may be made available for SIFMA by prior express and written agreement of the holder of such claim or right; *provided, further*, that areas covered by pending applications for Certificates of Ancestral Domain/Land Claim shall not be open to applications for SIFMA until the DENR, after due notice and hearing in accordance with DAO No. 2, series of 1993 or pertinent guidelines, shall have denied or rejected with prejudice such application for CADC/CALC; *provided, finally*, that areas that are currently occupied based on a legal claim shall likewise not be open to applications for SIFMA without the prior express and written agreement of the occupant or until the legal claim shall have been resolved.

Sec. 5 Size of the Area. The area that may be awarded in a SIFMA under this program is as follows:

For individual /single family --- 1 to 10 hectares
For association/cooperative --- over 10 hectares to 500
hectares

Sec. 6 Selection and Publication of SIFMA Sites.

6.1 Each CENRO shall identify potential SIFMA sites with the aid of the latest forest resource information and other baseline data. SIFMA sites shall be areas suitable for production forests,

accessible, located in contiguous blocks, or adjacent to existing natural forest, plantation forests, existing Community-Based Forest Management (CBFM) projects. Furthermore the areas should be devoid of claim conflicts.

The CENRO shall then inform, in writing, the concerned LGUs and, together with their representatives, validate on the ground the feasibility of the proposed SIFMA sites. The validated sites, 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.

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

Upon approval of a SIFMA site, the CENRO shall, within fifteen (15) days from receipt of the notice of approval by the Secretary, inform the concerned LGUs and together with the latter, conduct an information campaign to inform the public about the program. Copies of the program guidelines and the site map shall be posted in strategic places in the municipality and barangay where the site is located.

Sec. 7 Qualified Applicants. The following individuals and organizations who meet the following qualifications may participate in the program:

Individuals/single family units who are Filipino citizens, of legal age and preferably residents of the municipality where the area is located. Actual occupants of the area will be given priority. *Provided that*, in case of government employees, they shall qualify with the consent of their respective heads of agency.

- 7.2 Cooperatives and associations whose members are Filipino citizens and residents of the province where the SIFMA site is located, and duly registered with the Cooperative Development Authority or Securities and Exchange Commission, as the case may be. These cooperatives and associations must show proof of financial and technical capacity to develop the area.

Sec. 8 Disqualified Applicants. The following are disqualified to participate:

- 8.1 Individuals, cooperatives and associations who have been previously issued Tree Farm Lease Agreements (TFLAs), Industrial Forest Management Agreements (IFMAs) or other permits/licenses that were canceled due to their inability to comply with the provisions of the contract including the failure to develop open and denuded lands and other plantable areas within the prescribed period;
- 8.2 Individuals, cooperatives and associations any of whose officers have derogatory records such as but not limited to: (a) violations of anti-dummy laws; (b) tax evasions; (c) illegal logging/smuggling; (d) unauthorized transfer or subcontracting of forest permits/licenses; and (e) members of cooperatives or associations holding permits, licenses or contracts but not able to comply with the terms and conditions thereof;
- 8.3 The Holder of any existing forest permit, license, lease or management agreement; and

Sec. 9 Assignment of Management Responsibility.

The DENR shall assign responsibility to manage forest lands through the issuance of a SIFMA which shall have a duration of 25 years renewable for another 25 years.

The DENR shall award SIFMA areas on a first-come, first-serve basis. It shall be issued in the name of the applicant, *provided*, that in case of married individuals, it shall be issued in the names of both spouses.

The SIFMA may be transferred, conveyed or sold, in whole or in part, to any person, cooperative or association qualified to participate under the program in accordance with Sections 7 and 8 hereof, subject to the approval of the PENRO or the RED, as the case may be, *provided*, that the ten (10) ha. limit for individuals and single family units or the 500 ha. limit for cooperatives and associations is not exceeded. The transferee shall assume the rights and obligations stipulated under the original SIFMA and shall commit to the continuance of the SIFMA into the remaining years of the Agreement. The document of transfer, conveyance or sale shall be notarized and copies forwarded to the FMB, RED, CENRO and concerned LGUs.

Likewise, in case of cancellation of the SIFMA, copies thereof must be furnished the aforementioned offices.

Sec. 10 Application Requirements. Interested individuals, cooperatives and associations may file their application for a SIFMA with the concerned CENRO in the prescribed format shown in Annex “A” of this Order, together with the following:

10.1 A filing fee in the amount of:

- P 500.00 - for applications covering 1 to 5 ha.
- P 1,000.00 - for applications for areas over 5 ha. to 10 ha.
- P 5,000.00 - for applications for areas over 10 ha. to 100 ha.
- P 7,500.00 - for applications for areas over 100 ha. to 300 ha.
- P10,000.00 - for applications for areas over 300 ha. to 500 ha.

Filling fees may be adjusted upon review.

10.2 Sketch map of the area applied for

10.3 For individuals/family units

10.3.1 Community Tax Certificate

10.3.2 Certification from the Barangay Captain and Municipality/City Mayor that the applicant is a resident of the area where the site is located.

10.3.3 If a government employee, authorization from the head of the department or agency where the applicant is employed.

10.4 For cooperatives/associations

10.4.1 Certified true copy of the Certificate of Registration with the Cooperative Development Authority (CDA) or Securities and Exchange Commission (SEC)

10.4.2 List of duly elected officers and members and their addresses, duly certified by the Board Secretary

10.4.3 Resolution/minutes of meeting, duly certified by the Board Secretary, indicating the cooperative's or association's interest in participating in the program.

Sec. 11 Processing of Applications.

- 11.1 In the CENRO --- The CENRO accepts and processes SIFMA applications on a first-come, first-serve basis based on the receipt of the applications at the CENR Office. Upon receipt of the application, the CENRO shall verify whether the area is available and whether it is within the approved areas for SIFMA. 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 prepare the endorsement and forward all papers to the PENRO with his comments and recommendations after the evaluation of the application.
- 11.2 In the PENRO --- Upon receipt of all pertinent documents for SIFMA applications with areas of 1 to 10 hectares, the PENRO shall review and evaluate the documents and if he finds all in order, shall prepare and approve the agreement in the format shown as Annex "B" of this Order. For bigger areas, the PENRO shall forward the SIFMA application to the RED for consideration and approval. The SIFMA shall be approved and issued, or a notice denying the application shall be issued, within five (5) days from receipt of recommendation from the

CENRO. Copies thereof shall be furnished the FMB, RED, CENRO and the concerned LGU.

- 11.3 In the Office of the RED --- The RED shall, within five (5) days from receipt of the application and all pertinent documents, review and evaluate the documents and if he finds all in order, shall approve the agreement, otherwise, a notice denying the application shall be issued. Copies thereof shall be furnished the FMB, PENRO, CENRO, and the concerned LGU.

Sec. 12 Minimum Terms and Conditions of the Agreement. The SIFMA shall contain the following minimum terms and conditions.

- 12.1 A provision for SIFMA holders to furnish the necessary management, technology and financial services necessary for the development and management of the area;
- 12.2 A provision for consultation and arbitration with respect to the interpretation of the SIFMA;
- 12.3 A provision prohibiting the conservation of the area into other land uses not authorized under the SIFMA;
- 12.4 A provision for anti-pollution and environmental protection measures;
- 12.5 A provision for the rehabilitation of the open and denuded areas and the protection of existing natural forest vegetation;
- 12.6 A provision for an effective monitoring scheme to be implemented by the Department which shall include, but will not be limited to, the periodic assessment of the SIFMA holder's

program in developing the area, *provided*, that the area awarded shall be fully planted within three (3) years from the date of the award;

- 12.7 A provision integrating gender concerns in the implementation of the Agreement to include equitable participation of women in project activities and enjoyment of the fruits thereof;
- 12.8 A provision for the protection of workers' rights;
- 12.9 A commitment to community development;
- 12.10 A provision requiring the SIFMA holder to plant forest tree species, which may include rubber and/or non-timber species such as rattan, bamboo, etc., in not less than 90% of the plantable area; *provided*, that the remaining plantable areas shall be devoted for permanent agricultural purposes;
- 12.11 A provision for the SIFMA holder to keep areas with slopes 50 percent or over and strips of land at least 20 meters in width bordering rivers and streams permanently under tree cover; and
- 12.12 A provision not to plan or introduce exotic species which are untested in Philippine conditions, unless clearance is given by DENR.

Sec. 12 Incentives to the SIFMA Holder. All SIFMA holders shall be entitled to the following incentives:

- 13.1 All planted trees belong to the SIFMA holder who shall have the right to harvest, sell and utilize such trees and crops, except those retained for environmental protection purposes;

- 13.2 Export of logs, lumber and other forest products harvested from the SIFMA shall be allowed by the DENR in accordance with the government allocation system;
- 13.3 All plantation products derived from the SIFMA area shall be exempted from payment of forest charges;
- 13.4 Entitlement to appropriate and reasonable compensation for the developments in the area, in case of cancellation of the SIFMA without cause or for public interest;
- 13.5 Participants of this program who are actual occupants shall be given priority in the event rules, regulations or laws in the future shall allow a more permanent tenurial arrangement;
- 13.6 No restrictions on the use of the SIFMA and the improvements in the SIFMA area as collateral for obtaining loans for the improvement of the SIFMA area, *provided*, that there is prior approval of the issuing authority of the SIFMA; and
- 13.7 Technical assistance should SIFMA holders wish to confederate into a larger organization.

Sec. 14 Government Share. The government share under the SIFMA shall be in the form of products/benefits derived from the execution of the SIFMA, to wit:

- 14.1 Environmental enhancement through the protection and rehabilitation of steep and/or eroded slopes, riverbanks and streambanks and residual forests; conservation of natural forests through the complementation of naturally growing timber with plantation forest; accelerated revegetation and regeneration of open areas and increased carbon sequestration capability of trees;

- 14.2 Trees planted for protection purposes which will not be harvested but maintained by the SIFMA holder as government's share (e.g. in areas 50 percent in slope or over, along riverbanks and streambanks, etc.);
- 14.3 Generation of employment;
- 14.4 Trails and access road development and improvement;
- 14.5 Increased production of fuelwood, food and other non-wood products;
- 14.6 Ready and steady supply of raw materials for wood-dependent industries;
- 14.7 Protection of soil, water, wildlife and existing natural forest resources;
- 14.8 Income taxes paid by the SIFMA holder; and
- 14.9 Rentals for the use of the land which shall be free from the first to the fifth year of the SIFMA, P 300.00 per hectare or fraction thereof from the sixth to the tenth year, and P 500.00 per hectare or fraction thereof for every year thereafter, subject to future adjustments upon review.

Sec. 15 Integration of Socialized Industrial Forest Management Agreement Holders into Larger Organizations.

SIFMA holders shall be encouraged to confederate into cooperatives, associations and/or federations to enable them to avail of the benefits of the economies of scale.

The DENR, in collaboration with other government agencies, shall work for the necessary technical assistance, capacity building through skills training, and organizational management, as well as linking for access to markets and social services, livelihood and financing.

The DENR shall explore ways and means to develop incentives for Industrial Forest Management Agreement (IFMA) holders to transfer control over the management of their awarded areas to their employees and to actual forest occupants thereof.

Sec. 16 Grounds for Cancellation. The SIFMA may be canceled or revoked on any of the following grounds:

- 16.1 Failure of the SIFMA holder to develop the area within three (3) years;
- 16.2 The SIFMA holder has been found to a dummy;
- 16.3 The holder has transferred the rights over the area to another person without the knowledge and concurrence of the DENR;
- 16.4 Conversion by the holder of the area or any part thereof to any land use other than that of tree farming and the planting of allowable crops;
- 16.5 The holder has allowed the entry of other persons into the area for the purpose of building residential houses;
- 16.6 The holder cuts or allows cutting of naturally grown trees within or adjacent to the SIFMA area;

- 16.7 The holder refuses any duly authorized forest officer or duly authorized governmental official entry into the SIFMA premises or into any other improvement introduced and used for the purpose of SIFMA execution;
- 16.8 The SIFMA was obtained through fraud or misrepresentation or by false or misleading statements;
- 16.9 Conviction of the holder for the violation of pertinent provisions of the Labor Code of the Philippines and other relevant labor laws;
- 16.10 Violation by the holder of any of the terms and conditions of the SIFMA or of any of the pertinent provisions of forestry laws, rules and regulations;
- 16.11 Abandonment of the area;
- 16.12 Failure to pay rentals or other required fees;
- 16.13 Voluntary surrender of the SIFMA;
- 16.14 When public interest so requires.

Sec. 17 Monitoring and Evaluation.

- 17.1 Reporting System --- All SIFMAs issued by the PENROs and REDs must be registered with the FMB within fifteen (15) days from issuance. The Forest Management Bureau 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 consolidated reports to the Secretary.

17.2 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 SIFMA within the CENRO jurisdiction. The status indicator shall include, among others, the following:

17.2.1 Seedling production by species;

17.2.2 Area and date planted by species;

17.2.3 Environmental protection and mitigating measures;

17.2.4 Progress maps showing the area planted by year, including the species planted;

17.2.5 Pictures;

17.2.6 Issues and problems in the implementation and recommendation to improve the project implementation.

Sec. 18 Program Management. The Program shall be managed and implemented through the following DENR Offices:

18.1 The FMB shall be the National Coordinating Office of the Program and it shall have the following functions and responsibilities:

- 18.1.1 To develop, formulate and recommend policies, rules and regulations related to program development and implementation;
 - 18.1.2 To review and evaluate potential SIFMA sites and submit a report thereon to the Secretary for approval;
 - 18.1.3 To coordinate the implementation and execution of the SIFMA;
 - 18.1.4 To evaluate program implementation and update the DENR Senior Management by providing periodic reports on activities and accomplishments of the program;
 - 18.1.5 To establish institutional linkages with other government and non-government agencies as appropriate at the national level to improve program implementation; and
 - 18.1.6 To keep complete and systematic files of, and updated information on, all SIFMAs issued and other pertinent documents related to the program.
- 18.2 The RED, assisted by the RTD, shall be responsible for the effective implementation of the program in the region, and shall approve SIFMA application, issued cancellation orders, and approve transfers of the SIFMA for areas more than 10 hectares up to 500 hectares. 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 SIFMA monitoring and evaluation.

- 18.3 The PENRO shall be responsible for the effective implementation of the program in the province, and shall approve SIFMA applications, issue cancellation orders, and approve transfers of the SIFMA for areas up to 10 hectares. Likewise, the PENRO shall evaluate periodic reports submitted by the CENRO and forward the same, together with the findings and recommendation, to the RED. The PENRO shall maintain a data base for all SIFMAs within the province.
- 18.4 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 SIFMA applications, and monitoring and evaluation of the program implementation. The CENRO shall submit periodic reports thereon to the PENRO for evaluation.

Sec. 19 Repealing Clause. This Order amends or repeals the pertinent Sections of MAO No. 4, series of 1980, DAO No. 60, series of 1993, and other previous orders or sections thereof which are inconsistent herewith.

Sec. 20 Effectivity. This order shall take effect immediately.

Signed on the occasion of the Centenary of the Cry of Pugad
Lawin, 23rd of August 1996.0.

VICTOR O. RAMOS

Secretary

DENR Administrative Order
No. 96-26
September 10, 1996

SUBJECT : Revised Guidelines Governing the Harvest and Transport of Planted Trees and Non-Timber Products within Social Forestry Areas.

Pursuant to Executive Order No. 192 dated June 10, 1987 and Sections 20 and 39 of PD 705, as amended, and in order to facilitate and regulate the harvest and transport of planted trees and non-timber products in duly established social forestry areas, the following guidelines and procedures are hereby promulgated for the guidance and compliance of all concerned:

Sec. 1 Qualified Applicants. Integrated Social Forestry Program (ISFP) participants whose stewardship areas contain mature and harvestable planted trees and other non-timber products are qualified to apply for a permit to cut, gather, transport, dispose and/or utilize said forest products.

Sec. 2 Application Requirements. The applicant shall apply to the Community Environment and Natural Resources Office (CENRO) a permit to harvest planted trees and non-timber products by accomplishing the prescribed application form (Annex A). The Social Forestry Desk Officer (SFDO) shall receive and process the application and indorse/recommend the same to the Community Environment and Natural Resources Officer (CENR Officer) for approval.

Sec. 3 Procedures in the Processing of Applications for Harvesting Permit. The following procedures shall be observed when processing applications:

3.1 **Inventory.** Upon submission of the application, the SFDO shall conduct free of charge, an inventory at 100% intensity over the area applied for within ten (10) days except under reasonable circumstances, taking into consideration trees or stock to be left for production, soil erosion control, and stream bank protection. *Provided*, that if it is a devolved social forestry area, the inventory shall be jointly conducted by the SFDO and the Community Development Officer/Assistant (CDO/CDA) of the concerned Local Government Units (LGUs).

The inventory team shall mark consecutively and distinctly all the inventoried planted trees or non-timber products and the inventory report duly certified (Annex B) shall be submitted to CENRO concerned within five (5) days after date of completion of the field inventory report.

3.2 **Preparation of Permit to Harvest.** The SFDO shall prepare the permit to harvest following the prescribed format (Annex C).

3.3 **Issuance of Permit to Harvest.** The CENR Officer concerned shall issue the Permit to Harvest.

The maximum period of the harvesting permit issued under this Order shall not exceed six (6) months which can be renewed depending on the availability of planted trees and non-timber products to be harvested.

- 3.4 **Furnishing Copies of Permits Issued.** In the exercise of this delegated authority, the concerned CENR Officer shall immediately furnish the Provincial Environment and Natural Resources Office (PENRO), the Regional Environment and Natural Resources Office (RENRO), the Forest Management Bureau (FMB), and the Office of the Undersecretary for Field Operations, copies of all the permits issued in consonance herewith, for information, record and reference. Failure to comply with this requirement shall render a permit invalid and the CENR Officer shall be administratively liable as provided for under existing Civil Service rules and regulations.

Sec. 4 Conditions under the Harvesting Permit.

- 4.1 Only mature planted forest trees and non-timber products duly inventoried shall be allowed to be harvested.
- 4.2 The transport, disposition and utilization of planted forest trees and non-timber products harvested from social forestry areas shall be in consonance with existing forest and internal revenue laws, rules and regulations.

All shipment of harvested planted trees and non-timber products covered by a permit shall be accompanied by a Certificate of Origin (Annex D) issued by the concerned CENR Officer. Issuance of the permit shall be subject to the recommendation of the SFDO who has jurisdiction over the area, and presentation of the appropriate Auxiliary Invoice.

Trees cut under this permit maybe exported by the permittee subject to proper application, documentation and issuance of export authority, in accordance with the exportation procedures and regulations.

4.3 The permittee shall submit a monthly and a terminal report after the lapse of the permit granted by the CENR Officer.

Sec. 5 Suspension and Cancellation of Permits.

Permits issued under this Order shall be suspended or cancelled for violations of the terms and conditions of the permit as well as applicable forest laws, rules and regulations.

Sec. 6 Penalties. Harvesting and transporting of forest products from social forestry areas without a permit shall be illegal and anyone committing such acts shall be punished in accordance with Section 68 of PD 705, as amended (Sec. 7 of Republic Act No. 7161) and any other appropriate laws.

Sec. 7 Repealing Clause. All Orders, issuances and instructions inconsistent herewith are hereby repealed, revoked or amended accordingly.

Sec. 8 Effectivity. This Order takes effect immediately.

VICTOR O. RAMOS
Secretary

DENR Administrative Order
No. 96-29
October 10, 1996

SUBJECT : Rules and Regulations for the Implementation of Executive Order 263, Otherwise Known as the Community-Based Forest Management Strategy (CBFMS)

Pursuant to Section 12 of Executive Order No. 263 (EO 263), entitled “Adopting Community based Forest Management as the National Strategy to Ensure the Sustainable Development of the Country’s Forestlands Resources and Providing Mechanisms for its Implementation” issued by the President of the Republic of the Philippines on 19 July 1995, this Administrative Order is hereby promulgated, setting forth the rules and regulations governing the implementation of the Executive Order.

ARTICLE I

TITLE, BASIC POLICY, OBJECTIVES, DEFINITION OF TERMS AND SCOPE

Sec. 1 Title. This Administrative Order shall be known as the “Community-Based Forest Management Program”.

Sec. 2 Basic Policy. It is the policy of the State to:
a) protect and advance the right of the Filipino people to a healthful environment; b) improve their socio-economic conditions through the

promotion of social justice, equitable access to and sustainable development of forestlands resources; and c) respect the rights of indigenous peoples to their ancestral domains by taking into account their customs, traditions and beliefs in the formulation of laws and policies. Active and transparent community participation and tenurial security shall be among the key strategies for achieving these goals.

Accordingly, the State acknowledges and supports the capacities and efforts of local communities and indigenous peoples to protect, rehabilitate, develop and manage forestlands and coastal resources. The State shall provide legal and technical support to ensure equitable access to and sustainable use of natural resources. Pursuant to these policies, the State hereby establishes the Community-Based Forest Management Program (CBFMP) to implement EO 263.

Sec. 3 Concept. Efficient and sustained management of forest lands and coastal areas can result from responsible resource utilization by organized and empowered local communities. It shall be the responsibility of the DENR, the Local Government Units (LGUs), and other government agencies to collaborate with Non-Government Organizations (NGOs) and other private entities in developing the enabling environment to support and strengthen local communities in managing forestlands and coastal resources on a sustainable basis,. The DENR shall provide security of tenure and technical assistance to these local communities.

Local communities shall be assisted by DENR, LGU, NGOs and other government agencies (OGAs) or entities in the preparation of a Community Resource Management Framework (CRMF). The CRMF shall express the communities' aspirations, local and indigenous knowledge, and shall serve as a guide in the access, development, use and protection of resources in areas currently and eventually utilized and managed by the communities. The CRMF shall be consistent with the

overall strategy for the conservation of areas encompassing watersheds and herein set forth policies.

Sec. 4 Definition of Terms. The following terms are to be understood and interpreted as follows:

ANCESTRAL DOMAINS - All lands and natural resources, occupied and possessed by indigenous cultural communities, by themselves or through their ancestors, communally or individually, in accordance with their customs and traditions since time immemorial, continuously to the present except when interrupted by war, *force majeure*, or displacement by force, deceit, or stealth, and including all adjacent areas generally belonging to them that are necessary to ensure their economic, social and cultural welfare.

ANCESTRAL LANDS - Lands occupied, possessed and utilized by individuals, families or clans who are members of an ICC/IP since time immemorial, by themselves or through their predecessors in interest, continuously to the present except when interrupted by war, *force majeure* or displacement by force, deceit or stealth; including claims to lands that have been devolved to individuals such as residential lots, rice terrace, paddies or tree lots, indigenous corporate claims belonging to families or clans such as private forests and swidden farms and communal claims belonging to a community within a defined territory.

AWP - Annual Work Plans

BUFFER ZONES - Identified areas outside the boundaries of and immediately adjacent to designated protected areas pursuant to Section 8 of the NIPAS Law, that need special development control in order to avoid or minimize harm to the protected area.

CENRO - Community Environment and Natural Resources Office/Officer of DENR

CERTIFICATE OF ANCESTRAL DOMAIN CLAIM - A certificate issued by DENR to an indigenous cultural community/indigenous people declaring, identifying and recognizing their claim to a particular traditional territory which they have possessed and occupied, communally or individually, in accordance with their customs and traditions since time immemorial.

CERTIFICATE OF ANCESTRAL LAND CLAIM - A certificate issued by DENR to an indigenous Filipino individual, family, or clan, declaring, identifying and recognizing their claim to a particular area they have traditionally possessed, occupied and used by themselves or through their predecessors in interest since time immemorial.

COASTAL ENVIRONMENT PROGRAM - A program established in the DENR to implement its projects on conservation and management of the coastal environment. The CEP encompasses all concerns over the habitat and ecological support systems of coastal communities and fisheries specially pertaining to their productivity, biodiversity, integrity, sustainability, and equitability of access and use. This is principally governed by DAO 19, S1993.

COMMUNITY - A group of people who may or may not share common interests, needs, visions, goals and beliefs, occupying a particular territory which extends from the ecosystem geographical, political/administrative and cultural boundaries and any resources that go with it.

COMMUNITY BASED FOREST MANAGEMENT STRATEGY - Organized efforts by the DENR to work with

communities in and near public forest lands with the intent to protect, rehabilitate, manage, conserve, and utilize the resource.

COMMUNITY BASED FOREST MANAGEMENT STEERING COMMITTEE - A multi-sectoral Committee responsible for the formulation and development of policy guidelines that will create incentives and conditions necessary to effectively carry out CBFMP. It shall be composed of the Secretary of the DENR as head; the respective Secretaries, or Undersecretaries or Assistant Secretaries or bureau/agency heads of the Departments of Agriculture, Trade and Industry, Agrarian Reform, Local Government, Budget and Management, National Defense, Justice, National Economic and Development Authority, Philippine Commission on Countrywide Development, Committee on Flagship Programs and Projects of the Office of the President's Presidential Management Staff, Cooperative Development Authority and Office for the Northern and Southern Cultural Communities. Representatives from POs participating in the CBFMP, NGOs, Philippine Chamber of Commerce, Philippine Wood Products Association and other public and private organizations may be invited to become members of the Steering Committee. This committee will replace the multi-agency/sectoral committee created under EO 196 to oversee the ENR-SECAL Program and all such other Steering Committees created for various other community based forestry programs.

COMMUNITY-BASED FOREST MANAGEMENT SPECIAL ACCOUNT - A special fund to be established and used to support the implementation of CBFMP and to provide a professional incentive system for deserving communities and government personnel.

COMMUNITY-BASED FOREST MANAGEMENT SPECIAL AGREEMENT - A production sharing agreement entered into between a community and the government, to develop, utilize, manage

and conserve, a specific portion of the forestland, consistent with the principles of sustainable development and pursuant to a Community Resource Management Framework.

COMMUNITY FORESTRY PROGRAM - A forest management program of the DENR which grants rights to organized communities to manage, develop and utilize forest resources on a sustainable basis. The CFP is principally governed by DAO 123, S 1989 and DAO 22, S 1993.

COMMUNITY SPECIAL TASK FORCE FOR ANCESTRAL LANDS - The Special Task Force based in specific Community Environment and Natural Resources Offices (CENRO) which is responsible for the identification, delineation and recognition of ancestral domain and land claims.

COMMUNITY RESOURCE MANAGEMENT FRAMEWORK - The document defining the terms and procedures for access, use, and protection of natural resources within the CBFMA area, which shall in all cases be consistent with the overall management strategy of the entire watershed area where the CBFM area is located, and shall be formulated by the community with the assistance of its PO and the DENR, LGU and/or private entities.

DAO - DENR Administrative Order

EMPAS - Environmental Management and Protected Areas Sector

FMB - Forest Management Bureau

FOREST LAND MANAGEMENT PROGRAM - A program launched by DENR through which Forest Land Management Agreements are issued, which in turn replaces the former short term

contract reforestation systems as the principal mode for accomplishing the reforestation objectives in collaboration with forest occupants and residents of upland communities. The program grants participants the sole and exclusive right to occupy, develop and manage specified areas of forest lands, subject to repayable financial assistance from DENR, and to harvest, sell and utilize products grown on the land. The FLMP is principally governed by DAO 23, S1993.

FORESTS - Either natural vegetation or plantations of forest crops such as trees, or both, occupying a definable, uninterrupted or contiguous area not less than one hectare in size with the tree crowns covering *at least* ten (10) percent of the area, exclusive of the associated seedlings, saplings, palms, bamboo and other undercover vegetation. A natural forest is a stand constituted by natural succession without human intervention which includes such stand types as dipterocarp, pine, mossy, beach and/or mangrove, and for purposes of these rules are classified according to: 1) primary use and management; and 2) growth formation. As to primary use and management, a forest shall be either a: 1) protection forest; or 2) production forest. As to growth formation, a natural forest is classified according to either 1) primary or old growth forest or 2) a residual or second growth forest which refers to natural forest which has been previously subjected to timber harvesting or extraction.

FORESTLANDS - Lands of the public domain which have been classified as such under the land classification program of the DENR and all unclassified lands of the public domain.

FOREST PRODUCTS - Any forest resource that is harvested or utilized, except minerals.

FOREST RESOURCES - All natural resources, whether biomass such as plants and animals or non-biomass such as soil and water, as

well as the intangible services and values present in forestlands or in other lands devoted for forest purposes.

GENERAL MANAGEMENT PLANNING STRATEGY - A plan adopted by a duly established Protected Areas Management Board (PAMB), designed to maintain the integrity of protected areas specifically as to ecological stability and biological diversity, through the full participation and involvement of communities.

INDIGENOUS CULTURAL COMMUNITY/INDIGENOUS PEOPLES - A homogenous society identified by self-ascription and ascription by others, whose members have continuously lived as a community on communally bounded and defined territory, sharing common bonds of language, customs, traditions and other distinctive cultural traits, and who, through resistance to the political social and cultural inroads of colonization, became historically differentiated from the majority of Filipinos.

INTERIM RESOURCE UTILIZATION RIGHTS - The permission granted to the communities prior to the approval of CRMF which allows harvest and sale of forest products on a limited scale to provide immediate income to communities, and funds for the preparation of CRMF and other related activities.

INTEGRATED SOCIAL FORESTRY PROGRAM - The national program launched under Letter of Instruction No. 1260 designed to maximize land productivity, enhance ecological stability, and improve the socio-economic conditions of forest occupants and communities.

INTEGRATED RAINFOREST MANAGEMENT PROJECT - A community-based forestry project supported by the government of Germany.

LOW INCOME UPLAND COMMUNITIES PROJECT (LIUCP) - A project undertaken by DENR to restore and sustainably manage the country's upland/forest resources, and alleviate poverty in rural communities. This is principally governed by DAO 35,S1992.

MULTIPLE USE ZONE - Areas where settlement, traditional and/or sustainable land use, including agriculture, agro-forestry, extraction activities and other income generating or livelihood activities may be allowed to the extent prescribed in the management plan consistent with the General Management Planing Strategy. Land tenure may be granted to tenured residents whether ICC/IP or migrants.

NATIONAL COMPREHENSIVE COMMUNITY FORESTRY ACTION PLAN - The government's plan for the implementation of the Community Based Forest Management Strategy containing therein its short, medium and long term goals and strategies.

NATIONAL INTEGRATED PROTECTED AREAS SYSTEM - As defined in the NIPAS Law, the classification and administration of all designated protected areas to maintain essential ecological processes and life-support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain their natural conditions to the greatest extent possible.

PENRO - Provincial Environment and Natural Resources Office/Officer of DENR.

PEOPLES ORGANIZATION - A group of people, which may be an association, cooperative, federation, or other legal entity, established by the community to undertake collective action to address community concerns and need and mutually share the benefits from the endeavor.

PRIOR VESTED RIGHTS - Acknowledged claims, privileges, prerogatives, or ownership over land or natural resources to which one is entitled by reason of law, license, contract or tradition.

PROTECTED AREAS MANAGEMENT BOARD - A multi-sectoral board created in each established protected area and vested with powers to administer the NIPAS implementation.

RED -Regional Executive Director of DENR.

RECOGNITION OF ANCESTRAL DOMAINS/CLAIMS - A DENR strategy to recognize the rights of ICCs/IPs to their Ancestral Domains/Lands pursuant to the provisions of the 1987 Constitution mandating the State to protect the right to due process and the rights of ICCs/IPs to their ancestral domains to ensure their economic, social and cultural well being. The program is principally governed by DENR DAO 2,S1993.

REGIONAL RESOURCE MANAGEMENT PROJECT (RRMP) - A community-based rural development project geared towards the protection, development and management of the watershed and upland resources.

RTD - FORESTRY - The Regional Technical Director for Forestry of the DENR.

RUP - Resource Use Plan

SUSTAINABLE DEVELOPMENT - As defined by the World Commission on Environment and Development, means meeting the needs and aspirations of the people without compromising the ability of future generations to meet theirs.

SUSTAINABLE FOREST MANAGEMENT AND DEVELOPMENT - The process of managing, developing, and utilizing forestlands and resources therein to achieve the production of desired products or services without impairing the inherent productivity of the forest, thereby ensuring a continuous flow of these products or services and without undesirable effects on the physical and social environment.

TENURE - Guaranteed peaceful possession and use of specific forest land area and the resources found therein, covered by an agreement, contract or grant which cannot be altered or abrogated without due process.

TENURE MIGRANTS/COMMUNITIES - Communities or members thereof within protected areas who have actually and continuously occupied such areas for at least five (5) years before the designation of the same as a protected area in accordance with Republic Act 7586, and who are dependent thereon for subsistence.

WATERSHED - Land drained by a stream or fixed body of water and its tributaries having a common outlet for surface run-off.

Sec. 5 Scope and Coverage. Subject to prior vested rights, CBFMP shall apply to all areas classified as forestlands including allowable zones within protected areas. It shall integrate and unify all people-oriented forestry programs of the government including the Integrated Social Forestry Program (ISFP), Upland Development Project (UDP), Forest Land Management Program (FLMP), Community Forestry Program (CFP), Low Income Upland Communities Project (LIUCP), Regional Resources Management Project (RRMP), Integrated Rainforest Management Project (IRMP), Forestry Sector Project (FSP), Coastal Environment Program (CEP); and Recognition of Ancestral Domains/Claims.

Indigenous Cultural Communities (ICCs)/Indigenous Peoples (IPs) whose claims to ancestral domains/lands have been recognized through Certificates of Ancestral Domain Claims (CADCs) or Certificates of Ancestral Land Claims (CALCs), or whose domains are recognized by themselves and neighboring communities, may, at their option, participate in the CBFMP through the preparation and implementation of Ancestral Domain Management Plans (ADMPs). An ADMP shall be considered the equivalent of a CRMF. Unless otherwise provided by subsequent issuances, a CBFMA shall then be issued over portions of the CADC or CALC which are within classified forest lands.

ARTICLE II

KEY PROGRAM PARTICIPANTS

Sec. 1 Qualifications of Participants. The principal participants in CBFMP shall be the local communities as represented by their organizations, herein referred to as People’s Organizations (POs).

In order to participate in the CBFMP, a PO must have the following qualifications:

1. Members shall be Filipino citizens

2. Members may either be:
 - a. Actually tilling portions of the area to be awarded;

 - b. Traditionally utilizing the resource for all or substantial portion of their livelihood; or

- c. Actually residing within or adjacent to the areas to be awarded.

In case of married members, the names of both spouses should be listed.

Sec. 2 Incentives to the POs. - POs shall be entitled to the following incentives and privileges:

- I. To occupy, possess, utilize and develop the forestlands and its resources within a designated CBFMA area and claim ownership of introduced improvements. ICCs/IPs shall be deemed not to have waived their rights to ancestral lands and domains, and the right to lay claim on adjacent areas which may, after more careful and thorough investigation, be proved to be, in fact, part of their ancestral domain;
- ii. To allocate to members and enforce rights to use and sustainably manage forestlands resources within the CBFMA area.
- iii. To be exempt from paying rent for use of the CBFMA areas;
- iv. To be exempt from paying forest charges on timber and non-timber products harvested from plantations in accordance with R.A. 7161;
- v. To be properly informed of and be consulted on all government projects to be implemented in the area. A PO's consent shall also be secured by the DENR prior to the granting and/or renewal of contracts, leases and permits for the extraction and utilization of natural resources within the area; *provided*, that an

equitable sharing agreement shall be reached with the PO prior to any grant or renewal to an individual or legal entity that is not from or based in the affected community;

- vi. To be given preferential access by the DENR to all available assistance in the development and implementation of the CRMF, RUP and AWP;
- vii. To receive all income and proceeds from the sustainable utilization of forest resources within the CBFMA area, subject to the provisions of the NIPAS Law;
- viii. To enter into agreements or contracts with private or government entities for the development of the whole or portions of the CBFMA area; *provided*, that public bidding and transparent contracting procedures are followed; *provided further*, that development is consistent with the CRMF of the CBFMA area; and
- ix. To enter into agreements or contracts with government entities; *provided*, that existing COA regulations and pertinent guidelines be adhered to.

Sec. 3 Responsibilities of POs. The participating POs shall have the following responsibilities in the CBFMA areas;

- I. Participate in site identification, selection and boundary delineation, and, if needed, in parcellary surveys;
- ii. Designate areas according to their sustainable use and, in accordance with their native customs, traditions and practices, allocate and enforce natural resource rights in accordance with national laws, rules and regulations;

- iii. Prepare and implement CRMFs, RUPs and AWP for the area;
- iv. Develop and implement equitable benefit-sharing arrangements among its members;
- v. Protect, rehabilitate and conserve the natural resources in the CBFMA area and assist government in the protection of adjacent forest lands;
- vi. Develop and enforce policies pertaining to the rights and responsibilities of PO members and the accountability of PO leaders;
- vii. Develop equitable mechanisms for addressing conflicts, including rules, regulations and sanctions regarding forest use and protection; *provided*, that in case of ICCs/IPs, indigenous processes and mechanisms shall be followed.
- viii. Be transparent and promote participatory management and consensus building in all activities and endeavors;
- ix. Pay forest charges, other than those on timber and non-timber products harvested from CBFMA plantations, as well as fees and other taxes required by the government;
- x. Undertake other responsibilities agreed to in the CBFMA.

ARTICLE III

STAGES OF CBFMP IMPLEMENTATION

CBFMP implementation shall have four stages: the Preparatory Stage, the PO Formation and Diagnostic Stage, the Planning stage, and the Implementation Stage.

Preparatory Stage

The objectives of this stage are (a) to inform and educate DENR officials, LGUs and the general public about CBFMP; (b) to establish institutional linkages between the DENR and the LGU; (c) to identify potential CBFMP areas; and (d) to select CBFMP areas.

Sec. 1 Information, Education and Communication Campaigns. The DENR and LGUs, in collaboration with other government agencies; non-government organizations and other sectors, shall conduct an Information Education Communication (IEC) campaign to inform, educate and get the support of all concerned sectors on CBFMP implementation. The campaign shall include the orientation and training of DENR and LGU personnel and leaders of the PO who shall be engaged in the implementation of CBFMP.

Sec. 2 Establishing Institutional Linkages. The DENR shall work with local governments, other government agencies, people's organizations, non-government organizations, tribal councils, and other concerned organizations to ensure that communities are empowered to initiate and achieve the objectives of CBFMP. The DENR shall promote and support the active participation of these agencies and organizations, and shall assist them in enhancing their capacities to actively participate in and support the program.

Sec. 3 Identification of CBFMP areas. Identification and selection of CBFMP areas shall be jointly undertaken by the DENR and the concerned LGU in consultation with local

communities . The identification of CBFMP areas shall take into consideration the forestlands use plan to ensure that the CBFMP is consistent with the overall watershed conservation strategy and with the Municipality's Land Use and Development Plan. The general procedure in selecting CBFMP areas is as follows:

- (a) Each CENRO and duly designated representatives of the concerned municipal government, shall identify potential CBFMP areas with the aid of a Forestlands Use Plan, latest available information and/or updated forest management map, and other baseline data. The CENRO and LGU representatives shall then validate the identified areas on the ground to determine their suitability in accordance with the criteria defined below.
- (b) The validated areas, endorsed by the concerned Legislative Councils of LGUs, shall then be indicated in a map of appropriate scale, which map, together with pertinent data and information, shall be forwarded through channels to the Regional Executive Director (RED) for approval.
- (c) The approved map and all other documents shall be furnished the Director of the FMB, for data base management and monitoring purposes.
- (d) Upon approval of the CBFMP areas, the CENRO shall, within fifteen (15) days, inform in writing the concerned LGUs and together with the latter, shall conduct an information campaign to inform the public about the program. Copies of CBFMP guidelines and site map shall be posted in the municipality and barangays where the site is located.

Sec. 4 Criteria for area selection. The following are the criteria for site selection:

- (a) *Available areas:* CBFMP may be implemented in uplands and coastal lands of the public domain except in the following:
 - i. Areas covered by existing Timber License Agreements (TLAs), Pasture Lease Agreements, Industrial Forest Management Agreements (IFMA) and other forest land contracts, leases, permits or agreements, except in the following cases:
 - (1) the lessee, permittee or agreement holder executes a waiver in favor of the CBFMA, *provided*, that when any pre-existing rights expire within three years from the issuance of a CBFMA, no waiver shall be required; or
 - (2) a permit is issued only for the collection or harvesting of minor forest products, in which case no waiver from the permittee shall be required. Upon termination of any pre-existing permit for non-timber forest products, the permit shall not be renewed and any new permit shall be given to the CBFMA holder.
 - ii. Protected areas except multiple use zones, buffer zones and other areas where utilization activities may be allowed pursuant to the provisions of R.A. 7586 (NIPAS Law) and its implementing rules and regulations;

- iii. Forestlands which have been assigned by law under the administration and control of other government agencies, except upon written consent of the concerned government agency;
 - iv. Certified ancestral lands and domains, except where the ICCs/IPs opt to participate in CBFMP; and
 - v. Other areas occupied by ICCs that are known to be ancestral but are not yet covered by CADC or CALC, unless the ICCs/IPs opt to participate in CBFMP.
- (b) *Presence of communities* residing within or adjacent to forestlands and who are largely dependent on forestlands resources for their livelihood.
 - (c) *Endorsed by the Legislative Councils of concerned LGUs* for CBFMP.
 - (d) *Open, denuded or marginal forest lands* requiring immediate rehabilitation and protection; and
 - (e) *Adjacent to or adjoining* existing CBFM projects.

Sec. 5 Processing of Conflicting Claims

- a) Adverse claimants or any party alleging conflicting claims over the identified CBFMP are, or portions thereof, shall file their complaints before the RED within thirty (30) days from date of first publication/or notification.
- b) The RED shall convene a team composed of the Regional Technical Director for Forestry (RTD-F) as Chairman and

representatives of PENRO and CENRO, Provincial and Municipal governments, to hear and receive proof of conflicting claims. This Team may utilize culturally appropriate and locally acceptable methods on conflict management, provided these are transparent and fair. Indigenous dispute processes and other appropriate institutions such as the Provincial Special Task Forces on Ancestral Domains (PSTFAD) and Community Special Task Forces on Ancestral Lands (CSTFAL) established under DENR Special Order NO. 25, S1993 as well as the PAMB in protected areas shall be invited to participate in dispute processing.

- c) The RTD-F shall prepare a report of the Team's findings and recommendations and shall submit the same to the RED within fifteen (15) days from the date the case is submitted for resolution. The RED shall render a decision on the matter within fifteen (15) days from receipt of the report.

PO Formation and Diagnostic Stage

The objectives of this stage are (a) to encourage participation of local communities in CBFMP; (b) to start community organization building or strengthening; (c) to define existing conditions (social, economic, natural resources, etc.) relevant for planning; and (d) obtain CBFMA.

Sec. 6 Application by the community/participants.

Local communities, represented by existing organizations, or at least ten (10) residents, or their Barangay Councils, may apply in writing to the concerned CENRO for participation in CBFMP. The application shall be supported by concerned Barangay and Municipal Legislative Councils, a brief socio-economic profile of the barangay and the number of expected participants.

Sec. 7 Community appraisal and PO formation.

The CENRO, in collaboration with duly designated representatives of the concerned LGUs, shall cause the conduct of an initial community appraisal. The community appraisal shall focus on identification of the existing forestlands resources management system of the community and related concerns that may be addressed under the CBFMP. Both DENR and LGUs shall assist, if appropriate, with community organizing activities (CO) and in the establishment of a PO (if not existing) which shall be community-based and duly registered. It is preferred that the PO is authorized to conduct business and access loans for financing opportunities from both financial and non-financial institutions.

Employees of DENR, LGUs or other government agencies shall, in no case, become members or officers of PO's.

Sec. 8 Application for CBFMA. Once registered, the PO may apply for a CBFMA by filing an application to the concerned CENRO. The PO shall submit the following minimum requirements:

- I) Certificate of Registration of the peoples organization, *provided*, that ICCs/IPs shall be exempted from presenting this requirement;
- ii) List of officers or, in case of ICCs, members of the Council of Elders;
- iii) List of members and their respective addresses, including names of both spouses in each household;
- iv) Resolution from the membership authorizing the officers of the community organization to file the application. ICCs that opt to

avail of CBFMA shall show proof of consent through their Council of Elders or equivalent body; and

- v) Individual or joint endorsement of the concerned Legislative Councils of the Barangay, Municipal, and Provincial LGUs, depending on the jurisdiction and coverage of the area.

Within fifteen (15) days upon receipt of the application, the CENRO shall check the required supporting papers, prepare the corresponding map of the area at 1:50,000 scale and endorse the same to the RED through the PENRO. A Review Committee composed of representatives of the RTD-Forestry, CENRO, PENRO, barangay, municipal and provincial councils and PAMB, if the site is within a protected area, shall, within fifteen (15) days, convene and discuss with the PO the terms and conditions to be included in the CBFMA. Its recommendations shall then be forwarded to the concerned approving authority as provided by section 4, Article IV, hereof.

Planning Stage

The objectives of this stage is to assist the PO's in preparing their (a) Community Resource Management Framework (CRMF); (b) Resource Use Plans (RUPs); (c) Annual Work Plans (AWPs). If applicable, the PO s shall likewise be assisted in securing interim resource use permits that will provide them livelihood opportunities while the CRMFs, RUPs and AWP are being prepared. DENR-LGU-other sectors shall assist the POs in undertaking these activities. As such, the plans that are prepared shall only require affirmation by DENR-LGU partners.

Sec. 9 Formulation of CRMF. The CRMF shall indicate, among others, the community's and the PO's mission, vision and objectives; a summary of situation analysis (see community

appraisal, above); the guiding principles to be followed in plan preparation; indicative community resource development and use plans; internal management arrangements including benefit sharing, external supports needed ; and internal monitoring and evaluation system to be adopted.

Sec. 10 Formulation of RUPs. A management and utilization plan for each resource, e.g., timber, rattan resins, covering a specific area of the CBFMA and time period shall be prepared. The DENR shall conduct resource inventory as a basis for the resource use plan. The accepted resource use plan shall serve as the permit to utilize the resource.

Sec. 11 Annual Work Plan. The operationalization of the CRMF and the RUP shall be embodied in an Annual Work Plan which shall indicate among other things the specific targets for the year for utilization (based on the RUPs); resource development and protection (agroforestry, tree plantations, assisted natural regeneration, protection activities, etc.); organizational strengthening (training, other skills development) and enterprise development.

Sec. 12 Interim Resource Use Permit. One of the outputs during community appraisal is to identify existing forest-based livelihood systems that may be enhanced to augment income. The community shall be granted an interim user's permit that shall terminate upon the acceptance of the resource use plans.

Implementation Stage

The objectives of this stage are to (a) enhance organizational and institutional capacities that will make resource use and development sustainable; (b) ensure the economic viability of resource management activities; (c) ensure the flow and equitable distribution of benefits to PO

members and to the larger community; and (d) ensure the build-up of capital by the PO for forest management and community development projects.

Sec. 13 Activities in the Implementation Stage.

Activities in this stage will revolve around the iterative processes involved in implementing and managing planned activities specified by the annual work plan, reviewing the outcomes of these activities, replanning and using experiences as bases for the succeeding annual work plan. Implementation also includes the following:

- (a) Review and revision of PO s constitution and by-laws;
- (b) Sourcing of local and external financial and technical assistance;
- (c) Mobilizing workgroups;
- (d) Strengthening of organizational and entrepreneurial skills;
- (e) Linking and transacting with markets;
- (f) Monitoring and evaluation; and
- (g) Continued membership and leadership skills development.

Sec. 14 Other assistance. The DENR the LGU and other assisting organizations shall continue to support the PO by providing the necessary brokering services to link the PO to resource institutions and by monitoring PO outputs to ensure observance of technical requirements provided in the CBFMA and the resource use permits.

ARTICLE IV

TENURE

Sec. 1 Tenorial Instruments. The following tenorial instruments shall be issued to qualified participants:

- (a) **Community Based Forest Management Agreement (CBFMA).** CBFMAs are agreements between the DENR and the participating People's Organizations. The CBFMA, which has a duration of twenty-five (25) years renewable for another twenty-five (25) years, shall provide tenurial security and incentives to develop, utilize and manage specific portions of forest lands pursuant to approved CRMFs. The CBFMA is a production sharing agreement which is designed to ensure that the participating community shall enjoy the benefits of sustainable utilization, management and conservation of forestlands and natural resources therein. The government shall share in these benefits in the form of increased natural resource protection and rehabilitation, forest charges, fees and/or taxes as determined and agreed upon.
- (b) **Certificate of Stewardship Contract (CSC).** The CSC, which has a duration of twenty-five (25) years renewable for another twenty-five (25) years, shall be awarded to individuals or families actually occupying or tilling portions of forest lands pursuant to LOI 1260. In the case of married people, the CSC shall be awarded in the name of the couple. The CSC shall, henceforth, be issued only within established CBFM project areas, subject to the allocation and endorsement of the PO.
- (c) **Certificate of Ancestral Domain Claim-Community Based Forest Management Agreement (CADC-CBFMA) and Certificate of Ancestral Land Claim-Community Based Forest Management Agreement (CALC-CBFMA).** The CADC-CBFMA and CALC-CBFMA shall be the tenurial instruments of CADC or CALC holders, respectively, who opt to enter into a CBFMA over the portions of the ancestral domains or ancestral lands within forest lands.

Sec. 2 General Provisions.

The lapse of tenurial instruments shall not extinguish the ICCs'/IPs' claims to their ancestral domains and lands, whether or not such claims have been recognized through CADCs or CALCs.

CSCs and CBFMAs are contracts between the government, represented by the DENR, and a participant/PO for the management of a determinate and demarcated portion of forest lands. Rights and responsibilities agreed to in the contract shall remain in effect during the term of the agreement until its expiry date, unless otherwise modified, rescinded or amended by agreements of the parties.

The terms and conditions of the CSC/CBFMA shall be binding between the parties. Upon written mutual consent, and subject to existing administrative rules and regulations, the parties may pre-terminate the CSC/CBFMA or may modify, alter or amend the terms and conditions thereof.

In the event that an area covered by a CSC or CBFMA is reclassified as alienable and disposable status, or to any other legal status allowing settlers ownership rights greater than those offered under the CSC/CBFMA, the rights and obligations under the agreement shall be deemed unenforceable.

When, on account of public interest , welfare, safety or public order, and not due to the fault or negligence of the CSC or CBFMA holder, the DENR is obliged to pre-terminate the agreement, the participants shall be entitled to compensation on all improvements made in the CBFMA area, based on the fair market value of such improvements as assessed by a government assessor or disinterested party and qualified third party as of date of cancellation, minus all charges and obligations, if any, accruing to the government. In addition,

affected participants shall have the right to harvest or remove such improvements as can reasonably be removed consistent with applicable policies, the value of which shall be deducted from the final compensation.

For the purpose of CBFMA issuance, herewith format marked as Annex 1, shall be observed.

Sec. 3 Transferability. The CSC may be transferred, sold or conveyed in whole or in part to any qualified participant residing within the CBFM project; *provided*, that the transferee shall comply with the terms and conditions contained in the original stewardship agreement which shall remain valid for the remaining unexpired term; *provided further*, that the instrument of transfer is duly notarized and favorably endorsed by the concerned PO. The DENR shall then cancel the original CSC and issue a new one in the name(s) of the transferee.

In contrast, the CBFMA, CADC-CBFMA and CALC-CBFMA are non-transferable. However, the PO may enter into contracts with private or government agencies for the development of portions of or the entire area covered by the tenurial instrument, subject to the existing rules and regulations. The PO may also sell or use as collateral the standing crops in the area.

Sec. 4 Authority to Approve. The authority to approve tenurial instruments under CBFMP shall be as follows:

Instrument	Area	Recommending Approval	Final Approval
CSC	up to 5 ha	CENRO	PENRO
CBFMA			
CADC-CBFMA			

CALC-CBFMA

up to 5000 ha	CENRO	PENRO
more than 5000 ha up to 15,000 ha	PENRO	RED
more than 15,000 up to 30,000 ha	PENRO	USEC for Field Operations
more than 30,000 ha	RED & USEC for FO	Secretary

All CBFMAs shall be endorsed individually or jointly by the concerned Legislative Councils of the Barangay, Municipal, and Provincial LGUs, depending on the jurisdiction and coverage of the area.

For allowable zones within protected areas, the Chairman of PAMB having jurisdiction of the area shall also sign as recommending official.

ARTICLE V

MANAGEMENT OF CBFMP

Sec. 1 CBFM Steering Committee. In accordance with Section 8 of EO 263, a CBFM Steering Committee shall be constituted. It shall be chaired by the DENR Secretary with members from the Departments of Agriculture, Trade and Industry, Agrarian Reform, Finance, Science and Technology, Labor and Employment,

DILG, Budget and Management, National Defense, Justice, National Economic Development Authority, Philippine Commission on Countrywide Development under the Office of the President Committee on Flagship Programs and Projects of the Office of the President, Cooperative Development Authority, and Offices for Northern and Southern Cultural Communities.

The Committee may invite representatives from the Philippine Chamber of Commerce, Philippine Wood Products Association, NGO Coalition groups representatives of POs and other public and private organizations to become members of the Steering Committee.

The Committee shall formulate and develop policy guidelines that will create incentives and conditions necessary to effectively implement community based forest management.

The Steering Committee shall have the following roles and functions:

- (a) Provide overall guidance and policy direction to the CBFMP and, for this purpose, meet periodically to review and integrate, if necessary, all policies pertinent to the CBFMP, and resolve policy gaps and/or conflicts with other programs and projects in the Environment and Natural Resources Sector;
- (b) Review and approve the CBFMP Comprehensive Action Plan;
- (c) Secure inter-agency support and participation in CBFMP; and
- (d) Identify and source funds for CBFMP.

The Committee may create similar sub-committees at the regional and provincial levels.

Sec. 2 The Forest Management Bureau (FMB) shall be the National Coordinating Office of CBFMP. However, for purposes of complementation, the **Protected Areas and Wildlife Bureau (PAWB)**, in close collaboration with the FMB, shall primarily coordinate the CEP and the multiple use zone areas to be covered by CBFMP.

The FMB shall have the following functions and responsibilities:

- (a) Review all People-Oriented Forestry and CBFM programs, projects, and activities of DENR to identify issues and lessons learned.
- (b) Draft policies, guidelines and procedures on CBFM;
- (c) Prepare and monitor implementation of the national CBFM program of action.
- (d) Liaise with other government and non-government organizations for support and/or participation in the program;
- (e) Assist in the development and preparation of project proposals for financial support by donor agencies;
- (f) Develop and maintain improved management information systems on CBFMP within the DENR.
- (g) Serve as the technical secretariat of the CBFM Steering committee; and

- (h) Perform such other functions as may be directed by the Steering Committee and/or the Secretary of the DENR.

Sec. 3 **The RED**, assisted by the RTD-Forestry and RTD for EMPAS, shall be responsible for the effective implementation of CBFMP in the region. The RED shall also identify an appropriate division that shall act as the regional repository of all data and information on CBFMP. The RED shall submit periodic reports to the Secretary, through the Undersecretary for Field Operations, on program implementation, including monitoring and evaluation, copy furnished the FMB and the PAWB.

Sec. 4 **The PENRO** shall be responsible for the effective implementation of CBFMP in the province, including the submission of periodic reports and the maintenance of a data base for all CBFMP projects in the province.

Sec. 5 **The CENRO** shall be directly responsible for implementing the CBFMP within its jurisdiction, in coordination with concerned LGUs, other government agencies and non-government organizations/private entities. The CENRO shall submit periodic reports of CBFMP implementation to the PENRO for evaluation.

ARTICLE VII

FINANCIAL AND OTHER MECHANISM

Sec. 1 **Financing Mechanisms.** During budget preparations, the DENR, in cooperation with concerned LGUs, shall allot adequate funds to effectively accomplish CBFMP targets and shall, when necessary, seek supplementary funding from local and foreign donor agencies and organizations. The DENR shall ensure the expansion of existing People-Oriented Forestry Fund, and inclusion of

budgetary allocation for CBFM in the Annual General Appropriations Act.

The DENR, LGUs, or other government agencies may finance CBFMP development, conservation and harvesting activities, subject to availability of funds and terms and conditions agreed upon by concerned parties.

The DENR, in consultation with government financial institution such as the Development Bank of the Philippines, Land Bank of the Philippines, Government Service Insurance Systems and the Social Security System, shall promote the creation of favorable financing mechanisms to achieve the goals and objectives of CBFMP.

Sec. 2 Community Based Forest Management Special Account (CBFMSA). The DENR shall establish a CBFMSA to support the implementation of the Program including the provision of financial support and other incentives for deserving PO's, communities, non-government organizations and government personnel.

The DENR may source local and international grants and donations for the establishment of the CBFM Special Account.

The CBFM Special Account shall be managed by the DENR under guidelines to be prepared by the DENR and approved by the Steering Committee.

Sec. 3 Community Forestry Development Fund (CFDF). The PO shall establish a CFDF in any local bank of its choice. Deposits to the CFDF shall come from any of the following sources:

- (a) A percentage of gross sales less forest charges and other government shares, of forest products harvested from natural forest and plantations;
- (b) Endowments or grants;
- (c) A percentage of income from other livelihood projects; and
- (d) Membership fees and other sources.

The CFDF shall be managed by the PO under rules establishes. The PO shall strive to maintain sufficient CFDF funds to finance the PO's forest protection, reforestation, agroforestry, investments in livelihood enterprises, preparation of CRMF, RUP, AWP, purchase of tools and equipment, or any other investments the PO may decide to make, to improve the well-being of the community.

The PO shall maintain a simple bookkeeping system for the CFDF and shall be subject to an audit by an external auditor. The PO shall prepare and furnish a periodic report on the status of the CFDF to its members, the DENR and the LGU.

ARTICLE VIII

PENALTIES AND SANCTIONS

Sec. 1 Sanctions. Compliance by the PO with the terms and conditions of the CSC/CBFMA shall be monitored and evaluated by the DENR and the concerned LGU. The findings shall be discussed with the PO, including recommended solutions to address the problem, if any. In the event of non-compliance with, or continued violations of, the terms of the agreement despite the lapse of six (6)

months from the date of notification about such infraction or non-compliance, the PO's permits to utilize and transport forest products and other natural resources shall be suspended for at least six (6) months to not more than one (1) year.

Should the beneficiary/PO continue to commit gross violations of the CSC/CBFMA, such CSC/CBFMA shall be canceled or revoked.

The DENR reserves the right to pursue other civil and criminal remedies to protect its rights.

Sec. 2 Imposition of Penalties/Appeals.

Suspension of the CSC/CBFMA shall be done by the respective authorities who approved the tenurial instruments upon recommendation of the concerned DENR offices and the concerned LGUs, as the case may be. Revocation or cancellation shall be done by the RED or Undersecretary for Field Operations or Secretary, as the case may be, upon recommendation of the concerned DENR offices.

Parties who are aggrieved by any decision of the concerned DENR official, may file an appeal to the next higher-authority of the DENR within thirty (30) days from receipt of said decision.

ARTICLE IX

TRANSITORY PROVISIONS

Sec. 1 Tenure. Henceforth, the CBFMA shall be awarded in place of the following: Community Certificate of Forest Stewardship issued to community organizations under the ISFP; Mangrove Stewardship Agreements issued to community organizations under the CEP; the Community Forest Management Agreements issued

under the CFP, RRMP and IRMP; and the Forest Land Management Agreements issued under the FLMP. The CBFMA shall also be the tenurial instrument to be issued to PO's in allowable zones within protected areas.

Holders of valid and existing CSC and Mangrove Stewardship Agreements and whose lands are contiguous may associate themselves and avail of a CBFMA to include areas outside their stewardship contract areas.

Existing CCFS or Community Forest Stewardship Agreements or Community Forest Leases and/or CALCs awarded to the ICCs may be converted to the CADC as provided in DAO 2, S1993 or other pertinent regulations. In these areas, only a confirmation survey will be required. ICCs may also apply for the inclusion of other areas within the CADCs that were excluded from the former CCFS.

Sec. 2 Preparation of CRMF and RUP. The FMB shall conduct on -the-job training for the technical personnel of the regional offices to ensure that standards consistent with the CBFMS concept are observed in the respective plans.

ARTICLE X

FINAL PROVISIONS

Sec. 1 Effectivity. This order shall take effect thirty (30) days after its publication in a general newspaper of national circulation.

Sec. 2 Separability Clause. If any provision of this Order is held invalid, all other provisions not affected thereby shall remain valid.

Sec. 3 Repealing Clause. Provisions of other DENR Administrative Orders, Memorandum Circulars or other official issuances not consistent herewith are hereby repealed or amended accordingly.

VICTOR O. RAMOS
Secretary

DENR Administrative Order

No. 96-30

October 10, 1996

SUBJECT : Integration of all the Community-Based Forest Management Strategy and People-Oriented Forestry Programs and Projects into the DENR Regular Structure.

Pursuant to Executive Order No. 263 Series of 1995 adopting Community-based Forest Management Strategy (CBFMS) as a national strategy for sustainable forestland management and in adherence to the Philippine Master Plan for Forestry Development where People-Oriented Forestry Program (POFP) is one of the approaches, and consistent with Executive Order No. 192 as implemented by DENR Administrative Order No. 1, Series of 1988, it is the purpose of this Administrative Order to integrate all the Community-Based Forest Management Strategy and People-Oriented Forestry Programs and Projects into the DENR regular structure.

ARTICLE I

TITLE, POLICY, OBJECTIVES, AND DEFINITION OF TERMS

Sec. 1 Title. This Administrative Order shall be known as the “Integration of the CBFMS and POFP into the DENR Regular Structure”

Sec. 2 Basic Policy. It is the policy of the government to protect and advance the rights of the Filipino people, both women and men, and the indigenous peoples. These rights include

a healthy environment through the promotion of social justice, a more equitable access to and sustainable development of forestland resources.

The Department has instituted a number of CBFMS and POF programs and projects. To implement these, different offices of the Department have been tasked to handle each program or project. Consistent with the streamlining principle, there is a need to integrate all the CBFMS and POF programs and projects of the Department into the DENR regular structure.

Sec. 3 Objectives. The integration of CBFMS and POF programs and projects aims to:

- a. Unify and integrate all DENR programs and projects on CBFMS and POF;
- b. Provide a smooth transition in the turn-over of all CBFMS and POF programs and projects to FMB; and
- c. Pave the way for the operational and functional integration of CBFMS and POF programs and projects.

Sec. 4 Definition of Terms. The following terms are to be understood and interpreted as follows:

- 4.1 **CBFMO** - refers to the Community-Based Forest Management Office
- 4.2 **CBFMS and POF programs and project** - refer to the following programs and projects: Integrated Social Forestry Program (ISFP); National Forestation Program (NFP funded under ADB1); Low-Income Upland Communities Project (LIUCP); Community Forestry Program (CFP); Community-Based Forestry (CBF funded by RP-GERMAN); Community

Forest Management (CFM under NRMP); Regional Resources Management Project (RRMP under ENR-SECAL); Forestry Sector Project (FSP) funded by Forestry Sector Project Loan or ADB 2); and Recognition of the Indigenous Peoples.

- 4.3 **CBFM Steering Committee** - refers to the inter-agency committee created under Executive Order 263 of 1995
- 4.4 **FASPO** - refers to the Foreign Assisted and Special Projects Office of the DENR
- 4.5 **FMB** - refers to the Forest Management Bureau
- 4.6 **DENR** - refers to the Department of Environment and Natural Resources
- 4.7 **NCCO** - refers to the National Community Forestry Program Coordinating Office under the office of the Director of the FMB
- 4.8 **PMOs** - refer to Program or Project Management Offices of the different CBFMS and POF programs and projects
- 4.9 **Resource institutions** - refers to organizations which could provide assistance to the CBFMS and POF through, but not limited to, funding of activities, provision of manpower, and provision of equipment and other implements
- 4.10 **SFD** - refers to the Social Forestry Division of the FMB
- 4.11 **Secretary** - refers to the Secretary of the DENR

- 4.12 **Termination of programs or projects** - refers to the end of contracts and/or agreements pertaining to the programs or projects, as the case maybe.

ARTICLE II

ORGANIZATIONAL STRUCTURE

Sec. 1 Organization of CBFMO. During the transition period as stated in Article III section 1 of this Order, the CBFMO shall be under the supervision of the FMB Director. It shall be initially composed of the SFD and the NCCO and shall be headed by a senior official designated by the Secretary.

The FMB Assistant Director shall ensure the support of the different FMB divisions to the integration process. After the transition period, the CBFMO shall be under the supervision of the FMB Assistant Director.

Sec. 2 Functions of the CBFMO. The CBFMO shall perform the following functions:

- 2.1 Review all CBFMS and POF programs and projects to identify issues and lessons learned;
- 2.2 Draft policies, guidelines and procedures on CBFMS and POF;
- 2.3 Prepare and monitor implementation of national CBFMS and POF program of action;
- 2.4 Serve as the repository of data/information on CBFMS and POF;

- 2.5 Link with resources institutions within and outside the Forest Management Bureau to gain support for the implementation of CBFMS and POF;
- 2.6 Assist the FASPO in packaging and monitoring projects supporting CBFMS and POF;
- 2.7 Handle new CBFMS and POF programs and projects as may be initiated; and
- 2.8 Serve as Secretariat to the inter-agency CBFM Steering Committee;

Sec. 3 Advisory Council. An ad-hoc Advisory Council shall be created to provide technical and administrative guidance to the CBFMO during the transition period. A Chief Technical Adviser shall be identified from among the members of the Council to lead the Council. The Council shall be initially composed of the following:

- Undersecretary for Field Operations
- Undersecretary for Environment and Programs Development
- Undersecretary for Legal, Legislative Affairs, and Attached Agencies
- Head Executive Assistant
- Director, Protected Area and Wildlife Bureau
- Director, Special Concerns Office
- Director, Planning and Policy Studies Office
- Director, Foreign Assisted and Special Projects Office
- Heads of all CBFMS and POF Programs and Projects Management Offices

To complement the members coming from the DENR, the Undersecretary for Environment and Programs Development may invite institutions as members of the Council.

Sec. 4 Structure. The operational and functional structure as shown in Annex 1 shall be observed during the transition period and shall form part of this Order..

ARTICLE III

TRANSITORY PROVISIONS

Sec. 1 Transition Period. The transition period for the integration of CBFMS and POF programs and projects to the FMB shall be from the issuance of this Order until the December 31, 1997.

Sec. 4 Initial Integration and Phase in. The CBFMO shall initially integrate the functions of the SFD and the NCCO. All other existing Project Management Offices (PMOs) of CBFMS and POF programs and projects shall provide the CBFMO with updated and comprehensive program or project status within one (1) month upon the issuance of this Order and quarterly thereafter. These PMOs shall continue to operated as such until their respective programs/projects/activities are completed; *provided, however,* that they shall immediately coordinate their activities with CBFMO, and, at least one (1) year before the termination of their programs/projects/activities based on their respective work and financial programs, they shall observe the following:

- a. **Institutional capability building.** Selected personnel from regular DENR Offices who shall be eventually assigned to CBFMO as well as those from SFD and NCCO, shall undergo

on-the-job training on CBFMS and POFP to enhance their respective competence;

- b. **Phasing in.** All program management offices (PMOs) shall fully divest their office of their respective duties and functions and transfer them to CBFMO.

Provided finally, that the CBFMO Head shall render a comprehensive report on the integration to the FMB Director not later than November 30, 1997.

ARTICLE III

FUNDING

The Community-Based Forest Management Office shall initially obtain its funding from all CBFMS and POF programs and projects; *provided, however,* that if the CBFMS and POF programs and projects are externally funded, consent from the funding agency shall be obtained before funds are channeled to the CBFMO. Future funding of the CBFMO shall be incorporated in the General Appropriations of the Department.

Sec. 5 Repealing Clause. All orders, memoranda, circulars inconsistent herewith are hereby repealed and amended accordingly.

Sec. 6 Effectivity. This order takes effect immediately.

VICTOR O. RAMOS

Secretary

DENR Administrative Order
No. 96-35
November 20, 1996

SUBJECT : Administrative and Management Control of the Area Covered by TLA No. 24 of Anchorage Wood Industries, Inc., Lingig, Surigao Del Sur

In order to be able to exercise closer and more effective supervision, management and control over the forest resources of the area covered by TLA No. 24 of Anchorage Wood Industries, Inc. (AWII) and, at the same time, provide greater facility in the delivery of DENR services to its various publics, the same is hereby placed under the exclusive administrative and operational jurisdiction of CENRO Bislig, DENR Region XIII.

As the need arises, CENRO Bislig shall coordinate with the Local Government Units concerned of the Province of Davao Oriental, DENR Region XI in the planning and implementation of forestry projects/activities in the areas under TLA No. 24 of AWII, which are within the Province of Davao Oriental and shall furnish the officials of LGUs concerned and DENR Region XI copies of reports appertaining thereto, including statements of forest revenue collections.

The Regional Executive Director for Region XIII shall coordinate with his counterpart in DENR Region XI the immediate turn-over to CENRO Bislig of all official records relating to TLA No. 24, informing this Office of action taken in compliance herewith.

This Order shall take effect immediately and revokes all orders or instructions inconsistent herewith.

VICTOR O. RAMOS

Secretary

DENR Administrative Order
No. 96-36
November 20, 1996

SUBJECT : Placing the Administrative and Management Control of the Areas Covered by TLA No. 43, PTLA No. 47, and IFMA No. 35 of the PICOP Resources, Inc., Under DENR Region No. XIII.

1. In order for DENR to be able to exercise closer and more effective supervision, management and control over the forest resources within the areas covered by TLA No. 43, PTLA No. 47 and IFMA No. 35 of the PICOP Resources, Inc. (PRI) and, at the same time, provide greater facility in the delivery of DENR services to its various publics, the aforesaid forest holdings of PRI are hereby placed under the exclusive jurisdiction of DENR Region No. XIII with the CENR Office at Bislig, Surigao del Sur, as directly responsible thereto.
2. As the need arises, DENR Region No. XIII and CENRO Bislig shall coordinate with the concerned DENR and Local Government officials of Region No. XI in the coordinated planing and implementation of forestry projects/activities inside the Provinces of Davao del Norte and Davao Oriental which form part of the forest holdings of PRI, and shall furnish said officials copies of reports appertaining thereto, including statements of revenue collections.
3. The Regional Executive Director for Region No. XIII shall make immediate arrangements with his Region No. XI

counterpart for the proper turn over of pertinent records, equipment and facilities, informing the Secretary, through the Undersecretary for Field Operations, of action taken in compliance herewith.

4. This Order shall take effect immediately and supersedes all orders and instructions inconsistent herewith.

VICTOR O. RAMOS
Secretary

DENR Administrative Order
No. 96-39
December 16, 1996

SUBJECT : Amending DAO No. 17, Series of 1995 Dated 20 May 1995 on the Institutionalization of the Multi-sectoral Forest Protection Committees (MFPC) Within the DENR System

In the interest of the service and pursuant to Presidential Memorandum dated 13 July 1994 and DAO No. 17, Series of 1995 dated 20 May 1995 mandating institutionalization of the MFPC in the DENR system, to ensure proper and enhance attainment of said mandate; to provide more impetus to the MFPC institutionalization program; to strengthen the Technical Working Group (NTWG) to be more responsive to the technical support and secretariat needs of the MFPC program at all levels and enable the TWGs to function and perform their mandates aggressively in consonance with the demands of the MFPCs nationwide and to enable intimate involvement of top DENR management in the MFPC institutionalization efforts, the following amendments to DAO 17, Series of 1995 dated 20 May 1995 are hereby decreed and instituted.

SEC. 1 CREATION OF MFPCs IN REGIONS, PROVINCES, MUNICIPALITIES, CITIES AND BARANGAYS

Section 4, DAO No. 17, Series of 1995 dated 20 May 1995 shall now read as follows:

- 1.1** To institutionalize the MFPCs in the DENR system, DENR Regional Executive Directors shall establish at least a Regional

MFPC. Thereafter, MFPCs may be established in the provinces, towns cities and barangays using the priority criteria set by DENR.

- 1.2 To ensure that the MFPC process of consultation, selection, orientation, training and operationalization, is followed, the ENR-SECAL Project Management Office (ENR-SECAL PMO), National Forestation Development Office (NFDO), Special Concerns Office (SCO) and DENR Human Resources Development Services Office (HRDSO) shall conduct the necessary orientation and training in the creation of MFPC's.

SEC. 2 CREATION AND INSTITUTIONALIZATION OF MFPC TECHNICAL WORKING GROUPS (TWG)

Section 5, DAO NO. 17, Series of 1995 dated 20 May 1995 shall now read as follows:

- 2.1 To provide backstaff to the MFPCs created, Technical Working Groups (TWG) with respective Secretariat in all levels are hereby created.
- 2.2 Each TWG shall be supported by a full time Secretariat to be designated by the DENR whose membership shall be recommended by the TWG, and provided with required office equipment complement. To ensure and facilitate coordination between DENR and MFPC members, the Undersecretary for Field Operations, Regional Executive Directors, Provincial Environment and Natural Resources Officers and Community Environment and Natural Resources Officers are hereby instructed to provide MFPC desk and Secretariat office shall serve as central MFPC coordinating office and shall be manned

by the MFPC TWG Secretariat who shall receive and release MFPC matters and assist the MFPC members whenever the latter are working in the DENR offices.

2.a Composition of Technical Working Groups

2.a.1 National TWG (NTWG)

- Chairman - Director, Forest Management Bureau
- Co-Chairman - Director, Directorate for Operation
- Members - Director, Environment Management Bureau
 - Director, Protected Areas and Wildlife Bureau
 - Director, Planning and Policy Studies Office
 - Director, Special Concerns Office
 - Director, Human Resources Development Services
 - Director, Public Affairs Office
 - Director, National Forestation Development Office
- Program
 - Director, ENR-SECAL
 - Director, Natural Resources Management Program
 - Director, NAMRIA RSRDA
 - Chairman, National MFPC Federation
- Secretariat - Appointed four (4) full time staff

2.a.2 Regional TWG (RTWG)

- Chairman - Regional Technical Director,
Forest Management
Services
- Co-Chairman - Chief, Forest Resources
and Conservation Division
- Members - Chief, Legal Division
 - Chief, Integrated Social
Forestry Division
 - Chief, Regional
Public Affairs Office
 - Chief, Planning Division
 - Chief, Forest Resources
Development Division
- Secretariat - Appointed three (3) full time
staff

2.a.3 Provincial TWG (PTEG)

- Chairman - PENRO, Forest Management
Specialist
- Members - PENRO, Integrated Social
Forestry Officer
 - PENRO, Information Officer
 - PENRO, Environment Mana-
gement Specialist
 - PENRO, Planning Officer
- Secretariat - Appointed three (3) full time
staff

2.a.4 Municipal/City/Barangay TWG(MTWG/CTWG/BTWG)

- Chairman - CENRO, Forest Management Specialist
- Members - CENRO, Environment Management Specialist
 - CENRO, Information Officer
 - CENRO Forest Protection Officer
 - CENRO Planning Officer
- Secretariat - Appointed three (3) full time staff

2.b General Functions of Technical Working Group

The TWG shall have the following general functions:

- 2.b.1** Provide technical, legal and other required support services to MFPCs;
- 2.b.2** Coordinate and facilitate implementation of MFPC activities;
- 2.b.3** Coordinate MFPC meetings, prepare minutes, resolutions, store and process data and, ensure that MFPC activities are attended to; and
- 2.b.4** Follow-up resolutions, request, reports and perform other pertinent actions so desired by the MFPCs.

2.c Training of Technical Working Groups

The ENR-SECAL PMO, NFDO, SCO and HRDSO shall conduct the necessary orientation training/workshops to the MFPC TWGs.

SEC. 3 LEVELS OF MFPC

Section 6, DAO No. 17, Series of 1995 dated 20 May 1995 shall now read as follows:

The different levels of MFPCs and their functions are:

3.a National MFPC Federation (NMFPC Fed)

- 3.a.1** When called upon, participate in the review of forest and environmental laws and policies, recommend amendments and/or modification of the same, and advise the DENR Secretary on matters pertaining to forest protection;

- 3.a.2** Assist the field MFPCs in information and education campaigns on forest protection, enforcement of forestry laws and prosecution of violators thereof, and in the strengthening of field MFPCs;

- 3.a.3** Assist DENR Central Office in the generation of, and in prioritization of alternative livelihood programs for people affected by forest protection campaigns;

- 3.a.4** Formulate general guidelines for the organization of MFPCs and accredit MFPCs that will be formed;

- 3.a.5** Harmonize the resolutions of the different MFPCs and ensure prompt action on them; and

3.a.6 In general, assist DENR Central Office in conducting a sustained national forest protection campaign towards sustainable development.

3.b **Regional MFPC (RMFPC)**

3.b.1 Serve as collection point for information in the region on illegal forestry activities tapping the independent networks to which its members belong;

3.b.2 Regular receive and discuss reports from DENR Regional Office in its routine and special monitoring, apprehension and prosecutorial activities;

3.b.3 Advise DENR Regional Office and other relevant parties on the above activities;

3.b.4 Publicize the Committee's discussions and findings, except where treated as confidential;

3.b.5 Except for the DENR representative, all other members shall be deputized and act as Deputy Environment and Natural Resources Officers (DENRO) with powers to apprehend violators of forest laws and regulations and illegal forest products, in accordance with DAO No. 41, S-91 as amended by DAO No. 96-14;

3.b.6 May serve as link to all MFPC levels when necessary;

- 3.b.7** Directly oversee the public awareness and alternative livelihood programs;
- 3.b.8** Mobilize members' networks in support of forest protection activities; and
- 3.b.9** Assist in the work of the provincial MFPCs.

3.c **Provincial MFPC (PMFPC)**

- 3.c.1** Serve as collection point for information in the province on illegal forestry activities, tapping the independent networks to which its members belong;
- 3.c.2** Regularly receive and discuss reports from DENR in its routine and special monitoring, apprehension and prosecutorial activities;
- 3.c.3** Advise PENR Office and other relevant parties on the above activities;
- 3.c.4** Publicize the Committee's discussions and findings, except where treated as confidential;
- 3.c.5** Act as a special monitoring arm for the Provincial Environment and Natural Resources Office (PENRO);
- 3.c.6** Except for the DENR representative, all other members shall be deputized as and act as Deputy Environment and Natural Resources

No. 41, S-91 as amended by DAO No. 96-14;

- 3.d.3** Act as special monitoring arm of the Community Environment and natural Resources Office (CENRO);
- 3.d.4** Act as the CENRO's partner in the implementation of DENR's public awareness program;
- 3.d.5** Participate directly in the identification, formulation and implementation of livelihood programs for upland communities;
- 3.d.6** Mobilize members' networks in support of forest protection activities;
- 3.d.7** Publicize the Committee's discussions and findings except where treated as confidential; and
- 3.c.8** May serve as link to all MFPC levels when necessary;

SEC. 4 FUNCTIONS OF THE NATIONAL TECHNICAL WORKING GROUP (NTWG)

The National MFPC Coordinating Group (NMFPC-CG) [Section 8a, DAO No. 17, Series of 1995 dated 20 May 1995] is dissolved and its role, duties and functions [Section 8b, DAO No. 17, Series of 1995 date 20 May 1995] are turned-over to and assumed by the National Technical Working Group (NTWG) as reconstituted in section 2.a.1, hereof.

SEC. 5 MONITORING BY MFPCs OF FOREST LICENSES, LEASES, AGREEMENTS, AND PERMITS

Section 9, DAO No. 17, Series of 1995 dated 20 May 1995 shall now read as follows:

Social acceptability and natural resources sustainability shall guide DENR in the evaluation of applications for new and renewal of forest licenses, leases, agreements and permits. Towards this end, the Chairman of the concerned MFPC or duly authorized representative, shall be notified and participate in the evaluation of applications for new and renewal of forest licenses, leases, agreements and permits. The National MFPC Federation shall be furnished copies of approved forest licenses, leases, agreements and Permits for monitoring purposes.

SEC. 6 MFPC FUNDING

Section 12, DAO No. 17, Series of 1995 dated 20 May 1995 shall now read as follows:

- 6.1** The operational requirements of the TWG offices including traveling expenses and per diems of the TWG members and Secretariat staff while on fieldwork or field mission shall continue to be provided and funded from the MFPC funds and appropriate funds of the respective offices of TWG members and Secretariat staff, subject to accounting rules and regulations.
- 6.2** Non-DENR MFPC members, at their own initiatives, may source out counterpart funds to support the operations of MFPC at all levels.
- 6.3** To augment monitoring funds of MFPCs, DENR filed offices, with the assistance of the MFPCs are hereby directed to

coordinate with local government units in their respective areas so that said LGUs may provide MFPCs with additional funds for monitoring activities out of the share of the LGUs from the national wealth or from other funds sources as may be deemed appropriate by the LGUs.

- 6.4** To enable the MFPC program to avail of environmental enhancement funds of other government agencies (OGA) and non-government and people's organizations (NGO/PO) and other local and foreign entities providing environmental enhancement funds grants, the DENR field offices, with the assistance and participation of the MFPCs, may forge joint, cooperative or other forms of alliances for the implementation of projects and programs in line with or supportive of the objectives and intents of the MFPCs.

**SEC. 7 AUTHORITY OF THE
UNDERSECRETARY FOR FIELD OPERATIONS TO ISSUE
ADDITIONAL MFPC GUIDELINES**

**Section 13, DAO NO. 17, Series of 1995 dated 20 May
1995 shall now read as follows:**

The Undersecretary for Field Operations with the recommendation of the NTWG is hereby authorized to issue additional guidelines as may be deemed necessary to make MFPC operations strong, effective and sustainable.

SEC. 8 REPEALING CLAUSE

All Administrative Orders, Circulars, Memoranda and other issuance's inconsistent herewith are hereby repealed or modified accordingly.

SEC. 9 EFFECTIVITY

This Order shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation in the Philippines. The Records Officer of DENR is hereby directed to file three (3) certified copies hereof with the UP Law Center pursuant to section 3(1), Chapter 2, Book VII of the Administrative Code of 1987.

VICTOR O. RAMOS

Secretary

Recommending Approval:

VIRGILIO Q. MARCELO

Undersecretary for Field Operations

DELFIN J. GANAPIN, JR.

Undersecretary

Environment and Programs Development

ANTONIO G. M. LAVINA

Undersecretary

Legal and Legislative Affairs & Attached Agencies

PUBLISHED AT:

TODAY

December 23, 1996 page 04

MANILA

December 23, 1996 page 02

DENR Memorandum Circular

No. 96 - 02

February 09, 1996

SUBJECT : Interim Guidelines Governing the Issuance of ‘Muyong’ Resources Permit’ in the Province of Ifugao.

1. DENR recognizes the significant role of the Indigenous communities in the Cordilleras are playing in preserving their “muyong” for livelihood, biodiversity conservation and as bufferzones against destructive human intrusions in the uplands.
2. In line with the Social Reform Agenda and the Sustainable Community-based Resources Management Program of DENR, the following guidelines on the issuance of Muyong Resources Permit (MRP) in Ifugao Province are hereby prescribed:
 - 2.1 For purpose of this Order, **muyong** refers to a unique forest conservation practice within a small landholding in the Cordilleras. The indigenous communities because of cultural heritage recognizes the biological and physical significance of muyong for their life sustenance and therefore managed to protect and conserve these areas against destructive human exploitation. The resource extraction and disposition privilege granted to qualified individuals is called **“Muyong Resources Permit” (MRP)**.
 - 2.2 The PENRO upon the recommendation of the CENRO concerned has the authority to issue Muyong Resources Permit (MRP).

2.3 A MRP applicant submits to the CENR Office the following requirements:

2.3.1 Location and size of the muyong and the number and plant/tree species planted within the area.

2.3.2 Certification from the Barangay Captain that the applicant is a resident of the area and practices the traditional muyong conservation technique for the past 20 years.

2.3.3 The raw material requirement of his livelihood project for carving, handicraft, manufacturing, etc. in volume/number.

The CENRO shall extend assistance to each applicant in the preparation of the requirements to be submitted especially, where the latter lack the technical know how.

2.4 Harvesting is subject to the following conditions:

2.4.1 Only the allowable volume/number of species needed as raw material for livelihood projects are allowed to be cut.

2.4.2 The permittee jointly with the CENRO concerned shall be responsible for the maintenance of the Muyong in accordance with customary conservation practices and accepted rules of the DENR.

2.5 Clear cutting of tree species within the area will be prohibited. Pine trees whether planted or naturally grown are to be preserved.

2.6 All resources harvested from the muyong shall be processed into finished products (i.e. carving, ornamental, handicrafts, novelty items, etc.) within the municipality.

2.7 All finished products produced by MRP holders will be allowed to be transported free of forest charges outside the point of origin to all market outlets.

2.8 MRP holders will undertake immediate restoration activities to maintain the original status of the muyongs.

2.9 Random checking/verification and monitoring on all MRP holders will be conducted by the CENRO concerned.

3. This Order takes effect immediately.

VICTOR O. RAMOS

Secretary

**1.1 DENR Memorandum Circular
No. 96-04
March 14, 1996**

**Subject : Additional Instruction in the
Preparation , Submission, Review
and Approval of Integrated
Annual Operations Plan**

In the furtherance of the sustainable forest management program of the government under the principles of multiple use and non-impairment of the present and future capabilities of the forest resources to produce goods and services, the following additional instructions and procedures in the preparation, submission, review and approval of Integrated Annual Operations Plans (IAOP) are hereby issued for the information and guidance of all concerned:

Sec. 1 Coverage – Holders of commercial timber licenses which include Timber License Agreement (TLA), Timber Production Sharing Agreement (TPSA), Integrated Forest Management Agreement (IFMA), and similar instruments issued by the Secretary of Environment and Natural Resources (SENR) or his authorized representative(s), which authorize the commercial extraction and utilization of timber and other forest products, shall prepare and submit to the Regional Executive Director (RED) concerned, the required IAOP before the conduct of logging and other forestry operations inside their respective holdings.

Sec. 2 Persons Authorized to Prepare IAOP- Only registered professional forester(s), in conformity with Republic Act No. 6239 and Presidential Decree No. 331, in the employ of or hired by the license holder concerned, by himself/themselves, shall prepare the

IAOP, in collaboration with the concerned CENR Office (CENRO) foresters.

Sec. 3 Basic Considerations – The following requirements shall first be satisfied in order that an IAOP can be given due course:

3.1 A complete aerial photo-coverage of the area under license has been submitted to the Secretary pursuant to DAO No. 92-17 (Conduct and Submission of Aerial Photography by Holders of Timber License Agreements and the different Programs and Projects of the (DENR) and its implementing guidelines;

As an incentive for TLA/IFMA holders who have matured plantation tree species which they intend to harvest, a separate IAOP covering the same shall be submitted, processed, and approved even without the required aerial photograph, **PROVIDED** however that, no naturally grown tree shall be included in preparation of said plan.

3.2 Whenever applicable, the required Medium Term Forest Management Plan or a Comprehensive Forest Management and Development Plan has been submitted;

3.3 The area programmed for logging operations (APLO) is inside residual forest under the Block I category;

3.4 A timber inventory of at least 20% intensity covering the area(s) programmed for logging has been undertaken jointly by the licensee and the CENRO personnel and the corresponding report, under oath, has been submitted;

3.5 The licensee has no pending forestry accounts;

- 3.6 The reforestation and timber stand improvement obligations of the licensee for the preceding year(s) have been satisfactorily complied with; and
- 3.7 License holders have duly filed checklist EIA as shown in “Annex A” hereof and has received, after due review, an Environmental Compliance Certificate for its operations.

Sec. 4 Plan Submission – The plan prepared in compliance with the terms and conditions of the license and in consonance with extant rules and regulations, shall be submitted to the RED, through the CENRO, at least three (3) months before the start of logging operations. For this purpose, at least seven (7) copies shall be submitted.

Sec. 5 Plan Review and Evaluation - The following general procedures in the review and evaluation of IAOPs shall be observed:

- 5.1 **CENRO Level** – The CENR Officer, upon receipt of the IAOP submitted by the concerned licensee shall immediately:
 - 5.1.1 Forward, direct to the Director, Forest Management Bureau, a copy of the TLA map showing the vegetative cover of the area (s) programmed for forestry operations, together with a certified copy of the timber stand and stock table submitted for the purpose, for checking and/or verification based on aerial photographs;
 - 5.1.2 Review the Plan, together with representatives of the licensee and other concerned parties (LGUs, NGOs, Multi-Sectoral Forest Protection Committee); and

- 5.1.3 Forward the Plan to the PENR Office after making the necessary corrections/modifications

- 5.2 **PENRO Level** - The PENR Officer, upon receipt of the IAOP shall, within five (5) working days, take appropriate action by way of:
 - 5.2.1. Causing the review and evaluation of the plan together with representatives of the licensee and other concerned parties;
 - 5.2.2. Whenever necessary, validate the data and information presented in the plan; and
 - 5.2.3. Forward the Plan to the RED, together with his comments and recommendations

- 5.3 **RENRO Level** – The RED shall immediately:
 - 5.3.1 Convene the Regional Technical Review Committee (RTRC), together with representatives for the licensee and other concerned parties, to review and evaluate the plan;
 - 5.3.2 The RTRC, based on the review and evaluation, shall prepare the final plan after incorporating the corrections/modifications, if any, and forward the same to the FMB;
 - 5.3.3 The RED, taking into consideration the observation and/or instruction of the SENR, shall amend, deny, approve and release the IAOP furnishing a copy thereof to the Director, FMB, and the SENR for information and reference

FOREST MANAGEMENT BUREAU - The Director, FMB, upon receipt of the map and the timber inventory report from the concerned CENRO, shall:

- 5.4.1 Cause the verification of the status and forest condition of the area programmed for operations using the aerial photographs covering the subject areas;
- 5.4.2 Check and evaluate the timber inventory, and reconcile with the IAOP endorsement of the Regional Office, and summarize the same for SENR; and

THE OFFICE OF THE SECRETARY - The OSEC shall, upon receipt of the corresponding evaluation and action papers from the Director, FMB, issue instructions to the Director, FMB or RED concerned.

Sec. 6 Additional Considerations – For ease of supervision, administration and monitoring, the following additional features and/or practices shall be observed:

Operations maps drawn to a convenient scale shall be gridded using the UTM system;

Corners of the areas planned for operations (logging, reforestation, TSI) shall be located on the ground using accurate surveying instruments, preferably GPS instrument;

A one-meter strip along the perimeter of the planned cutting coupes shall be established and all trees 15 cm dbh and larger within the said strip shall be marked with three (3) bands using visible enamel paint.

Sec. 7 Effectivity - This Circular, which supplements existing rules and regulations on the matter, shall take effect immediately.

VICTOR O. RAMOS
Secretary

DENR Memorandum Circular
No. 96-05
April 18, 1996

SUBJECT : Preparation of Regional Mini-Sawmill Rationalization Plan

Pursuant to DENR Memorandum Order No. 96-09, and in order to have uniformity in the preparation and submission of Regional Mini-Sawmill Plan (RMRP), the Regional Offices concerned are hereby instructed to submit the plan using the format in the attached outline marked as “Annex A”

This Circular shall take effect immediately.

VIRGILIO Q. MARCELO
Undersecretary for Field Operations

OUTLINE

MINI-SAWMILL RATIONALIZATION PLAN

For

DENR REGION NO. _____

1. DEVELOPMENT PLAN

1.1 Objectives

1.2 Mini-sawmill Development

1.2.1 Log Supply Situation

1.2.2 Current Processing Situation

1.2.3 Rationalization Plan

1.3. Industrial Plantation Development

1.3.1 Present Situation and Analysis

1.3.2 Plantation Development Plan

1.4 Mechanics of Implementation

1.4.1 Re Mini-sawmills

1.4.2 Re Industrial Tree Plantaion

PROGRAM OF IMPLEMENTATION

2.1 Present Policies

2.2 Wood Processing and Log Supply Situation

2.3 Objectives

2.4 Strategies of Implementation

3. APPENDICES

Note:

1. Determine whether or not a province is a log-excess or a log-deficit area by analyzing the established plant capacities vis-à-vis the available legitimate wood supply.
2. Consider the availability of areas that may be converted into industrial tree plantations in accordance with existing regulations, viz: cancelled, expired, or unrenewed TLAs, IFMAs, PLAs, etc.; portions of government reforestation projects which could be more beneficial if developed into industrial forest plantations through private sector initiatives; private lands; etc
3. Development of strategies to consider, among others, the –
 - 3.1 cancellation/non-renewal of inefficient (operating below attainable capacity) mills;
 - 3.2 phase-out of mills operating in log-deficit areas to log-excess areas;
 - 3.3 relocation of efficient mills operating inside log-deficit areas to log-excess areas;
 - 3.4 encourage the establishment and development of industrial tree plantations consistent with the rationalization plan;
 - 3.5 issuance of guidelines/instructions necessary to effect plan implementation;

4. Provide map(s) drawn to a convenient scale showing the relative location of existing and proposed mini-sawmills, including support plantations
5. Include summary tables showing:
 - 5.1 available wood supply for existing and new mills;
 - 5.2 wood budget for the next 2-5 years.

DENR Memorandum Circular

No. 96-06

July 25, 1996

SUBJECT : Prescribing a Deadline for the Submission and Processing of Integrated Annual Operations Plans for CY 1996.

In order to provide forest users who have been required to prepare and submit Integrated Annual Operations Plans (IAOPs) for CY 1996, pursuant to MC No. 96-04, ample time to undertake the various forestry operations covered by their respective plans, the following instructions are hereby issued for the information and guidance of all concerned:

1. The submission of 1996 IAOPs at the Regional Environment and Natural Resources Office (RENRO) shall not later than 31 July 1996. Any IAOP submitted after the said date shall be returned by the concerned RENRO to the forest user without action;
2. IAOPs submitted in accordance with the deadline prescribed in the immediately preceding section shall be processed and evaluated by the RENRO and shall forthwith forward the same to the Office of the Secretary, through the Director of the Forest Management Bureau (FMB), to reach the Office of the latter not later than 30 August 1996. Similarly, any IAOP received by the FMB after the prescribed date shall be returned to the RENRO without action.
3. Regional Executive Directors are enjoined to circularize these instructions to all concerned for their proper guidance and compliance

This Memorandum Circular shall take effect immediately.

VICTOR O. RAMOS
Secretary

DENR Memorandum Circular
No. 96-10
December 09, 1996

**SUBJECT : Supplementary Guideliness on the
Disposition of Wood Products
Derived From Timber Cut and
Gathered From Muyong Areas in
the Province of Ifugao**

In the furtherance of the intents and purposes of memorandum Circular (M.C.) No. 96-02 (Interim Guidelines Governing the Issuance of “*Muyong* Resource Permits” in the Province of Ifugao) and in support to the livelihood enhancement program of the government, the following supplementary guidelines on the disposition of finished forest products derived from wood materials cut and gathered from *Muyong* areas are hereby issued for the information and guidance of all concerned:

1. The cutting, gathering, processing and disposition of wood materials from *Muyong* areas shall be in strict accordance with the provisions of MC No. 96-02.
2. Wood materials cut and gathered prior to the implementation of MC No. 96-02 shall be manifested/reported by the owner thereof, within sixty (60) days from the effectivity of this Circular, to the CENR Office which has jurisdiction over the area covered by the *Muyong*.
3. The reported volume shall be checked, validated and scaled by the authorized representative(s) of the concerned CENR Office who shall keep and maintain a record thereof as basis in the issuance of the transport/shipping documents required under extant rules and regulations.

4. The collection of the regular forest charges due on the wood materials scaled and assessed shall be in accordance with the provisions of the DAO No. 80, Series of 1987 based on the rates prescribed in DAO No. 95-19. No withdrawal of wood materials from the stock inventory shall be made unless the forest charges due thereon have been fully paid.
5. All previously seized and/or confiscated forest products as well as those which were not reported in consonance herewith are not covered by these guidelines.
6. Owners of wood materials inventoried, scaled and assessed pursuant to these guidelines are given up to January 31, 1997 within which to process and dispose the same. Wood materials used in the manufacture of finished goods after the exhaustion of the inventoried volume or after the period prescribed herein shall be considered as coming from illegal sources, unless there is proof that the same were cut and gathered pursuant to MC NO. 96-02.
7. In addition to a Certificate of Verification issued by the CENR Office, the original of which shall accompany the wood products being transported, the movement of finished and semi-finished wood products covered by MC NO. 96-02 and this Circular shall be accompanied with the shipping/transport documents required under DAO No. 94-07.
8. Concerned CENR Officials shall continuously check and monitor the sources of raw materials in the production of finished wood products to ensure the legitimacy of source.

This Memorandum Circular shall take effect immediately.

VICTOR O. RAMOS

Secretary

DENR Memorandum Order

No. 96 – 06

February 28, 1996

SUBJECT : Guidelines on the Implementation of the Log Control and Monitoring System

Pursuant to DAO No. 96-04, Series of 1996, the following guidelines on the monitoring of the movement of logs/timber from the cutting area, or from the initial port of discharge in the case of imported wood materials, to the final destination are hereby issued for the information and guidance of all concerned.

Sec. 1 Coverage – This shall apply to the harvest, transport and disposition of locally-produced logs and lumber under valid and existing licenses or permits issued by the Secretary or his authorized representative, including logs and lumber harvested from trees planted inside private wood lots or tree plantations. The same regulation will also apply to logs and lumber imported in accordance with regulations governing the matter.

Sec. 2 Objectives - In consonance with the policy enunciated in DAO No. 96-04, the following objectives are sought to be attained:

- 2.1 Standardize gathering of timber resources data for easy storage, retrieval and audit;
- 2.2 Systematize the tracking of log flows from cutting areas to end-users;
- 2.3 Optimize utilization of the timber resources;
- 2.4 Provide information for the updating of timber/mill recovery factors from residual and plantation forests;
- 2.5 Improve the collection of forest-derived revenues; and

Curtail unauthorized cutting, transportation, processing and disposition of timber and wood products.

Sec. 3 Pre-harvest Inventory - To provide basic information that guide the licensees and DENR in the preparation of the desired annual rations plan and day-to-day activities, the following pre-harvest activities l be undertaken.

Grid-mapping

- 3.1.1 With the use of an accurate topographic map, convert the map sheet corner coordinates to UTM using the PRS92 computer program.
- 3.1.2 Select one corner of the timber concession area, the coordinates of which have already been converted to UTM, and establish a baseline and a base meridian.
- 3.1.3 Using the concession corner and the baseline/base meridian, draw one kilometer square grids (100 ha. Block) and label the lines by kilometer north of the equator an kilometer east of the western meridian. The blocks will be designated by the UTM coordinates of their lower left hand corners.
- 3.1.4 Establish the different block corners on the ground by using one corner block as reference point and by using instruments such as GPS, compass and distance measuring tape. Mark the block corners by their corresponding easting (longitude) and northing (latitude)

Sub-blocking

For ease of logging set-up establishment and identification, and the management, control and monitoring by the licensee and DENR, the 100-ha blocks established basee on the procedures outlined above shall be divided into 25-ha sub-blocks.

To provide ease and accuracy in the establishment of ground control for maps, location of section corners on the ground, etc., the use of Global Positioning System (GPS) instrument is highly advisable.

3.3 **Timber Inventory**

The conduct of timber inventory and related activities shall be jointly undertaken by the CENRO and the licensee/permittee.

3.3.1 20% Inventory of Annual Cutting Area

A timber inventory of 20% intensity should be first be conducted within the proposed annual cutting area to determine the sustainability of the area relative to the computed annual allowable cut.

3.3.2 100% Inventory of harvestable trees by logging set-ups.

Using selective logging criteria and prescriptions, 50% of species with DBH of 60 cms and 100% of 70 cms and up, in accordance with DAO 12, Series of 1992, except for prohibited species, shall be inventoried and marked showing the UTM block code, set-up and tree numbers and an arrow indicating the direction of fall to avoid or minimize damage to residual trees. These information shall be recorded for every harvestable tree in the INVENTORY RECORDS (LCMS DATA CAPTURE FORM 1) In addition, the species, diameter at breast height (DBH) and estimated height in five (5) meter logs should be recorded. Merchantable height shall be determined through the use of height-measuring instruments such as clinometer, abney hand level, relascope, etc. while DBH shall be measured with the use of a diameter tape.

Where applicable, inventory should also be conducted along allowable clearings, and results should also be reported on LCMS DATA CAPTURE FORM 1. The type of clearing should be specified in the form.

3.3.3 Marking of Residual Trees

Simultaneous with the inventory and marking of the harvestable trees, tree marking of healthy residuals to be left/saved after logging should be conducted in accordance with the provisions of DAO No. 12, Series of 1992

Computer Encoding of Harvestable Trees Data

The LCMS Data Capture Form 1 signed by the DENR and the company timber management officers and submitted to the CENRO by the Timber Management officer of the DENR assigned in the area, shall be encoded in the CENRO computer to generate the LCMS Report 1. The number of trees and volume generated in the said report, in agreement with the company president/manager will be the basis for the assessment of the initial forest charges the company will have to deposit before any logging operation for a particular logging set-up is allowed.

Collection of Forest Charges and Silviculture Fees

3.5.1 As a pre-condition to the start of harvest operations the licensee shall deposit the amount equivalent to the forest charges imposable on the harvestable trees based on the 100% inventory conducted in accordance with Section 3.3.2 hereof. Immediately after the cessation of logging operations in any given set-up, a reconciliation of the deposited amount and the forest charges payable based on the actual scale of the harvested volume, shall be made, as outlined in the preceding sections. In case the amount deposited is more than the forest

charges, based on the scaled volume, the excess amount shall be applied to the succeeding logging set-ups or cutting coupes. On the other hand, an additional amount shall be paid by the permittee/licensee in the event that the deposited amount is less than the actual forest charge assessment on the volume extracted.

3.5.2 The silvicultural fees for damaged residuals shall be assessed by the CENRO in accordance with the provisions of DAO No. 28, Series of 1993.

1.1 Sec. 4 Timber Harvesting Monitoring Activities

4.1 Felling and Bucking

Only trees marked for harvesting shall be felled. After felling, the tree number, set-up number and the UTM Code shall be chiseled on both ends of the harvested trees. If the trees are bucked into logs at the stump site, a log number shall be chiseled in addition to the abovementioned identifiers. Actual measurement of DBH/DAB and merchantable height shall be done and recorded in LCMS DATA CAPTURE FORM 2.

4.2 Log Landing/Log Deck Monitoring

All trees and logs skidded to the landing site shall immediately be marked/chiseled on both ends with their corresponding species group code, tree number, log number, UTM code and the set-up number. All trees in the log landing site shall also be recorded on LCMS DATA CAPTURE FORM 3, indicating the species, tree number, log number, set-up number and UTM Block Code. If scaling is done at the log landing, the big end and the small end diameters and the log length shall also be reflected on LCMS DATA CAPTURE FORM 3, which is to be submitted by the DENR Scaler to the CENRO for generation of the LCMS REPORT FORM 3. Comparisons should now be made between the volume

reflected in the inventory of harvestable trees (LCMS REPORT 1) and the Log Landing/Log Deck master list (LCMS REPORT 3). This is the basis for the CENRO to assess the additional refund/credit of excess payment

At this point, the DENR-generated LCMS REPORT 3 will be the basis/reference for approval of application to transport logs within or outside the province.

1.1.1 Sec. 5 Log Transport Documentation

5.1 Log Marking

Before any log is transported, the following identifiers must be chiseled on both ends of the log either at the log landing or log deck.

SGC – TN – LN
=====

UTM – SUN
CA
HN

WHERE:

SGC = Species Group Code
TN = Tree Number
LN = Log Number
UTM = UTM Block Code
SUN = Set-up Number
CLM = Company Log Mark
HN = DENR marking hatchet number

5.2 Document Preparation

Department Administrative Order No. 7, Series of 1994 stipulates that only forest products transported outside the province of origin shall be covered with Certificate of Timber

Origin/Certificate of Lumber Origin (CTO/CLO) and those within the province shall be covered with Trip Tickets.

The documents necessary for log transport within the province are LCMS DATA CAPTUREE FORM 4-A or 4B, on which the company will have to indicate all the information chiseled on both ends of each log (i.e., UTM Code, tree number, log number, set-up number and the length and the big and small end diameters of the logs). The truck plate number and the name of the driver also recorded on the LCMS DATA CAPTURE FORM 4.

Logs intended to be transported outside the province shall be covered with a Certificate of Timber Origin (CTO) obtainable from the concerned CENRO. To request for the Certificate of Timber Origin from the CENRO, the company will have to use LCMS DATA CAPTURE FORM 4-A. The information chiseled on both ends of the logs is to be reflected in the space provided in the form (UTM Code, tree number, log number, set-up number, the small and bid end diameters and the length of the logs, date of transport and the name of the vehicle/vessel). The CENRO will encode the data contained in LCMS DATA CAPTURE FORM 4-A to generate the LCMS REPORT 4-A which will now the basis for the validation of the logs for shipment and at the same time will now be the tally sheet to be attached to the issued CTO.

LCMS REPORT 5 is the basis for inspection/validation by the DENR?MFPC monitoring stations and for the issuance of discharge permits by the CENRO at the point of destination.

Sec. 6 Log Processing

Daily Log Milling Tally

All logs processed in wood processing plants (WPPs) will be recorded in LCMS DATA CAPTURE FORM 5, TO be submitted on a weekly basis by the WPP permittee to the CENRO for encoding in the computer. The report generated will indicate the volume of logs processed. The updated LCMS REPORT FORM 5 will provide the basis for checking the lumber stock inventory reported by the WPP permittee.

Sec. 7 Log Sales and Transport

Logs sold to other WPP in other provinces will be entered in LCMS DATA CAPTURE FORM 4-B which is to be submitted by the licensee to the CENRO together with the request for a CTO. LCMS DATA CAPTURE FORM 4-B which will be attached to the CTO and that will serve as Tally Sheet. LCMS REPORT 4 will also be the basis by the monitoring stations in conducting inspection and verification and for the issuance for the discharge permit by the CENRO of destination.

Sec. 8 Manual Reporting System

In the event that the CENRO has no computer, the set of data capture forms for the manual system of LCMS will be used in the quantitative evaluation and monitoring of the licensees logging activities. The set of forms will be the basis for log transport within the province and will also be the basis for the issuance of CTO in the event that the logs are to be transported outside the province.

A copy of these manualized DATA CAPTUREE FORMS will be submitted to the PENRO for encoding in order to generate the different LCMS reports for distribution throughout the DENR hierarchy and to the Multi-Sectoral Forest Protection Committees.

Sec. 9 Submission of the Accomplished Forms

- LCMS Data Capture Form 1 – Should be accomplished by the licensee and the DENR Field Timber Management personnel and should be submitted to the CENRO concerned immediately after the inventory, for computer processing. After processing, the licensee will be provided with a copy of the computer-generated INVENTORY Master List (LCMS REPORT 1).
- LCMS Data Capture Form 2 –Should be accomplished daily by the licensee; and submitted to the CENRO week for computer processing. After processing, the licensee will be provided a copy of the FELLING AND BUCKING Master List (LCMS REPORT 2).
- LCMS Data Capture Form 3 – Should be accomplished by the DENR Scaler daily and submitted to the CENRO weekly for computer processing and for the generation for the LOG LANDING/LOG DECK Master List (LCMS REPORT 3), a copy of which shall be provided to the licensee.
- LCMS Data Capture Form 4-A – Should be accomplished by the licensee daily during the transport operation on a per truck basis and submitted to the CENRO for the generation of the LOG TRANSPORT Master List (LCMS REPORT 4). This form is accomplished if the log transport is only within

the province. This Data Capture Form serve as the Trip Ticket.

LCMS Data Capture Form 4-B – Should be accomplished by the licensee for the logs intended for shipment outside the province, either through land or water transport. This accomplished capture form will be submitted by the licensee to the CENRO together with the request for the issuance of the CTO, and the same will be attached to the issued CTO as Tally Sheets.

LCMS Data Capture Form 5 – Should be accomplished by the licensee daily during milling operations, submitted to the CENRO for computer-generated MILLED LOGS Master List (LCMS REPORT 5) will be the basis for the concerned monitoring agencies in Mill stock inspection and verification.. A copy of LCMS Report 5 shall be provided to the company for records reconciliation

Sec. 10 Document Reconciliation

The effectiveness of the LCMS depends on the implementation of the system of checks and verification procedures that are incorporated in the process. The system is facilitated by the use of computer technology which provides efficient logging data storage/retrieval and processing system to reconcile records and information on the movement of logs from the cutting area to the processing plants.

The INVENTORY MASTER LIST (LCMS REPORT 1) in the CENRO computer serves as the basic databases to which all records of logs will be reconciled. Log identifiers are unique and are therefore, such identifiers can no longer be used once the movement of a specific

log from one point to another has been properly recorded. From its CENR-based databases, the DENR will be able to prepare running summaries or inventories of logs transported, noting down the corresponding log identifiers and scaling measurements. Logs not included in the list or not properly documented (e.g., incorrect identifier, scaling measurements), etc. are to be confiscated.

Only original copies of document, duly signed by the authorized DENR personnel, will be honored. Expiry dates of the log transportation documents, such as the Certificate of Timber Origin (CTO) and the Log Transport Trip Ticket must be strictly observed. No erasures or changes in the documents will be honored unless an accompanying Certification by the issuing Officer for such changes is attached to the originally documents.

Sec. 11 Program Support and Training

The Director, ENR-SECAL Program Management Office and the Director, Forest Management Bureau, shall provide the necessary staff and financial support for the effective implementation of this Order, to include but not limited to the organization of the corresponding field implementing units; assist in the preparation of the necessary action plans and programs; coordinate and monitor FPIS-related activities; and the training and orientation of concerned personnel of the DENR and its publics.

Sec. 12 Transitory Provisions

Pending the formulation of specific guidelines governing the harvest and disposition of trees produced from forest plantations, the 100% inventory and marking of harvestable trees as provided in Section 3 hereof is dispensed with. In lieu thereof, the marking of the harvestable trees consistent with Section 3 of this Order should be undertaken based on the actually harvested timber but which should be undertaken before same are transported outside the cutting block

Sec. 13 Definitions of Terms

LCMS - Log Control Monitoring System

- M - Universal Traverse Mercator Coordinates given in meters contains an easting (meters East) and a northing (meters North) within one of 60 zones.
- § - Global Positioning System
- M Block- A 100 ha. Block (1km x 1 km) drawn in the map based on the maps latitude and longitude coordinates. It is read on the easting and northing labels intersecting at its lower left corner.
- a Capture Forms- Forms to be used to gather raw data in the field, filled out manually and used as input for encoding in the computer.
- PC - Multi-Sectoral Forest Protection Committee
- Inventory Master List - List generated/printed by the computer of individual trees inventoried for harvest in a given set-up and block of a particular licensee
- Landing/Log Deck Master List – List generated/printed by the computer of individual logs moved to particular licensee.
- Transport Master List - List generated/printed by the computer of individual logs approved for transport given a specific conveyance and period of time by a licensee.
- ed Log/Tally Master List - List generated/printed by the computer of individual logs which has undergone the milling process by a particular permittee
- § 92 - Computer program to convert longitude and latitude readings into UTM values and vice versa
- M Block Code - Refers to a particular UTM block which has been coded using the system prescribed by the DENR

Sec. 14 Penalty Clause

DENR Officials found and verified to have violated or abetted in the violation of the provisions of this Order shall be dealt with accordingly in accordance with the existing regulations governing the

matter. Forest products extracted, transported and/or disposed of, which are violative of this Order shall be subject to confiscation, including the conveyances in the transportation of the same. Likewise, the lessee/permittee who owns the logs shall be penalized by suspension/cancellation of the operating permit and such other sanctions imposed under the DENR existing rules and regulations.

Sec. 15 Repealing clause

This amends and/or modifies existing Orders, Circulars and Instructions which are inconsistent herewith.

Sec. 16 Effectivity - This Order shall take effect immediately

VIRGILIO MARCELO

Undersecretary for Field Operations

Recommend by:

ROMEO T. ACOSTA

Program Director
ENR-SECAL Program

JOSE D. MALVAS, JR.

Director
Forest Management Bureau

DENR Memorandum Order
No. 96-08
March 22, 1996

Subject : Full Implementation of the Log Control and Monitoring System in DENR Region XIII

1. In order to be able to fully assess the resource implications and the effectiveness of the Log Control and Monitoring System (LCMS) as a tool of Sustainable Forest Resource Management, the full implementation of the system shall be made operational in DENR Region XIII (CARAGA Region) before its adoption nationwide.
2. The full implementation shall cover the 1996 operation of TLAs, IFMAs, PLTPs, log importations and other wood sources in the region.
3. The Regional Executive Director (RED) shall immediately implement the LCMS pursuant to DAO No. 96-04 and its implementing guidelines and procedures.
4. The National Technical Working Group (NTWG) shall assist the RED in operationalizing the system, to include the monitoring of logs which are shipped out for processing by wood processing plants operating outside the CARAGA Region.
5. The NTWG shall coordinate with relevant DENR units, primarily with the ENR-SECAL Program Management Office for technical, financial and other support requirements to implement the system
6. The NTWG shall submit periodic reports to the Chairman, FPIS National Advisory Committee, copy furnished the ENR-SECAL PMO, on the progress of the implementation.

7. This order shall take effect immediately.

VIRGILIO Q. MARCELO
Undersecretary for Field Operations

Recommending Approval:

ROMEO T. ACOSTA
Director
ENR-SECAL Program

JOSE D. MALVAS, JR.
Director
Forest Management Bureau

DENR Memorandum Order
No. 96-09
April 01, 1996

**SUBJECT : Additional Guidelines Governing
the Issuance of Permits to Establish
and Operate Mini-Sawmills**

Pursuant to Republic Act No. 460, Presidential Decree No. 705, as amended, and Executive Order No. 192 dated 10 June 1987, and in line with the sustainable forest resource management policy of the Government, the following rules and regulations governing the issuance of permits to establish and operate mini-sawmills are hereby issued:

Sec. 1 Statement of Policy and Objectives. To assure the availability and sustainability of the timber resource to meet the demands of a growing population and the economy is the state adopted policy. In consonance with this policy, the following objectives are sought to be attained:

- 1.1 Maximize wood recovery from the forest and tree plantations;
- 1.2 Optimize wood utilization through the establishment and operations of more value-added wood processing facilities;
- 1.3 Establishment of low-capital but labor-intensive wood processing plants in rural areas close to the raw material source owned and operated by cooperatives and community organizations.

Sec. 2 Definiton of Terms. As used in this Order, the following terms shall be understood and interpreted as follows:

2.1 Mini-Sawmill - a sawmill consisting of a single headrig with a flywheel diameter not exceeding 106 cm. (42 inches), a bandsaw blade with thickness not exceeding three (3) mm. And width of not more than 127 mm. (5 inches), with or without a carriage, and a daily rated capacity of not more than eighteen (18) cu.m. or 8,000 log carriage or its equivalent, the carriage shall have a gross length of not more than 3.2 m. (10.5ft.)

A portable sawmill which conforms with the foregoing specifications is considered a mini-sawmill.

2.2 Headrig - a collective term consisting off a pair of flywheels and a sawing blade.

2.3 Daily Rated Capacity - the maximum volume of output that a sawmill plant can produce in one shift of 8 hours based on the actual performance of the machinery/equipment. This is sometimes referred to as the true rated capacity.

2.4 Log Carriage - a movable platform, manually or mechanically operated, equipped with a setwork mechanism, upon which log or timber to be fed to the headrig is loaded and controlled.

2.5 Logging Waste/Residue – wood section(s) generated in the course of normal logging operations and shall include stumps, log trimmings, tops, branches, and tree poles, provided that the scaling dimensions shall not exceed 15 cm for diameter and 1.5 m for length.

2.6 Plantations/Planted Trees – timber producing tree species which have been planted insde private lands, or

inside forest lands under the community-based management program(s), the national forestation program, or in compliance with the reforestation requirements of a timber license agreement (TLA).

Sec. 3 Ownership and Operation of a Mini-sawmill. A mini-sawmill shall be licensed to operate only under the following conditions:

- 3.1** When it is owned and/or operated by TLA/IFMA holders with log supply, both planted and logging residues, coming from its licensed areas;
- 3.2** When it is owned and/or operated by a Cooperative or Community Organization duly registered with the Cooperative Development Authority (CDA) and Community Based Forestry Program of the DENR, or under a joint venture agreement with the owner of an existing mini-sawmill, under a permit issued by the DENR, located within or around the vicinity of the CBFMA site, with log supply coming from legitimate sources of plantation species or naturally grown trees authorized to be processed under these regulations;
- 3.3** When it is owned and operated by an entrepreneur, partnership, and corporation but non-holders of timber licenses issued by the DENR using only legitimate planted species as raw materials;

New applicants and holders of existing mini-sawmill permits are encouraged to form cooperatives or similar associations and/or federations among themselves and establish a common mini-sawmill to process available plantation timber and other raw materials coming from areas specified in subsection 4.3 hereof. The Community Environment and Natural Resources Office (CENRO) in the locality to determine whether or not the available raw

materials are adequate and sufficient to warrant the continued operations of these existing or proposed to be established mini-sawmills.

Sec. 4 Limitations. A mini-sawmill to be allowed to operate shall observe the following limitations:

- 4.1 The transformer directly supplying the electric power for the mini-sawmill from the main transmission lines should have maximum capacity of 30 KVA, or if supplied by an independent power generating unit, the generator should have a capacity rating or not more than 40 KVA;
- 4.2 The ownership of the mini-sawmill is limited only to those qualified under Section 3 hereof;
- 4.3 The raw materials for the mini-sawmills shall be limited to the following sources only:
 - 4.3.1 Planted trees in private lands and A & D areas;
 - 4.3.2 Planted trees from forest lands under government plantation development lease/contracts;
 - 4.3.3 Planted trees managed and developed under the community-base forest management program(s) of DENR;
 - 4.3.4 Naturally grown timber harvested by CBFMA holders authorized under DENR Memorandum Circular No. 95-18, provided that, said raw materials are processed by the mini-sawmill owned and operated by the concerned organization or

under a joint venture agreement with the owner of an existing mini-sawmill located within or around the vicinity of the CBFMA site.

The owner of a mini-sawmill who is not himself the owner of a tree plantation to supply the raw material requirement of the mill shall enter into Log Supply/Purchase Agreement (LSPA) with tree plantation owners or tree farmers to warrant continuous normal wood processing operations. Logging waste/residues from naturally grown timber shall only be processed by the concerned TLA/IFMA holder in their processing plant.

The volume of plantation timber that may be allowed to be supplied and/or committed by the log supplier/s who are either TLA or IFMA holders should be within the annual allowable cut authorized under the approved Integrated Annual Operations Plan (IAOP) for the year, less the log requirements of their own processing plant, if there is any.

Sec. 5 Permit Issuance; Tenure. Permit to operate a mini-sawmill and/or the renewal of same shall be issued under the authority provided in DAO No. 38, Series of 1990; PROVIDED that, the applicant has complied with the requirements herein provided and that the mill establishment conforms with the approved Regional Mini-sawmill Rationalization Plan pursuant to Sec. 10 hereof; PROVIDED FURTHER THAT, no mini-sawmill permit shall be issued or renewed unless there is an assured supply of raw materials equivalent to not less than fifty percent (50%) of its annual log requirement (ALR), as determined by DENR; PROVIDED FURTHERMORE that, approval of the LSPA by the RED for plantation timber shall be based on the 100% timber inventory undertaken by a Private Registered Forester, duly filed checked/validated by the CENRO concerned; PROVIDED FINALLY that, the validity or tenure of mini-sawmill permits shall not exceed a period of one(1) year.

Sec. 6 Plant Location of Mini-Sawmill. A mini-sawmill shall only be established and located in any of the following sites:

- 6.1 Within industrial location specified by the DENR Regional Office concerned and approved by appropriate local government units;
- 6.2 Outside logging ban and moratorium areas; PROVIDED that, any mini-sawmill established and operated within the said areas shall be supplied with legitimate logs from plantation areas, and with prior clearance from the Secretary of Environment and Natural Resources (SENR).

Sec. 7 Terms and Conditions of a Mini-Sawmill Permit. Terms and conditions of the mini-sawmill permit issued shall include, but not limited to, the following:

- 7.1. The permittee shall display the permit on the premises of the wood processing plant in a prominent place exposed to the public view;
- 7.2. The permittee shall maintain a registry book showing raw materials purchases in chronological order and a book for sales and/or disposition of outputs;
- 7.3. No additional sawing implements, machinery and equipment shall be installed unless priorly authorized by the issuing authority;
- 7.4. A monthly raw materials purchase and production mill output shall be submitted to the CENRO concerned;

- 7.5. The permittee shall issue commercial sales invoice for every sale of output;
- 7.6. Mill and processing wastes shall, as much as possible, be utilized/reused or disposed of in accordance with pertinent rules and regulations;
- 7.7. The permittee shall adopt and implement measures to safeguard the health of processing plant workers and employees;
- 7.8. Compliance with applicable DENR rules and regulations.

Sec. 8 Monitoring and Evaluation of Mini-Sawmills. The CENRO concerned shall directly be responsible for the proper monitoring of the operational activities of mini-sawmills within his assigned area of responsibility and shall consists, among others, of the following:

- 8.1 Control, record, monitor the log deliveries and check the volume of same against the approved LSPA and the accompanying shipping/transport documents required under extant regulations;
- 8.2 Continually check the volume committed by log suppliers as against the volume authorized by the DENR;
- 8.3 Periodically check the volume of outputs against the log inputs;
- 8.4 Regularly check and verify the wood supply to ensure that the timber sources are those specified in Sectin 4.3 thereof.

Sec. 9 Compliance with Environmental Impact Statement System (EIS). No application for a new mini-sawmill permit or renewal of same shall be considered unless accompanied by the Checklist EIA as shown in “Annex A” hereof. A permit to operate may only be granted after the issuance of the Environmental Clearance Certificate (ECC) based on the favorable result of the review and evaluation of the checklist EIA submitted for the purpose.

Sec 10 Regional Mini-Sawmill Rationalization Plan. As an essential component of the sustainable forest resource management program of government, a Regional mini-sawmill Rationalization Plan (RMRP) shall be prepared by the Regional Environment and Natural Resources Offices (RENROs) which shall be submitted to the SENR, thru the Undersecretary for Field Operations, for review and approval. No permit shall be issued until the approval of the RMRP. The RMRP shall include, among others, the following basic information:

- 10.1 Regional situation and analysis;
- 10.2 Location, ownership, and ALR of existing mini-sawmills;
- 10.3 Location and ALR of proposed mini-sawmills;
- 10.4 Location, volume (projected through time), and type (plantation timber, natural grown timber, logging waste/residue) of available wood /timber supply;
- 10.5 Distance and mode of access (land; water) to wood/timber supply;
- 10.6 Market/disposition of wood products/products lines;

- 10.7 Impacts (Environmental, Socio-economic, Political, Regional/Local Security);
- 10.8 Other information which the RENRO may deem essential to guide DENR management in its subsequent action(s) on the matter.

In addition, a multi-sectoral agreement shall be entered into among the DENR, LGU concerned, PNP, etc., indicating therein their commitments to ensure rationalization and revitalization of the mini-sawmill operations. The association of mini-sawmill operators shall institute measures to police the performance of its members.

Sec. 11 Penalty Clause. The owner of a mini-sawmill found and verified to have operated without the corresponding DENR permit, or in violation of the provisions of this Order or the terms and conditions of the permit, and other applicable DENR rules and regulations shall be penalized in accordance with existing laws and regulations on the matter, and all illegally cut or transported timber, whether sawn or unsawn, found in the premises shall be subject to confiscation and disposition in accordance with extant laws, rules and regulations.

Likewise, DENR officials who have been found and verified to have violated, or abetted in the violation of the provisions of this Order, shall be meted the corresponding sanctions and penalties as may be warranted under existing Civil Service and other laws and regulations.

Failure to register the permit with the FMB within fifteen (15) days from approval/issuance thereof will render the same null and void. The issuing officer/s who fail to register the approved permit will be subjected to appropriate administrative action.

Sec. 12 Implementing Instructions. The Undersecretary for Field Operations is hereby authorized to issue supplementary guidelines and instructions for the effective implementation of this Order.

Sec. 13 Repealing Clause. All existing Memorandum Orders, Circulars, and instructions which are inconsistent herewith are hereby amended accordingly.

Sec 14 Effectivity. This Order shall take effect immediately.

VICTOR O. RAMOS
Secretary

DENR Memorandum Order
No. 96-10
April 02, 1996

SUBJECT : Processing of 1996 IAOPs

In order to expedite the processing of 1996 IAOPs of the TLA holder mandated by Memo Circular No.. 96-04, the regional offices are hereby instructed to submit the following requirement to the Forest Management Bureau.

1. CY 1995 Performance of TLA holder(s)
2. Status of forestry accounts
3. Duly accomplished EIA checklist and
4. Summary information and recommendations on the proposed IAOP

The subject documents should be signed by the regional technical review committee.

Attached for your guidance is the flow chart of work preparation, submission, review and approval of IAOPs.

VIRGILIO Q. MARCELO
Undersecretary for Field Operations

DENR Memorandum Order
No. 96-11
June 19, 1996

SUBJECT : Modified Implementation of the Log Control and Monitoring System in DENR Region XIII

1. In view of the need to provide ample time for the wood-based industry to learn more fully the mechanics of implementing the Log Control Monitoring System (LCMS) and integrate the same in their day-to-day operations, the full implementation of the system in DENR Region XIII as provided in DMO No. 96-08 is hereby modified as follows:
 - 1.1 Implementation shall be for purposes of piloting the application of the system in all of the areas and aspects envisioned in DAO No. 96-04 and its implementing guidelines, and shall run for a period not to exceed one year;
 - 1.2 The Regional Executive Director, in consultation with the Director of the Forest Management bureau and the Program Director of the ENR-SECAL Program, shall prepare a Regional LCMS Plan of Implementation (RLPI), furnishing the Secretary through the Undersecretary for Field Operations, a copy thereof for information and record;
 - 1.3 The design of the RLPI shall include, among others, a study on the applicability of the system over industrial forest plantations and small-scale tree farm operations and the utilization of

unmerchantable timber and small-dimension wood materials in integrated wood processing operations;

- 1.4 The pilot implementation of the system shall be a joint collaborative activity of the DENR and the CARAGA-based wood industry sector;
 - 1.5 The FMB Director and the ENR-SECAL Program Director together with the National Technical Working Group for LCMS shall provide the necessary assistance in the execution of the RLPI and shall closely monitor the progress of its implementation.
- 2 The RED for DENR Region XIII shall submit to this Office, through the Undersecretary for Field Operations, periodic status reports on the matter, together with LCMS-related policy proposals and recommendations for further evaluation and consideration.
 - 3 This Order amends/modifies DMO No. 96-08 and shall take effect immediately

VICTOR O. RAMOS
Secretary

DENR Memorandum Order

No. 96-12

June 21, 1996

SUBJECT : Identification of Documents to be Signed by the CFP Program Director and National Program Manager

In the interest of the service and to effect an efficient flow of communication regarding Community Forestry Program at the national level, the documents to be signed by the CFP Program Director of the Director of Forest Management Bureau and the National Program Manager are hereby identified as follows:

For the Program Director's signature or initials,

1. policy recommendations
2. periodic program accomplishment reports
3. all contracts/agreements/plans referred by regional offices
4. travel order/expenses vouchers of the national program manager
5. contracts of service, hiring of staff
6. special orders
7. certificates of attendance or participation to CFP sponsored training
8. memoranda of instruction from the Undersecretary, Field Operations to regional officials
9. workplan and budgetary proposals
10. letters of commendation
11. others, that the concerned Undersecretary may delegate

For the National Program Manger's signature

1. travel expenses vouchers of NCCO staff
2. travel orders, itinerary of travel of staff
3. requisitions of issuance of voucher
4. time cards of staff
5. trip tickets
6. payroll, petty cash voucher
7. memoranda of referral, reply from other institutions and regional office inquiries, except those requiring higher level signatories such as those for Congressmen and the like
8. radio messages
9. notices of meeting
10. letters of inquiries
11. others, that the program director may delegate

The Program Director and the National Program Manager shall advise the Secretary of substantial developments after issuance of this order.

This Order takes effect immediately.

VICTOR O. RAMOS
Secretary

DENR Memorandum Order
No. 96-17
November 11, 1996

**SUBJECT : Turn-over of Forestry Sector
Project (Loan I)**

In the interest of the service, and pursuant to Forestry Sector Project Loan Agreement between the Republic of the Philippines and the Asian Development Bank, the ADB/OECF Forestry Sector Program (Loan I) shall be turned-over from the National Forestation Development Office (NFDO) to the Community Based Forest Management Office (CBFMO) of the Forest Management Bureau (FMB) immediately.

All activities to be undertaken related to the turn-over shall be properly coordinated between the National Forestry Development Office and the CBFMO/FMB in accordance with the following general terms:

1. All Forestry Sector Program documents shall be turned over to CBFMO;
2. All problems that will occur after the turn-over shall be addressed and answered by CBFMO in consultation with NFDO;
3. All inquiries related to legislative concerns and requirements shall be answered by CBFMO in consultation with NFDO; and
4. CBFMO and NFDO shall share in the responsibilities towards smooth and efficient turn-over and shall work out the most appropriate time for the eventual transfer of the ADB/OECF Forestry Sector Project (Loan 2)

This order shall take effect immediately and supercede all other orders
onsistent herewith.

VICTOR O. RAMOS
Secretary

LANDS

**Administrative Order
No. 96-34
November 12, 1996**

**SUBJECT : Guidelines on the Management of
Certified Ancestral Domain Claims.**

Pursuant to the policies embodied in Executive Order NO. 192 dated June 10, 1987, Republic Act No. 7586 also known as NIPAS Act of 1992, DENR Administrative Order NO. 02, Series of 1993 and other pertinent laws, rules and regulations, the following guidelines on the management of ancestral domain claims are hereby promulgated for the guidance of all concerned.

**ARTICLE I
Basic Concept, Objectives and Policy**

Sec. 1 Concept. In keeping with the spirit and intent of the Constitution specifically Section 22, Article 1 which mandates the State to recognize and promote the rights of indigenous cultural communities within the framework of national unity and development and Section 5, Article XII which further mandates the State, subject to the provisions of the Constitution and national development policies and programs, to protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being, and pending the enactment of a law to operationalize these Constitutional provisions, the Department of Environment and Natural Resources (DENR) has, in the exercise of its powers and functions under existing laws, decided to issue Certificates of Ancestral Domain Claims (CADCs) and Certificate of Ancestral Land Claims (CALCs) to indigenous cultural communities, also referred to as Indigenous Peoples (IPs), and members thereof, respectively. These CADCs and CALCs are intended to guarantee within the bounds of E.O. No. 192 and DAO

No. 02, the tenure of IPs over areas which they have traditionally occupied and possessed by themselves or through their predecessors-in-interest, in the concept of ownership, since time immemorial continuously up to the present except when interrupted by war, force majeure, or displacement by force, deceit or stealth.

Considering the diversity of natural resources and land uses within ancestral domains, the management of these areas shall be undertaken by the CADC holders in accordance with their traditional processes and customary laws.

Sec. 2 Objectives. The main objectives of ancestral domain management are the following:

- 2.1 To implement the Constitutional policy recognizing the rights of IPs to traditional access to natural resources based on the principles of self-determination, justice and equity;
- 2.2 To strengthen the security of tenure of the IPs over the land and natural resources within their certified ancestral domain claims;
- 2.3 To recognize that the IPs are principally responsible for rehabilitating, protecting and sustainably managing the natural resources within their ancestral domains; and
- 2.4 To support the initiatives of the IPs in their socio-economic development.

Sec. 3 Policy. In attaining the objectives of ancestral domain management, the following basic principles shall be observed:

- 3.1 The IPs have the right to formulate an ancestral domain management plan reflective of their needs and aspirations. It

shall be prepared by the community itself according to its own indigenous knowledge systems and practices with the option to avail of external assistance under terms and conditions determine by the community.

- 3.2 The primacy of customary laws shall be recognized and respected.
- 3.3 Ancestral Domain Management Plans shall embody the following general concerns that basically affirm the IPs' right to self-determination, to wit:
 - 3.3.1 Recognition and enhancement of the rights of IPs to their ancestral domain claims;
 - 3.3.2 Promotion of their cultural integrity;
 - 3.3.3 Enhancement of their self-reliance and empowerment as a people;
 - 3.3.4 Protection of the environment and the sustainable management and development of the natural resources within ancestral domain claims;
 - 3.3.5 Recognition and protection of their traditional resource rights which refer to the rights of IPs to use, manage, protect and conserve: a) land, air, water, and minerals; b) plants, animals, and other organisms; c) collecting, fishing and hunting grounds; d) sacred sites and e) other areas of economic, ceremonial and aesthetic value in accordance with their indigenous knowledge, belief systems and practices; and

3.3.6 Recognition of the right to information specially in relation to free and informed consent on all matters affecting their ancestral domains.

3.4 The IPs shall have autonomy in the preparation and implementation of their plans. For this reason, existing laws and issuances concerning the management and utilization of natural resources shall be interpreted liberally to reinforce this policy.

3.5 The role of existing Provincial Special Task Forces on Ancestral Domains (PSTFADs) or any appropriate body shall be limited to conducting information, education and communication (IEC) activities and providing assistance in the resolution of legal and policy issues that would tend to impede, distract or prevent the IPs from exercising freedom in making their own plans for the sustainable management of their ancestral domains. The speedy and judicious resolution of such issues shall be a priority concern of the DENR.

ARTICLE II

Formulation and Implementation of the Ancestral Domain Management Plan

Sec. 4 Basic Steps in Plan Preparation. The following shall be the steps in the preparation of the plan:

4.1 The PSTFAD or any appropriate body shall conduct a series of community workshops on the ADMP concept. The workshops may include, among other things, the following:

4.1.1 Rights and responsibilities of CADC holders;

- 4.1.2 Identification and sustainability of traditional resource management systems and practices;
 - 4.1.3 Access to external support services on resource management;
 - 4.1.4 Appraisal of the socio-economic and bio-physical conditions in the ancestral domain;
 - 4.1.5 Assessment of existing community capabilities and nature of working relationship with DENR and other external agencies;
 - 4.1.6 Articulation of the community vision, objectives and management strategy; and
 - 4.1.7 Management structures including formation of the community Working Group.
- 4.2 The community, through its Working Group may conduct a participatory appraisal of its existing natural resources and socio-economic conditions through community resource-mapping and other participatory processes. The outputs of this exercise may include social, institutional, demographic and economic information; a determination of existing land uses; identification of available natural resources; and a listing of major development opportunities and problems. The community appraisal or assessment of the quality and quantity of existing natural resources in the ancestral domain claim shall be undertaken in place of the usual comprehensive resource inventory.

- 4.3 The community shall identify and indicate on a map its specific ancestral domain management units such as, but not limited to, agricultural and agroforestry areas; resource rehabilitation and product areas; community forests and mineral reserves; traditional hunting and fishing grounds; cultural landmarks and sacred places; scenic places and special-use areas; and peripheral or boundary areas.
- 4.4 The community shall formulate the indicative development activities they plan to undertake in each management unit which may include resource protection, rehabilitation, utilization and allocation of benefits.
- 4.5 The indicative plan shall be prepared in the community's own language or any manner of expression they prefer. The same may be translated into English by the DENR using its own resources. In case of conflicts in interpreting the provisions of the plan, the version of the community shall prevail.
- 4.6 Upon completion of the indicative plan, the community Working Group shall present the same for final review by the community members gathered in a general assembly. Should the community find the plan reflective of its will in form and substance, the members thereof shall affix their signatures or thumbmarks in the document to signify their concurrence and endorsement thereof.
- 4.7 Upon the adoption by the community of the plan, the same shall be transmitted to the nearest concerned CENRO who shall then be responsible for transmitting the same to the DENR Secretary and other offices through proper channels.

Sec. 5 Formulation of Work plans. The IPs may formulate work plans to guide implementation processes indicating how each priority activity may be carried out. Work plans may be made in the village and domain levels depending on the distribution of activities under the plan. Village-level work plans may be consolidated to form the overall work plan.

Sec. 6 Supervisions and Monitoring of ADMP Implementation. The concerned PSTFAD or any other appropriate body shall be responsible for supervising and monitoring the environmental impact attendant to the implementation of the ADMP. In performing this task, it shall coordinate closely with the concerned IPs and other agencies.

Sec. 7 Submission on Reports. The PSTFAD or any other appropriate body shall submit at least annually ancestral domain management status reports to the RED for his information and guidance, furnishing copies thereof to the concerned local government unit (LGU).

ARTICLE III General Provisions

Sec. 8 Exercise of Sustainable Traditional Resource Rights. The plan shall be deemed sufficient in the exercise by the community of its sustainable traditional resource rights.

Sec. 9 Issuance of Resource Access Instruments. In case of any resource utilization not within the concept of traditional resource rights, the community shall be required to follow relevant rules and regulations in the acquisition of the necessary resource access instrument. The CENRO, PENRO and Regional Office concerned, however, shall establish a fast-track mechanism to facilitate the issuance

of permit, license and/or contract for specific resource utilization activity within the framework of the plan.

Sec. 10 Confidentiality of Information. To protect traditional resource rights, information on the socio-economic and bio-physical conditions in the ancestral domain shall not be divulged nor used for any purpose without the prior written collective consent of the concerned community.

Sec. 11 Determination of Support Services. In order to establish the nature of assistance it may need in its development effort, the community may likewise determine domain-wide basic services in relation to such concerns as health, education and community infrastructure. They may, in addition, identify important support services which may include the preparation of the village or barangay land use plans; continuing organizational development activities; establishment of community extension services; setting-up a community credit facility; development of alternative sources of livelihood; establishment of a natural resource rehabilitation fund; and development of a workable Peoples Organization (PO)-LGU-DENR coordination system.

Sec. 12 External Support. Subject to the right to self-determination, the plan may be used by the IPs concerned in negotiating with financial institutions for support and upgrading of basic services.

Sec. 13 Sources of Funds. Funds for the formulation and implementation of plans shall come from the Delineation of Ancestral Domain Claims Project Funds and the DENR allocation from the Poverty Alleviation Budget Allocation Scheme (PABAS). At the initiative of the community expressed in writing, funds from other government agencies, financial institutions and NGOs may also be tapped for the purpose.

Sec. 14 Administrative Sanctions. Any violation, in the form of incompetence, inefficiency or negligence, of the provisions of this Order by any personnel of the DENR shall be ground for appropriate disciplinary action. The administrative sanction shall be without prejudice to the institution of appropriate criminal case for acts and omissions which may constitute corrupt practices under section 3 of Republic Act No. 3019, as amended, otherwise known as the “Anti-graft and Corrupt Practices Act”.

Sec. 15 Repealing Clause. All previous issuances inconsistent with this Order are hereby superseded or amended accordingly.

Sec. 16 Effectivity. This Order takes effect within fifteen (15) days after publication in at least two (2) newspapers of national circulation.

SO ORDERED.

VICTOR O. RAMOS
Secretary

Published at:

Philippine Star November 14, 1996 page 32
Manila Times November 14, 1996 page 15

MINES SECTOR

DENR Administrative Order

No. 96-25

August 27, 1996

**SUBJECT : Amending Section 257 of the
Implementing Rules and
Regulations of R.A. 7942.**

Pursuant to Section 8 of R.A. 7942 and line with government's thrust to enhance exploration activities in the country to increase the country's natural resource capital and ensure its sustainable development, Section 257 of the Implementing Rules and Regulations of R.A. 7942 is hereby amended as follows:

**Section 257. Non-Impairment of Existing Mining
Quarrying Rights.**

All pending applications for MPSA/FTAA covering forest land and other government reservations shall not be required to re-apply for exploration permit provided, that where the grant of such FTAA applications/proposals would exceed the maximum contract area restrictions contained in Section 34 of the Act, the applicant/proponent shall **be given an extension of one year, reckoned from September 13, 1996, to divest or relinquish in favor of government, areas in excess of the maximum area allowance provided under the Act.**

For this purpose, a Special Exploration Permit of limited application and activities shall be issued by the Secretary, upon the recommendation of the Director, subject to the terms and conditions specified in the Permit, and pertinent provisions of Chapter VII of the

IRR. Provided, that an Area Permission shall be granted likewise by the Secretary to undertake limited exploration activities in non-critical forest reserves and forest reservations and such other areas within the jurisdiction of the DENR. In other areas, however, the applicant/proponent shall secure the necessary area clearances or written consent by concerned agencies or parties, as provided by Law. Provided, further, that the time period shall be deducted from the life of the MPSA/FTAA, and exploration costs can be included as part of pre-operating expenses for purposes of cost recovery should the FTAA be approved; and, Provided, finally, that this provision is applicable only to all FTAA/MPSA applications filed under DAO 63 prior to the effectivity of the Act and its Implementing Rules and Regulations.

This order shall take effect fifteen (15) days following their complete publication in two newspapers of general circulation.

VICTOR O. RAMOS
Secretary

**DENR Administrative Order
No. 96-25A
September 5, 1996**

**SUBJECT : Amendment to DAO 96-25, Series
of 1996.**

DENR Administrative Order No. 96-25, Series of 1996 is hereby amended with respect to its effectivity clause to the effect that aforesaid Order is hereby deemed effective immediately.

This Order shall take effect immediately.

VICTOR O. RAMOS
Secretary

DENR Administrative Order
No. 96- 40
December 19, 1996

SUBJECT: Revised Implementing Rules and Regulations of Republic Act No. 7942, Otherwise Known as the "Philippine Mining Act of 1995"

Pursuant to Section 8 of Republic Act (R.A.) No. 7942, otherwise known as the "Philippine Mining Act of 1995", the following revised rules and regulations are hereby promulgated for the guidance and compliance of all concerned.

CHAPTER I
INTRODUCTORY PROVISIONS

Section 1. Title

The title of this Administrative Order shall be "Revised Implementing Rules and Regulations of R.A. 7942, otherwise known as the Philippine Mining Act of 1995".

Section 2. Declaration of Policy

All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation through the combined efforts of the Government and private sector in order to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities.

Section 3. Governing Principles

In implementing the policy stated in the preceding Section, the Department shall adhere to the principle of sustainable development which meets the needs of the present without compromising the ability of the future generations to meet their own needs, with the view of improving the total quality of life, both now and in the future. Consequently:

- a. Mineral resource exploration, development, utilization and conservation shall be governed by the principle of sustainable mining, which provides that the use of mineral wealth shall be pro-environment and pro-people in sustaining wealth creation and improved quality of life under the following terms:
 1. Mining is a temporary land use for the creation of wealth which leads to an optimum land use in the post-mining stage as a result of progressive and engineered mine rehabilitation work done in cycle with mining operations;
 2. Mining activities must always be guided by current best practices in environmental management committed to reducing the impacts of mining and effectively and efficiently protecting the environment;
 3. The wealth accruing to the Government and communities as a result of mining should also lead to other wealth-generating opportunities for people and to other environment-responsible endeavors;

4. Mining activities shall be undertaken with due and equal emphasis on economic and environmental considerations, as well as for health, safety, social and cultural concerns; and
 5. Conservation of minerals is effected not only through recycling of mineral-based products to effectively lengthen the usable life of mineral commodities but also through the technological efficiency of mining operations.
- b. Investments in commercial mining activities from both domestic and international sources shall be promoted in accordance with State policies and the principles and objectives herein stated.
 - c. The granting of mining rights shall harmonize existing activities, policies and programs of the Government that directly or indirectly promote self-reliance, development and resource management. Activities, policies and programs that promote community-based, community-oriented and processual development shall be encouraged, consistent with the principles of people empowerment and grassroots development.

These principles are implemented through the specific provisions of these implementing rules and regulations.

Section 4. Objectives

These rules and regulations are promulgated toward the attainment of the following objectives:

- a. To promote the rational exploration, development, utilization and conservation of mineral resources under the full control and supervision of the State;
- b. To enhance the contribution of mineral resources to economic recovery and national development, with due regard to the protection of the environment and the affected communities, as well as the development of local science and technical resources;
- c. To encourage investments in exploration and commercial mining activities to assure a steady supply of minerals and metals for material needs of both present and future society and to generate wealth in terms of taxes, employment generation, foreign exchange earnings and regional development;
- d. To promote equitable access to economically efficient development and fair sharing of benefits and costs derived from the exploration, development and utilization of mineral resources; and
- e. To enable the Government and the investor to recover their share in the production, utilization and processing of minerals to attain sustainable development with due regard to the environment, social equity and fair return of investment.

Section 5. Definition of Terms

As used in and for purposes of these rules and regulations, the following terms shall mean:

- a. "Act" refers to R.A. No. 7942 otherwise known as the "Philippine Mining Act of 1995."
- b. "Ancestral Lands" refer to all lands exclusively and actually possessed, occupied or utilized by Indigenous Cultural Communities by themselves or through their ancestors in accordance with their customs and traditions since time immemorial, and as may be defined and delineated by law.
- c. "Annual Environmental Protection and Enhancement Program (AEPEP)" refers to a yearly environmental management work plan based on the approved environmental protection and enhancement strategy.
- d. "Archipelagic Sea" refers to all waters within the baseline of an archipelago except internal waters such as roadsteads, lakes and rivers.
- e. "Block or Meridional Block" means an area, bounded by one-half (1/2) minute of latitude and one-half (1/2) minute of longitude, containing approximately eighty-one (81) hectares.
- f. "Built-up Areas" refer to portions of land within the municipality or barangay actually occupied as residential, commercial or industrial areas as embodied in a duly approved land use plan by the appropriate *Sanggunian*.
- g. "Bureau" means the Central Office of the Mines and Geosciences Bureau under the Department.
- h. "City" refers to an independent component city as classified under the Local Government Code.
- i. "Commercial Production" refers to the production of sufficient quantity of minerals to sustain economic

- viability of mining operations reckoned from the date of commercial operation as declared by the Contractor or as stated in the feasibility study, which ever comes first.
- j. "Community Relations Record" refers to the applicant's proof of its community relations which may consist, but is not limited to, sociocultural sensitivity, the character of its past relations with local communities, cultural appropriateness and social acceptability of its resource management strategies: *Provided*, That this shall not be required in cases where the applicant has no previous community-relations experience in resource use ventures, locally or internationally.
 - k. "Conservation" means the wise use and optimum utilization of mineral resources.
 - l. "Contiguous Zone" refers to water, sea bottom and substratum measured twenty-four (24) nautical miles seaward from the baseline of the Philippine Archipelago.
 - m. "Contract Area" means the land or body of water delineated under a Mineral Agreement or FTAA subject to the relinquishment obligations of the Contractor and properly defined by longitude and latitude.
 - n. "Contractor" means a Qualified Person acting alone or in consortium who is a party to a Mineral Agreement or FTAA.
 - o. "Critical Watershed" refers to a drainage area of a river system, lake or water reservoir supporting existing and proposed hydroelectric power, domestic water supply, geothermal power and irrigation works, which needs immediate rehabilitation and protection to minimize soil erosion, improve water yield and prevent possible flooding.

- p. "DENR Project Area" refers to specific portions of land covered by an existing project of the Department such as, but not limited to, Industrial Forest Management Agreement (IFMA), Community Forest Management Agreement (CFMA), Community Forestry Program (CFP), Forest Land Management Agreement (FLMA) and Integrated Social Forestry Program (ISFP).
- q. "Department" means the Department of Environment and Natural Resources of the Republic of the Philippines.
- r. "Development" means the work undertaken to explore and prepare an orebody or a mineral deposit for mining, including the construction of necessary infrastructure and related facilities.
- s. "Development Stage" as used exclusively for FTAAAs means the period to prepare an explored orebody or mineral deposit for mining including the construction of necessary infrastructure and related facilities.
- t. "Director" means the Director of the Bureau.
- u. "Ecological Profile or Eco-Profile" refers to geographic-based instruments for planners and decision-makers, which presents a description of the environmental setting including the state of environmental quality and evaluation of the assimilative capacity of an area.
- v. "Effluent" means any wastewater, partially or completely treated, or any waste liquid flowing out of mining operations, wastewater treatment plants or tailings disposal system.
- w. "Environment" refers to the physical factors of the total surroundings of human beings, including the land, water, atmosphere, climate, sound, odors, tastes, the biological factors of animals and plants and the social factors of aesthetics. In a broad sense, it shall include the total

environment of human beings such as economic, social, cultural, political and historical factors.

- x. "Environmental Audit" refers to a systematic, documented verification process of objectively obtaining and evaluating audit evidence (verifiable information, records or statements of facts) to determine whether or not specified environmental activities, events, conditions, management systems or information about these matters conform with audit criteria (policies, practices, procedures or requirements against which the auditor compares collected audit evidence about the subject matter) and communicating the results of this process to the concerned stakeholders.

- y. "Environmental Compliance Certificate (ECC)" refers to the document issued by the Secretary or the Regional Executive Director certifying that based on the representations of the proponent and the preparers (the proponent's technical staff or the competent professional group commissioned by the proponent to prepare the EIS and other related documents), as reviewed and validated by the Environmental Impact Assessment Review Committee (EIARC), the proposed project or undertaking will not cause a significant negative environmental impact; that the proponent has complied with all the requirements of the Environmental Impact Assessment System; and that the proponent is committed to implement its approved Environmental Management Plan in the Environmental Impact Statement or mitigation measures in the Initial Environmental Examination.

- z. "Environmental Impacts" refer to the probable effects or consequences of proposed projects or undertakings on the physical, biological and socioeconomic environment that

can be direct or indirect, cumulative and positive or negative.

- aa. "Environmental Impact Assessment (EIA)" refers to the process of predicting the likely environmental consequences of implementing projects or undertakings and designing appropriate preventive, mitigating and enhancement measures.
- ab. "Environmental Impact Statement (EIS)" refers to the document(s) of studies on the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall contain in every case all relevant information and details about the proposed project or undertaking, including the environmental impacts of the project and the appropriate mitigating and enhancement measures.
- ac. "Environmental Management Record" refers to an applicant's high regard for the environment in its past resource use ventures and proof of its present technical and financial capability to undertake resource protection, restoration and/or rehabilitation of degraded areas and similar activities: *Provided*, That this shall not be required in cases where the applicant has no previous experience in resource use ventures, locally or internationally.
- ad. "Environmental Protection and Enhancement Program (EPEP)" refers to the comprehensive and strategic environmental management plan for the life of the mining project on which AEPEPs are based and implemented to achieve the environmental management objectives, criteria and commitments including protection and rehabilitation of the disturbed environment.

- ae. "Environmental Work Program (EWP)" refers to the comprehensive and strategic environmental management plan to achieve the environmental management objectives, criteria and commitments including protection and rehabilitation of the disturbed environment during the exploration period.
- af. "Exclusive Economic Zone" refers to the water, sea bottom and subsurface measured from the baseline of the Philippine Archipelago up to two hundred (200) nautical miles offshore.
- ag. "Exploration" means searching or prospecting for mineral resources by geological, geochemical and/or geophysical surveys, remote sensing, test pitting, trenching, drilling, shaft sinking, tunneling or any other means for the purpose of determining their existence, extent, quality and quantity and the feasibility of mining them for profit.
- ah. "Financial or Technical Assistance Agreement (FTAA)" means a contract involving financial or technical assistance for large-scale exploration, development and utilization of mineral resources.
- ai. "Force Majeure" means acts or circumstances beyond the reasonable control of Contractor/Permit Holder/Permittee/Lessee including, but not limited to, war, rebellion, insurrection, riots, civil disturbance, blockade, sabotage, embargo, strike, lockout, any dispute with surface owners and other labor disputes, epidemic, earthquake, storm, flood or other adverse weather conditions, explosion, fire, adverse action by Government or by any instrumentality or subdivision thereof, act of God or any public enemy and any cause as herein described over which the affected party has no reasonable control.

- aj. "Foreign-owned Corporation" means any corporation, partnership, association or cooperative duly registered in accordance with law in which less than fifty percent (50%) of the capital is owned by Filipino citizens.
- ak. "Forest Reservations" refer to forest lands which have been reserved by the President for any specific purpose or purposes pursuant to P.D. No. 705, or by an appropriate law.
- al. "Forest Reserves or Permanent Forests" refer to those lands of the public domain which have been the subject of the present system of classification and determined to be needed for forest purposes pursuant to P.D. No. 705.
- am. "Government" means the Government of the Republic of the Philippines.
- an. "Government Reservations" refer to all proclaimed reserved lands for specific purposes other than Mineral Reservations.
- ao. "Gross Output" means the actual market value of minerals or mineral products from each mine or mineral land operated as a separate entity, without any deduction for mining, processing, refining, transporting, handling, marketing or any other expenses: *Provided*, That if the minerals or mineral products are sold or consigned abroad by the Contractor under C.I.F. terms, the actual cost of ocean freight and insurance shall be deducted: *Provided, further*, That in the case of mineral concentrates which are not traded in commodity exchanges in the Philippines or abroad, such as copper concentrates, the actual market value shall be the world price quotations of the refined mineral products content thereof prevailing in the said commodity exchanges, after deducting the smelting,

refining, treatment, insurance, transportation and other charges incurred in the process of converting mineral concentrates into refined metal traded in those commodity exchanges.

- ap. "Ground Expenditures" mean the field and laboratory expenditures incurred for searching and delineating new or extension of orebodies in an approved FTAA area, including expenditures for social preparation, pre-feasibility studies and reasonable administrative expenses incurred for the FTAA project. Such expenses include those for geological, geophysical, geochemical and air-borne geophysical surveys, borehole drillings, tunneling, test pitting, trenching and shaft sinking. Contributions to the community and environment-related expenses during the exploration period shall form part of the ground expenditures.
- aq. "Indigenous Cultural Community" means a group or tribe of indigenous Filipinos who have continuously lived as communities on communally-bounded and defined land since time immemorial and have succeeded in preserving, maintaining and sharing common bonds of languages, customs, traditions and other distinctive cultural traits, and as may be defined and delineated by law.
- ar. "Initial Environmental Examination (IEE)" refers to the document required of proponents describing the environmental impact of, and mitigation and enhancement measures for projects or undertakings located in an Environmentally Critical Area (ECA) as listed under Presidential Proclamation No. 2146, Series of 1981, as well as other areas which the President may proclaim as environmentally critical in accordance with Section 4 of P.D. No. 1586.

- as. "Lessee" means a person or entity with a valid and existing mining lease contract.
- at. "Metallic Mineral" means a mineral having a brilliant appearance, quite opaque to light, usually giving a black or very dark streak, and from which a metallic element/component can be extracted/utilized for profit.
- au. "Mill Tailings" means materials whether solid, liquid or both segregated from the ores during concentration/milling operations which have no present economic value to the generator of the same.
- av. "Minerals" refer to all naturally occurring inorganic substances in solid, liquid, gas or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials and geothermal energy.
- aw. "Mineral Agreement" means a contract between the Government and a Contractor, involving Mineral Production Sharing Agreement, Co-Production Agreement or Joint Venture Agreement.
- ax. "Mineral Land" means any area where mineral resources, as herein defined, are found.
- ay. "Mineral Processing" means the milling, beneficiation, leaching, smelting, cyanidation, calcination or upgrading of ores, minerals, rocks, mill tailings, mine waste and/or other metallurgical by-products or by similar means to convert the same into marketable products.
- az. "Mineral Processing Permit" refers to the permit granted to a Qualified Person for mineral processing.
- ba. "Mineral Products" mean materials derived from ores, minerals and/or rocks and prepared into a marketable state by mineral processing.
- bb. "Mineral Reservations" refer to areas established and proclaimed as such by the President upon the

recommendation of the Director through the Secretary, including all submerged lands within the contiguous zone and Exclusive Economic Zone.

- bc. "Mineral Resources" mean any concentration of ores, minerals and/or rocks with proven or potential economic value.
- bd. "Mine Rehabilitation" refers to the process used to repair the impacts of mining on the environment. The long-term objectives of rehabilitation can vary from simply converting an area to a safe and stable condition to restoring the pre-mining conditions as closely as possible with all the area's environmental values intact and establishing a land use capability that is functional and proximate to the land use prior to the disturbance of the mine area.
- be. "Mine Waste" means soil and/or rock materials from surface or underground mining operations with no present economic value to the generator of the same.
- bf. "Mining Area" means a portion of the contract area identified by the Contractor as defined and delineated in a Survey Plan duly approved by the Director/concerned Regional Director for purposes of development and/or utilization, and sites for support facilities.
- bg. "Mining Operations" mean mining activities involving exploration, feasibility study, development and utilization.
- bh. "Mining Permits" include Exploration, Quarry, Sand and Gravel (Commercial, Industrial and Exclusive), Gratuitous (Government or Private), Guano, Gemstone Gathering and Small-Scale Mining Permits.
- bi. "Mining Right" means a right to explore, develop or utilize mineral resources.

- bj. "Mining Application" means any application for mining permit, Mineral Agreement or FTAA.
- bk. "Net Income" means gross income from operations less allowable deductions which are necessary or related to mining operations.
- bl. "Nonmetallic Mineral" refers to a mineral usually having a dull luster, generally light-colored, transmits light, usually giving either colorless or light colored streak from which a nonmetallic element/component can be extracted/utilized for a profit.
- bm. "Nongovernmental Organization (NGO)" includes nonstock, nonprofit organizations with qualifications, expertise and objectivity in activities dealing with resource and environmental conservation, management and protection.
- bn. "Offshore" means the water, sea bottom and subsurface from the shore or coastline reckoned from the mean low tide level up to the two hundred (200) nautical miles of the Exclusive Economic Zone.
- bo. "Onshore" means the landward side from the mean low tide level, including submerged lands in lakes, rivers and creeks.
- bp. "Ore" means naturally occurring substance or material from which a mineral or an element can be mined and/or processed for profit.
- bq. "Ore Transport Permit" refers to the permit that may be granted to a Contractor, accredited dealer, retailer, processor and other Permit Holders to transport minerals/mineral products.
- br. "People's Organization (PO)" refers to a group of people which may be an association, cooperative, federation or other legal entity established by the community to undertake collective action to address

community concerns and need and mutually share the benefits from the endeavor.

- bs. "Permittee" means the holder of an Exploration Permit. The Permittee referred to in previous administrative orders shall mean holders of permits subject of such orders.
- bt. "Permit Area" refers to area subject of mining permits.
- bu. "Permit Holder" means a holder of any mining permit issued under these implementing rules and regulations other than Exploration Permit.
- bv. "Pollution" refers to any alteration of the physical, chemical and/or biological properties of any water, air and/or land resources of the Philippines; or any discharge thereto of any liquid, gaseous or solid wastes; or any production of unnecessary noise or any emission of objectionable odor, as will or is likely to create or to render such water, air and land resources harmful, detrimental or injurious to public health, safety or welfare, or which will adversely affect their utilization for domestic, commercial, industrial, agricultural, recreational or other legitimate purposes.
- bw. "Pollution Control Devices and Facilities" refer to infrastructure, machinery, equipment and/or improvements used for impounding, treating or neutralizing, precipitating, filtering, conveying and cleansing mine industrial waste and tailings, as well as eliminating or reducing hazardous effects of solid particles, chemicals, liquids or other harmful by-products and gases emitted from any facility utilized in mining operations for their disposal.
- bx. "Pre-Operating Expenses" refer to all exploration expenses, special allowance, administrative costs related to the project, feasibility and environmental

- studies and all costs of mine construction and development incurred prior to commercial production.
- by. "President" refers to the President of the Republic of the Philippines.
 - bz. "Private Land" refers to land belonging to any private person or entity which includes alienable and disposable land being claimed by a holder, claimant or occupant who has already acquired a vested right thereto under the law, including those whose corresponding certificate or evidence of title or patent has not been actually issued.
 - ca. "Public Land" refers to land of the public domain which has been classified as agricultural land, mineral land, forest or timber land subject to management and disposition or concession under existing laws.
 - cb. "Qualified Person" means any Filipino citizen of legal age and with capacity to contract; or a corporation, partnership, association or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in accordance with law, at least sixty percent (60%) of the capital of which is owned by Filipino citizens: *Provided*, That a legally organized foreign-owned corporation shall be deemed a Qualified Person for purposes of granting an Exploration Permit, FTAA or Mineral Processing Permit only.
 - cc. "Quarrying" means the process of extracting, removing and disposing quarry resources found on or underneath the surface of public or private land.
 - cd. "Quarry Permit" refers to the permit granted to a Qualified Person for the extraction and utilization of quarry resources on public or private land.

- ce. "Quarry Resources" refer to any common rock or other mineral substances as the Director may declare to be quarry resources such as, but not limited to, andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clays for potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders and volcanic glass: *Provided*, That such quarry resources do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities: *Provided, further*, That nonmetallic minerals such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and semiprecious stones and other nonmetallic minerals that may later be discovered and which the Director declares to be of economically workable quantities, shall not be classified under the category of "Quarry Resources".
- cf. "Regional Director" means the Regional Director of any Regional Office.
- cg. "Regional Office" means any of the Regional Offices of the Mines and Geosciences Bureau.
- ch. "Secretary" means the Secretary of the Department.
- ci. "Service Contractor" means a person or entity who enters into an agreement to undertake a specific work related to mining or quarrying operations of a Contractor/Permit Holder/Permittee/Lessee.
- cj. "Special Allowance" refers to payment to the claimowner or surface right owners particularly during the transition period from P.D. No. 463 and Executive Order No. 279, Series of 1987.

- ck. "Stakeholders" refer to person(s)/entity(ies) who may be significantly affected by the project or undertaking, such as but not limited to, Contractor/Permit Holder/Permittee/Lessee, members of the local community industry, Local Government Units (LGUs), Nongovernmental Organizations (NGOs) and People's Organizations (POs).
- cl. "State" means the Republic of the Philippines.
- cm. "Tailings Disposal System" refers to a combination of methods, equipment and manpower used in handling, transporting, disposing and/or impounding mill tailings.
- cn. "Waste Dump" refers to a designated place where the mine waste are accumulated or collected.
- co. "Utilization" means the extraction, mineral processing and/or disposition of minerals.

CHAPTER II GOVERNMENT MANAGEMENT

Section 6. Authority of the Department

The Department is the primary Government agency responsible for the conservation, management, development and proper use of the State's mineral resources including those in reservations, watershed areas and lands of the public domain. The Department shall have the following authority, among others:

- a. To promulgate rules and regulations as may be necessary to implement the intent and provisions of the Act;
- b. To enter into Mineral Agreements on behalf of the Government or recommend FTAA to the President upon endorsement of the Director;

- c. To enforce applicable related laws such as Administrative Code, Civil Code, etc.; and
- d. To exercise such other authority vested by the Act and as provided for in these implementing rules and regulations.

The Secretary may delegate such authority and other powers and functions to the Director.

Section 7. Organization and Authority of the Bureau

The Mines and Geosciences Bureau shall be a line bureau primarily responsible for the implementation of the Act pursuant to Section 100 thereof. It shall be comprised of a Central Office and the necessary regional, district and such other offices as may be established in pertinent administrative orders issued by the Secretary. The staff Bureau created under Department Administrative Order No. 1, Series of 1988, shall become the Central Office of the Mines and Geosciences Bureau while the Mines and Geosciences Development Services created pursuant to Department Administrative Order No. 41, Series of 1990, shall become the Regional Offices.

The Bureau shall have the following authority, among others:

- a. To have direct charge in the administration and disposition of mineral lands and mineral resources;
- b. To undertake geological, mining, metallurgical, chemical and other researches, as well as mineral exploration surveys: *Provided*, That for areas closed to mining applications as provided for in Section 15 hereof, the Bureau can

- undertake studies for purposes of research and development;
- c. To confiscate, after due process, surety, performance and guaranty bonds after notice of violation;
 - d. To recommend to the Secretary the granting of Mineral Agreements or to endorse to the Secretary for action by the President the grant of FTAAAs, in favor of Qualified Persons and to monitor compliance by the Contractor with the terms and conditions of the Mineral Agreements and FTAAAs. For this purpose, an efficient and effective monitoring system shall be established to ascertain periodically whether or not these objectives are realized;
 - e. To cancel or to recommend cancellation, after due process, mining rights, mining applications and mining claims for noncompliance with pertinent laws, rules and regulations;
 - f. To deputize, when necessary, any member or unit of the Philippine National Police (PNP) and barangay, duly registered and Department-accredited Nongovernmental Organization (NGO) or any Qualified Person to police all mining activities;
 - g. To assist the Environmental Management Bureau (EMB) under the Department and/or the Department Regional Office in the processing or conduct of Environmental Impact Assessment in mining projects; and
 - h. To exercise such other authority vested by the Act and as provided for in these implementing rules and regulations.

The Director may delegate such authority and other powers and functions to the Regional Director.

Section 8. Role of Local Government

Subject to Section 8 of the Act and pursuant to the Local Government Code and other pertinent laws, the Local Government Units (LGUs) shall have the following roles in mining projects within their respective jurisdictions:

- a. To ensure that relevant laws on public notice, public consultation and public participation are complied with;
- b. In coordination with the Bureau/Regional Office(s) and subject to valid and existing mining rights, to approve applications for small-scale mining, sand and gravel, quarry, guano, gemstone gathering and gratuitous permits and for industrial sand and gravel permits not exceeding five (5) hectares;
- c. To receive their share as provided for by law in the wealth generated from the utilization of mineral resources and thus enhance economic progress and national development;
- d. To facilitate the process by which the community shall reach an informed decision on the social acceptability of a mining project as a requirement for securing an Environmental Compliance Certificate (ECC);
- e. To participate in the monitoring of any mining activity as a member of the Multipartite Monitoring Team referred to in Section 185 hereof;

- f. To participate as a member of the Mine Rehabilitation Fund Committee as provided for in Sections 182 to 187 hereof;
- g. To be the recipient of social infrastructure and community development projects for the utilization of the host and neighboring communities in accordance with Chapter XIV hereof;
- h. To act as mediator between the Indigenous Cultural Community(ies) and the Contractor(s) as may be requested;
- i. To coordinate with the Department and Bureau in the implementation of the Act and these implementing rules and regulations in their respective jurisdictions. In areas covered by the Southern Philippines Council for Peace and Development (SPCPD), Autonomous Region of Muslim Mindanao (ARMM) and future similar units, the appropriate offices of said units shall coordinate with the Department and Bureau in the implementation of the Act and these implementing rules and regulations; and
- j. To perform such other powers and functions as may be provided for by applicable laws, rules and regulations.

CHAPTER III
MINERAL RESERVATIONS
AND GOVERNMENT RESERVATIONS

Section 9. Establishment, Disestablishment or Modification of Boundary of a Mineral Reservation

In all cases, the Director shall conduct public hearings allowing all concerned sectors and communities, interested Nongovernmental and People's Organizations, as well as Local Government Units, to air their views regarding the establishment, disestablishment or modification of any Mineral Reservation. The public shall be notified by publication in a newspaper of general circulation in the province, as well as by posting in all affected municipalities and barangays, at least thirty (30) days before said hearings are conducted.

The recommendation of the Director shall be in writing stating therein the grounds for the establishment, disestablishment or modification of any specific Mineral Reservation and shall likewise be published after submission to the Secretary.

No recommendation of the Director shall be acted upon by the Secretary unless the preceding paragraph has been strictly complied with.

Upon the recommendation of the Director through the Secretary, the President may, subject to valid and existing rights, set aside and establish an area as a Mineral Reservation when the national interest so requires, such as when there is a need to preserve strategic raw materials for industries critical to national development or certain minerals for scientific, cultural or ecological value. The Secretary shall cause the periodic review of existing Mineral Reservations by detailed geological, mineral and ecological evaluation for the purpose of determining whether or not their continued existence is consistent with the national interest and upon his/her recommendation, the President may, by proclamation, alter or modify the boundaries thereof or revert the same to the public domain without prejudice to prior existing rights.

In the proclamation of such Mineral Reservations, all valid and existing mining rights shall be respected.

Section 10. Government Reservations

For Government Reservations, the Department may directly undertake exploration, development and utilization of mineral resources. In the event that the Department can not undertake such activities, these may be undertaken by a Qualified Person: *Provided*, That the right to explore, develop and utilize the minerals found therein shall be awarded by the President under such terms and conditions as recommended by the Director and approved by the Secretary: *Provided, further*, That such right shall be granted only after exploration reveals the presence of economically potential deposits: *Provided, finally*, That the Permittee who undertook the exploration of said Reservation shall be given priority.

Section 11. Mining Operations within Mineral and Government Reservations

Mining operations in Mineral Reservations shall be undertaken by the Department or through a Qualified Person under any of the following modes:

- a. Exploration Permit;
- b. Mineral Agreement;
- c. Financial or Technical Assistance Agreement (FTAA);
- d. Small-Scale Mining Permit; and
- e. Quarry Permit.

Mining operations in Government Reservations shall be first undertaken through an Exploration Permit, subject to limitations prescribed therein, before the same is opened for Mineral Agreement/FTAA application or other mining applications.

Application for Exploration Permit/Mineral Agreement/FTAA/Quarry Permit within Mineral and Government Reservations

shall be governed by Chapters V, VI, VII and VIII of these implementing rules and regulations.

Section 12. Small-Scale Mining Operations within Mineral Reservations

Small-scale mining operations within Mineral Reservations shall be governed by the pertinent rules and regulations provided for in the Mineral Reservations Development Board (MRDB) Administrative Order No. 3, Series of 1984, and MRDB Administrative Order No. 3-A, Series of 1987, as amended, and as may be applicable. Small-scale mining cooperatives covered by R.A. No. 7076 shall be given preferential right to apply for a small-scale mining contract for a maximum aggregate area of twenty-five percent (25%) of a Mineral Reservation subject to valid and existing mining rights.

Section 13. Payment of Royalty of Minerals/Mineral Products Extracted from Mineral Reservations

The Contractors/Permit Holders/Lesseees shall pay to the Bureau a royalty which shall not be less than five percent (5%) of the market value of the gross output of the minerals/mineral products extracted or produced from the Mineral Reservations exclusive of all other taxes. A ten percent (10%) share of said royalty and ten percent (10%) of other revenues such as administrative, clearance, exploration and other related fees to be derived by the Government from the exploration, development and utilization of the mineral resources within Mineral Reservations shall accrue to the Bureau as a Trust Fund and shall be deposited in a Government depository bank to be allotted for special projects and other administrative expenses related to the exploration, development and environmental management of minerals in Government Reservations.

CHAPTER IV SCOPE OF APPLICATION

Section 14. Areas Open to Mining Applications

The following areas are open to mining applications:

- a. Public or private lands not covered by valid and existing mining rights and mining applications;
- b. Lands covered by expired/abandoned/canceled mining/quarrying rights;
- c. Mineral Reservations; and
- d. Timber or forest lands as defined in existing laws.

Section 15. Areas Closed to Mining Applications

Pursuant to the Act and in consonance with State policies and existing laws, areas may be either closed to mining applications or conditionally opened therefor.

- a. The following areas are closed to mining applications:
 1. Areas covered by valid and existing mining rights and mining applications subject to Subsection b(3) herein;
 2. Old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, tree parks, greenbelts, game refuge, bird sanctuaries and areas proclaimed as

marine reserves/marine parks and tourist zones as defined by law and identified initial components of the National Integrated Protected Areas System (NIPAS) pursuant to R.A. No. 7586 and such areas expressly prohibited thereunder, as well as under Department Administrative Order No. 25, Series of 1992, and other laws;

3. Areas which the Secretary may exclude based, *inter alia*, on proper assessment of their environmental impacts and implications on sustainable land uses, such as built-up areas and critical watersheds with appropriate barangay/municipal/city/provincial *Sanggunian* ordinance specifying therein the location and specific boundary of the concerned area; and
4. Areas expressly prohibited by law.

Mining applications which have been made over the foregoing areas shall be reviewed and, after due process, such areas may be excluded from said applications.

- b. The following areas may be opened for mining applications the approval of which are subject to the following conditions:
 1. Military and other Government Reservations, upon prior written clearance by the Government agency

having jurisdiction over such Reservations;

2. Areas near or under public or private buildings, cemeteries, archaeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works, including plantations or valuable crops, upon written consent of the concerned Government agency or private entity subject to technical evaluation and validation by the Bureau;
3. Areas covered by FTAA applications which shall be opened for quarry resources mining applications pursuant to Section 53 hereof upon the written consent of the FTAA applicants, except for sand and gravel applications which shall require no such consent;
4. Areas covered by small-scale mining under R.A. No. 7076/P.D. No. 1899 upon prior consent of the small-scale miners, in which case a royalty payment, upon the utilization of minerals, shall be agreed upon by the concerned parties and shall form a Trust Fund for the socioeconomic development of the concerned community; and
5. DENR Project Areas upon prior consent from the concerned agency.

The Bureau shall cause the periodic review of areas closed to mining applications for the purpose of determining whether or not their continued closure is consistent with the national interest and render its recommendations, if any, to the Secretary for appropriate action.

Section 16. Ancestral Lands

In no case shall Mineral Agreements, FTAAAs or mining permits be granted in areas subject of Certificates of Ancestral Domains/Ancestral Land Claims (CADC/CALC) or in areas verified by the Department Regional Office and/or other office or agency of the Government authorized by law for such purpose as actually occupied by Indigenous Cultural Communities under a claim of time immemorial possession except with their prior consent.

Prior consent refers to prior informed consent obtained, as far as practicable, in accordance with the customary laws of the concerned Indigenous Cultural Community. Prior informed consent should meet the minimum requirements of public notice through various media such as, but not limited to, newspaper, radio or television advertisements, fully disclosing the activity to be undertaken and/or sector consultation wherein the Contractor/Permit Holder/Permittee should arrange for a community assembly, notice of which should be announced or posted in a conspicuous place in the area for at least a month before the assembly: *Provided*, That the process of arriving at an informed consent should be free from fraud, external influence and manipulations.

In the event that prior informed consent is secured in accordance with the preceding paragraph, the concerned parties shall agree on the royalty payment for the concerned Indigenous Cultural Community(ies) which may not be less than one percent (1%) of the gross output. Expenses for community development may be credited to or charged against said royalty. Representatives from the

Bureau/concerned Regional Office(s), concerned Department offices, concerned LGUs, relevant NGOs/POs and the Office of the Northern/Southern Cultural Communities may be requested to act as mediators between the concerned Indigenous Cultural Community(ies) and the Contractor/Permit Holder/Permittee in the negotiation for the royalty payment.

In case of disagreement concerning the royalty due the concerned Indigenous Cultural Community(ies), the Department shall resolve the same within three (3) months. Said royalty shall form part of a Trust Fund for the socioeconomic well-being of the Indigenous Cultural Community(ies) in accordance with the management plan formulated by the same in the ancestral land or domain area: *Provided*, That the royalty payment shall be managed and utilized by the concerned Indigenous Cultural Community(ies).

Pending the enactment by Congress of a law on ancestral lands or domains, the implementation of this Section shall be in accordance with Department Administrative Order No. 2, Series of 1993, and other pertinent laws.

CHAPTER V EXPLORATION PERMIT

Section 17. General Provisions

Exploration activities may be directly undertaken by the Bureau or on behalf of the Contractor subject to reimbursement of all expenditures. In the event that the Bureau can not undertake such exploration activities, the same may be undertaken by a Qualified Person in specified areas as determined by the Director.

Section 18. Term/Maximum Areas Allowed under an Exploration Permit

The term of an Exploration Permit shall be for a period of two (2) years from date of issuance thereof, renewable for like periods but not to exceed a total term of six (6) years: *Provided*, That no renewal of Permit shall be allowed unless the Permittee has complied with all the terms and conditions of the Permit and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations.

The maximum area that a Qualified Person may apply for or hold at any one time under an Exploration Permit shall be as follows:

- a. Onshore, in any one province -
 1. For individuals - twenty (20) blocks or approximately one thousand six hundred twenty (1,620) hectares and
 2. For corporations, partnerships, associations or cooperatives - two hundred (200) blocks or approximately sixteen thousand two hundred (16,200) hectares.

- b. Onshore, in the entire Philippines -
 1. For individuals - forty (40) blocks or approximately three thousand two hundred forty (3,240) hectares and
 2. For corporations, partnerships, associations or cooperatives - four hundred (400) blocks or approximately thirty-two thousand four hundred (32,400) hectares.

- c. Offshore, in the entire Philippines, beyond five hundred meters (500 m) from the mean low tide level -
 - 1. For individuals - one hundred (100) blocks or approximately eight thousand one hundred (8,100) hectares and
 - 2. For corporations, partnerships, associations or cooperatives - one thousand (1,000) blocks or approximately eighty-one thousand (81,000) hectares.

The permit area is subject to relinquishment as provided for in Section 22(f) hereof.

Section 19. Application for Exploration Permit/Mandatory Requirements

Any Qualified Person may apply for an Exploration Permit (MGB Form No. 5-1) with the concerned Regional Office, except for offshore Exploration Permit applications which shall be filed with the Bureau, through payment of the required fees (Annex 5-A) and submission of five (5) sets of the following mandatory requirements:

- a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using National Mapping and Resource Information Authority (NAMRIA) topographic map in a scale of 1:50,000 duly

- prepared, signed and sealed by a deputized Geodetic Engineer;
- b. Two-year Exploration Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
 - c. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;
 - d. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) as provided for in Section 168 hereof;
 - e. Proof of technical competence including, among others, curricula vitae and track records in exploration and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration and Environmental Work Programs;
 - f. Proof of financial capability to undertake the Exploration and Environmental Work Programs such as the following:
 - 1. For individuals - Statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding year and

2. For corporations, partnerships, associations or cooperatives - Latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments.
- g. Photocopy of Articles of Incorporation/Partnership/Association, By-Laws and Certificate of Registration, duly certified by the Securities and Exchange Commission (SEC) or concerned authorized Government agency(ies), for corporations, partnerships, associations or cooperatives;
- h. Declaration of the total area covered by approved/pending Exploration Permit(s)/application(s); and
- i. Other supporting papers as the Bureau/concerned Regional Office may require or the applicant may submit.

For offshore Exploration Permit applications, the following additional requirements shall be submitted:

- a. The name, port of registry, tonnage, type and class of survey vessel(s)/platform(s): *Provided*, That if a foreign vessel is to be used, the expected date of first entry or appearance and final departure of the survey vessel shall be provided and all the necessary clearances obtained;
- b. A certification from the Coast and Geodetic Survey Department of the NAMRIA that the proposed Exploration Work Program was duly registered to provide update in the publication

of "Notice to Mariners" together with a list of safety measures to be regularly undertaken to ensure the safety of navigation at sea and prevent accident;

- c. An agreement to:
 - 1. Properly identify all installations, vessels and other crafts involved in exploration recognizable to all vessels within reasonable distance;
 - 2. Notify the Bureau thirty (30) calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and
 - 3. Allow the Bureau's authorized personnel, Philippine Coast Guard and other authorized persons during reasonable hours to board the vessel(s) while within the Exclusive Economic Zone.

- d. Other supporting papers as the Bureau may require or the applicant may submit.

If the applicant conducts or has conducted exploration in a foreign country(ies), the Department shall verify the relevant requirements through the Philippine Embassy(ies) or Consulate(s) based in such country(ies).

Where the area applied for falls within the administration of two (2) or more Regional Offices, the application shall be filed with the Regional Office where the comparatively larger portion of the area is

located, copy furnished the other concerned Regional Office(s) by the applicant within three (3) working days from the date of filing.

The Regional Office shall regularly provide the Bureau with a list, consolidated map and status report of the Exploration Permit applications filed in its jurisdiction.

Section 20. Area Status/Clearance

Within fifteen (15) working days from receipt of the Exploration Permit application, the Bureau for areas within Mineral Reservations, or the concerned Regional Office(s), for areas outside Mineral Reservations, shall check in the control maps if the area is free/open for mining applications. The Regional Office shall also transmit a copy of the location map/sketch plan of the applied area to the pertinent Department sector(s) affected by the Exploration Permit application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the Regional Office as to the transmittal of said document to the concerned Department sector(s) and/or Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Department sector(s) and/or Government agency(ies). The concerned Department sector(s) must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Regional Offices, the concerned Regional Office(s) which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/ clearance is denied, the applicant may appeal the same to the Office of the Secretary.

If the proposed permit area is open for mining applications, the Bureau/concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Bureau/Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of Exploration Permit application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the Regional Director shall exert all efforts to resolve the same.

Section 21. Publication/Posting/Radio Announcement of an Exploration Permit Application

Within fifteen (15) working days from receipt of the necessary area clearances, the Bureau/concerned Regional Office(s) shall issue to the applicant the Notice of Application for Exploration Permit for publication, posting and radio announcement which shall be done within fifteen (15) working days from receipt of the Notice. The Notice must contain, among others, the name and complete address of the applicant, duration of the permit applied for, extent of exploration activities to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed permit area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

The Bureau/concerned Regional Office(s) shall cause the publication of the Notice once a week for two (2) consecutive weeks in two (2) newspapers: one of general circulation published in Metro

Manila and another published in the municipality or province where the proposed permit area is located, if there be such newspapers; otherwise, in the newspaper published in the nearest municipality or province.

The Bureau/concerned Regional Office shall also cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the Bureau, the concerned Regional Office(s), Provincial Environmental and Natural Resources Office(s) (PENRO(s)), Community Environmental and Natural Resources Office(s) (CENRO(s)) and in the concerned province(s) and municipality(ies), copy furnished the barangay(s) where the proposed permit area is located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

The radio announcements shall be made daily for two (2) consecutive weeks in a local radio program and shall consist of the name and complete address of the applicant, area location, duration of the permit applied for and instructions that information regarding such application may be obtained at the Bureau/concerned Regional Office(s). The publication and radio announcements shall be at the expense of the applicant.

Within thirty (30) calendar days from the last date of publication/posting/radio announcements, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the publication/posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of publication/posting/radio announcement, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or

opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days therefrom.

However, previously published valid and existing mining claims are exempted from the publication/posting/radio announcement required under this Section.

No Exploration Permit shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved.

Section 22. Terms and Conditions of an Exploration Permit

An Exploration Permit shall contain the following terms and conditions:

- a. The right to explore shall be subject to valid, prior and existing rights of any party(ies) within the subject area;
- b. The Permit shall be for the exclusive use and benefit of the Permittee or its duly authorized representative and, shall under no circumstances, be used by the Permittee for purposes other than exploration;
- c. The term of the Permit shall be for a period of two (2) years from date of issuance thereof, renewable for like periods but not to exceed a total term of six (6) years: *Provided*, That no renewal of Permit shall be allowed unless the Permittee has complied with the terms and conditions of the Permit and shall not have been

found guilty of violation of any provision of the Act and these implementing rules and regulations;

- d. The Permittee shall submit to the Bureau/concerned Regional Office within thirty (30) calendar days after the end of each semester a report under oath of the Exploration Work Program implementation and expenditures showing discrepancies/deviations including the results of the survey, laboratory reports, geological reports/maps subject to semiannual inspection and verification by the Bureau/concerned Regional Office at the expense of the Permittee: *Provided*, That any expenditure in excess of the yearly budget of the approved Exploration Work Program may be carried forward and credited to the succeeding years covering the duration of the Permit;
- e. The Permittee shall submit to the Bureau/concerned Regional Office within thirty (30) calendar days from the end of six (6) months after the approval of the Environmental Work Program (EWP) and every six (6) months thereafter a status report on its compliance with the said EWP;
- f. The Permittee shall annually relinquish at least 20% of the permit area during the first two (2) years of exploration and at least 10% of the remaining permit area annually during the extended exploration period. However, if the permit area is less than five thousand (5,000) hectares, the Permittee need not relinquish any part thereof. A

separate report of relinquishment shall be submitted to the Bureau/concerned Regional Office with a detailed geologic report of the relinquished area accompanied by maps at a scale of 1:50,000 and results of analyses and corresponding expenditures, among others. The minimum exploration expenditures for the remaining area after relinquishment shall be based on the approved Exploration Work Program;

- g. The Secretary or his/her duly authorized representative shall annually review the performance of the Permittee;
- h. The Permittee shall submit to the Bureau/concerned Regional Office a final report upon the expiration or relinquishment of the Permit or its conversion into Mineral Agreement or FTAA in a form and substance comparable to published reports of respected international organizations and shall incorporate all the findings in the permit area, including locations of samples, assays, chemical analyses and assessment of the mineral potential. Such report shall include complete detailed expenditures incurred during the exploration;
- i. In case of diamond drilling, the Permittee shall, upon request of the Director/concerned Regional Director, submit to the Bureau/concerned Regional Office a quarter of the core samples which shall be deposited in the Bureau/concerned Regional Office Core Library for reference and safekeeping;
- j. Offshore exploration activities shall be carried out in accordance with the United Nations Convention on the Law of the Sea (UNCLOS) and in a

manner that will not adversely affect the safety of navigation at sea and will ensure accommodation with other marine activities such as fishing, aquaculture, transportation, etc.;

- k. Onshore exploration activities shall be carried out in a manner that will, at all times, safeguard the environment;
- l. If the Permittee applies for a Mineral Agreement or FTAA over the permit area, the exploration period covered by the Exploration Permit shall be considered as the exploration period of the Mineral Agreement or FTAA;
- m. The Permittee shall comply with pertinent provisions of the Act and these implementing rules and regulations; and
- n. Other terms and conditions which the Bureau/concerned Regional Office may deem appropriate.

Section 23. Registration of Exploration Permit

Upon evaluation that all the terms and conditions are in order and that the subject area has been cleared from any conflict, the Director/concerned Regional Director shall approve and issue the Exploration Permit within thirty (30) calendar days from such evaluation and shall cause the registration of the same to the Bureau/concerned Regional Office after payment of the required fees (Annex 5-A). In case of renewal, the Secretary shall issue the Exploration Permit (MGB Form No. 5-2) within thirty (30) calendar days from the recommendation of the Director.

Section 24. Rights and Obligations of the Permittee

The Permittee, its heirs or successors-in-interest shall have the right to enter, occupy and explore the permit area, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Exploration Permit.

Section 25. Transfer or Assignment of Exploration Permit

An Exploration Permit may be transferred or assigned to another Qualified Person(s) subject to the approval of the Secretary upon the recommendation of the Director.

Section 26. Relinquishment of Areas Covered by Exploration Permit

The Permittee may, at any time, relinquish the whole or any portion of the total permit area by filing a notice of relinquishment with the Bureau/concerned Regional Office.

Section 27. Renewal of Exploration Permit

Within sixty (60) calendar days before the expiration of an Exploration Permit, the Permittee may submit to the Bureau, copy furnished the concerned Regional Office, an application to renew the Exploration Permit accompanied by five (5) sets of the following mandatory requirements:

- a. Justification of renewal;
- b. Comprehensive and validated technical report on the outcome of the two-year exploration works, including their environmental effects duly

- prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- c. Audited report of expenditures incurred during the exploration period;
 - d. Two-year Exploration Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
 - e. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) as provided for in Section 168 hereof; and
 - f. Other supporting papers as the Department/Bureau may require or the applicant may submit.

The Secretary may grant the renewal after field verification by the Bureau/concerned Regional Office of the foregoing requirements, which field verification shall be undertaken at the expense of the Permittee.

Section 28. Cancellation of an Exploration Permit

The Director/concerned Regional Director may cancel the Exploration Permit for failure of the Permittee to comply with any of the requirements and for violation(s) of the terms and conditions under which the Permit is issued. For renewed Exploration Permits, the Secretary upon the recommendation of the Director shall cause the cancellation of the same.

Upon cancellation of the Permit covering areas within Government Reservations, the said areas shall automatically be reverted back to its original status.

Section 29. Effect of Relinquishment or Cancellation of Exploration Permit

The foregoing provisions notwithstanding, relinquishment or cancellation shall not release the Permittee from any and all obligations it may have, particularly with regard to ecological management, at the time of relinquishment or cancellation.

Section 30. Declaration of Mining Project Feasibility

If results of exploration reveal the presence of mineral deposits economically and technically feasible for mining operations, the Permittee may, within the term of the Exploration Permit, file a declaration of mining project feasibility. The approval of the declaration of mining project feasibility by the Director/concerned Regional Director shall grant the Permittee the exclusive right to a Mineral Agreement or FTAA over the permit area: *Provided*, That failure of the Permittee to apply for Mineral Agreement or FTAA within a period of one (1) year from the date of approval of the declaration of mining project feasibility shall mean automatic cancellation of the declaration of mining project feasibility.

The application for Mineral Agreement or FTAA by a Permittee shall be accompanied by five (5) sets of the following mandatory requirements:

- a. Mining Project Feasibility Study (MGB Form No. 5-3);
- b. Complete Geologic Report of the area;
- c. Approved Survey Plan;
- d. Three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
- e. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during

the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;

- f. Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable;
- g. Proof of financial capability to undertake the activities pursuant to Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable, such as statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding year;
- h. Proof of award of the area by the President for areas within Government Reservations; and
- i. Other supporting papers as the Department/Bureau may require or the applicant may submit.

The processing of the application for a Mineral Agreement or FTAA shall be in accordance with Chapters VI and VII, respectively, of these implementing rules and regulations.

CHAPTER VI MINERAL AGREEMENTS

Section 31. Kinds of Mineral Agreements and Nature Thereof

There are three (3) kinds of Mineral Agreements, namely:

- a. Mineral Production Sharing Agreement (MPSA) - an agreement wherein the Government grants to the Contractor the exclusive right to conduct mining operations within, but not title over, the contract area and shares in the production whether in kind or in value as owner of the minerals therein. The Contractor shall provide the necessary financing, technology, management and personnel;
- b. Co-Production Agreement (CA) - an agreement between the Government and the Contractor wherein the Government shall provide inputs to the mining operations other than the mineral resources; and
- c. Joint Venture Agreement (JVA) - an agreement where a joint venture company is organized by the Government and the Contractor with both parties having equity shares. Aside from earnings in equity, the Government shall be entitled to a share in the gross output.

Section 32. Eligibility of Applicant for Mineral Agreement

The following Qualified Person may apply for a Mineral Agreement for the exploration, development and utilization of mineral resources:

- a. In case of an individual - must be a Filipino citizen of legal age and with capacity to contract; or
- b. In case of a corporation, partnership, association or cooperative - must be organized or authorized for the purpose of engaging in mining, duly registered in accordance with law, at least sixty percent (60%) of the capital of which is owned by Filipino citizens.

Section 33. Maximum Areas Allowed under a Mineral Agreement

The maximum area that a Qualified Person may apply for or hold at any one time under a Mineral Agreement shall be as follows:

- a. Onshore, in any one province -
 1. For individuals - ten (10) blocks or approximately eight hundred ten (810) hectares and
 2. For corporations, partnerships, associations or cooperatives -one hundred (100) blocks or approximately eight thousand one hundred (8,100) hectares.

- b. Onshore, in the entire Philippines -
 - 1. For individuals - twenty (20) blocks or approximately one thousand six hundred twenty (1,620) hectares and
 - 2. For corporations, partnerships, associations or cooperatives - two hundred (200) blocks or approximately sixteen thousand two hundred (16,200) hectares.

- c. Offshore, in the entire Philippines, beyond five hundred meters (500 m) from the mean low tide level -
 - 1. For individuals - fifty (50) blocks or approximately four thousand fifty (4,050) hectares,
 - 2. For corporations, partnerships, associations or cooperatives - five hundred (500) blocks or approximately forty thousand five hundred (40,500) hectares and
 - 3. For the Exclusive Economic Zone - a larger area to be determined by the Secretary upon the recommendation of the Director.

The above-mentioned maximum areas that a Contractor may apply for or hold under a Mineral Agreement shall not include mining/quarry areas under operating agreements between the Contractor and a claimowner/Lessee/Permittee/licensee entered into under P.D. No. 463.

Section 34. Term of a Mineral Agreement

A Mineral Agreement shall have a term not exceeding twenty-five (25) years from the date of execution thereof, and renewable for another term not exceeding twenty-five (25) years under the same terms and conditions thereof, without prejudice to changes mutually agreed upon by the Government and the Contractor.

After the renewal period, the operation of the mine may be undertaken by the Government or through a Contractor. The contract for the operation of a mine shall be awarded to the highest bidder in a public bidding after due publication of the notice thereof: *Provided*, That the original Contractor shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

Section 35. Mandatory Requirements for Mineral Agreement Application

The applicant shall submit at least five (5) sets of the following mandatory requirements depending on the type of agreement applied for:

- a. For individuals -
 1. Location map/sketch plan of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly

- prepared, signed and sealed by a deputized Geodetic Engineer;
2. Two-year Exploration Work Program (MGB Form No. 5-4) or three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
 3. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;
 4. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
 5. Proof of technical competence including, among others, curricula vitae

and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/ Development/ Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable;

6. Proof of financial capability to undertake the activities pursuant to Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable, such as statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding year;
7. Declaration of the total area covered by approved/pending Mineral Agreement(s)/ application(s); and
8. Other supporting papers as the Department/Bureau/ concerned Regional Office may require or the applicant may submit.

- b. For corporations, partnerships, associations or cooperatives -
 1. Duly certified Certificate of Registration issued by the Securities and Exchange

- Commission or concerned authorized Government agency;
2. Duly certified Articles of Incorporation/Partnership/Association and By-Laws;
 3. Location map/sketch plan of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
 4. Two-year Exploration Work Program (MGB Form No. 5-4) or three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
 5. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;

6. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
7. Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted
Exploration/Development/Utilization
Work Program and Environmental
Work/Environmental Protection and
Enhancement Program, as deemed
applicable;
8. Proof of financial capability to undertake the activities pursuant to
Exploration/Development/Utilization
Work Program and Environmental
Work/Environmental Protection and
Enhancement Program, as deemed
applicable, such as latest Audited
Financial Statement and where
applicable, Annual Report for the
preceding year, credit lines, bank

- guarantees and/or similar negotiable instruments;
9. Declaration of the total area covered by approved/pending Mineral Agreement(s)/application(s); and
 10. Other supporting papers as the Department/ Bureau/ concerned Regional Office may require or the applicant may submit.

If the applicant conducts or has conducted mining operations in a foreign country(ies), the Department shall verify the relevant requirements through the Philippine Embassy(ies) or Consulate(s) based in such country(ies).

- c. For holders of valid and existing mining lease contracts, operating agreements, Quarry Permits/licenses or unperfected mining/ quarry claims, the following shall be submitted in addition to the aforesaid requirements, whenever applicable, namely:
 1. Certification from the concerned Regional Office that the mining/quarry claims are valid and subsisting;
 2. Appropriate environmental report on the rehabilitation of mined-out and/or mine waste/tailings-covered areas and anti-pollution measures undertaken during the mining operations;
 3. Environmental Compliance Certificate for any new phase outside of the originally approved operation under the mining project;

4. Mining Project Feasibility Study (MGB Form No. 5-3);
5. Three-year Development/Construction/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
6. Approved Survey Plan of the mining area; and
7. Other supporting papers as the Department/ Bureau/ concerned Regional Office may require or the applicant may submit.

Section 36. Filing of Mineral Agreement Applications

The Mineral Agreement application (MGB Form No. 6-1) shall be filed by the applicant either personally or through its duly authorized representative with the Bureau/concerned Regional Office: *Provided*, That any application that transcends into two (2) or more regions shall be filed with the Regional Office which has the largest area covered by the application, copy furnished the other concerned Regional Office(s) by the applicant: *Provided, further*, That a Mineral Agreement application shall be accepted only upon payment of the required fees (Annex 5-A) to the Bureau/concerned Regional Office: *Provided, finally*, That any application with incomplete mandatory requirements shall not be accepted.

The Regional Office shall regularly provide the Bureau with a list, consolidated map and status report of Mineral Agreement applications filed in its jurisdiction.

Section 37. Area Status/Clearance

Within fifteen (15) working days from receipt of the Mineral Agreement application, the Bureau/concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications. The Regional Office shall also transmit a copy of the location map/sketch plan of the applied area to the pertinent Department sector(s) affected by the Mineral Agreement application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the Regional Office as to the transmittal of said document to the concerned Department sector(s) and/or Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Department sector(s) and/or Government agency(ies). The concerned Department sector(s) must submit the area status/consent/clearance on the proposed contract area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Regional Offices, the concerned Regional Office(s) which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/clearance is denied, the applicant may appeal the same to the Office of the Secretary.

If the proposed contract area is open for mining applications, the Bureau/concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Bureau/Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall,

within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of Mineral Agreement application: *Provided, further,* That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the Regional Director shall exert all efforts to resolve the same.

Section 38. Publication/Posting/Radio Announcement of a Mineral Agreement Application

Within fifteen (15) working days from receipt of the necessary area clearances, the Bureau/concerned Regional Office(s) shall issue to the applicant the Notice of Application for Mineral Agreement for publication, posting and radio announcement which shall be done within fifteen (15) working days from receipt of the Notice. The Notice must contain, among others, the name and complete address of the applicant, duration of the agreement applied for, extent of operation to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed contract area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

The Bureau/concerned Regional Office(s) shall cause the publication of the Notice once a week for two (2) consecutive weeks in two (2) newspapers: one of general circulation published in Metro Manila and another published in the municipality or province where the proposed contract area is located, if there be such newspapers; otherwise, in the newspaper published in the nearest municipality or province.

The Bureau/concerned Regional Office shall also cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the Bureau, the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished the barangay(s) where the proposed contract area is

located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

The radio announcements shall be made daily for two (2) consecutive weeks in a local radio program and shall consist of the name and complete address of the applicant, area location, duration of the agreement applied for and instructions that information regarding such application may be obtained at the Bureau/concerned Regional Office(s). The publication and radio announcements shall be at the expense of the applicant.

Within thirty (30) calendar days from the last date of publication/posting/radio announcements, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the publication/posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of publication/posting/radio announcement, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days therefrom.

However, previously published valid and existing mining claims are exempted from the publication/posting/radio announcement required under this Section.

No Mineral Agreement shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

Section 39. Terms and Conditions of a Mineral Agreement

The following terms and conditions shall be incorporated in the Mineral Agreement, namely:

- a. A stipulation that the Contractor shall not, by virtue of the Mineral Agreement, acquire any title over the contract/mining area without prejudice to the acquisition by the Contractor of the land/surface rights through any mode of acquisition provided for by law;
- b. Representations and warranties that the Contractor has, or has access to, all the financing and technical capability and technology required to promptly and effectively carry out the objectives of the Agreement with the understanding to timely utilize these resources under its supervision pursuant to the periodic work programs and related budgets, and when proper, providing an exploration period up to two (2) years from date of issuance thereof, renewable for like periods but not to exceed a total term of six (6) years, subject to annual review by the Director in accordance with these implementing rules and regulations;
- c. Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the Agreement;

- d. A stipulation that the Contractor may relinquish totally or partially the original contract area during the exploration period. After the exploration period and prior to or upon approval of declaration of mining project feasibility, the Contractor shall finally relinquish to the Government any portion of the contract area which shall not be necessary for mining operations and not covered by any declaration of mining feasibility with the corresponding submission to the Bureau/concerned Regional Office of geologic report and pertinent maps in the scale of 1:50,000. The minimum exploration expenditures for the remaining area after relinquishment shall be based on the approved Exploration Work Program;
- e. A stipulation that each mining area after final relinquishment shall not be more than five thousand (5,000) hectares for metallic minerals and two thousand (2,000) hectares for nonmetallic minerals: *Provided*, That the Director, with the approval of the Secretary, may allow a Contractor to hold a larger mining area depending upon the nature of the deposit subject to technical verification and evaluation by the Bureau as to the technical/financial capability of the Contractor;
- f. A stipulation that the mining operations shall be conducted in accordance with the provisions of the Act and these implementing rules and regulations;
- g. A stipulation that the Contractor shall give preference to goods and services produced and

- offered in the Philippines of comparative quality and cost. In particular, the Contractor shall give preference to qualified Filipino construction enterprises, construction materials and skills available in the Philippines, Filipino sub-contractors for road construction and transportation, and Philippine household equipment, furniture and food;
- h. A stipulation that the Contractor is obliged to give preference to Filipinos in all types of mining employment for which they are qualified and that the technology shall be transferred to the same;
 - i. A stipulation that the Contractor shall not discriminate on the basis of gender and that the Contractor shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
 - j. A stipulation requiring the Contractor to effectively use the best available appropriate anti-pollution technology and facilities to protect the environment and to restore or rehabilitate mined-out areas and other areas affected by mine waste/mill tailings and other forms of pollution or destruction in compliance with the requirements of the ECC and P.D. No. 984. This should be undertaken in coordination with the EMB/Department Regional Office;
 - k. A stipulation that the Contractor shall furnish the Government an annual report of its mining operations and records of geologic, accounting and other relevant data, and that book of accounts

and records shall be open for inspection by the Government;

- l. A stipulation requiring the Contractor to dispose of the minerals and by-products produced at the highest market price and to negotiate for more advantageous terms and conditions subject to the right to enter into long-term sales or marketing contracts or foreign exchange and commodity hedging contracts which the Government acknowledges to be acceptable notwithstanding that the sale price of the minerals may from time to time be lower, or the terms and conditions of sales are less favorable, than that available elsewhere: *Provided*, That the Bureau is furnished a copy of the said Sales Agreement subject to confidentiality between the Bureau and the Contractor;
- m. A stipulation providing for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the Agreement;
- n. A stipulation that the Contractor shall pay fees, taxes, royalties and other obligations in accordance with existing laws, rules and regulations;
- o. A stipulation that alien employment shall be limited to technologies requiring highly specialized training and experience subject to the required approval under existing laws, rules and regulations;
- p. A stipulation that in every case where foreign technologies are utilized and where alien executives are employed, an effective program of training under studies shall be undertaken;

- q. A stipulation that the Contractor shall conform with laws, rules and regulations regarding, among others, labor, safety and health standards;
- r. A stipulation that the Contractor shall confine its mining operations to its contract/mining area and that it shall not interfere with the rights of other Contractors/Lessees/operators/Permittees/Permit Holders;
- s. A stipulation that the Contractor shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;
- t. A stipulation that the Contractor shall contribute to the development of the host and neighboring communities of the mining area, local geoscience and mining technology in accordance with Chapter XIV hereof;
- u. A stipulation that the Contractor shall comply with its obligations under its Environmental Protection and Enhancement Program (EPEP) and its Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;
- v. A stipulation that the Contractor shall utilize the best available appropriate and efficient mining and processing technologies;
- w. A stipulation that the Contractor shall undertake exploration work on the area as specified in its Agreement based on an approved Work Program: *Provided*, That a negative variance of at least twenty percent (20%) in the Work

Program and corresponding expenditures shall be subject to approval of the Director/concerned Regional Director;

- x. A stipulation that the Contractor shall submit annually starting from the date of approval of the Agreement, progress reports of the exploration activities in the prescribed form. This shall be accompanied by raw geologic, geophysical and geochemical data plotted in a 1:50,000 scale map, at a minimum. A quarterly report containing activities and accomplishments for each quarter shall also be submitted. At the end of the exploration term, the Contractor shall submit the final report with the detailed list of activities with the corresponding expenditures. The final report shall be accompanied by a 1:50,000 geologic map of the contract area acceptable by international standards. All reports referred to herein shall be submitted to the Bureau/concerned Regional Office;
- y. A stipulation that the Mineral Agreement shall be canceled, revoked or terminated for failure of the Contractor to comply with the terms and conditions thereof or for other grounds as provided for in Section 230 hereof;
- z. A stipulation that withdrawal by the Contractor from the Mineral Agreement shall not release it from any and all financial, environmental, legal and fiscal obligations under the Agreement;
- aa. A stipulation that the Contractor shall comply with all other applicable provisions of the Act

and these implementing rules and regulations;
and

- ab. Such other terms and conditions not inconsistent with the Constitution, the Act and these implementing rules and regulations, as well as those which the Secretary may deem to be for the national interest and public welfare.

The Department shall formulate and promulgate such other rules, regulations and guidelines necessary to ensure compliance with the terms and conditions herein stated.

Section 40. Transfer or Assignment of Mineral Agreement Application

Transfer or assignment of Mineral Agreement applications shall be allowed subject to the approval of the Director/concerned Regional Director taking into account the national interest and public welfare: *Provided*, That such transfer or assignment shall be subject to eligibility requirements and shall not be allowed in cases involving speculation.

Section 41. Evaluation of Mineral Agreement Application

Within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 38 hereof, the concerned Regional Director shall initially evaluate the Mineral Agreement applications in areas outside Mineral Reservations. He/She shall thereafter endorse his/her findings to the Bureau for further evaluation by the Director within fifteen (15) working days from receipt of forwarded documents. Thereafter, the Director shall endorse the same to the Secretary for consideration/approval within fifteen (15) working days from receipt of such endorsement.

In case of Mineral Agreement applications in areas within Mineral Reservations, within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 38 hereof, the same shall be evaluated and endorsed by the Director to the Secretary for consideration/approval within fifteen (15) working days from receipt of such endorsement.

Section 42. Temporary Exploration Permit

While awaiting for the approval of the Mineral Agreement application by the Secretary, the Director may, upon the request of the applicant, issue a one-time non-renewable Temporary Exploration Permit (TEP) with a term not exceeding one (1) year to undertake exploration subject to the applicable provisions of Chapter V of these implementing rules and regulations: *Provided*, That the term of the TEP shall be deducted from the exploration period of the Mineral Agreement: *Provided, further*, That in the event that the Mineral Agreement application is disapproved by the Secretary, the TEP is deemed automatically canceled.

Section 43. Registration of Mineral Agreement

Upon approval of the Mineral Agreement by the Secretary, the same shall be forwarded to the Bureau for numbering. The Director shall notify the Contractor to cause the registration of its Mineral Agreement with the Bureau for areas inside Mineral Reservations or with the concerned Regional Office for areas outside Mineral Reservations within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The Bureau/concerned Regional Office shall officially release the Mineral Agreement to the Contractor after registration of the same.

Failure of the Contractor to cause the registration of its Mineral Agreement within the prescribed period shall be a sufficient ground for cancellation of the same.

Section 44. Rights and Obligations of the Contractor

The Contractor, its heirs or successors-in-interest shall have the right to exclusively conduct mining operations within the contract area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Mineral Agreement.

Section 45. Conversion of a Mineral Agreement into Any Other Mode of Mineral Agreement or FTAA

A Contractor may at its option convert totally or partially its Mineral Agreement into another mode of Mineral Agreement or FTAA by filing a Letter of Intent with the Bureau, copy furnished the concerned Regional Office. All revisions to the Mineral Agreement required by its conversion into any other mode of Mineral Agreement or FTAA shall be submitted to the Director within sixty (60) calendar days from the date of filing the Letter of Intent.

Upon compliance by the Contractor with all the requirements and payment of conversion fee (Annex 5-A), the application for conversion shall be evaluated and approved subject to Chapters VI and VII and all other applicable provisions of the Act and these implementing rules and regulations: *Provided*, That the term of the new Mineral Agreement or FTAA shall be equivalent to the remaining period of the original Agreement.

Section 46. Transfer or Assignment of Mineral Agreement

A Contractor may file an application for the total or partial transfer or assignment of its Mineral Agreement to a Qualified Person(s) upon payment of an application fee (Annex 5-A) with the Bureau/concerned Regional Office for evaluation. No application shall be accepted for filing unless accompanied by the pertinent Deed of Assignment that shall contain, among others, a stipulation that the transferee/assignee assumes all obligations of the transferor/assignor under the Agreement. Any transfer or assignment of rights and obligations under any Mineral Agreement shall be subject to the approval of the Secretary upon the recommendation of the Director: *Provided*, That any transfer or assignment of a Mineral Agreement shall not be approved unless the transferor/assignor or Contractor has complied with all the terms and conditions of the Agreement and the provisions of the Act and these implementing rules and regulations at the time of transfer/assignment: *Provided, further*, That any transfer or assignment shall be deemed automatically approved if not acted upon by the Secretary within thirty (30) calendar days from official receipt thereof, unless patently unconstitutional, illegal or where such transfer or assignment is violative of pertinent rules and regulations: *Provided, finally*, That the transferee assumes all the obligations and responsibilities of the transferor/assignor under the Mineral Agreement.

If circumstances warrant and upon the recommendation of the Director, the Secretary may impose additional conditions for the approval of transfer/assignment of the Mineral Agreement.

Section 47. Withdrawal from a Mineral Agreement

The Contractor shall manifest in writing its request to the Director, copy furnished the concerned Regional Director, for withdrawal from the Mineral Agreement, if in its judgment the mining project is no longer economically feasible, even after it has exerted reasonable diligence to remedy the cause(s) or situation(s).

After verification and validation by the Bureau and upon compliance or satisfaction of all the Contractor's financial, fiscal, environmental and legal obligations at the time of withdrawal, the Director within a period of thirty (30) calendar days shall send an acceptance notice of withdrawal to the Contractor, cause the opening of the subject area to mining applications and release the Contractor's financial guaranty/performance bond.

Section 48. Issuance of Special Mines Permit

All holders of lease contracts which are about to expire and Quarry Permits/licenses with pending Mineral Agreement applications may file an application for Special Mines Permit with the Bureau/concerned Regional Office. A Special Mines Permit (SMP) may be issued by the Director/concerned Regional Director upon clearance by the Secretary and shall be for a period of one (1) year from the expiration of the lease contract or Quarry Permit/license, renewable once, subject to the following conditions and requirements:

- a. That the applicant is already operating or has completed the development/construction stage and is ready to begin operations subject to verification by the Bureau;
- b. That the applicant has already submitted a proposed Mineral Agreement;
- c. That the applicant has submitted a one-year Work Program duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
- d. Submission of Environmental Compliance Certificate, including proof of compliance therewith, if applicable;

- e. Submission of Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
- f. Submission of proof of satisfactory Environmental Management Record and Community Relations Record, if applicable;
- g. Posting of Surety Bond prior to registration of the SMP; and
- h. Such other conditions and requirements not inconsistent with the Act and these implementing rules and regulations, as well as those which the Secretary may deem to be for the national interest and public welfare.

Provided, That quarterly progress production reports shall be submitted by the holders of Special Mines Permits covering the subject areas for the purpose of computing the share of the Government from production as provided for in Chapter XXI hereof. Such share of the Government shall be the excise tax as provided for in R.A. No. 7729.

CHAPTER VII

FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT

Section 49. Eligibility of Applicant for Financial or Technical Assistance Agreement (FTAA)

Any Qualified Person may apply for an FTAA for large-scale exploration, development and utilization of mineral resources as enumerated in Section 50 hereof.

Section 50. Minerals Subject of FTAA

An FTAA may be entered into for the exploration, development and utilization of gold, copper, nickel, chromite, lead, zinc and other minerals: *Provided*, That no FTAA's may be granted with respect to cement raw materials, marble, granite, sand and gravel and construction aggregates.

Section 51. Maximum Areas Allowed under an FTAA

The maximum FTAA contract area that may be applied for or granted per Qualified Person in the entire Philippines shall be as follows:

- a. One thousand (1,000) meridional blocks or approximately eighty-one thousand (81,000) hectares onshore,
- b. Four thousand (4,000) meridional blocks or approximately three hundred twenty-four thousand (324,000) hectares offshore or
- c. Combination of one thousand (1,000) meridional blocks onshore and four thousand (4,000) meridional blocks offshore.

Section 52. Term of an FTAA

An FTAA shall have a term not exceeding twenty-five (25) years from the date of execution thereof, and renewable for another term not exceeding twenty-five (25) years under such terms and conditions as may be provided for by law and mutually agreed upon by the parties. The activities of each phase of mining operations must be completed within the following periods:

- a. Exploration - up to two (2) years from date of FTAA execution, extendible for another two (2) years subject to the following requirements:

1. Justification of renewal;
 2. Comprehensive and validated technical report on the outcome of the two-year exploration works, including environmental effects duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
 3. Audited report of expenditures incurred;
 4. Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
 5. Relinquishment report; and
 6. Other supporting papers as the Department/Bureau/concerned Regional Office may require or the applicant may submit.
- b. Pre-feasibility study, if warranted - up to two (2) years from expiration of the exploration period;
 - c. Feasibility study - up to two (2) years from the expiration of the exploration/pre-feasibility study period or from declaration of mining project feasibility; and
 - d. Development, construction and utilization - remaining years of FTAA.

Any two (2) or more of the above periods may be simultaneously undertaken in one approved contract area, as the need of the Contractor may arise, subject to the pertinent provisions of Section 59 hereof.

Section 53. Filing of FTAA Applications/Mandatory Requirements

The FTAA application (MGB Form No. 7-1) shall be filed with the Bureau for areas inside Mineral Reservations or with the concerned Regional Office for areas outside Mineral Reservations. The proposed contract area shall be closed to other mining applications for minerals mentioned in Section 50 hereof, but shall be open for quarry resources mining applications upon the written consent of the FTAA applicant and verification by the Bureau/concerned Regional Office, except for sand and gravel applications which shall require no consent thereof: *Provided*, That if consent is unreasonably withheld, the case shall be resolved by the Panel of Arbitrators.

Any application that transcends into two (2) or more regions shall be filed with the Regional Office which has the largest area covered by the application, copy furnished the other concerned Regional Office(s) by the applicant.

Upon payment of the required fees (Annex 5-A), an FTAA applicant shall file eight (8) sets of the FTAA proposal accompanied by the following mandatory requirements:

- a. Upon filing of the proposal -
 1. Duly certified Certificate of Registration issued by the Securities and Exchange Commission or concerned authorized Government agency;
 2. Duly certified Articles of Incorporation and By-Laws;
 3. Location map/sketch plan of the proposed contract area showing its geographic coordinates/meridional

- block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
4. Two-year Exploration Work Program (MGB Form No. 5-4) or three-year Development/Utilization Work Program (MGB Form No. 6-2), as deemed applicable, duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer;
 5. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;
 6. Environmental Work Program (MGB Form No. 16-1 or MGB Form No. 16-1A) during the exploration period as provided for in Section 168 hereof or Environmental Compliance Certificate prior to development, construction and/or utilization and Environmental Protection and Enhancement Program

(MGB Form No. 16-2) as provided for in Section 169 hereof;

7. Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable;
8. Certified copies, if any, of Exploration Permits/contracts, operating contracts, Mining Agreements, leases, permits, transfers, assignments or similar agreements it has entered into with any local or foreign juridical and natural persons;
9. Proof of financial capability to undertake the activities pursuant to Exploration/Development/Utilization Work Program and Environmental Work/Environmental Protection and Enhancement Program, as deemed applicable, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments;

10. Declaration of the total area covered by approved/pending FTAA(s)/ application(s); and
 11. Other supporting papers as the Department/ Bureau/ concerned Regional Office may require or the applicant may submit.
- b. Before the approval of the FTAA - Posting of financial guarantee/performance bond and letter of credit or other forms of negotiable instruments from any Government-accredited bonding company or financial institution, in favor of the Government upon notification by the Secretary, which shall be in any foreign currency negotiable with the Bangko Sentral ng Pilipinas or in Philippine Peso in such amount equivalent to the expenditure obligations of the applicant for any year;
 - c. After the approval of the FTAA but prior to registration of the same - An authorized capital of at least Four Million U.S. Dollars (US\$4,000,000.00) or its Philippine Peso equivalent;
 - d. Prior to construction, development and/or utilization -
 1. Feasibility Study;
 2. Approved Survey Plan of the mining area;
 3. Environmental Compliance Certificate; and
 4. Environmental Protection and Enhancement Program.

Provided, That any application with incomplete mandatory requirements shall not be accepted.

If the applicant conducts or has conducted mining operations in a foreign country(ies), the Department shall verify the relevant requirements through the Philippine Embassy(ies) or Consulate(s) based in such country(ies).

The Regional Office shall regularly provide the Bureau with a list, consolidated map and status report of FTAA applications filed in its jurisdiction.

Section 54. Area Status/Clearance

Within fifteen (15) working days from receipt of the FTAA application, the Bureau/concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications. The Regional Office shall also transmit a copy of the location map/sketch plan of the applied area to the pertinent Department sector(s) affected by the FTAA application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the Regional Office as to transmittal of said document to the concerned Department sector(s) and/or Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Department sector(s) and/or Government agency(ies). The concerned Department sector(s) must submit the area status/consent/clearance on the proposed contract area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Regional Offices, the concerned Regional Office(s) which

has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/ clearance is denied, the applicant may appeal the same to the Office of the Secretary.

If the proposed contract area is open for mining applications, the Bureau/concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Bureau/Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of FTAA application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the Regional Director shall exert all efforts to resolve the same.

Section 55. Publication/Posting/Radio Announcement of an FTAA Application

Within fifteen (15) working days from receipt of the necessary area clearances, the Bureau/concerned Regional Office(s) shall issue to the applicant the Notice of Application for FTAA for publication, posting and radio announcement which shall be done within fifteen (15) working days from receipt of the Notice. The Notice must contain, among others, the name and complete address of the applicant, duration of the FTAA applied for, extent of operation to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed contract area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

The Bureau/concerned Regional Office(s) shall cause the publication of the Notice once a week for two (2) consecutive weeks in two (2) newspapers: one of general circulation published in Metro Manila and another published in the municipality or province where the proposed contract area is located, if there be such newspapers; otherwise, in the newspaper published in the nearest municipality or province.

The Bureau/concerned Regional Office shall also cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the Bureau, the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished the barangay(s) where the proposed contract area is located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

The radio announcements shall be made daily for two (2) consecutive weeks in a local radio program and shall consist of the name and complete address of the applicant, area location, duration of the FTAA applied for and instructions that information regarding such application may be obtained at the Bureau/concerned Regional Office(s). The publication and radio announcements shall be at the expense of the applicant.

Within thirty (30) calendar days from the last date of publication/posting/radio announcements, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the publication/posting/radio announcement have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of publication/posting/radio announcement, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional

Office for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days therefrom.

However, previously published valid and existing mining claims are exempted from the publication/posting/radio announcement required under this Section.

No FTAA shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

Section 56. Terms and Conditions of an FTAA

The following terms, conditions and warranties shall be incorporated in the FTAA, namely:

- a. A firm commitment, in the form of a sworn statement during the existence of the Agreement, that the Contractor shall comply with minimum ground expenditures during the exploration and pre-feasibility periods as follows:

<u>Year</u>	<u>US \$/Hectare</u>
1	2
2	2
3	8
4	8

and a minimum investment of Fifty Million US Dollars (\$50,000,000.00) or its Philippine Peso equivalent in the case of Filipino Contractor for infrastructure and development in the contract area. If a Temporary/Special Exploration Permit has been issued prior to the approval of an FTAA, the exploration expenditures incurred shall form part of the expenditures during the first year of the exploration period of the FTAA.

In the event that the Contractor exceeds the minimum expenditure requirement in any one (1) year, the amount in excess may be carried forward and deducted from the minimum expenditure required in the subsequent year. In case the minimum ground expenditure commitment for a given year is not met for justifiable reasons as determined by the Bureau/concerned Regional Office, the unexpended amount may be spent on the subsequent year(s) of the exploration period.

- b. A stipulation that the Contractor shall not, by virtue of the FTAA, acquire any title over the contract/mining area without prejudice to the acquisition by the Contractor of the land/surface rights through any mode of acquisition provided for by law;
- c. Representations and warranties that the Contractor has, or has access to, all the financing, managerial and technical capability

and technology required to promptly and effectively carry out the objectives of the Agreement with the understanding to timely utilize these resources under its supervision pursuant to the periodic work programs and related budgets, and when proper, providing an exploration period up to two (2) years, extendible for another two (2) years, subject to annual review by the Secretary in accordance with these implementing rules and regulations;

- d. Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the Agreement;
- e. A stipulation that the Contractor shall relinquish its contract area pursuant to Section 60 hereof;
- f. Representations and warranties that, except for payments for dispositions for its equity, foreign investments in local enterprises which are qualified for repatriation, and local supplier's credits and such other generally accepted and permissible financial schemes for raising funds for valid business purposes, the Contractor shall not raise any form of financing from domestic sources of funds, whether in Philippine or foreign currency, for conducting its mining operations for and in the contract/mining area;
- g. A stipulation that the mining operations shall be conducted in accordance with the provisions of the Act and these implementing rules and regulations;

- h. A stipulation that the Contractor shall perform its activities within the periods expressed in the FTAA plans and work programs, save as may be excused by force majeure;
- i. A stipulation that the Contractor shall give preference to goods and services produced and offered in the Philippines of comparative quality and cost. In particular, the Contractor shall give preference to qualified Filipino construction enterprises, construction materials and skills available in the Philippines, Filipino sub-contractors for road construction and transportation and Philippine household equipment, furniture and food;
- j. A stipulation that the Contractor is obliged to give preference to Filipinos in all types of mining employment for which they are qualified and that the technology shall be transferred to the same;
- k. A stipulation that the Contractor shall not discriminate on the basis of gender and that the Contractor shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
- l. A stipulation requiring the Contractor to effectively use the best available appropriate anti-pollution technology and facilities to protect the environment and to restore or rehabilitate mined-out areas and other areas affected by mine waste/mill tailings and other forms of pollution or destruction in compliance with the requirements of the ECC and P.D. No. 984.

- This should be undertaken in coordination with the EMB/Department Regional Office;
- m. A stipulation that the Contractor shall furnish the Government an annual report of its mining operations and records of geologic, accounting and other relevant data, and that book of accounts and records shall be open for inspection by the Government;
 - n. A stipulation requiring the Contractor to dispose of the minerals and by-products produced at the highest market price and to negotiate for more advantageous terms and conditions subject to the right to enter into long-term sales or marketing contracts or foreign exchange and commodity hedging contracts which the Government acknowledges to be acceptable notwithstanding that the sale price of the minerals may from time to time be lower, or the terms and conditions of sales are less favorable, than that available elsewhere: *Provided*, That the Bureau is furnished a copy of the said Sale Agreement subject to confidentiality between the Bureau and the Contractor;
 - o. A stipulation providing for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the Agreement;
 - p. A stipulation that the Contractor shall pay fees, taxes, royalties, shares and other obligations in accordance with existing laws, rules and regulations;

- q. A stipulation that alien employment shall be limited to technologies requiring highly specialized training and experience subject to the required approval under existing laws, rules and regulations;
- r. A stipulation that in every case where foreign technologies are utilized and where alien executives are employed, an effective program of training understudies shall be undertaken;
- s. A stipulation that the Contractor shall conform with laws, rules and regulations regarding, among others, labor, safety and health standards;
- t. A stipulation that the Contractor shall confine its mining operations to its contract/mining area and that it shall not interfere with the rights of other Contractors/ Lessees/operators/Permittees/Permit Holders;
- u. A stipulation that the Contractor shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;
- v. A stipulation that the Contractor shall contribute to the development of the host and neighboring communities of the mining area, local geoscience and mining technology in accordance with Chapter XIV hereof;
- w. A stipulation that the Contractor shall comply with its obligations under its Environmental Protection and Enhancement Program (EPEP) and its Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;

- x. A stipulation that the Contractor shall utilize the best available appropriate and efficient mining and processing technologies;
- y. A stipulation that the Contractor shall undertake exploration work on the area as specified in its Agreement based on an approved Work Program: *Provided*, That a negative variance of at least twenty percent (20%) in the Work Program and corresponding expenditures shall be subject to approval of the Director/concerned Regional Director;
- z. A stipulation that the Contractor shall submit annually starting from the date of approval of the Agreement, progress reports of the exploration activities in the prescribed form. This shall be accompanied by raw geologic, geophysical and geochemical data plotted in a 1:50,000 scale map, at a minimum. A quarterly report containing activities and accomplishments for each quarter shall also be submitted. At the end of the exploration term, the Contractor shall submit the final report with the detailed list of activities with the corresponding expenditures. The final report shall be accompanied by a 1:50,000 geologic map of the contract area acceptable by international standards. All reports referred to herein shall be submitted to the Bureau/concerned Regional Office;
- aa. A stipulation that the FTAA shall be canceled, revoked or terminated for failure of the Contractor to comply with the terms and conditions thereof or for other grounds as provided for in Section 230 hereof.

Should an FTAA be canceled, revoked or terminated, it shall no longer be required to meet the minimum expenditure requirement for the remaining period: *Provided*, That such cancellation, revocation or termination is in accordance with Section 68 hereof.

- ab. A stipulation that withdrawal by the Contractor from the FTAA shall not release it from any and all financial, environmental, legal and/or fiscal obligations including settlement of all obligations that should have accrued to the Government during the term of the FTAA;
- ac. A stipulation that the Contractor shall comply with all other applicable provisions of the Act and these implementing rules and regulations; and
- ad. Such other terms and conditions not inconsistent with the Constitution, the Act and these implementing rules and regulations, as well as those which the Secretary may deem to be for the national interest and public welfare.

The Department shall formulate and promulgate such other rules, regulations and guidelines necessary to ensure compliance with the terms and conditions herein stated and to establish a fixed and stable fiscal regime with respect to FTAAAs.

Section 57. Transfer or Assignment of FTAA Application

Transfer or assignment of FTAA applications shall be allowed subject to the approval of the Director/concerned Regional Director taking into account the national interest and public welfare: *Provided*,

That such transfer or assignment shall be subject to eligibility requirements and shall not be allowed in cases involving speculation.

Section 58. The Negotiating Panel

An FTAA shall be negotiated by the Department through a Negotiating Panel composed of the following:

- a. The Secretary - Chair
- b. The Director - Vice-Chair
- c. Representative from the Board of Investments
or Department of Trade and Industry - Member
- d. Representative from the National Economic
and Development Authority - Member
- e. Representative from the Department of
Finance- Member
- f. Representative from the Department's Field
Operations Office - Member
- g. Representative from the Department's Legal
and Legislative Affairs Office - Member
- h. Representative(s) from the concerned
Regional Office(s) - Member(s)

Section 59. Evaluation of FTAA Application

Within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 55 hereof, the concerned Regional Director shall initially evaluate the FTAA applications in areas outside Mineral Reservations. He/She shall thereafter endorse his/her findings to the Bureau for further evaluation by the Director within fifteen (15) working days from receipt of forwarded documents. Thereafter, the Director shall endorse the same to the Negotiating Panel for final evaluation.

In case of FTAA applications in areas within Mineral Reservations, within fifteen (15) working days from receipt of the Certification issued by the Panel of Arbitrators as provided for in Section 55 hereof, the same shall be evaluated and endorsed by the Director to the Negotiating Panel for final evaluation.

The Negotiating Panel shall evaluate the FTAA applications within thirty (30) calendar days from receipt thereof.

In evaluating the FTAA proposal, the Negotiating Panel shall take into consideration the real contributions to the economic growth and general welfare of the country that will be realized, the development of local scientific and technical resources, as well as contribution to community and Local Government development programs.

Section 60. Relinquishment of Areas Covered by FTAA

The contract area shall be subject to relinquishment as follows:

- a. At least twenty-five percent (25%) of the original contract area during the first two (2) years of exploration period and at least ten percent (10%) of the remaining contract area annually during the extended exploration period and pre-feasibility study period.
- b. During the exploration or pre-feasibility study period, the Contractor shall finally relinquish to the Government any portion of the contract area which shall not be necessary for mining operations and not covered by any declaration of mining feasibility with corresponding submission to the Bureau/concerned Regional

Office of geologic report and pertinent maps in the scale 1:50,000: *Provided*, That each mining area after final relinquishment shall not be more than five thousand (5,000) hectares: *Provided, further*, That the Director, with the approval of the Secretary, may allow a Contractor to hold a larger mining area depending upon the nature of the deposit and subject to Section 50 hereof and technical verification by the Bureau.

- c. The Contractor may, at its option, submit to the Bureau/concerned Regional Office a declaration of mining project feasibility over any portion of its contract area prior to the lapse of exploration or pre-feasibility period. In such an event, the Contractor shall have the right to continue its mineral exploration or feasibility studies during the exploration and feasibility periods, respectively, in respect to the remaining contract area. Any mining area declared out of such remaining contract area may be covered by the original Agreement or as a separate FTAA subject to Subsection (b) herein.

A separate report of relinquishment shall be submitted to the Bureau/concerned Regional Office with a detailed geologic report of the relinquished area accompanied by maps at a scale of 1:50,000 and results of analyses and corresponding expenditures, among others. The minimum exploration expenditures for the remaining area after relinquishment shall be based on the approved Exploration Work Program.

Where the Contractor originally derived its rights to the contract area from then claimowners or mining right owners, such part of the

contract area relinquished pursuant to the provisions of Subsections (a), (b) and (c) herein shall be reverted back to the Government. Said claimowners or mining right owners shall have preferential rights over the area: *Provided*, That within thirty (30) calendar days from notification of relinquishment by the Contractor, the former shall signify its intention to enter into a Mineral Agreement with the Secretary: *Provided, further*, That all documents necessary for Mineral Agreement application shall be submitted within sixty (60) calendar days from receipt of such intention.

Section 61. Negotiation of FTAA

The Negotiating Panel, upon being satisfied of the terms and conditions of the proposed FTAA and with the applicant's compliance with all the requirements, shall recommend its execution and approval to the President. Should the Negotiating Panel, however, find some of the terms and conditions unacceptable, it shall calendar the proposed FTAA for negotiation and shall make the corresponding notification to the applicant. If after the negotiation, the terms and conditions acceptable to the Negotiating Panel have been incorporated in the proposed FTAA, a Resolution to that effect shall be made within fifteen (15) working days and signed, at least, by the majority of the Negotiating Panel. Based on the Resolution, the Secretary shall forthwith recommend the negotiated FTAA application to the President for consideration/approval. The President shall notify Congress of the approved FTAA within thirty (30) calendar days from the date of its approval.

Section 62. Temporary Exploration Permit

While awaiting for the approval of the FTAA application by the President, the Secretary may, upon the request of the FTAA applicant, issue a one-time non-renewable Temporary Exploration Permit (TEP) with a term not exceeding one (1) year to undertake exploration subject

to the applicable provisions of Chapter V of these implementing rules and regulations: *Provided*, That the term of the TEP shall be deducted from the exploration period of the FTAA: *Provided, further*, That in the event that the FTAA application is disapproved by the President, the TEP is deemed automatically canceled.

Section 63. Registration of FTAA

Upon approval of the FTAA by the President, the same shall be forwarded to the Bureau for numbering. The Bureau/concerned Regional Office shall notify the Contractor to cause the registration of its FTAA within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The Bureau/concerned Regional Office shall officially release the FTAA to the Contractor after registration of the same.

Failure of the Contractor to cause the registration of its FTAA within the prescribed period shall be sufficient ground for cancellation of the same.

Section 64. Rights and Obligations of the Contractor

The Contractor, its heirs or successors-in-interest shall have the right to exclusively conduct mining operations within the contract area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the FTAA.

Section 65. Conversion of an FTAA into a Mineral Agreement

Subject to verification and validation by the Bureau and to the final approval of the Secretary, where the economic viability of the ores

in the contract area is found to be inadequate to justify large-scale mining operations, the Contractor may, at its option, convert totally or partially its FTAA into a Mineral Agreement. In such cases, the Contractor shall manifest its request for conversion by filing a Letter of Intent with the Department, copy furnished the Bureau/concerned Regional Office. All revisions to the FTAA required by its conversion into a Mineral Agreement shall be submitted to the Secretary within six (6) months from the date of filing the Letter of Intent.

In the case of a foreign Contractor, it shall be given a period of one (1) year from the date of filing the Letter of Intent to satisfy the sixty percent (60%) Filipino equity requirement, subject to an extension of another one (1) year as may be approved by the Secretary taking into consideration the economic and other relevant factors. Upon compliance by the Contractor with all the requirements and payment of conversion fee (Annex 5-A), the application for conversion shall be evaluated and approved subject to Chapter VI hereof and all other applicable provisions of the Act and these implementing rules and regulations: *Provided*, That the term of the new Mineral Agreement shall be equivalent to the remaining period of the FTAA. A copy of the Mineral Agreement shall be submitted to the President.

Failure of the Contractor to meet the sixty percent (60%) equity requirement within the prescribed period shall cause the forfeiture of the Contractor's right to such conversion.

Section 66. Transfer or Assignment of FTAA

A Contractor may file an application for the total or partial transfer or assignment of its FTAA to a Qualified Person(s) upon payment of an application fee (Annex 5-A) with the Bureau/concerned Regional Office for evaluation. No application shall be accepted for filing unless accompanied by the pertinent Deed of Assignment that shall contain, among others, a stipulation that the transferee/assignee assumes all obligations of the transferor/assignor under the FTAA. Upon endorsement by the Director, the Secretary may recommend to the President the transfer or assignment of rights and obligations under any FTAA for approval: *Provided*, That any transfer or assignment of an FTAA shall not be approved unless the transferor/assignor or Contractor has complied with all the relevant terms and conditions of the FTAA and the provisions of the Act and these implementing rules and regulations at the time of transfer/assignment: *Provided, further*, That any transfer or assignment shall be deemed automatically approved if not acted upon by the President within thirty (30) calendar days from official receipt thereof, unless patently unconstitutional, illegal or where such transfer or assignment is violative of pertinent rules and regulations: *Provided, finally*, That the transferee assumes all the obligations and responsibilities of the transferor/assignor under the FTAA.

If circumstances warrant and upon the recommendation of the Director, the Secretary may impose additional conditions for the approval of the transfer/assignment of the FTAA.

Section 67. Withdrawal from an FTAA

The Contractor shall manifest in writing its request to the Secretary, copy furnished the Director, for withdrawal from the Agreement, if in its judgment the mining project is no longer

economically feasible, even after it has exerted reasonable diligence to remedy the cause(s) or situation(s).

After verification and validation by the Bureau and upon compliance or satisfaction of all the Contractor's financial, fiscal, environmental and legal obligations at the time of withdrawal, the Secretary within a period of thirty (30) calendar days shall send an acceptance notice of withdrawal to the Contractor, cause the opening of the subject area to mining applications and release the Contractor's financial guaranty/performance bond.

Section 68. Cancellation/Revocation/Termination of an FTAA

An FTAA may be canceled/revoked/terminated, after due process, under any of the grounds provided for in Chapter XXIV of these implementing rules and regulations: *Provided*, That such cancellation/revocation/termination shall not release the Contractor from any and all obligations it may have, particularly with regard to ecological management, at the time of cancellation/ revocation/termination.

CHAPTER VIII QUARRY OPERATIONS

Section 69. General Provisions

Quarry, sand and gravel, guano and gemstone resources in private and/or public lands may be extracted, removed, disposed and/or utilized: *Provided*, That in large-scale quarry operations involving cement raw materials, marble, granite and sand and gravel, any Qualified Person may apply for a Mineral Agreement subject to Chapter VI of these implementing rules and regulations.

Section 70. Provincial/City Mining Regulatory Board

The Provincial/City Mining Regulatory Board shall, among others, accept, process and evaluate applications and determine administrative charges and fees for Quarry, Sand and Gravel, Guano, Gemstone Gathering and Small-Scale Mining Permits duly filed with the same. It shall be chaired by the concerned Regional Director or his/her duly authorized representative with the following members:

- a. Provincial Governor/City Mayor or his/her representative as Vice-Chair,
- b. Small-scale mining representative,
- c. Large-scale mining representative, and
- d. Department-duly accredited environmental Non governmental Organization representative.

The concerned Regional Office shall provide the technical secretariat to the Provincial/City Mining Regulatory Board.

Section 71. Quarry Permit

Any Qualified Person may apply for a Quarry Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and disposition of quarry resources covering an area of not more than five (5) hectares for a term of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided*, That application for renewal shall be filed before the expiry date of the Permit: *Provided, further*, That the Permit Holder has complied with all the terms and conditions of the Permit as provided herein and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations: *Provided, finally*, That no Quarry Permit shall be issued or granted on any area covered

by a Mineral Agreement or FTAA, except on areas where a written consent is granted by the Mineral Agreement or FTAA Contractor.

Section 72. Sand and Gravel Permits

a. Commercial Sand and Gravel Permit

Any Qualified Person may apply for a Commercial Sand and Gravel Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and disposition of sand and gravel and other loose or unconsolidated materials which are used in their natural state without undergoing processing covering an area of not more than five (5) hectares for a term of one (1) year from date of issuance thereof, renewable for like period and in such quantities as may be specified in the Permit: *Provided*, That only one (1) Permit shall be granted to a Qualified Person in a municipality at any one time under such terms and conditions as provided herein.

b. Industrial Sand and Gravel Permit

Any Qualified Person may apply for an Industrial Sand and Gravel Permit (MGB Form Nos. 8-1 or 8-1A and 8-2 or 8-2A) with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and disposition of sand and gravel and other loose or unconsolidated

materials that necessitate the use of mechanical processing covering an area of not more than five (5) hectares at any one time for a term of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided*, That any Qualified Person may apply for an Industrial Sand and Gravel Permit with the Regional Director through the Regional Office for areas covering more than five (5) hectares but not to exceed twenty (20) hectares at any one time for a term of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided, further*, That only one (1) Permit shall be granted to a Qualified Person in a municipality at any one time under such terms and conditions as provided herein.

c. Exclusive Sand and Gravel Permit

Any Qualified Person may apply for an Exclusive Sand and Gravel Permit (MGB Form No. 8-4B) with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for extraction, removal and utilization of sand and gravel and other loose or unconsolidated materials from public land for its own use covering an area of not more than one (1) hectare for a non-renewable period not exceeding sixty (60) calendar days and a maximum volume of fifty (50) cubic meters:

Provided, That there will be no commercial disposition thereof.

Section 73. Gratuitous Permits

a. Government Gratuitous Permit

Any Government entity/ instrumentality in need of quarry, sand and gravel or loose/unconsolidated materials in the construction of building(s) and/or infrastructure for public use or other purposes may apply for a Government Gratuitous Permit (MGB Form No. 8-3B) with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for a period coterminous with the construction stage of the project but not to exceed one (1) year in public/private land(s) covering an area of not more than two (2) hectares. The applicant shall submit a project proposal stating where the materials to be taken shall be used and the estimated volume needed.

b. Private Gratuitous Permit

Any landowner may apply for a Private Gratuitous Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and utilization of quarry, sand and gravel or loose/unconsolidated materials from his/her land for a non-renewable period of sixty (60) calendar days: *Provided*,

That there is adequate proof of ownership and that the materials shall be for personal use.

Section 74. Mandatory Requirements for Quarry or Commercial/Industrial Sand and Gravel Permit Application

The application for Quarry or Sand and Gravel Permit (MGB Form No. 8-3, 8-3A, 8-4 or 8-4A) shall be filed by the applicant either personally or through its duly authorized representative with the concerned Regional Office/Provincial/City Mining Regulatory Board: *Provided*, That any application that transcends into two (2) or more regions/provinces/cities shall be filed with the Regional Office/Provincial/City Mining Regulatory Board which has the largest area covered by the application, copy furnished the other concerned Regional Office(s)/Provincial/City Mining Regulatory Board by the applicant: *Provided, further*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the concerned Regional Office/Provincial/City Mining Regulatory Board: *Provided, finally*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least two (2) sets of the following mandatory requirements applicable to the type of permit applied for:

- a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;

- b. Area clearance from the concerned Government agencies/Local Government Units that may be affected by the permit application or written permission from the landowner(s) and surface owner(s) of the area applied for;
- c. Work Program (MGB Form No. 5-4 or MGB Form No. 6-2) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- d. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;
- e. Environmental Compliance Certificate prior to extraction, removal and/or disposition and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
- f. Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Work Program and Environmental Protection and Enhancement Program;
- g. Proof of financial capability to undertake the activities pursuant to Work Program and

Environmental Protection and Enhancement Program, such as the following:

1. For individuals - Statement of assets and liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding three (3) years and
 2. For corporations, partnerships, associations or cooperatives - Latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments.
- h. Photocopy of Articles of Incorporation/Partnership/Association, By-Laws and Certificate of Registration, duly certified by the Securities and Exchange Commission (SEC) or concerned authorized Government agency(ies), for corporations, partnerships, associations or cooperatives; and
- i. Other supporting papers as the concerned Regional Office/Provincial/City Mining Regulatory Board may require or the applicant may submit.

Section 75. Area Status/Clearance for a Quarry or Sand and Gravel Permit Application

Within fifteen (15) working days from receipt of the permit application, the concerned Regional Office/Provincial/City Mining Regulatory Board shall transmit a copy of the location map/sketch plan of the applied area to the concerned Regional Office/pertinent

Department sector(s) affected by the permit application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the concerned Regional Office/Provincial/City Mining Regulatory Board as to transmittal of said document to the concerned Regional Office(s)/Department sector(s)/Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Regional Office(s)/Department sector(s)/Government agency(ies). The concerned Regional Office(s)/Department sector(s) must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Regional Offices/Provincial/City Mining Regulatory Boards, the concerned Regional Office(s)/Provincial/City Mining Regulatory Board which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/ clearance is denied, the applicant may appeal the same to the Office of the Secretary.

Within fifteen (15) working days from receipt of the permit application, the concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications.

If the proposed permit area is open for mining applications, the concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen

(15) working days from receipt of said written notice, exclude the same from the coverage of permit application: *Provided, further,* That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the concerned Regional Director/Provincial Governor/City Mayor shall exert all efforts to resolve the same.

Section 76. Posting of a Quarry or Sand and Gravel Permit Application

Within fifteen (15) working days from receipt of the necessary area clearances, the concerned Regional Office(s)/Provincial/City Mining Regulatory Board shall issue to the applicant the Notice of Application for permit for posting which shall be done within fifteen (15) working days from receipt of the Notice. The Notice must contain, among others, the name and complete address of the applicant, duration of the permit applied for, extent of operation to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed permit area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

The concerned Regional Office/Provincial/City Mining Regulatory Board shall cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished the barangay(s) where the proposed permit area is located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

Within thirty (30) calendar days from the last date of posting, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting have been complied with. Any adverse

claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of posting, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days therefrom.

No permit shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

Section 77. Processing/Registration/Issuance of a Quarry or Sand and Gravel Permit

Upon evaluation that all the terms and conditions are in order and that the subject area has been cleared from any conflict, the concerned Regional Director/Provincial Governor/City Mayor shall approve and issue the Permit within thirty (30) calendar days from such evaluation and shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The concerned Regional Office/Provincial/City Mining Regulatory Board shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same.

Section 78. Rights and Obligations of the Quarry or Commercial/Industrial Sand and Gravel Permit Holder

The Quarry or Sand and Gravel Permit Holder, its heirs or successors-in-interest shall have the right to exclusively extract, remove, dispose and/or utilize quarry or sand and gravel resources within the permit area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Permit.

Section 79. General Terms and Conditions of a Quarry/Commercial or Industrial Sand and Gravel/Government Gratuitous/Guano/Gemstone Gathering Permit

The following terms and conditions shall be incorporated in the Quarry/Commercial or Industrial Sand and Gravel/Government Gratuitous/Guano/Gemstone Gathering Permit:

- a. No extraction, removal and/or disposition of materials shall be allowed within a distance of one (1) kilometer from the boundaries of reservoirs established for public water supply, archaeological and historical sites or of any public or private works or structures, unless the prior clearance of the concerned Government agency(ies) or owner is obtained. No

- extraction, removal and/or disposition of materials shall likewise be allowed in offshore areas within five hundred (500) meters distance from the coast and two hundred (200) meters from the mean low tide level along the beach;
- b. The extraction, removal and/or disposition of materials under the Permit shall be confined within the area specified therein, the boundaries of which, according to the application, are established on the ground with prominent marks;
 - c. The Permit Holder shall assume full responsibility and be liable for damages to private and/or public property(ies) that may be occasioned by its operations under the Permit;
 - d. The Permit Holder shall manage its operations in a technically and environmentally responsible manner to achieve a safe, non-polluting and self-sustaining post disturbance landform;
 - e. The Permit Holder shall conduct its operations in accordance with the provisions of the Act and these implementing rules and regulations;
 - f. The Permit Holder shall not discriminate on the basis of gender and that the Permit Holder shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
 - g. The Permit Holder shall conform to laws, rules and regulations regarding, among others, labor, safety and health standards;
 - h. The Permit Holder shall not interfere with the rights of other Permit Holders/operators/Contractors;

- i. The Permit Holder shall recognize and respect the rights, customs and traditions of local communities, particularly Indigenous Cultural Communities;
- j. The Permit Holder shall immediately stop digging and extracting materials the moment man-made articles or artifacts are found. It shall notify the Director of the National Museum of such findings, in which case, the digging shall be under the supervision of the National Museum until said artifacts are recovered; and
- k. The Permit shall be subject to cancellation, revocation and termination as provided for in Section 100 hereof.

Section 80. Specific Terms and Conditions of a Quarry or Commercial/Industrial Sand and Gravel or Government Gratuitous Permit

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Quarry or Commercial/Industrial Sand and Gravel or Government Gratuitous Permit:

- a. For Quarry or Commercial/Industrial Sand and Gravel Permit:
 - 1. The Permit shall be for the exclusive use and benefit of the Permit Holder and shall not be transferred or assigned without prior written approval by the

- concerned Regional Director/Provincial Governor/City Mayor;
2. Unless otherwise renewed or amended, the Permit shall *ipso facto* terminate after the whole quantity and kind of materials specified therein have been removed or taken;
 3. The Permit Holder shall file quarterly with the concerned Regional Office/Provincial/City Mining Regulatory Board a sworn statement of the quantity of materials extracted, removed and/or disposed under the Permit and the amounts of fees paid therefor. At the end of the term, the Permit Holder shall submit to the concerned Regional Office/Provincial/City Mining Regulatory Board a final report with the detailed list of activities and the corresponding expenditures;
 4. The Permit Holder shall furnish the Government records of accounting and other relevant data from its operations and that book of accounts and records shall be open for inspection by the Government;
 5. The Permit/permit area can be inspected and examined at all times by the concerned Regional Director/Provincial Governor/City Mayor;

6. The Permit Holder shall not, by virtue of the Permit, acquire any title over the permit area, without prejudice to its acquisition of the land/surface rights through any mode of acquisition provided by law;
7. The Permit Holder shall pay fees, taxes and other obligations in accordance with existing laws, rules and regulations;
8. The Permit Holder shall comply with its obligations under its ECC, Environmental Protection and Enhancement Program (EPEP) and Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;
9. The term of the Permit shall be for a period as specified therein from date of issuance thereof: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with the terms and conditions of the Permit and shall not have been found guilty of violation of any provision of the Act and these implementing rules and regulations; and
10. The Permit Holder shall comply with pertinent provisions of the Act, these implementing rules and regulations and such other terms and conditions not inconsistent with the Constitution, the Act and these rules and regulations, as well as those which the concerned Regional Director/Provincial Governor/ City

Mayor may deem to be for the national interest and public welfare.

- b. For Government Gratuitous Permit:
1. The period of the Permit shall be coterminous with the term of the construction stage of the project but not to exceed one (1) year;
 2. The concerned Government office shall, whenever practicable, use and utilize its own vehicle(s) and equipment in extracting, hauling and transporting the materials: *Provided*, That the Permit Holder may enter into a contract with a private person/entity for the purpose of hauling and transporting such materials;
 3. The materials authorized to be removed shall be strictly for infrastructure project and in no case shall the same be disposed of commercially, otherwise, persons responsible thereof shall be liable for prosecution under appropriate laws;
 4. Unless otherwise amended, the Permit shall *ipso facto* terminate after the whole quantity and kind of materials specified therein have been removed or taken;
 5. The Permit Holder shall file quarterly with the concerned Regional Office/ Provincial/ City Mining Regulatory Board a sworn statement of the quantity of materials extracted, removed and/or

- disposed under the Permit and the amounts of fees paid therefor. At the end of the term, the Permit Holder shall submit to the concerned Regional Office/ Provincial/City Mining Regulatory Board a final report with the detailed list of activities and the corresponding expenditures;
6. The Permit/permit area can be inspected and examined at all times by the concerned Regional Director/Provincial Governor/City Mayor;
 7. The Permit Holder shall comply with its obligations under its ECC and Environmental Protection and Enhancement Program (EPEP), including the allocation of the prescribed environmental expense pursuant to Section 171 hereof; and
 8. The Permit Holder shall comply with pertinent provisions of the Act, these implementing rules and regulations and such other terms and conditions not inconsistent with the Constitution, the Act and these rules and regulations, as well as those which the concerned Regional Director/ Provincial Governor/City Mayor may deem to be for the national interest and public welfare.

Section 81. Guano Permit

Any Qualified Person, whose domicile is within the municipality where the area applied for is located, may apply for a Guano Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal, disposition, and/or utilization of loose unconsolidated guano and other organic fertilizer deposits in specific caves and/or confined sites for a term of one (1) year or upon the extraction of the quantity as specified in the Permit: *Provided*, That only one (1) Guano Permit shall be issued for the same cave or area: *Provided, further*, That the maximum area for the Guano Permit that a Qualified Person may hold at any one (1) time shall not be more than five (5) hectares.

a. Gratuitous Guano Permit

A Gratuitous Guano Permit (MGB Form No. 8-6) may be granted to an individual for his/her personal use or to any Government agency in need of the material within a specified period and in such quantity not more than two thousand kilograms (2,000 kg).

b. Commercial Guano Permit

A Commercial Permit may be granted to a Qualified Person for sale or commercial disposition thereof within a specified period and in such quantity as may be specified thereof.

Section 82. Mandatory Requirements for Guano Permit Application

The permit application (MGB Form No. 8-5) shall be filed by the applicant either personally or through its duly authorized representative with the Provincial/City Mining Regulatory Board: *Provided*, That any application that transcends into two (2) or more regions shall be filed with the Provincial/City Mining Regulatory Board which has the largest area covered by the application, copy furnished the other concerned Provincial/City Mining Regulatory Board by the applicant: *Provided, further*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the Provincial/City Mining Regulatory Board: *Provided, finally*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least two (2) sets of the following mandatory requirements applicable to the type of permit applied for:

- a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
- b. Certification from the Barangay Captain that the applicant has established domicile in the area applied for;
- c. Area clearance from the concerned Government agencies/Local Government Units that may be affected by the permit application or written permission from the landowner(s) and surface owner(s) of the area applied for;

- d. Environmental Compliance Certificate prior to extraction, removal, disposition and/or utilization and Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof;
- e. Declaration of the approximate quantity of guano resources available in the permit area applied for; and
- f. Other supporting papers as the concerned Provincial/City Mining Regulatory Board may require or the applicant may submit.

Section 83. Area Status/Clearance for a Guano Permit Application

Within fifteen (15) working days from receipt of the permit application, the concerned Provincial/City Mining Regulatory Board shall transmit a copy of the location map/sketch plan of the applied area to the concerned Regional Office/pertinent Department sector(s) affected by the permit application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the concerned Provincial/City Mining Regulatory Board as to transmittal of said document to the concerned Regional Office(s)/Department sector(s)/Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Regional Office(s)/Department sector(s)/Government agency(ies). The concerned Regional Office(s)/Department sector(s) must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Provincial/City Mining Regulatory Boards, the concerned

Provincial/City Mining Regulatory Board(s) which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/ clearance is denied, the applicant may appeal the same to the Office of the Secretary.

Within fifteen (15) working days from receipt of the permit application, the concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications.

If the proposed permit area is open for mining applications, the concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of permit application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the concerned Regional Director/Provincial Governor/City Mayor shall exert all efforts to resolve the same.

Section 84. Posting of a Guano Permit Application

Within fifteen (15) working days from receipt of the necessary area clearances, the Provincial/City Mining Regulatory Board shall issue to the applicant the Notice of Application for permit for posting which shall be done within fifteen (15) working days from receipt of the Notice. The Notice must contain, among others, the name and complete address of the applicant, duration of the permit applied for,

extent of operation to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed permit area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

The Provincial/City Mining Regulatory Board shall cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished the barangay(s) where the proposed permit area is located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

Within thirty (30) calendar days from the last date of posting, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of posting, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days therefrom.

No permit shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

Section 85. Processing/Registration/Issuance of a Guano Permit

Upon evaluation that all the terms and conditions are in order and that the subject area has been cleared from any conflict, the concerned Provincial Governor/City Mayor shall approve and issue the Permit within thirty (30) calendar days from such evaluation and shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The concerned Provincial/City Mining Regulatory Board shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same.

Section 86. Rights and Obligations of the Guano Permit Holder

The Guano Permit Holder, its heirs or successors-in-interest shall have the right to exclusively conduct extract, remove, dispose and/or utilize guano resources within the permit area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Permit.

Section 87. Specific Terms and Conditions of a Guano Permit

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Commercial/Industrial Guano Permit:

- a. The Permit shall be for the exclusive use and benefit of the Permit Holder and shall not be transferred or assigned without prior written approval by the Provincial Governor/City Mayor;
- b. No explosives shall be used in extracting and/or removal of guano;
- c. The Permit Holder shall file quarterly with the Provincial/City Mining Regulatory Board a sworn statement of the quantity of guano extracted, removed and/or disposed under the Permit and the amounts of fees paid therefor. At the end of the term, the Permit Holder shall submit to the Provincial/City Mining Regulatory Board a final report with the detailed list of activities and the corresponding expenditures;
- d. The Permit/permit area can be inspected and examined at all times by the concerned Regional Director/Provincial Governor/City Mayor;
- e. The Permit Holder shall not, by virtue of the Permit, acquire any title over the permit area, without prejudice to its acquisition of the land/surface rights through any mode of acquisition provided by law;
- f. The Permit Holder shall pay fees, taxes and other obligations in accordance with existing laws, rules and regulations;
- g. The Permit Holder shall comply with its obligations under its ECC, Environmental Protection and Enhancement Program (EPEP) and Annual EPEP, including the allocation of the prescribed annual environmental expense pursuant to Section 171 hereof;

- h. The term of the Permit shall be for a period of one (1) year from date of issuance thereof or upon the extraction of the quantity as specified in the Permit; and
- i. The Permit Holder shall comply with pertinent provisions of the Act, these implementing rules and regulations and such other terms and conditions not inconsistent with the Constitution, the Act and these rules and regulations, as well as those which the Provincial Governor/City Mayor may deem to be for the national interest and public welfare.

Section 88. Gemstone Gathering Permit

Any Qualified Person may apply for a Gemstone Gathering Permit with the Provincial Governor/City Mayor through the Provincial/City Mining Regulatory Board for the extraction, removal and utilization of loose stones useful as gemstones for a term not exceeding one (1) year from the date of issuance thereof, renewable for like periods: *Provided*, That the application for renewal shall be filed before the expiry date of the Permit: *Provided, further*, That the Permit Holder has complied with all the terms and conditions of the original Permit as provided herein and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations.

Section 89. Mandatory Requirements for Gemstone Gathering Permit Application

The permit application (MGB Form No. 8-7) shall be filed by the applicant either personally or through its duly authorized

representative with the Provincial/City Mining Regulatory Board: *Provided*, That any application that transcends into two (2) or more regions shall be filed with the Provincial/City Mining Regulatory Board which has the largest area covered by the application, copy furnished the other concerned Provincial/City Mining Regulatory Board by the applicant: *Provided, further*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the Provincial/City Mining Regulatory Board: *Provided, finally*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least five (5) sets of the following mandatory requirements:

- a. Location map/sketch plan of the proposed permit area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
- b. Area clearance from the concerned Government agencies/Local Government Units that may be affected by the permit application or written permission from the landowner(s) and surface owner(s) of the area applied for;
- c. Declaration of the approximate quantity of gemstone available in the permit area applied for; and
- d. Other supporting papers as the concerned Provincial/City Mining Regulatory Board may require or the applicant may submit.

Section 90. Area Status/Clearance for a Gemstone Gathering Permit Application

Within fifteen (15) working days from receipt of the permit application, the concerned Provincial/City Mining Regulatory Board shall transmit a copy of the location map/sketch plan of the applied area to the concerned Regional Office/pertinent Department sector(s) affected by the permit application for area status, copy furnished the concerned municipality(ies)/city(ies) and other relevant offices or agencies of the Government for their information. Upon notification of the applicant by the Provincial/City Mining Regulatory Board as to transmittal of said document to the concerned Regional Office(s)/Department sector(s)/Government agency(ies), it shall be the responsibility of the same applicant to secure the necessary area status/consent/clearance from said Regional Office(s)/Department sector(s)/Government agency(ies). The concerned Regional Office(s)/Department sector(s) must submit the area status/consent/clearance on the proposed permit area within thirty (30) working days from receipt of the notice: *Provided*, That the concerned Department sector(s) can not unreasonably deny area clearance/consent without legal and/or technical basis: *Provided, further*, That if the area applied for falls within the administration of two (2) or more Provincial/City Mining Regulatory Boards, the concerned Provincial/City Mining Regulatory Board which has/have jurisdiction over the lesser area(s) of the application shall follow the same procedure.

In reservations/reserves/project areas under the jurisdiction of the Department/Bureau/Regional Office(s) where consent/ clearance is denied, the applicant may appeal the same to the Office of the Secretary.

Within fifteen (15) working days from receipt of the permit application, the concerned Regional Office(s) shall check in the control maps if the area is free/open for mining applications.

If the proposed permit area is open for mining applications, the concerned Regional Office(s) shall give written notice to the applicant to pay the corresponding Regional Office(s) clearance fee (Annex 5-A): *Provided*, That if a portion of the area applied for is not open for mining applications, the concerned Regional Office shall, within fifteen (15) working days from receipt of said written notice, exclude the same from the coverage of permit application: *Provided, further*, That in cases of overlapping of claims/conflicts/complaints from landowners, NGOs, LGUs and other concerned stakeholders, the concerned Regional Director/Provincial Governor/City Mayor shall exert all efforts to resolve the same.

Section 91. Posting of a Gemstone Gathering Permit Application

Within fifteen (15) working days from receipt of the necessary area clearances, the Provincial/City Mining Regulatory Board shall issue to the applicant the Notice of Application for permit for posting which shall be done within fifteen (15) working days from receipt of the Notice. The Notice must contain, among others, the name and complete address of the applicant, duration of the permit applied for, extent of operation to be undertaken, area location, geographical coordinates/meridional block(s) of the proposed permit area and location map/sketch plan with index map relative to major environmental features and projects and to the nearest municipalities.

The Provincial/City Mining Regulatory Board shall cause the posting for two (2) consecutive weeks of the Notice on the bulletin boards of the concerned Regional Office(s), PENRO(s), CENRO(s) and in the concerned province(s) and municipality(ies), copy furnished the barangay(s) where the proposed permit area is located. Where necessary, the Notice shall be in a language generally understood in the concerned locality where it is posted.

Within thirty (30) calendar days from the last date of posting, the authorized officer(s) of the concerned office(s) shall issue a certification(s) that the posting have been complied with. Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of posting, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. Upon final resolution of any adverse claim, protest or opposition, the Panel of Arbitrators shall issue a Certification to that effect within five (5) working days from the date of finality of resolution thereof. Where no adverse claim, protest or opposition is filed after the lapse of the period for filing the adverse claim, protest or opposition, the Panel of Arbitrators shall likewise issue a Certification to that effect within five (5) working days therefrom.

No permit shall be approved unless the requirements under this Section are fully complied with and any adverse claim/protest/opposition thereto is finally resolved by the Panel of Arbitrators.

Section 92. Processing/Registration/Issuance of a Gemstone Gathering Permit

Upon evaluation that all the terms and conditions are in order and that the subject area has been cleared from any conflict, the concerned Provincial Governor/City Mayor shall approve and issue the Permit (MGB Form No. 8-8) within thirty (30) calendar days from such evaluation and shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The concerned Provincial/City Mining Regulatory Board shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same.

Section 93. Rights and Obligations of the Gemstone Gathering Permit Holder

The Gemstone Gathering Permit Holder, its heirs or successors-in-interest shall have the right to exclusively conduct extract, remove and dispose loose stones useful as gemstones within the permit area with full rights of ingress and egress, the right to occupy the same, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Permit.

Section 94. Specific Terms and Conditions of a Gemstone Gathering Permit

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Gemstone Gathering Permit:

- a. The Permit shall be for the exclusive use and benefit of the Permit Holder and shall not be transferred or assigned without prior written approval by the Provincial Governor/City Mayor;
- b. Gemstone gathering shall be allowed in rivers and other locations except in areas which are expressly prohibited by law;
- c. The removal/gathering of gemstones shall be conducted manually without the aid of any tools or mechanized equipment;
- d. No explosives shall be used in extracting and/or removal of gemstone;

- e. Unless otherwise renewed or amended, the Permit shall *ipso facto* terminate after the whole quantity of gemstones specified therein have been removed or taken;
- f. The Permit Holder shall file quarterly with the Provincial/City Mining Regulatory Board a sworn report of the quantity of gemstones extracted, removed and/or disposed under the Permit, the amounts of fees paid therefor, the quantity/volume of gemstones sold or disposed of during the period covered by the report, their selling prices, the names and addresses of the persons to whom the same were sold, and the quantity/volume of materials left in stock. At the end of the term, the Permit Holder shall submit to the Provincial/City Mining Regulatory Board a final report with the detailed list of activities and the corresponding expenditures;
- g. The Permit/permit area can be inspected and examined at all times by the concerned Regional Director/Provincial Governor/City Mayor;
- h. The Permit Holder shall not, by virtue of the Permit, acquire any title over the permit area, without prejudice to its acquisition of the land/surface rights through any mode of acquisition provided by law;
- i. The Permit Holder shall pay fees, taxes and other obligations in accordance with existing laws, rules and regulations;
- j. The term of the Permit shall be for a period as specified therein from date of issuance thereof: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied

with the terms and conditions of the Permit and shall not have been found guilty of violation of any provision of the Act and these implementing rules and regulations;

- k. The Permit Holder shall comply with pertinent provisions of the Act, these implementing rules and regulations and such other terms and conditions not inconsistent with the Constitution, the Act and these rules and regulations, as well as those which the Provincial Governor/City Mayor may deem to be for the national interest and public welfare.

Section 95. Records of Extracted/Removed/Disposed Quarry/Sand and Gravel/Guano/Gemstone Resources

The Permit Holder shall keep books of accounts wherein there shall be entered everyday the quantity of quarry/sand and gravel/guano/gemstone resources removed or extracted from the area as well as the quantity disposed of or sold during the day, their selling prices, the names and addresses of the persons or parties to whom the same were sold or disposed of.

All books of accounts and records required to be kept in the preceding paragraph shall be open at all times for the inspection of the representatives of the concerned Regional Director/Provincial Governor/City Mayor. The refusal of the Permit Holder to allow the concerned authorities to inspect the same without justifiable reason shall be sufficient ground for the cancellation of the Permit.

Section 96. Surety Bond

To answer for and guarantee payment for whatever actual damages that may be incurred by the quarry or sand and gravel

operations, a surety bond of Twenty Thousand Pesos (₱20,000.00) shall be posted by the applicants, except for those applying for Gratuitous and Exclusive Sand and Gravel Permits.

Section 97. Quarry Fee and Taxes to be Paid

All Permit Holders except those for Gratuitous Permits under this Chapter shall pay the required quarry fees (Annex 5-A) to the concerned Provincial/City Treasurer in accordance with pertinent provisions of the Local Government Code: *Provided*, That the Provincial Government and the municipality may enter into a Memorandum of Agreement providing for direct remittance of the share due the municipality or barangay. Likewise, an excise tax on Mineral Products as provided for in R.A. No. 7729 shall be paid upon removal thereof to the Government through the concerned agent or representative of the Bureau of Internal Revenue.

Section 98. Renewal of Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit

Within sixty (60) calendar days before the expiration of the Permit, the Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit Holder may submit to the concerned Regional Office/Provincial/City Mining Regulatory Board, an application to renew the Permit accompanied by two (2) sets of the following applicable mandatory requirements:

- a. Justification of renewal;
- b. Comprehensive and validated technical report on the outcome of the operations, including their environmental effects duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;

- c. Audited report of expenditures incurred during the operations period;
- d. Work Program duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- e. Environmental Protection and Enhancement Program (MGB Form No. 16-2) as provided for in Section 169 hereof; and
- f. Other supporting papers as the concerned Regional Office/Provincial/City Mining Regulatory Board may require or the applicant may submit.

After field verification by the concerned Regional Office/Provincial/City Mining Regulatory Board of the foregoing requirements at the expense of the Permit Holder, the concerned Regional Director/Provincial Governor/City Mayor may grant the renewal.

Section 99. Transfer or Assignment of Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit

A Quarry/Commercial or Industrial Sand and Gravel/Guano/Gemstone Gathering Permit may be transferred or assigned to another Qualified Person(s) subject to the approval of the concerned Regional Director/Provincial Governor/City Mayor.

Section 100. Cancellation/Revocation/Termination of a Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit

The Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit may be canceled/revoked/terminated, after due

process, by the concerned Regional Director/Provincial Governor/City Mayor based on the following grounds:

- a. Failure to comply with the terms and conditions of the Permit and ECC, if applicable;
- b. Violation of any provision of the Act and these implementing rules and regulations;
- c. Failure to pay the excise tax for two (2) consecutive years;
- d. Any misrepresentation in any statement made in the application or those made later in support thereof;
- e. If the commodity stipulated in the Permit has been exhausted before the expiry date thereof; and
- f. When national interest and public welfare so require or for environmental protection or ecological reasons.

Upon cancellation of the Permit, the said areas shall automatically be reverted back to its original status.

Section 101. Effect of Cancellation/Revocation/Termination of a Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit

The foregoing provisions notwithstanding, cancellation/revocation/termination of a Quarry/Sand and Gravel/Gratuitous/Guano/Gemstone Gathering Permit shall not release the Permit Holder from any and all obligations it may have, particularly regarding ecological management, to the public or private party(ies) at the time of cancellation/revocation/termination.

Section 102. Withdrawal from a Quarry/Sand and Gravel/ Gratuitous/Guano/Gemstone Gathering Permit

The Permit Holder may, by giving due notice at any time during the term of the Permit, apply with the concerned Regional Office/Provincial/City Mining Regulatory Board for the withdrawal of the Permit due to causes which, in the opinion of the Permit Holder, make continued mining operations no longer feasible or viable. The concerned Regional Director/Provincial/City Mining Regulatory Board shall consider the notice and issue his/her decision within a period of thirty (30) calendar days: *Provided*, That the Permit Holder has met all its financial, fiscal, environmental and legal obligations at the time of withdrawal.

CHAPTER IX SMALL-SCALE MINING

Section 103. General Provisions

Applications for Small-Scale Mining Permits shall be filed with the Provincial Governor/City Mayor through the concerned Provincial/City Mining Regulatory Board for areas outside the Mineral Reservations and with the Director through the Bureau for areas within the Mineral Reservations.

The guidelines and provisions specified in Mines Administrative Order No. MRD-41, Series of 1984, Department Administrative Order No. 28 and MRDB Administrative Order Nos. 3 and 3A which are the implementing rules and regulations of P.D. No. 1899 and the guidelines and provisions of Department Administrative Order No. 34, Series of 1992 which are the implementing rules and regulations of R.A. No. 7076, insofar as they are not inconsistent with the provisions of these implementing rules and regulations, shall continue to govern small-scale mining operations.

CHAPTER X SURFACE RIGHTS

Section 104. Easement Rights

When mining areas are so situated that for purposes of more convenient operations it is necessary to build, construct or install on the mining areas or lands owned, occupied or leased by other persons, such infrastructures as roads, railroads, mills, waste dump sites, tailings ponds, warehouses, staging or storage areas and port facilities, tramways, runways, airports, electric transmission, telephone or telegraph lines, dams and their normal flood and catchment areas, sites for waterwells, ditches, canals, new river beds, pipelines, flumes, cuts, shafts, tunnels or mills, the Permittee/Permit Holder/Contractor, upon payment of just compensation, shall be entitled to enter and occupy said mining areas or lands.

As to the payment of just compensation mentioned in the preceding paragraph, the amount thereof shall be first agreed upon by the parties and in accordance with P.D. No. 512, where appropriate. In case of disagreement, the matter shall be brought before the Panel of Arbitrators for proper disposition.

Section 105. Entry Into Lands

The holder(s) of mining right(s) shall not be prevented from entry into its/their contract/mining area(s) for the purpose(s) of exploration, development and/or utilization: *Provided*, That written notice(s) at its/their registered address(es) was/were sent to and duly received by the surface owner(s) of the land(s), occupant(s) and concessionaire(s) thereof and that a bond is posted in accordance with Section 108 hereof.

If the surface owner(s) of the land, occupant(s) or concessionaire(s) thereof can not be found, the Permittee/Permit

Holder/Contractor or concessionaire shall notify the concerned Regional Director, copy furnished the concerned local officials in case of private land or the concerned Government agency in case of concessionaires, attaching thereto a copy of the written notice and a sworn declaration by the holder(s) of mining right(s) that it/they had exerted all efforts to locate such surface owner(s)/occupant(s)/concessionaire(s). Such notice(s) to the concerned Regional Director shall be deemed notice(s) to the surface owner(s) and concessionaire(s).

In cases where the surface owner(s) of the land(s), occupant(s) or concessionaire(s) thereof refuse(s) to allow the Permittee/Permit Holder/Contractor entry into the land(s) despite its/their receipt(s) of the written notice(s) or refuse(s) to receive said written notice(s) or in case of disagreement over such entry, the Permittee/Permit Holder/Contractor shall bring the matter before the Panel of Arbitrators for proper disposition.

Section 106. Voluntary Agreement

A voluntary agreement between a surface owner, occupant or concessionaire thereof permitting holders of mining rights to enter into and use its land for mining purposes shall be registered with the concerned Regional Office. The said agreement shall be binding upon the parties, their heirs, successors-in-interest and assigns.

Section 107. Compensation of the Surface Owner and Occupant

Any damage done to the property of the surface owner, occupant, or concessionaire thereof as a consequence of the mining operations or as a result of the construction or installation of the infrastructure mentioned in Section 104 above shall be properly and justly compensated.

Such compensation shall be based on the agreement entered into between the holder of mining rights and the surface owner, occupant or concessionaire thereof or, where appropriate, in accordance with P.D. No. 512.

In case of disagreement or in the absence of an agreement, the matter shall be brought before the Panel of Arbitrators for proper disposition.

Section 108. Posting of a Bond

In all cases mentioned in the preceding Section, the Permittee/Permit Holder/Contractor shall post a cash or surety bond from an accredited surety with the concerned Regional Office. The amount of the bond shall be agreed upon by the parties. In case of disagreement, it shall be determined by the Director for areas inside Mineral Reservations and the Regional Director for areas outside Mineral Reservations based on the type of the land and the value of the trees, plants and other existing improvements thereto.

CHAPTER XI MINERAL PROCESSING PERMIT

Section 109. General Provisions

No person shall engage in the processing of minerals without a Mineral Processing Permit (MGB Form No. 11-1).

In the case of the small-scale miners, the processing of the mineral ores and minerals they produced, as well as the licensing of their custom mills or processing plants, notwithstanding the provisions of Section 103 hereof, shall continue to be governed by the provisions of R.A. No. 7076 and P.D. No. 1899 and their implementing rules and regulations.

In the case of the Contractors, holders of Quarry and Industrial Sand and Gravel Permits, the approved Work Program for the production period is sufficient requirement for them to process their minerals in lieu of the Mineral Processing Permits.

Those who are presently engaged in the said activity shall secure a Mineral Processing Permit within six (6) months from the effectivity of these implementing rules and regulations. The term of a Mineral Processing Permit shall be for a period of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with all the terms and conditions of the Permit and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations.

Section 110. Application for Mineral Processing Permit/ Mandatory Requirements

An application (MGB Form No. 11-2) for a Mineral Processing Permit shall be filed by a Qualified Person either personally or through its duly authorized representative with the concerned Regional Office: *Provided*, That a permit application shall be accepted only upon payment of the required fees (Annex 5-A) to the concerned Regional Office: *Provided, further*, That any application with incomplete mandatory requirements shall not be accepted.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least five (5) sets of the following mandatory requirements:

- a. Duly certified Certificate of Registration issued by the Securities and Exchange Commission or concerned authorized Government agency;

- b. Duly certified Articles of Incorporation/ Partnership/Association and By-Laws;
- c. Location map/sketch plan of the area of the proposed processing plant using NAMRIA topographic map in a scale of 1:50,000;
- d. Feasibility Study including work programs, plant site, mill and plant layout/design, details of technology to be employed in the proposed operation, anti-pollution devices/ measures as well as the plant capacity;
- e. When applicable, a satisfactory Environmental Management Record and Community Relations Record as determined by the Bureau in consultation with the Environmental Management Bureau and/or the Department Regional Office. The detailed guidelines for the determination and applicability of such records shall be specified by the Secretary upon the recommendation of the Director;
- f. Environmental Compliance Certificate;
- g. Proof of technical competence including, among others, curricula vitae and track records in mineral processing and environmental management of the technical personnel who shall undertake the operation;
- h. Proof of financial capability to undertake the activities pursuant to Work Program and Environmental Protection and Enhancement Program, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments;

- i. Interim Importation Permit/certification from EMB on the use of chemicals (e.g. cyanide, mercury) in compliance with R.A. No. 6969;
- j. Brief history of applicant's activities for the last five (5) years, if any;
- k. Supply Contract/Agreement with mining rights holders, if applicable; and
- l. Other supporting papers as the Secretary/Director/concerned Regional Office may require or the applicant may submit.

Section 111. Processing/Registration/Issuance of a Mineral Processing Permit

Within five (5) working days from receipt of application by the Regional Office, it shall initially evaluate and then forward the same to the Bureau for final review and evaluation by the latter within fifteen (15) working days from receipt thereof. Thereafter, the Director shall endorse the same to the Secretary for consideration/approval within fifteen (15) working days upon receipt thereof.

Upon approval of the application, the Secretary through the Director/concerned Regional Director shall notify the Permit Holder to cause the registration of the same within fifteen (15) working days from receipt of the written notice. Registration is effected only upon payment of the required fees (Annex 5-A). The Director/concerned Regional Director shall officially release the Permit to the Permit Holder after registration.

Failure of the Permit Holder to cause the registration of its Permit within the prescribed period shall be a sufficient ground for cancellation of the same.

Section 112. Rights and Obligations of the Mineral Processing Permit Holder

The Permit Holder, its heirs or successors-in-interest shall have the right to conduct mineral processing, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Permit.

Section 113. Terms and Conditions of a Mineral Processing Permit

- a. The Permit shall be for the exclusive use and benefit of the Permit Holder;
- b. The Permit Holder shall assume full responsibility and be liable for damages to private and/or public property(ies) that may be occasioned by its operations under the Permit;
- c. The Permit Holder shall submit to the Bureau/concerned Regional Office production and activity reports prescribed in Chapter XXIX of these implementing rules and regulations. The Director/concerned Regional Director may conduct an on-site validation of the submitted reports: *Provided*, That the Permit Holder shall be charged verification and inspection fees thereof;
- d. The Permit Holder shall effectively use the best available appropriate anti-pollution technology and facilities to protect the environment in compliance with the requirements of the ECC and P.D. No. 984. This should be undertaken in coordination with the EMB/Department Regional Office;

- e. The Permit Holder shall conduct its operations in accordance with the provisions of the Act and these implementing rules and regulations;
- f. The Permit Holder shall not discriminate on the basis of gender and that the Permit Holder shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits;
- g. The Permit Holder shall pay fees, taxes and other obligations in accordance with existing laws, rules and regulations;
- h. The Permit Holder shall conform to laws, rules and regulations regarding, among others, labor, safety and health standards;
- i. The Permit Holder shall comply with its obligations under its ECC;
- j. The term of the Permit shall be for a period of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with all the terms and conditions of the Permit and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations.
- k. The Permit Holder shall give preference to goods and services produced and offered in the Philippines of comparative quality and cost. In particular, the Contractor shall give preference to qualified Filipino construction enterprises, construction materials and skills available in the Philippines, Filipino sub-contractors for road

- construction and transportation and Philippine household equipment, furniture and food;
- l. The Permit Holder shall give preference to Filipinos in all types of employment for which they are qualified and that the technology shall be transferred to the same;
 - m. In case of foreign-owned/controlled corporation, representations and warranties that, except for payments for dispositions for its equity, foreign investments in local enterprises which are qualified for repatriation, and local supplier's credits and such other generally accepted and permissible financial schemes for raising funds for valid business purposes, the Permit Holder shall not raise any form of financing from domestic sources of funds, whether in Philippine or foreign currency, for conducting its mineral processing;
 - n. Alien employment shall be limited to technologies requiring highly specialized training and experience subject to the required approval under existing laws, rules and regulations;
 - o. In every case where foreign technologies are utilized and where alien executives are employed, an effective program of training understudies shall be undertaken;
 - p. The Permit Holder shall utilize the best available appropriate and efficient mineral processing technology;
 - q. The Permit shall be subject to cancellation, revocation and termination as provided for in Section 115 hereof;

- r. Withdrawal by the Permit Holder from the Permit shall not release it from any and all financial, environmental, legal and/or fiscal obligations;
- s. The Permit Holder shall comply with all other applicable provisions of the Act and these implementing rules and regulations; and
- t. Such other terms and conditions not inconsistent with the Constitution, the Act and these implementing rules and regulations, as well as those which the Secretary may deem to be for the national interest and public welfare.

Section 114. Renewal of Mineral Processing Permit

Within thirty (30) calendar days before the expiration of the Permit, the Permit Holder may submit to the concerned Regional Office an application to renew the Permit accompanied by two (5) sets of the following applicable mandatory requirements:

- a. Justification of renewal;
- b. Comprehensive and validated technical report on the outcome of the operations, including their environmental effects duly prepared, signed and sealed by a licensed Mining Engineer or Metallurgical Engineer;
- c. Audited report of expenditures incurred during the operations period;
- d. Work Program duly prepared, signed and sealed by a licensed Metallurgical Engineer; and
- e. Other supporting papers as the concerned Regional Office may require or the applicant may submit.

Any renewal shall be approved by the Secretary upon the recommendation of the Director/concerned Regional Director: *Provided*, That no renewal of Permit shall be allowed unless the Permit Holder has complied with all the terms and conditions of the Permit and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations.

A Temporary Permit to Operate (TPO), which shall be valid for thirty (30) calendar days, shall be issued by the Director while awaiting the approval of the renewal: *Provided*, That succeeding TPOs of same duration shall be issued until the renewal is granted.

Section 115. Cancellation/Revocation/Termination of a Mineral Processing Permit

The Mineral Processing Permit may be canceled/revoked/terminated, after due process, by the Secretary upon the recommendation of the Director/concerned Regional Director based on the following grounds:

- a. Failure to comply with the terms and conditions of the Permit and ECC, if applicable;
- b. Violation of any provision of the Act and these implementing rules and regulations;
- c. Failure to pay the taxes and fees due the Government for two (2) consecutive years;
- d. Any misrepresentation in any statement made in the application or those made later in support thereof; and
- e. When national interest and public welfare so require or for environmental protection or ecological reasons.

The foregoing provisions notwithstanding, cancellation/revocation/termination of a Mineral Processing Permit shall not release the Permit Holder from any and all obligations it may have, particularly regarding ecological management, to the public or private party(ies) at the time of cancellation/revocation/termination.

CHAPTER XII

TRANSPORT OF MINERALS/MINERAL PRODUCTS AND CONFISCATION, SEIZURE AND DISPOSITION OF ILLEGALLY-SOURCED MINERALS/MINERAL PRODUCTS

Section 116. Scope

Illegally-sourced minerals/mineral products are those which are mined, extracted, removed and/or disposed of without authority or permit under existing mining laws, rules and regulations.

Section 117. Ore Transport Permit

The transport of all minerals/mineral products by Permit Holders, Contractors, accredited traders, retailers, processors and other mining rights holders must be accompanied by an Ore Transport Permit (MGB Form No. 12-1) issued by the Regional Director or his/her duly authorized representative: *Provided*, That the transport of sand and gravel shall be covered by a Delivery Receipt.

In case of mineral ores or minerals being transported from the small-scale mining areas to the custom mills or processing plants, the concerned Provincial/City Mining Regulatory Board shall formulate its own policies to govern such transport of ores produced by small-scale miners.

For MPSA and FTAA Contractors, Ore Transport Permits shall be issued under the Agreements: *Provided*, That a written notice

prior to shipment or transport of ores shall be furnished to the concerned Regional Office for the purpose of monitoring mining activities in the contract area: *Provided, further*, That such activity is in accordance with the terms and conditions of the Agreement.

An Ore Transport Permit is not necessary for ore samples not exceeding two (2) metric tons to be used exclusively for assay and pilot test purposes. Instead, a certification regarding the same shall be issued by the concerned Regional Director. For ore samples exceeding two (2) metric tons to be transported exclusively for assay and pilot tests purposes, an Ore Transport Permit shall be issued by the Director for a limited amount based on the type of ore, metallurgical tests to be undertaken and other justifiable reasons as determined by the Bureau.

Section 118. Basis of Arrests and Confiscations/Seizures

The absence of any of the foregoing documents shall be considered *prima facie* evidence of illegal mining and shall cause the confiscation/seizure of the minerals/mineral products and the tools and equipment including conveyance used in the commission of the offense in favor of the Government pursuant to P.D. No. 1281, subject to further investigation. If it is found that the minerals/ mineral products seized have been mined, extracted or removed without any permit or authority under existing mining laws, rules and regulations, final confiscation can be effected to be followed by the filing of the complaint for theft of minerals. The Bureau officers which include the Regional Director and other Bureau personnel, duly authorized by the Director, and CENRO personnel, duly authorized by the Secretary, shall have authority to arrest offenders and confiscate/seize illegally-sourced minerals/mineral products and the tools, equipment and conveyance used in the commission of offense.

Section 119. Execution of Sworn Statements

Immediately after seizure of the minerals/mineral products together with the tools, equipment and conveyance used in the commission of the offense, the apprehending Bureau officer shall execute his/her sworn statement or affidavit surrounding the facts of the case in the form hereto attached as MGB Form No. 12-2. He/She shall also take sworn statements or affidavits of witnesses, if any, in the form hereto attached as MGB Form No. 12-3.

Section 120. Assessment and Issuance of Confiscation/Seizure Receipt

The kind, volume or quantity of the seized minerals/mineral products shall be determined immediately and the assessment thereof shall be based on the gross volume or weight without benefit of deduction for natural defects, after which the corresponding seizure receipt shall be issued by the signing Bureau officer, duly acknowledged by the apprehended person(s) or party(ies). In case the apprehended person(s) or party(ies) refuse(s) to acknowledge the seizure receipt, the Local Government authority may attest as to the veracity of said seizure receipt.

Section 121. Custody of the Confiscated/Seized Minerals/Mineral Products, Tools, Equipment and Conveyance

This shall be made in accordance with the following procedures:

- a. In case of apprehension by the Bureau field officer, the mineral products, tools, equipment and conveyance used shall be deposited with the concerned Regional Office or wherever it is most convenient, for safekeeping. If the transfer of the seized products to the aforesaid offices is not immediately feasible, the same

shall be placed under the custody of any The apprehending officer is authorized to seek assistance from licensed mine operators to provide transportation facilities for the transfer of the confiscated items from the place of apprehension to the place of custody. licensed mine operator or the nearest local public official such as the Barangay Captain, Municipal/City Mayor, Provincial Governor or the Philippine National Police (PNP), at the discretion of the confiscating officer taking into account the safety of the confiscated items. In any event, the custody shall be duly acknowledged and received by the official taking custody thereof: *Provided, That in the case of seizure/confiscation by the Bureau the case shall be referred to the concerned Regional Office for further investigation and disposition;*

- b. In case of apprehension by the PNP, Economic Intelligence and Investigation Bureau (EIIB), Coast Guard and other Government law enforcement agencies, the apprehending agency shall notify the concerned Regional Office and turn over the seized items thereto forFor confiscated gold and/or other precious metal(s), the concerned Regional Office shall first determine if they conform with the Bangko Sentral ng Pilipinas (BSP) specifications or requirements for acceptance. proper investigation and disposition; and

- c. If the confiscated gold and/or other precious metal(s) satisfy(ies) the minimum weight requirements but it does not conform with the physical requirements, the said metal(s) shall be delivered by the accountable officer escorted by security officers to the Bureau/concerned Regional Office Metallurgy Laboratory for processing. In cases where the weight requirement is not satisfied, the Chief Cashier/Accountant of the concerned Regional Office shall store the confiscated metal(s) in a safety deposit box of the nearest reputable banking institution duly accredited by the Department Regional Office. Once the inventory of metal(s) reaches the minimum BSP weight specifications, the Chief Cashier/Accountant shall turn over the confiscated metal(s) to the Metallurgy Office. The latter shall turn over immediately after processing into saleable form the metal(s) to the Chief Cashier/Accountant. In each turnover, accountability is transferred through a Memorandum Receipt.

Section 122. Filing of Complaint

The concerned Regional Office shall file the complaint with the proper court for violation of Section 103 of the Act (Theft of Minerals).

The following documents should be attached to the complaint:

- a. Sworn statement of the apprehending/ arresting officer (MGB Form No. 12-2);
- b. Affidavits of witnesses, if any (MGB Form No. 12-3);
- c. Copy of the seizure receipt;
- d. Photographs showing the minerals/mineral products seized including the tools, equipment and conveyance used in the commission of the offense; and
- e. Other supporting papers/evidences as the court may require.

Section 123. Referral of Complaint

Immediately after the complaint is filed, the Regional Office shall transmit a copy of the complaint and all supporting documents to the Bureau for proper handling and disposition, copy furnished the Department.

Section 124. Disposition of Confiscated/Seized Minerals/ Mineral Products, Tools, Equipment and Conveyance

The disposition of confiscated/seized minerals/mineral products, tools, equipment and conveyance shall be handled in accordance with the following procedures:

- a. The concerned Regional Director or his/her duly authorized representative shall expeditiously sell at public auction and/or dispose in accordance with existing laws, rules and regulations all confiscated/seized minerals/mineral products except the following:

1. Those subject of judicial proceedings where ownership of the minerals is at issue until proper authority is obtained for their disposition from the court where the case is pending;
 2. Those earmarked for donation to other Government agencies; and
 3. Those identified and determined by the Department for its own needs.
- b. For confiscated gold and precious metals, there shall be no bidding as the same shall be sold directly to the BSP. The sale shall be made as follows:
1. If confiscated metals conform with existing BSP specifications, the concerned Regional Office shall prepare a letter of intent or advice to sell confiscated precious metals addressed to the nearest BSP Buying Station Director/Administrator; and
 2. The Accountable Officer escorted by Security officers shall finally deliver said metals together with the letter/advice to the BSP Buying Station and receive payment therefor.
- c. Confiscated minerals/mineral products except gold and other precious metals shall be disposed of through a Committee on Bids and Awards on Confiscated Mineral Products

(CBACMP) which, in all cases, shall be composed of the Regional Director responsible for or having custody over the confiscated minerals or his/her duly authorized representative as Chairman and Local Government Unit (LGU), accredited Nongovernmental Organization (NGO) and COA representatives as members.

- d. Confiscated tools and equipment including conveyance used shall be subject to forfeiture in favor of the Government and shall be disposed of, after due process, in accordance with pertinent laws, rules and regulations or policies on the matter.

In cases of confiscated minerals/mineral products that are the subject of court cases, especially those that easily deteriorate like pumice and clay, representations with the proper court shall be made for the immediate disposition thereof through public auction. The proceeds of the sale shall be deposited as the court directs and the same shall be awarded by the latter based on the final court decision. The procedures in handling the sale of confiscated minerals/mineral products through public auction are indicated in Annex 12-A.

Section 125. Remittance of Proceeds of Sale

The proceeds of the sale of confiscated minerals/mineral products, after deducting all administrative costs related to the confiscation of the minerals/mineral products and their disposition, shall be remitted by the Chairman of the CBACMP to the Department either in the form of Cashier's or Manager's check immediately upon receipt of the full payment of the bid for mineral products.

Section 126. Reporting

- a. Individual cases/report of confiscation/ seizure shall be reported/sent immediately by the apprehending

officer to the concerned Regional Director within twenty-four (24) hours who in turn shall send a report to the next higher officer. A detailed report by the apprehending officer must be submitted within three (3) working days from the date of seizure indicating actions taken thereon. If the confiscation/seizure is made with personnel from the Regional Office, the same procedure shall be followed by a report of the concerned Regional Director to the Director.

b. Monthly Report

1. A Monthly Confiscation Report shall be submitted by the concerned Regional Director together with the status of the confiscated minerals/mineral products; and
2. The Director shall consolidate the Monthly Confiscation Reports of all the Regional Directors and in turn forward the same to the Secretary.

c. Quarterly Report

The Director shall submit to the Secretary a quarterly report of confiscated minerals/mineral products.

CHAPTER XIII
ACCREDITATION OF PROCESSORS, TRADERS,
DEALERS AND RETAILERS IN THE TRADING OF
MINERALS/MINERAL PRODUCTS AND BY-PRODUCTS

Section 127. Scope

This Chapter covers all minerals and ores including construction materials such as raw sand, gravel, wash out pebbles and filling materials, semiprocessed mineral products such as, but not limited to rock, concrete aggregates, unpolished decorative stone (such as marble, granite or limestone), tiles and slabs, metallic ore concentrates/tailings, smelter slags, cathodes, ingots, billets, blooms, unrefined precious metals/bars/bullion and agricultural/industrial lime. Exempted are finished/manufactured minerals and metal products such as cement, transit mixed concrete, ceramics, polished decorative stone tiles, refined or alloyed metal sheets, wires, bars, beams, plates, refined precious metal bars, jewelry or ornaments and other mineral products in their final form or stage ready for consumption by end-users.

Section 128. General Provisions

No person shall engage in the trading of minerals/mineral products and by-products either locally or internationally, unless registered with the Department of Trade and Industry (DTI) and accredited by the Department, with a copy of said registration and accreditation submitted to the Bureau.

The traders, dealers and retailers of minerals/mineral products/by-products who are not Contractors/Permit Holders/mining right holders are henceforth required to be accredited by the Department.

Contractors/Permit Holders are considered to be registered and accredited for the purpose of trading minerals/mineral products and by-products during the effectivity of their Permits or mining rights.

Section 129. Mandatory Requirements for Accreditation

The application for Accreditation shall be filed by the applicant with the concerned Regional Office: *Provided*, That an application shall be accepted only upon payment of the required fees (Annex 5-A) to the concerned Regional Office.

Upon payment of the filing and processing fees (Annex 5-A), the applicant shall submit at least five (5) sets of the following mandatory requirements:

- a. Duly accomplished application form as prescribed in MGB Form No. 13-1;
- b. Copy of the Permit/Contract of the Suppliers/sources of minerals/mineral products/by-products or copy of Certificate of Accreditation in case the source of materials is a trader, dealer or retailer;
- c. DTI Registration;
- d. Proof of legal source or supply as supported by any of the following documents:
 1. Supply Contract/Agreement with a Permit Holder/Contractor/ accredited dealer producing the specified minerals/mineral products/by-products;
 2. Affidavit executed by a Permit Holder/Contractor/accredited dealer to the effect that it is willing or currently selling and will continue to sell or supply the applicant with the minerals/mineral products/by-products specified in the application;
 3. Delivery or Purchase Receipts issued by a Permit Holder, Contractor or previously accredited dealer/trader; and

4. Ore Transport Permit (OTP) or Bill of Lading which clearly indicates that the applicant is the consignee of a Permittee or a duly accredited dealer/trader/shipper.
- e. Other supporting papers as the concerned Regional Office may require or the applicant may submit.

Provided, That any application with incomplete mandatory requirements shall not be accepted.

Section 130. Procedure for Accreditation

The Regional Director who exercises territorial jurisdiction over applicant's business operation shall issue the Certificate.

The following procedures shall be observed on processing of application and issuance of the Certificate of Accreditation:

- a. Upon receipt of the application and its supporting documents, the concerned Regional Director shall evaluate and validate them; and
- b. Within fifteen (15) working days upon receipt thereof, he/she shall issue the Certificate or reject the application based on merits or demerits, respectively.

The Regional Director shall regularly provide the Director with a list of accredited processors, traders, dealers and retailers of minerals/mineral products and by-products filed in its jurisdiction.

Section 131. Fees

Each applicant shall pay an application and filing fee (Annex 5-A) to the concerned Regional Office.

Section 132. Term of the Certificate of Accreditation

The Certificate of Accreditation (MGB Form No. 13-2) shall have a term of two (2) years from its issuance, renewable for like periods.

Section 133. Confiscation, Apprehension and Disposition of Seized Mineral Products

Shipments of minerals/mineral products and by-products by non-accredited traders and other illegal sources shall be apprehended, confiscated and disposed of in accordance with the provisions of Chapter XII of these implementing rules and regulations.

CHAPTER XIV DEVELOPMENT OF MINING COMMUNITIES, SCIENCES AND MINING TECHNOLOGY

Section 134. Development of Community and Mining Technology and Geosciences

- a. The Contractor/Permit Holder/Lessee shall assist in the development of the host and neighboring communities and mine camp to promote the general welfare of the inhabitants living therein;
- b. The Contractor/Permit Holder/Lessee shall assist in developing mining technology and geosciences as well as the corresponding manpower training and development; and
- c. The Contractor/Permit Holder/Lessee shall allot annually a minimum of one percent (1%) of the direct mining and milling costs necessary to implement Paragraphs (a) and (b) of this

Section: *Provided*, That the royalty payment of one percent (1%) of the gross output for the Indigenous Cultural Communities, pursuant to Section 16 hereof, may include the aforementioned allotment to implement Paragraphs (a) and (b) hereof.

Section 135. Credited Activities or Expenditures

The following activities or expenditures shall be considered in enhancing the development of mining and neighboring communities:

- a. Establishment and maintenance of community schools, hospitals, churches and recreational facilities which will be open to the general public whether or not they are mine employees;
- b. Construction and maintenance of community access roads, bridges, piers and wharves;
- c. Establishment and maintenance of communication, waterworks, sewerage and electric power systems which are accessible to mine employees and members of the community;
- d. Development and maintenance of community housing projects for mine employees and members of the community;
- e. Establishment of training facilities for manpower development for mine employees and members of the community; and
- f. Establishment of livelihood industries for the dependents of the mine employees as well as for other members of the community.

In addressing the future mine development, the Contractor/Permit Holder/Lessee may involve the concerned communities, Local/National Government or concerned private institutions in the pre-construction and social planning stage.

The following activities or expenditures shall be considered towards the development of mining, geosciences and processing technology and the corresponding manpower training and development:

- a. Advanced studies conducted in the mining area such as, but not limited to, institutional and manpower development and basic and applied research;
- b. Advanced studies, including the cost of publication thereof in referred technical journals or monographs accessible to the local scientific community, related to mining which are conducted by qualified researchers, as construed by the practices at the Department of Science and Technology, who are not employees of the mine;
- c. Expenditures for scholars, fellows and trainees on mining, geoscience and processing technology and related subjects such as community development and planning, mineral and environmental economics;
- d. Expenditures on equipment and capital outlay as assistance for developing research and educational institutions which serve as a venue for developing mining, geoscience and processing technology and the corresponding manpower training and development; and

- e. Other activities that the Director may consider upon proper recommendation by the concerned professional organizations and/or research institutions, where appropriate.

Section 136. Development of Host and Neighboring Communities

The Contractor/Permit Holder/Lessee shall perform the following:

- a. Coordinate with proper authorities in providing development plans for the host and neighboring communities;
- b. Help create self-sustaining income generating activities, such as but not limited to, reforestation and production of goods and services needed by the mine and the community. Where traditional self-sustaining income generating activities are identified to be present within the host and/or neighboring communities, the Contractor/Permit Holder/Lessee shall work with such communities towards the preservation and/or enhancement of such activities; and
- c. Give preference to Filipino citizens, who have established domicile in the host and neighboring communities, in the hiring of personnel for its mining operations. If necessary skills and expertise are currently not available, the Contractor/Permit Holder/Lessee must immediately prepare and undertake a training and recruitment program at its expense.

Section 137. Development of Mining Technology and Geosciences

The Contractor/Permit Holder/Lessee shall, among others, perform the following:

- a. In the course of its operations, produce geological, geophysical, geochemical and other types of maps and reports that are appropriate in scale and which in format and substance are consistent with the internationally accepted standards and practices. Such maps shall be made available to the scientific community in the most convenient and cost effective forms, subject to the condition that the Contractor/Permit Holder/Lessee may delay release of the said information for a reasonable period of time which shall not exceed three (3) years;

- b. Systematically keep the data generated from the contract/mining area such as cores, assays and other related information, including economic and financial, and may make them accessible to students, researchers and other persons responsible for developing mining, geosciences and processing technology subject to the condition that the Contractor/Permit Holder/Lessee may delay release of data to the science and technology community within a reasonable period of time which shall not exceed three (3) years; and

- c. Replicate the data, maps and reports cited in Paragraphs (a) and (b) and furnish the Bureau for archiving and systematic safekeeping which shall be made available to the science and technology community for conducting research and for undertaking other activities which contribute to the development of mining, geosciences and processing technology and the corresponding manpower training and development: *Provided*, That the release of data, maps and the like shall be similarly constrained in accordance with Paragraphs (a) and (b) above.

Section 138. Use of Indigenous Goods, Services and Technologies

To the maximum extent compatible with efficient mining operations, the Contractor/Permit Holder/Lessee shall give preference to products, services and technologies produced and offered in the Philippines of comparable quality. In particular, the Contractor/Permit Holder/Lessee shall give preference to Filipino construction enterprises, construct buildings utilizing materials and skills available in the Philippines, employ Filipino subcontractors for road construction and transportation, and purchase Philippine household equipment, furniture and food.

Section 139. Donations/Transfer of Facilities

The Contractor/Permit Holder/Lessee shall, within one (1) year from the abandonment, cancellation or termination of the Agreement/Permit/Lease, remove all improvements deemed no longer socially usable after consultation with concerned Local Government Unit(s)/community(ies), on the mining premises found on public land(s).

Otherwise, all the social infrastructure and facilities shall be turned over or donated tax-free to the proper Government authorities, national or local, to ensure that said infrastructure and facilities are continuously maintained and utilized by the host and neighboring communities.

Section 140. Hiring of Foreigners for Technical and Specialized Work During Mining Operations

All holders or applicants for Mineral Agreement/FTAA/Exploration Permit/Mineral Processing Permit shall give preference to Filipino citizens in all types of mining employment within the country insofar as such citizens are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of the operations. They, however, shall not be hindered from hiring employees of his own selection, subject to the provisions of Commonwealth Act No. 613, as amended, for technical and specialized work which, in his judgment and with the approval of the Director, requires highly-specialized training or experience in exploration, development or utilization of mineral resources: *Provided*, That in no case shall each employment exceed five (5) years or the payback period of the project as stated in the approved original feasibility study, whichever is longer: *Provided, further*, That each foreigner employed as mine manager, vice president for operations or in an equivalent managerial position in charge of mining, milling, quarrying or drilling operations shall be subject to the provision of Section 141 hereof: *Provided, finally*, That each foreigner employed in a position lower than the managerial level shall be hired on a consultancy basis.

Section 141. Requirements for the Employment of Foreigners in Mining Operations

Foreigners that may be employed in mining operations shall:

- a. Present evidence of his/her qualifications and work experience related to his/her position; or
- b. Pass the appropriate Government licensure examination; or
- c. In special cases, may be permitted to work by the Director for a period not exceeding one (1) year: *Provided*, That if reciprocal privileges are extended to Filipino nationals in the country of domicile, the Director may grant waivers or exemptions;
- d. Secure working permits/visa from other concerned Government agency(ies); and
- e. Submit other supporting papers deemed necessary by the Secretary/Director/ concerned Regional Director.

CHAPTER XV

MINE SAFETY AND HEALTH

Section 142. Responsibilities of a Contractor/Permittee/ Lessee/Permit Holder and Service Contractor

All Contractors, Permittees, Lessees, Permit Holders and Service Contractors shall strictly comply with all the rules and regulations embodied under Mines Administrative Order (MAO) No. MRD-51, Series of 1991, otherwise known as the "Mine Safety Rules and Regulations."

For new technologies/equipment in mining and milling operations that are not covered under the provisions of MAO No. MRD-51, the Bureau shall formulate the appropriate rules and regulations to govern the same after due consultation with all concerned parties.

Section 143. Accreditation of Service Contractors

No Service Contractor shall be hired by the Contractor/Permittee/Lessee/Permit Holder to undertake mining/quarrying operations unless they are duly accredited by the Bureau.

The following are the requirements for accreditation:

- a. Duly certified Certificate of Registration issued by the Securities and Exchange Commission or concerned authorized Government agency;
- b. Duly certified Articles of Incorporation and By-Laws;
- c. Proof of technical competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the said activities;
- d. Track record of the technical personnel in undertaking safe mining/quarrying operations and related activities;
- e. Proof of financial capability to undertake mining and quarrying operations and related activities, such as latest Audited Financial Statement and where applicable, Annual Report for the preceding year, credit lines, bank guarantees and/or similar negotiable instruments; and
- f. Other supporting papers as the Department/Bureau/concerned Regional Office may require or the applicant may submit.

Section 144. Submission of Safety and Health Program

The Director shall require a Contractor/Permittee/Lessee/Permit Holder/Service Contractor to submit a Safety and Health Program covering its area of operations within fifteen (15) working days before the start of every calendar year, copy furnished the Regional Office, with the following terms and conditions:

- a. The safety and health program shall include, but shall not be limited to, the following:
 1. Standard operating procedures for mining and milling operations;
 2. Management and employee training;
 3. Good housekeeping;
 4. Health control and services;
 5. Provisions for personnel protective equipment, etc;
 6. Monitoring and reporting;
 7. Environmental Risk Management including an Emergency Response Program; and
 8. Occupational Health and Safety Management.

- b. For the entire duration of the contract period, the Contractor/Permittee/Lessee/Permit Holder shall be responsible in the monitoring of the safety and health program of the Service Contractor: *Provided*, That the former shall ensure the compliance of the latter with existing rules and regulations: *Provided, further*, That the safety records of the Service Contractor

shall be included in a separate form in the safety record of the Contractor/ Permittee/ Lessee/ Permit Holder.

- c. A Service Contractor shall be required to assign a safety engineer and/or safety inspector if the service area requires close supervision where imminent hazards exist.

Section 145. Mine/Quarry Safety Inspection and Audit

The Regional Director or his/her duly authorized representative shall have exclusive jurisdiction over the conduct of safety inspection of all installations, surface or underground, in mining/quarrying operations and monitoring of the safety and health program in a manner that will not impede or obstruct work in progress of a Contractor/ Permittee/ Lessee/ Permit Holder and shall submit to the Director a quarterly report on their inspection and/or monitoring activities: *Provided*, That the Director shall undertake safety audit annually or as may be necessary to assess the effectiveness of the safety and health program.

Section 146. Registration of Safety Engineer and Safety Inspector

All Safety Engineers and Safety Inspectors of mining/quarrying operations shall be duly registered with the Regional Office and the corresponding permit shall be issued for this purpose (MGB Form Nos. 15-1, 15-2 and 15-3).

Section 147. Qualifications for Registration as Safety Engineer or Safety Inspector

- a. For Registration as Safety Engineer:
 1. For Permanent Registration -

- i. A duly registered and currently licensed Mining Engineer with at least one (1) year supervisory experience in mining/quarrying operations and/or mine safety work; or
- ii. A duly registered and currently licensed Engineer, Geologist or Chemist with at least five (5) years experience in mining/quarrying operations and/or mine safety work.

2. For Temporary Registration -

Any duly registered and currently licensed Engineer, Geologist or Chemist with at least two (2) years experience as Safety Inspector preferably in the employ of the company.

b. For Registration as Safety Inspector:

1. For Permanent Registration -

- i. A graduate in any Engineering, Geology or Chemistry course with at least one (1) year experience in safety work or two (2) years experience in mining operations; or

- ii. A college undergraduate in any Engineering, Geology or Chemistry course with at least two (2) years experience in safety work or three (3) years experience in mining operations;
or
- iii. At least high school graduate with four (4) years experience in safety work or five (5) years experience in mining operations.

2. For Temporary Registration as Safety Inspector -

- i. A graduate in any Engineering, Geology or Chemistry course with one (1) year experience in mining operation; or
- ii. A college graduate in any Engineering, Geology or Chemistry course with at least one (1) year experience in safety work or two (2) years experience in mining operation;
or
- iii. At least high school graduate with two (2) years experience in safety work or three (3) years experience in mining operation.

Section 148. Mandatory Requirements for the Issuance of Safety Engineer/Inspector Permit

Three (3) copies of the following requirements shall be submitted before the issuance of Safety Engineer/Inspector Permit:

- a. Duly filled-up application form;
- b. Certified photocopy of college diploma or high school diploma, or pertinent credentials, as the case may be;
- c. Certificate of employment (present and previous), signed under oath;
- d. Latest photograph, 2 in. x 2 in.; and
- e. Registration fees in the amount specified under Annex 5-A.

Section 149. Term of Temporary Safety Engineer/Inspector Permit

A Temporary Safety Engineer/Inspector Permit shall have a term of one (1) year from the date of issuance thereof, renewable every year.

Section 150. Permit for Electrical/Mechanical Installations

No electrical and/or mechanical installation shall be undertaken inside a mining/quarrying operation compound without a permit issued for the purpose by the concerned Regional Director.

Section 151. Applications and Plans for Electrical/Mechanical Installations

- a. Application for such installation shall be filed by the Contractor/Permit Holder or his/her authorized representative with the concerned

- Regional Office accompanied by plans and specifications;
- b. Plans shall be prepared in accordance with the provisions of Electrical Engineering Law with respect to electrical installation and Mechanical Engineering Law with respect to mechanical installation, and such plans must conform to the rules and regulations which have been or may be formulated in pursuance of the above-mentioned laws;
 - c. Application for alteration and/or addition of any electrical or mechanical installations shall be filed in the same manner as for a new installation; and
 - d. Authority to install shall be issued only after the plans have been cleared and certified to conform with the rules and regulations of the above-mentioned laws.

Section 152. Conditions of an Electrical/Mechanical Installations Permit

- a. Upon completion of installation but prior to regular operation, an inspection shall be conducted by the concerned Regional Director or his/her duly authorized representative;
- b. If upon inspection by the engineers of the concerned Regional Office, the installation is found to be in accordance with the plans and specifications, a written permit good for a period of one (1) year shall be issued; and
- c. Application for renewal of an Electrical/Mechanical Permit shall be filed by the Contractor/Permit Holder or his/her

authorized representative with the concerned Regional Office at least thirty (30) calendar days before the expiration date of said Permit.

Section 153. Charges

The applicant shall bear all expenses in the field inspection including the cost of transportation of the field inspectors from their official station to the mine/quarry and back. In addition, an inspection fee of One Thousand Pesos (₱1,000.00) per man per day shall be charged to the applicant: *Provided*, That the minimum charge shall not be less than Five Thousand Pesos (₱5,000.00).

Section 154. Power to Issue Orders

- a. As the need arises, the concerned Regional Director shall require the Contractor/ Permittee/Lessee/Permit Holder and Service Contractor to remedy any practice connected with mining or quarrying operations, which is not in accordance with the provisions of MAO No. MRD-51; and
- b. The same may summarily suspend, wholly or partially, any activity related to mining/quarrying operations, in case of imminent danger to life or property, until the danger is removed, or until appropriate measures are taken by the Contractor/ Permittee/Lessee/Permit Holder/Service Contractor.

Section 155. Report of Accidents

- a. In case of any incident or accident, causing or creating the danger of loss of life or serious

physical injuries, the person in charge of the operations shall report the same to the concerned Regional Office where the operations are situated within twenty-four (24) hours, copy furnished the Bureau. Failure to report the same without justifiable reason shall be cause for the imposition of administrative sanctions prescribed under MAO No. MRD-51; and

- b. The Contractor/Permittee/Lessee/Permit Holder/Service Contractor shall furnish the Bureau/concerned Regional Office with the following:
 - 1. Monthly Contractor's/Permittee's/Lessee's/Permit Holder's/Service Contractor's Report of Accident or Sickness (MGB Form No. 15-4);
 - 2. Monthly General Accident Report (MGB Form No. 15-5); and
 - 3. Minutes of the Central Safety Committee meetings.

Section 156. Right to Possess and Use Explosives

A Contractor/Permittee/Lessee/Permit Holder/Service Contractor shall have the right to possess and use explosives within its contract/permit/lease area as may be necessary for its mining/quarrying operations upon approval of an application by the Philippine National Police through the recommendation by the concerned Regional Office.

Section 157. Requirements in the Application for Purchaser's License, License to Purchase/Transfer Explosives or Blaster Foreman's License for Mining/Quarrying Purposes

No application for Purchaser's License, License to Purchase/Transfer Explosives or Blaster Foreman's License for mining/quarrying purposes (MGB Form No. 15-6) shall be accepted for filing with the Regional Office unless accompanied by a processing/application fee in accordance with the schedule in Annex 5-A and accompanied by four (4) copies of supporting documents prescribed in Annex 15-A.

Section 158. Field Inspection of Proposed Storage Facilities (Magazines) and Verification of Blasting Scheme

Immediately after the filing of application for Purchaser's License, the concerned Regional Director shall authorize the conduct of field inspection of storage facilities to determine whether or not the location and specifications of magazines are in accordance with those prescribed under MAO No. MRD-51 and to verify the proposed blasting scheme(s). The applicant shall bear all expenses in the field verification and the cost of transportation of the field investigators from their Official Station to the mine/quarry site and return.

Section 159. Approval of the Applications for Purchaser's License, License to Purchase/Transfer Explosives or Blaster Foreman's License for Mining/Quarrying Purposes

Upon satisfaction of all the requirements stated in Section 157 hereof, the application for Purchaser's License, License to Purchase/Transfer Explosives or Blaster Foreman's License for

mining/quarrying purposes shall be endorsed by the concerned Regional Office to the Philippine National Police for consideration/approval.

Section 160. Filing of Application for Amendment and Renewal of Purchaser's License

Application for amendment of Purchaser's License shall be filed and acted upon in the same manner as for a new Purchaser's License.

Application for renewal of Purchaser's License shall be filed by the holder with the concerned Regional Office at least thirty (30) calendar days before the expiration date of such License.

Section 161. Right of Inspection

The Director reserves the right to inspect the mine/quarry explosives magazines and audit records of explosive transactions at the expense of the Purchaser's License holder and at specified rates as may be deemed necessary: *Provided*, That failure to immediately implement, without justifiable reasons, the recommendation(s) to ensure the proper safekeeping and maintenance of explosives and its magazines shall cause for the imposition of administrative sanctions as provided for in MAO No. MRD-51.

Section 162. Submission of Reports by Purchaser's License Holders

Holders of Purchaser's Licenses shall be required to keep records of daily explosive transactions and submit to the Director reports of their explosive transactions (MGB Form No. 15-7) and explosives and accessories consumption reports (MGB Form No. 15-8) within fifteen (15) working days after every calendar month.

Section 163. Mine Labor

No person under sixteen (16) years of age shall be employed in any phase of mining operations and no person under eighteen (18) years of age shall be employed in an underground mine.

The Bureau shall coordinate with the Department of Labor and Employment in the determination of hazardous operations, processes and/or activities in mining industry in relation to the employment of minors.

Section 164. Mine Supervision

All mining and quarrying operations that employ more than fifty (50) workers shall have at least one (1) licensed Mining Engineer with at least five (5) years of experience in mining operations and one (1) registered foreman.

Section 165. Coverage of the Magna Carta for Public Health Workers

All personnel of the Bureau, its Regional Offices and other Department Bureaus/Offices, particularly the Environmental Management Bureau, involved in the actual implementation of mines safety, health and environmental laws, rules and regulations shall be covered and entitled to the allowances and other benefits under R.A. No. 7305, otherwise known as the "Magna Carta of the Public Health Workers". As such, funding for this purpose shall be automatically included in the regular budget of the Bureau/Department.

CHAPTER XVI ENVIRONMENTAL PROTECTION

Section 166. General Provision

Consistent with the basic policy of the State to assure the availability, sustainability and equitable distribution of the country's natural resources, the Department adopts the policy 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 and the sustainable development objectives and responsibilities as provided for in these implementing rules and regulations.

Section 167. Environmental Protection Objectives

The environmental protection objectives include the following:

- a. Maintenance of sustainable environmental conditions at every stage of the mining operation;

During every stage of the mining operation, as well as after the termination stage thereof, all open pit work areas, underground workplaces, mine waste and tailings impoundment systems, quarry sites and other mining-disturbed landforms, including those disturbed during exploration, shall be progressively rehabilitated to a condition prescribed in the Environmental Compliance Certificate and/or Environmental Protection and Enhancement Program.

- b. Establishment of a functional post-disturbance land use capability;

Minesite decommissioning and rehabilitation shall aim to establish a land use capability that is functional and proximate to the land use prior to the disturbance of the mine area, unless other more beneficial land uses are predetermined and agreed in partnership with local communities and Local Government Units.

- c. Preservation of downstream freshwater quality;

The quality of surface and ground water emanating from the exploration or contract/lease areas shall be maintained at acceptable levels, as determined from the actual and/or potential downstream water uses.

- d. Preservation of sea water quality and natural habitats for marine life;
- e. Prevention of air and noise pollution; and
- f. Respect for the traditional and/or sustainable management strategies concerning natural resources of Indigenous Cultural Communities and other communities.

Section 168. Environmental Work Program (EWP)

Applicants for Exploration Permits, as well as those for Mineral Agreements and FTAAAs which shall undertake exploration activities, shall submit to the Bureau for areas within Mineral Reservations or to the concerned Regional Office(s) for areas outside Mineral Reservations an EWP (MGB Form No. 16-1 or MGB Form No. 16-1A) detailing the environmental impact control and rehabilitation activities proposed during the exploration period including the costs to

enable sufficient financial resources to be allocated to meet the environmental and rehabilitation commitments.

The EWP shall provide a description of the expected and considered acceptable impacts and shall set out the environmental protection and enhancement strategies based on best practice in environmental management in mineral exploration. It shall include a statement on post-exploration land use potential for various types of disturbed land and extend to the completion of the commitments in the rehabilitation of the disturbed land in a technically, socially and environmentally competent manner. The program shall be based on acceptable, practical and achievable options and demonstrated practice. Finally, the program shall include implementation schedules, system of environmental compliance guarantees, monitoring, reporting and cost provisions. Where proposed practices are unproven, a research program to prove the impact control and rehabilitation technology shall be required.

The applicants shall furnish the concerned *Sangguniang Panlalawigan* with the said EWP. A status report as to compliance with the EWP shall be submitted to the Bureau/concerned Regional Office within fifteen (15) working days from the end of six (6) months after the approval of the EWP and every six (6) months thereafter.

Detailed guidelines in the preparation of and on compliance with the EWP shall be prescribed by the Secretary through the Director and shall be intended to assist the development of project specific environmental management practices.

Section 169. Environmental Protection and Enhancement Program (EPEP)

An EPEP (MGB Form No. 16-2) shall be required to provide the operational link between the environmental protection and

enhancement commitments under these implementing rules and regulations, as well as those stipulated in the Environmental Compliance Certificate (ECC) under P.D. 1586 and the Contractor's plan of mining operation: *Provided*, That submission of the EPEP shall complement and not substitute for the requirement for an Environmental Compliance Certificate.

EPEPs are required in the following cases:

- a. Mineral Agreement or FTAA Contractors and other Permit Holders shall submit, within thirty (30) calendar days upon receipt of the ECC, an EPEP covering all areas to be affected by mining development, utilization and processing under their contracts. Environmental impact control and rehabilitation activities proposed during the life-of-mine shall include costings to enable sufficient financial resources to be allocated to meet the life-of-mine commitments. Such financial requirements of the EPEP shall be the basis for the lodging of the Mine Rehabilitation Fund; and
- b. Existing MPSA or FTAA Contractors with ECCs and operating mines and quarries may submit, within sixty (60) calendar days from the effectivity of these implementing rules and regulations, an EPEP covering all areas to be affected by development, utilization and processing under their contract and/or lease. Environmental impact control and rehabilitation activities proposed during the remaining life-of-mine period shall include costings to enable sufficient financial resources to be allocated to meet the environmental and

rehabilitation commitments. Such financial requirements of the EPEP shall be the basis for the lodging of the Mine Rehabilitation Fund.

The EPEP shall provide a description of the expected and considered acceptable impacts and shall set out the life-of-mine environmental protection and enhancement strategies based on best practice in environmental management in mining. It shall include a statement on post-mining land use potential for various types of disturbed land (*inter alia*, pits, waste dumps, tailings-impounding structures and infrastructure sites) and extend to the completion of the commitments in the rehabilitation of the disturbed land in a technically, socially and environmentally competent manner. The program shall be based on practical and achievable options and demonstrated practice. Finally, the program shall include implementation schedules, system of environmental compliance guarantees, monitoring, reporting and cost provisions. Where proposed practices are unproven, a research program to prove the impact control and rehabilitation technology shall be required.

The Contractor shall allocate for its initial environment-related capital expenditures an amount that shall approximate ten percent (10%) of the total capital/project cost or such other amount depending on the environmental/geological condition, nature and scale of operations and technology employed. Initial environment-related capital expenditures may include environmental studies and design cost, waste area preparation, tailings/slime containment/disposal system, mine waste disposal system, wastewater/acid mine drainage treatment plants, dust control equipment, air pollution control facilities, drainage system and other environment-related mitigating measures and capital expenditures.

Detailed guidelines in the preparation of and on compliance with the EPEP shall be prescribed by the Secretary through the Director and

shall be intended to assist the development of project specific environmental management practices.

Section 170. Processing and Approval of the EPEP

The Contractor/Permit Holder shall submit at least ten (10) legible copies of the EPEP and a complete electronic file in computer diskettes to the Mine Rehabilitation Fund (MRF) Committee (described in Sections 182 and 183 hereof) through the concerned Regional Office for review.

The MRF Committee shall conduct a preliminary evaluation on the submitted document as to its form and substance and may impose additional requirements and documentation which are deemed necessary. The MRF Committee shall endeavor to complete the evaluation and processing of the EPEP within thirty (30) calendar days from receipt thereof.

All preliminary evaluations shall be consolidated and forwarded to the Contingent Liability and Rehabilitation Fund (CLRF) Steering Committee (described in Sections 193 and 194 hereof) through the Bureau for final evaluation and approval. The EPEP shall be acted upon by the CLRF Steering Committee within thirty (30) calendar days from receipt thereof from the MRF Committee. The Contractor/Permit Holder shall provide each of the concerned Local Government Units with a copy of the approved EPEP not later than thirty (30) calendar days prior to the intended date of commencement of mining operation.

Any change in the approved environmental protection, enhancement and rehabilitation strategies, which entails a variance of minus twenty percent (-20%) of the financial requirements, shall require a submission of a revised EPEP by the Contractor/Permit Holder to the MRF Committee for preliminary evaluation and to the CLRF Steering Committee for final evaluation and approval. The MRF and CLRF

Steering Committees shall act on the revised EPEP within the period of assessment as set forth in the preceding paragraphs. The Contractor/Permit Holder shall provide each of the concerned Local Government Units with a copy of the approved revised EPEP not later than thirty (30) calendar days prior to the intended date of effecting the revised EPEP.

Section 171. Annual Environmental Protection and Enhancement Program (AEPEP)

To effectively implement the approved EPEP, an Annual Environmental Protection and Enhancement Program (MGB Form No. 16-3) shall be submitted to the Bureau/concerned Regional Office at least thirty (30) calendar days prior to the beginning of every calendar year. Such program shall be based on the approved EPEP and shall be implemented during the year for which it shall be submitted. It shall include, but shall not be limited to, exploration, development, utilization, rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out areas, waste dumps (acid mine drainage control), tailings-covered areas, aquaculture, watershed development and water conservation and socioeconomic development.

A Contractor/Permit Holder shall allocate for its annual environment-related expense a percentage based on the AEPEP which may approximate a minimum of three to five percent (3-5%) of its direct mining and milling costs depending on the environment/geologic condition, nature and scale of operations and technology employed.

Section 172. Penalties

Contractors/Permit Holders found operating a mining project without an approved EPEP/revised EPEP shall suffer the penalty prescribed in the Penal Provisions of the Act.

Section 173. Organization of a Mine Environmental Protection and Enhancement Office (MEPEO)

All Contractors/Permit Holders shall incorporate in their mine organization structures a "Mine Environmental Protection and Enhancement Office (MEPEO), which shall set the level of priorities and marshal the resources needed to implement environmental management programs. The MEPEO shall be headed preferably by either a licensed Mining Engineer, Geologist or Metallurgical Engineer or by an Environmental Engineer with at least five (5) years experience in actual mining environment work and shall be responsible for addressing the environmental concerns of the Contractor/Permit Holder through adequate and sustainable programs.

Section 174. Environmental Monitoring and Audit

To ensure and check performance of and compliance with the approved EPEP/AEPEP by the Contractors/Permit Holders, a Multipartite Monitoring Team (MMT), as described in Section 185 hereof, shall monitor every quarter, or more frequently as may be deemed necessary, the activities stipulated in the EPEP/AEPEP. The expenses for such monitoring shall be chargeable against the Monitoring Trust Fund of the Mine Rehabilitation Fund as provided for in Section 181 hereof. The environmental monitoring reports shall be submitted by the MMT to the MRF Committee and shall serve as part of the agenda during its meetings as mentioned in Section 184 hereof. Said reports shall also be submitted to the CLRF Steering Committee to serve as one of the bases for the annual environmental audit it shall conduct.

An independent environmental audit shall be undertaken regularly by the Contractor to identify environmental risks affecting mining operations to serve as a basis for the development of an effective environmental management system. The MMT, MRF Committee and

CLRF Steering Committee shall be furnished with the results of the said audit.

Section 175. Power to Issue Order

The Regional Director in consultation with the Environmental Management Bureau (EMB) and/or Environmental Management and Protected Areas Services (EMPAS) of the Department Regional Office shall require the Contractor/Permittee/Lessee/Permit Holder to remedy any practice connected with mining or quarrying operations which is not in accordance with anti-pollution laws and regulations. The Regional Director may summarily suspend mining or quarrying operations in case of imminent danger to the environment, until the danger is removed or appropriate measures are taken by the Contractor/Permittee/Lessee/Permit Holder.

In situations where mining or quarrying operations are actually endangering the environment or pose imminent danger thereto, the EMB, Pollution Adjudication Board (PAB) or EMPAS may take the remedial measures it may deem imperative to avert such danger and immediately submit a report thereon to the Director/concerned Regional Director for appropriate action.

Section 176. Presidential Mineral Industry Environmental Awards

A Presidential Mineral Industry Environmental Awards may be given to exploration or operating mining companies based on their yearly environmental performance and accomplishments. Detailed guidelines in the determination of the recipients of the Presidential Mineral Industry Environmental Awards shall be formulated by the Secretary through the Director.

CHAPTER XVII

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

Section 177. Processing of the Environmental Impact Statement (EIS) and the Initial Environmental Examination (IEE)

The Environmental Management Bureau (EMB)/Department Regional Office, in coordination with the Bureau, shall take primary responsibility for the acceptance, processing, evaluation and monitoring of the Environmental Impact Statements (EISs) and Initial Environmental Examinations (IEEs). The EMB/EMPAS shall have the authority to recommend to the Secretary/Regional Executive Director (RED) any appropriate action on applications for an Environmental Compliance Certificate (ECC).

Section 178. EPEP in Relation to ECC

The preparation, submission and approval of EPEP shall be incorporated as a mandatory conditionality in the ECC being issued by the Secretary/RED or their duly authorized representatives to a Contractor/Permit Holder. The ECC shall be the basis in the preparation of EPEP.

The Bureau and the EMB shall enter into a Memorandum of Understanding to harmonize the promulgation of these implementing rules and regulations and the EIS system.

Section 179. Penalties

Contractors/Permit Holders found operating a mining project without an ECC or wilfully violating and grossly neglecting to abide by the terms and conditions of the ECC shall suffer the penalty prescribed in the Penal Provisions of the Act and other pertinent environmental laws.

CHAPTER XVIII

CONTINGENT LIABILITY AND REHABILITATION FUND

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 and the Mine Waste and Tailings Fees as stipulated in the Act 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 Fifty Thousand Pesos (₱50,000.00) 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 monthly to correspond to the expenses incurred by the monitoring team for the month.

- 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 for specific mining project phase, 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 (₱5,000,000.00), 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.

For the succeeding years up to the end of the post-decommissioning period of ten (10) years, the MRF shall continue as a Trust Fund as earlier described. Any interests or

earnings of the MRF shall be made part thereof to comprise and satisfy the above-mentioned amount required. 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.

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;
- b. Manages, operates, monitors and looks after the safety of 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. 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 concerned Regional Office 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 and RCFs 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. Representative of the Autonomous Regional Government, where this is applicable, as Member;
- d. Representative from the Local Government Unit as Member;
- e. Representative from the local NGOs and community organizations, including People's Organizations, church or civic organizations, as Member; and
- f. 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 therefor 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 each meeting.

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 Regional Office as Head;
- b. Representative from Department Regional Office as Member;
- c. Representative of the Contractor/Permit Holder as Member.
- d. Representative from the affected community(ies) as Member;
- e. Representative from the affected Indigenous Cultural Community(ies), if any, as Member; and
- f. 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 174 hereof, copy furnished the CLRF Steering Committee.

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

Five (5) years before the final decommissioning of the contract/mining area, the Contractors/Permit Holders shall submit to the

MRF Committee through the Regional Office and to the CLRF Steering Committee through the Bureau its final mine rehabilitation and/or decommissioning plan(s), including its financial requirements up to post-decommissioning over a ten-year period for monitoring purposes. The plan 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 188. Penalties

Failure of the Contractor/Permit Holder to establish a Mine Rehabilitation 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 ~~P~~ 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 were 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 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. Resolves issues involving the final mine rehabilitation and decommissioning 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. Monitors and evaluates the performance of the MRF Committees;
- f. Administers the Mine Waste and Tailings Fees Reserve Fund;
- g. Evaluates and decides on all applications for compensation for damages and awards compensations therefor;
- h. Prescribes documentary requirements for applications for compensation for damages;
- i. 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;
- j. 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;
- k. Implements duly approved guidelines, rules and regulations;
 - l. Formulates policy recommendations to strengthen the environmental provisions of these implementing rules and regulations for consideration of the Secretary;
 - m. 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;
 - n. 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
 - o. 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 therefor 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 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 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 therefor to the Committee;

- e. Verifies the amounts of mine waste and mill tailings generated by Contractors/Lesseees/Permit Holders;
- f. Computes and collects the mine waste and tailings fees to be paid by Contractors/Lesseees/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 for the cost of consultancy and other expenses that are deemed necessary in carrying out the functions of the Committee related to EPEP 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.

CHAPTER XIX CONFLICTS/ADVERSE CLAIMS/OPPOSITIONS

Section 201. Creation of Panel of Arbitrators

There shall be a Panel of Arbitrators in the Legal Staff of the Regional Office composed of three (3) members, two (2) of whom must be members of the Philippine Bar in good standing and one (1) a licensed Mining Engineer, Geologist or a professional in a related field all duly designated by the Secretary as recommended by the Director. Those designated as members of the Panel shall serve as such in addition to their work in the Department without additional compensation. The Regional Office shall provide administrative support and structure to the Panel of Arbitrators.

As much as practicable, the members of the Panel shall come from the different bureaus of the Department in the region. The presiding officer thereof shall be selected by the drawing of lots. His/her tenure as presiding officer shall be on a yearly basis. The members of the Panel shall perform their duties and obligations in

hearing and deciding cases until their designation is withdrawn or revoked by the Secretary.

Section 202. Jurisdiction of Panel of Arbitrators

The Panel of Arbitrators shall have exclusive and original jurisdiction to hear and decide on the following:

- a. Disputes involving rights to mining areas;
- b. Disputes involving Mineral Agreements, FTAAAs or Permits;
- c. Disputes involving surface owners, occupants and claimholders/ concessionaires; and
- d. Disputes pending before the Regional Office and the Department at the date of the effectivity of the Act: *Provided*, That appealed cases before the Department shall be under the jurisdiction of the Mines Adjudication Board.

The rules and regulations governing the litigation and disposition of cases before the Panel of Arbitrators shall be promulgated by the Mines Adjudication Board as provided for in Section 207 hereof: *Provided*, That cases presently pending before the different Panels may proceed in accordance with the rules promulgated thereby.

Section 203. Filing of Adverse Claims/Conflicts/Oppositions

Notwithstanding the provisions of Sections 21, 38 and 55 hereof, any adverse claims, protest or opposition specified in said Sections may also be filed directly with the Panel of Arbitrators within the prescribed periods for filing such claim, protest or opposition as specified in said Sections.

Section 204. Substantial Requirements for Adverse Claims, Protests and Oppositions

No adverse claim, protest or opposition involving mining rights shall be accepted for filing unless verified and accompanied by the prescribed docket fee and proof of services to the respondent(s), either personally or by registered mail: *Provided*, That the requirement for the payment of docket fees shall not be imposed on pauper litigants.

Likewise, no adverse claims, protest or opposition shall be entertained unless it contains the names and addresses of the adverse party, protestant, oppositor and the respondent and their respective counsels, if any; a detailed statement of the facts relied upon; the grounds for adverse claim, protest or opposition; and an exhaustive discussion of the issues and arguments raised; together with all supporting plans, documents, data and other documentary evidences and affidavits of all witnesses.

Section 205. Period to Decide the Case

The Panel shall render its decision within thirty (30) days, after the submission of the case by the parties for decision.

Section 206. Execution and Finality of Decision

The decision of the Panel of Arbitrators shall become final and executory after the lapse of fifteen (15) days from receipt of the notice of decision by the aggrieved party, unless the latter appeals to the Mines Adjudication Board within the same period. Where an appeal is filed, the concerned Panel of Arbitrators shall transmit the notice thereof together with the records of the case within five (5) days to the Mines Adjudication Board.

Upon the finality of the decision of the Panel of Arbitrators, no appeal having taken therefrom, the Chairman of the Panel of Arbitrators shall issue a writ of execution directing the Sheriff of the Regional Trial Courts, with jurisdiction over the area, to implement and execute the writ.

CHAPTER XX

MINES ADJUDICATION BOARD/APPEALS

Section 207. Mines Adjudication Board

There shall be a Mines Adjudication Board composed of three (3) members. The Secretary shall be the Chairman with the Director and Undersecretary for Field Operations of the Department as members thereof. The Board shall promulgate its own internal rules and regulations governing its administration and disposition of appealed cases.

The Board shall promulgate the rules and regulations governing the following:

- a. Litigation and disposition of mining cases before the Panel; and
- b. Administration and disposition of appealed cases before the Board.

Section 208. Secretariat

The Bureau shall act as the Secretariat of the Board and shall be provided with permanent and full time administrative support with sufficient funding in its annual budget appropriation.

Section 209. Period to Resolve Appeal

The Board shall resolve the appeal within thirty (30) days from submission of the case by the parties for decision.

Section 210. Powers and Functions of The Board

The Board shall have the following powers and functions:

- a. To promulgate rules and regulations governing the hearing and disposition of cases before it, as well as those pertaining to its internal functions, and such rules and regulations as may be necessary to carry out its functions;
- b. To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of account, Agreements and other document as may be material to a just determination of the matter under investigation and to testify in any investigation or hearing conducted in pursuance of this Act;
- c. To conduct hearings on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearing at any time and place, refer technical matters or accounts to an expert and to accept his/her report as evidence after hearing of the

parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it and dismiss the mining dispute as part thereof, where it is trivial or where further proceedings by the Board are not necessary or desirable;

- d. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
- e. To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social and economic stability.

In any proceedings before the Board, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that shall govern. The Board shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceedings before the Board, the parties may be represented by legal counsel. The findings of fact of the Board shall be conclusive and binding on the parties and its decision or order shall be final and executory.

Section 211. Petition for Review by Certiorari

The decision of the Board may be reviewed by filing a petition for review with the Supreme Court within thirty (30) days from receipt of the order or decision of the Board.

CHAPTER XXI GOVERNMENT SHARE IN MINERAL AGREEMENTS/FTAAs

Section 212. Government Share in Mineral Production Sharing Agreement

The total Government share in a Mineral Production Sharing Agreement shall be the excise tax on mineral products as provided for in R. A. No. 7729.

Section 213. Government Share in Other Mineral Agreements

The share of the Government in Co-Production and Joint Venture Agreements shall be negotiated by the Government and the Contractor taking into consideration: (a) capital investment in the project, (b) risks involved, (c) contribution of the project to the economy and (d) other factors that will provide for a fair and equitable sharing between the parties.

The Government shall also be entitled to compensation for its other contributions which shall be agreed upon by the parties and shall consist, among other things, the Contractor's income tax, excise tax, Special Allowance, withholding tax due from the Contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholders, in case of a foreign national, and all such other taxes, duties and fees as provided for in existing laws.

Section 214. Government Share in FTAA

The Government share in an FTAA shall consist of, among other things, the Contractor's corporate income tax, excise tax, Special Allowance, withholding tax due from the Contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholder in case of a foreign-owned corporation and all such other taxes, duties and fees as provided for in existing laws.

The Government share in an FTAA shall be negotiated by the Government and the Contractor taking into consideration:

- a. Capital investment of the project;
- b. Risks involved;
- c. Contribution of the project to the economy;
- d. Technical complexity of the project;
- e. Contribution to community and Local Government; and
- f. Other factors that will provide for a fair and equitable sharing between the parties.

The collection of Government share shall commence after the FTAA Contractor has fully recovered its pre-operating, exploration and development expenses, inclusive. The period of recovery which is reckoned from the date of commercial operation shall be for a period not exceeding five (5) years or until the date of actual recovery, whichever comes earlier.

Section 215. Government Share in Mineral Agreements and FTAA's Within Mineral Reservations

For Mineral Production Sharing Agreements, other Mineral Agreements or FTAA within the Mineral Reservations, the Government share shall be in addition to the royalties payable to the Government.

Section 216. Place and Manner of Payment and Allocation of Government Share

The Government share in a Mineral Agreement and FTAA as provided for in Sections 212 to 215 hereof, shall be paid to the nearest Bureau of Internal Revenue (BIR) office where the mining/contract area is located and in accordance with existing BIR rules and regulations.

The Government share in mining operations within Mineral Reservations shall be paid directly to the Bureau in addition to the royalty provided for in Section 13 hereof. The share of the Bureau from this royalty shall be paid separately and directly to the Bureau.

The Government share shall be allocated in accordance with Sections 290 and 292 of R.A. No. 7160, otherwise known as the "Local Government Code of 1991." In case the development and utilization of mineral resources are undertaken by a Government-owned or controlled corporation, the sharing and allocation shall be in accordance with Sections 291 and 292 of the said Code.

CHAPTER XXII TAXES AND FEES

Section 217. Taxes

- a. Income Tax - After the lapse of the income tax holiday, as provided for in the Omnibus Investment Code of 1987, as amended, the Contractor shall pay income tax provided for in the National Internal Revenue Code, as amended.
- b. Excise Tax on Mineral Products - The Contractor shall pay the excise tax on mineral

products as provided for in Section 151 of the National Internal Revenue Code, as amended, in accordance with the following:

1. On all metallic minerals, a tax based on the actual market value of the gross output thereof at the time of removal, in case of those locally extracted or produced; or the value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax in the case of importation in accordance with the following schedule:
 - i. For copper and other metallic minerals except gold and chromite -

<u>Period of Production</u>	<u>Excise Tax Rate</u>
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June 24, 1994 - June 23, 1997	1.0%
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June 24, 1997 - June 23, 1999	1.5%
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June 24, 1999 and onwards	2.0%
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- ii. Gold and chromite - a tax of two percent (2%).
2. On all non-metallic minerals and quarry resources, a tax of two percent (2%) based on the actual market value of the annual gross output thereof at the time of removal, in case of those locally extracted or produced; or the value

used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax in the case of importation.

Section 218. Occupation Fees

There shall be collected from any Contractor or Permittee on public or private lands, an annual occupation fee in accordance with the following schedule:

- a. For areas outside Mineral Reservations -
 1. Exploration Permit - Ten Pesos (₱ 10.00) per hectare or fraction thereof per annum;
 2. Mineral Agreements and FTAAAs - Fifty Pesos (₱50.00) per hectare or fraction thereof per annum; and

- b. For areas inside Mineral Reservations -
 1. Exploration Permits, Mineral Agreements and FTAAAs - One Hundred Pesos (₱100.00) per hectare or fraction thereof per annum.

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

Section 219. Manner and Place of Payment of Occupation Fees

The occupation fees shall be paid on the date the Mineral Agreement/FTAA is registered with the appropriate office and on the same date every year thereafter. It shall be paid to the Treasurer of the Municipality/City where the onshore mining areas are located, or to the Bureau in case of offshore mining areas. For this purpose, the appropriate officer, (the Director for FTAA's or the Regional Director for Mineral Agreements) shall submit to the Treasurer of the Municipality/City where the onshore mining area is located, a complete list of all onshore mining rights registered with his/her office, indicating therewith the names of the holders, area covered in hectares, name of Municipality/City and its provincial location and date of registration. If the fee is not paid on the date specified, the Contractor shall pay a surcharge of twenty-five percent (25%) of the amount due in addition to the occupation fees.

If the applied area lies in several municipalities, the Director in the case of Mineral Reservations or the Regional Director in the case of areas outside Mineral Reservations shall determine the amount to be paid by the Contractor based on official maps available in the respective offices and endorses the same to the concerned Municipal/City Treasurer. If disagreements arise from this payment later, the Provincial Governor shall decide on the proportionate amount to be paid to the municipalities.

Section 220. Allocation of Occupation Fees

Thirty percent (30%) of all occupation fees collected from Permittee/Contractor in onshore mining areas shall accrue to the province and seventy percent (70%) to the municipality where the onshore mining areas are located. In a chartered City, the full amount shall accrue to the concerned City.

Section 221. Other Fees and Charges

Filing fees and other charges for services rendered by the Bureau and/or its Regional Office shall be payable in accordance with the fees and charges in Annex 5-A.

CHAPTER XXIII INCENTIVES

Section 222. Incentives Available to Contractors and Permittees

Investment incentives granted under Executive Order No. 226 (EO 226), as amended, and otherwise known as the "Omnibus Investment Code of 1987," the Act and other laws shall be made available to Contractors/Permittees subject to their compliance with the provisions and implementing rules and regulations of the said laws. However, fiscal and non-fiscal incentives sought to be availed of shall require prior approval from the agency administering the incentives.

The incentives granted under Sections 91, 92 and 93 in Chapter XVI of the Act are additional incentives aside from those available under the Omnibus Investment Code of 1987, as amended. They are available to all Contractors in Mineral Agreements or FTAAAs only to the extent in which they are engaged in activities covered by their respective Agreements.

Section 223. Availment of Incentives under EO 226, as Amended

Contractors can avail of fiscal and non-fiscal incentives granted under EO 226, as amended, subject to their registration with the Board of Investments (BOI) and compliance with requirements provided for in the order and its rules and regulations. Exploration Permittees registered with BOI can also avail of fiscal incentives under EO 226, as

amended, but only for the duration of the Permits or effectivity of EO 226 as amended, whichever comes first. BOI registration and enjoyment of incentives under said registration shall be governed by the Investment Priorities Plan subject to the provisions of EO 226, as amended, applicable rules and regulations and future amendments thereof. The incentives availed of under EO 226 shall be administered by BOI.

No entitlement to any incentive under EO 226 shall accrue to any Contractor prior to the date of approval of its Mineral Agreement or FTAA and/or date of BOI registration, as the case may warrant in the latter.

All mining activities shall always be included in BOI's listing of Investment Priorities Plan.

Section 224. Availment of Incentives for Pollution Control Devices

Pollution control devices and facilities as herein defined which were acquired, constructed or installed by Contractors shall not be considered as improvements on the land or building where they are placed, and as such, shall not be subject to real property and other taxes or assessments.

The Contractor shall avail of this incentive in writing to the Director supported by a sworn report containing a detailed list of such devices and infrastructure together with relevant maps or diagrams indicating their location and use in the operations. Such report shall include the acquisition and installation cost of the devices or infrastructure, the corresponding amount of tax exemption availed of by the Contractor. If such devices and infrastructure, after evaluation by the Bureau, were found necessary and appropriate for the operations, the Director shall issue a Certificate of Tax-Exemption covering the declared devices and infrastructure for the purpose of availing of

exemption from Local Government taxes and assessment. The Director or his/her representative shall monitor the utilization of these devices and infrastructure in relation to the Contractor's operation to ascertain that such are used for pollution control purposes.

Separate guidelines to further implement this Section shall be prepared by the Bureau.

Section 225. Availment of Incentive for Income Tax-Carry Forward of Losses

A net operating loss without the benefit of income tax-accelerated depreciation incurred in any year during the first ten (10) years of the Contractor's operation may be carried over as a deduction from taxable income for the next five (5) years immediately following the year of such loss: *Provided*, That the net operating loss shall be deducted from the taxable income derived from the activity covered by the Mineral Agreement or FTAA.

Losses incurred in activities other than those pertinent to mining operations can not be carried over. Only such losses attributable to mining operations covered by the Mineral Agreement or FTAA, incurred after the approval of the Mineral Agreement or FTAA and within the ten-year period from date of commercial operation of activity covered by such Agreement shall be considered for purposes of availment of incentives on income tax-carry forward of losses.

Applications for availment of the incentive on income tax-carry forward of losses shall be filed with the Bureau within one (1) month from date of filing with the Bureau of Internal Revenue of the Income Tax Return where net operating loss was deducted.

The following documentary requirements relative to the application for the availment of this incentive should be submitted to the Director:

- a. Two (2) copies of Audited Financial Statement (AFS) and Income Tax Return (ITR) for the year the net operating loss was incurred;
- b. Two copies of the AFS and ITR for the year the net operating loss was partially deducted or statement of projected income for the current year (duly certified by an external auditor) from which the net operating loss may be deducted;
- c. If the Contractor is engaged in an activity other than that covered by the Mineral Agreement or FTAA, the income statement must be aggregated per activity and duly certified by an external auditor; and
- d. Sworn statement issued by the Contractor as to the start of commercial operation of the activity applied for the incentive on income tax-carry forward of losses.

Late filing of application for availment of the incentive on income tax-carry forward of losses shall incur a basic fine of one-half percent (1/2%) of the amount of the net operating loss to be carried over to applicable taxable year as provided for in Section 92 of the Act plus a daily fine of Five Pesos (₱5.00) but not to exceed One Hundred Thousand Pesos (₱100,000) which shall be paid to the Bureau.

The net operating loss referred to in this Section shall be computed in accordance with the provisions of the National Internal Revenue Code. The ten-year period prescribed herein shall be counted from the first year of commercial operation in the activity covered by the

Mineral Agreement or FTAA. The computation of net operating loss shall be subject to post audit by the Bureau of Internal Revenue.

Section 226. Availment of Incentive for Income Tax-Accelerated Depreciation

At the option of the Contractor and in accordance with procedure established by the Bureau of Internal Revenue, fixed assets may be depreciated at the rates authorized under Section 93 of the Act. Fixed assets refer to assets subject to depreciation under the National Internal Revenue Code.

Contractors shall avail of this incentive in writing to the Director accompanied by a sworn report containing detailed list of the fixed assets relevant to the Contractor's operation together with relevant maps and diagrams indicating the location and names of the assets. Such report shall include the applicable book value, expected life in years, depreciation schedule and the fixed asset's use in the Contractor's operation.

This incentive may also be availed of for fixed assets acquired before the date of the approval/conclusion of the Mineral Agreement or FTAA, but only to the undepreciated portion of the fixed assets.

As provided for in Section 93 of the Act, fixed assets may be depreciated as follows:

- a. To the extent of not more that twice as fast as the normal rate of depreciation or depreciated at normal rate of depreciation if the expected life is ten (10) years or less; or

- b. Depreciated over any number of years between five (5) years and the expected life if the latter is more than ten (10) years and the depreciation thereon allowed as a deduction from taxable income: *Provided*, That the Contractor notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this Section will be used.

In computing taxable income, the Contractor may at his/her option, deduct exploration and development expenditures accumulated at cost as of the date of the Exploration Permit as well as exploration and development expenditures paid or incurred during the taxable year: *Provided*, That the total amount deductible for exploration and development expenditures shall not exceed twenty-five percent (25%) of the Net Income from mining operations. The actual operation shall be carried forward to the succeeding years until fully deducted.

Net Income from mining operations is defined as gross income from operations less allowable deduction which are necessary or related to mining operations. Allowable deductions shall include mining, milling and marketing expenses, depreciation of properties directly used in the mining operations: *Provided*, That such other deductions allowed by the BIR can also be deducted to arrive at the Net Income. This paragraph shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowances for depreciation.

Either of the following methods shall apply in the treatment of income tax-accelerated depreciation in the income statement:

- a. Accelerated depreciation charges may be shown as among the expense items to be deducted from the Net Income; or
- b. Depreciation expenses at normal life of the assets may be shown as among the expense item to be deducted from the Net Income. The accelerated depreciation would be made only in the adjustment of the taxable income for income computation as an additional expenses.

Section 227. Simultaneous Availment of Incentives under EO 226 and Additional Incentives under the Act

The Contractor may avail of either the incentive on Income Tax-Carry Forward of Losses under Section 92 of the Act or the Income Tax Holiday provided under EO 226, as amended. If the Contractor opts to avail of the Income Tax Holiday incentive under its BOI registration, if and when applicable, then the incentive on Income Tax Carry Forward of Losses under the Act should not be granted to it and vice versa. It should then be a choice between Income Tax Holiday or Income Tax-Carry Forward of Losses, with the choice of the first availment governing the succeeding availments. There shall be no switching of these two incentives within the entire prescribed period within which the Contractor is entitled to such incentives.

In availing of the Income Tax Holiday incentive under EO 226, as amended, the Contractor shall submit to the BOI a certification from the Director that the Contractor has never availed of the incentives on Income Tax-Carry Forward of Losses under the Act during the term of the Mineral Agreement or FTAA. In the same light, Contractors availing of the incentive on Income Tax-Carry Forward of Losses shall submit a certification from the BOI that the Contractor has never

availed of the Income Tax Holiday incentive under EO 226, as amended, during the term of the Mineral Agreement or FTAA.

Incentives on Income Tax-Accelerated Depreciation provided under Section 93 of the Act may be availed of simultaneously with the Income Tax Holiday provided under the BOI registration.

Section 228. Conditions for Availment of Incentives

The Contractor's right to avail of incentives under Sections 222 to 227, shall be subject to the following conditions:

- a. Compliance with obligations - The Contractor shall observe and abide by the provisions of the Act and its implementing rules and regulations and take adequate measures to ensure that its obligations thereunder are faithfully discharged;
- b. Compliance with directives - The Contractor shall comply with the directives and instructions which the Bureau may issue from time to time in pursuance of its authority under the law;
- c. Visitorial powers - The Contractor shall allow the duly authorized representatives of the Bureau to inspect and examine its books of accounts and other pertinent records and documents to ascertain compliance with the Act and its implementing rules and regulations and the terms and conditions of the Mineral Agreement or FTAA;
- d. Delinquent Contractors - No availment of incentives may be allowed to a Contractor delinquent in compliance with any of the terms and conditions of the Mineral Agreement or

FTAA and/or with the terms and conditions of registration with BOI as the case may warrant, including submission of reports and statistical data which may be required by the Bureau and/or BOI; and

- e. Activities not covered by the Mineral Agreement of FTAA - The Contractor proposing to engage in activities not covered by its Mineral Agreement or FTAA shall install an adequate accounting system segregating the investments, revenues, sales, receipts, purchases, payrolls, costs, expenses and profits and losses of its operations covered by Mineral Agreement or FTAA from those which are not covered; or the Bureau may, in appropriate cases, require the establishment of a separate entity for the activity covered by the Agreement in order to facilitate the proper implementation of the Act.

Section 229. Investment Guarantees

In addition to the above, the Contractor especially foreign investors shall be entitled to the basic rights and guarantees provided in the Constitution and such other rights recognized by the Government as enumerated hereunder:

- a. Repatriation of investments - In the case of foreign investments, the right to repatriate the entire proceeds of the liquidation of the investment in the currency in which the investment was originally made and at the

- exchange rate prevailing at the time of repatriation;
- b. Remittance of earnings - In the case of foreign investments, the right to remit earnings from the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance;
 - c. Foreign loans and contracts - The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from technical assistance contracts;
 - d. Freedom from expropriation - There shall be no expropriation by the Government of the property represented by investments or loans or of the property of the enterprise except for public use or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance;
 - e. Requisition of investment - There shall be no requisition of the property represented by the investment or of the property of the enterprises except in the event of war or national emergency and only for the duration thereof. Just compensation shall be determined and paid either at the time of requisition or immediately

after cessation of the state of war or national emergency. Payments received as compensation for the requisitioned property may be remitted in the currency in which the investments were originally made and at the exchange rate prevailing at the time of remittance; and

f. Confidentiality - Any information supplied by the Contractor which have been agreed upon by the parties in the negotiation as confidential pursuant to the Act and these implementing rules and regulations shall be treated as such during the term of the project to which it relates. However, the following information shall not be classified as confidential:

1. Production and sales of minerals;
2. Employment;
3. Royalty and tax payments;
4. Metallic and non-metallic reserves;
5. Operational parameters such as mining and milling capacities and rates, mine and mill recoveries, dilution factors, etc.; and
6. Other data as may be agreed upon by the parties.

The term confidentiality refers only to the act of divulging publicly any information classified as such. It does not prevent the Director or his/her representative(s) from using the data internally within the Bureau for monitoring and for policy, planning and research studies. Documents not otherwise covered by a valid confidentiality Agreement between the

concerned parties shall be made available to the public upon the filing of an appropriate request duly approved by the authorized officer. Reproduction of such documents shall be allowed upon presentation of an approved written request in sufficient form and payment of reasonable fees.

CHAPTER XXIV CANCELLATION, REVOCATION AND TERMINATION OF A PERMIT/MINERAL AGREEMENT/FTAA

Section 230. Grounds

The following are the grounds for cancellation, revocation and termination of a Mining Permit/Mineral Agreement/FTAA:

- a. Violation of any of the terms and conditions of the Permits or Agreements;
- b. Non-payment of taxes and fees due the Government for two (2) consecutive years; and
- c. Falsehood or omission of facts in the application for Exploration Permit, Mineral Agreement, FTAA or other permits which may alter, change or affect substantially the facts set forth in said statements.

Section 231. Suspension or Cancellation of Tax Incentives and Credits

- a. Grounds for cancellation/suspension - The Bureau may suspend or cancel wholly or partially any incentive granted under the rules

and regulations for any cause including the following:

1. Any violation of the Act, rules and regulations implementing the same or of the terms and conditions in the Mineral Agreement or FTAA;
 2. Any material misrepresentation or false statements made to the Bureau at any time before or after the approval/conclusion of its Mineral Agreement or FTAA;
 3. Whenever the project ceases to be viable and its continued operation would require additional costs to the economy. In this case, the Bureau shall evaluate the status of the project and shall decide if suspension/cancellation shall be imposed;
- b. Withdrawal from the Mineral Agreement or FTAA - Whenever a Contractor decides to withdraw from business or suspend its operations covered by the Agreement, written notice thereof shall be sent to the Director before decision is implemented. Withdrawal from business operations shall automatically cancel the Mineral Agreement or FTAA. Upon such withdrawal, the Contractor shall cease to be entitled to the incentives. The effect of withdrawal from business or suspension of operations covered by the Agreement shall, in each particular instance, be determined by the

- Bureau, taking into account the reasons therefor; or
- c. Refund and penalties - In case of cancellation of the Mineral Agreement or FTAA, the Bureau may in appropriate cases, recommend to other incentive-dispensing agencies the cancellation of registration without prejudice to the imposition of the corresponding penalties and refund of incentives availed of, pursuant to the Act and these implementing rules and regulations and under EO 226, laws creating export processing zones and other laws.

Section 232. Effect of Expiration and Cancellation of a Permit and Mineral Agreement/FTAA

Upon the expiration of a Mining Permit/Mineral Agreement/FTAA, the mining operations may be undertaken by the Government through one of its agencies or through a qualified independent Contractor. In the latter case, the contract shall be awarded to the highest bidder in a public bidding held after due publication of the notice thereof. The Contractor/Permit Holder shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

Upon cancellation of a Mining Permit/Mineral Agreement/FTAA, the Director shall cause the same to be entered in the registration book and a notice thereof shall be posted on the bulletin board of the Bureau and Regional Office and the mining area covered thereby shall thereupon be open to new applicants.

Non-payment of taxes and fees causing for the cancellation of a Mining Permit/Mineral Agreement/FTAA shall have also the effect of re-opening the mining area to new applicants.

CHAPTER XXV

SURVEY OF PERMIT/CONTRACT/MINING AREAS

Section 233. Identification of Meridional Blocks

A system for identifying meridional blocks other than geographic coordinates shall be established by the Bureau. The boundaries of a permit/contract/mining area shall coincide with the full one minute or one-half minute of latitude and longitude based on the NAMRIA map. In cases where such boundaries are not attainable due to geographic features, environmental considerations, existence of adjoining valid mining rights or concessions, other areas closed to mining locations, settlement of conflicts and other justifiable considerations that render it impractical to conform with such requirements, the boundaries shall be defined by specific technical description.

Section 234. Filing of Application for Survey

A Permittee/Contractor shall file an application for Order of Survey of the perimeter boundary of the permit/contract/mining area simultaneous with the submission of the Declaration of the Mining Project Feasibility and to be accompanied by the following:

- a. One (1) set of certified true copy of approved Exploration Permit/FTAA/Mineral Agreement;
- b. Pertinent documents such as Deed of Assignment and Power of Attorney duly registered with the Bureau/concerned Regional Office;
- c. A notarized Survey Service Contract executed by and between the Permittee/Contractor and the deputized Geodetic Engineer, except when

the deputized Geodetic Engineer is employed by the applicant and/or company interested in the survey: *Provided*, That proof of employment of the deputized Geodetic Engineer is submitted;

- d. Affidavit of the deputized Geodetic Engineer representing that he/she can execute the survey of the area and to submit the complete survey returns thereof within the period prescribed by these implementing rules and regulations;
- e. A surety bond (Annex 5-A) for Order of Survey, which shall be forfeited for failure of the deputized Geodetic Engineer to execute and/or comply with his/her obligations; and
- f. Proof of payment of the required fees (Annex 5-A).

However, any Contractor or applicant whose MPSA/FTAA Agreement/application was granted/filed in accordance with the implementing rules and regulations of E.O. No. 279, may avail of the provision of this Section.

Section 235. Issuance of Order of Survey

Upon verification of the application for Order of Survey (MGB Form No. 25-1) and compliance with the requirements in the preceding section, the Director/concerned Regional Director shall issue the Order of Survey in the prescribed form (MGB Form No. 25-2).

Section 236. Mineral Land Surveys

Mineral land surveys shall be executed by Geodetic Engineers of the Bureau/Regional Offices, deputized Geodetic Engineers in private

practice and company-employed deputized Geodetic Engineers deputized by the Director/Regional Director.

Section 237. Execution of Mineral Land Surveys

Corners of the permit/contract/mining area shall be defined by monuments placed at intervals of about four hundred fifty (450) meters apart. When the boundary lines of the permit/contract/mining area traverses mountain or rolling terrain, the intermediate monuments between corners shall be established on ridges, whenever practicable, in which cases, all consecutive corners shall be intervisible.

The corner monuments of a permit/contract/mining area shall be as follows:

- a. 20 cm x 20 cm x 50 cm concrete rectangular monuments set 40 cm in the ground for principal corners which fall on points with exact minutes or half minute of latitude and longitude; and
- b. 15 cm in diameter x 50 cm long set 40 cm in the ground for other corners of the permit/contract or mining area.

Such corners of the permit/contract/mining area shall be identified by concrete monuments or cement patches on boulders, centered with a hole, spike, pipe or nail and marked with the corresponding corner numbers and survey numbers. The latitude and longitude of the principal corners shall also be indicated on the sides of the concrete monuments when they coincide with the full one (1) minute and/or one-half (1/2) minute of latitude and longitude.

When the permit/contract/mining area adjoins submerged land, a witness corner monument along the boundary leading to the shoreline shall be set on the ground to witness the boundary point-corner of the mining rights at the mean low tide level of the sea or lake. Concrete monuments, galvanized iron pipes, fixed rocks, boulders or stakes and other monuments shall be set to define the corners of the mining rights along the shoreline at mean low tide level.

All area computations, plans and maps of permit/contract/mining areas to be submitted to the Bureau/Regional Office for verification and approval shall be prepared using the Philippine Plane Coordinate System (Annex 25-A).

Should any discrepancy of datum plane between or among tie points arise, proper investigation shall be conducted by the Bureau/concerned Regional Office and a report thereon shall be submitted to form part of the survey returns for further investigation and record purposes.

Survey plans of permit/contract/mining areas recorded under these implementing rules and regulations shall be drawn to scale in drawing ink on the prescribed form (MGB Form No. 25-3).

The execution of mineral lands surveys shall be in accordance with these implementing rules and regulations, as supplemented by the applicable provisions of the Revised Manual of Lands Surveys of the Philippines pursuant to Lands Administrative Order No. 4 dated July 3, 1980: *Provided*, That PRS-92 may be used in the execution of mineral land surveys during the transition period (1993-2000) pursuant to the provisions of Department Administrative Order No. 22, Series of 1994: *Provided, further*, That reference points enumerated in Annex 25-B can still be used if standardized and converted into PRS-92 subject to implementing guidelines that may hereinafter be issued.

Section 238. Submission of Survey Returns

Survey returns shall be submitted to the Director/concerned Regional Director within one (1) year from receipt of the Order of Survey and shall consist of the following:

- a. Duly notarized field notes with cover (MGB Form No. 25-4) accomplished, signed and sealed by a deputized Geodetic Engineer;
- b. Azimuth computations from astronomical observations (MGB Form No. 25-5), topographic survey computations (MGB Form No. 25-6), traverse computations (MGB Form No. 25-7), area computations (MGB Form No. 25-8), coordinate conversion - geographic to grid (MGB Form No. 25-9) and coordinate conversion - grid to geographic (MGB Form No. 25-10) and other reference computations, all in sets of original and duplicate, properly accomplished, signed and sealed by a deputized Geodetic Engineer;
- c. Microfilm plan(s) in appropriate scale duly accomplished with the corresponding working sheet thereof;
- d. Descriptive and field investigation report on the permit/contract/mining area in quintuplicate, duly signed by the deputized Geodetic Engineer and authorized assistant, if any, and duly notarized; and
- e. A certification under oath by the Barangay Captain that the survey was actually undertaken in the locality.

Incomplete survey returns shall not be accepted for verification and approval purposes.

Except for reasons of *force majeure*, failure to submit the survey returns within the prescribed period shall cause the cancellation of the Mining Permit/Mineral Agreement/FTAA. If the survey returns are filed through the mail, the date appearing on the postmark shall be considered as the date of filing. However, the Permittee/Contractor/concerned deputized Geodetic Engineer shall notify the Director/concerned Regional Director by telegram/fax message not later than the deadline for the filing of the survey returns that he/she has filed the same through the mail.

Corners and/or location monuments of verified survey returns of mining right areas, in spite of the nullity, cancellation, rejection or abandonment of the mining rights over the surveyed area, shall be preserved as reference marks and the geographic position thereof shall be kept for use in future mineral land surveys, unless otherwise said survey is found to be erroneous by later approved mineral land surveys.

Section 239. Withdrawal of Order of Survey

If the Director/concerned Regional Director finds that the deputized Geodetic Engineer has violated any of the terms and conditions of the Order of Survey or the survey service contract, or has failed to execute the survey and submit the Survey Returns within the prescribed period, the Director/concerned Regional Director shall withdraw the existing authority over the subject area, forfeit the corresponding bond and shall not issue any new Order of Survey in favor of the said deputized Geodetic Engineer without prejudice to any criminal, professional or other liabilities arising out from such failure, violation or misrepresentation.

Section 240. Withdrawal of Defective Survey Returns

The deputized Geodetic Engineer or his/her duly authorized representative may withdraw documents within thirty (30) calendar days upon receipt of notice from the Bureau/concerned Regional Office for correction of errors, discrepancies and/or deficiencies of the submitted survey returns. A period of ninety (90) calendar days from the date of withdrawal of the said survey returns is given to the deputized Geodetic Engineer or his/her duly authorized representative to re-submit the same without any extension save for reason of *force majeure*. Failure of the deputized Geodetic Engineer to re-submit the withdrawn survey returns within the prescribed period shall cause the revocation of the survey order and confiscation of his/her surety bond and non-issuance of new survey order over the subject area.

Section 241. Field Verification and Approval of Survey Plan

Upon submission of the corrected survey returns, the Director/concerned Regional Director shall cause the immediate field verification of the subject area. Thereafter, the survey plan shall be submitted to the Director/concerned Regional Director for approval of the same within fifteen (15) working days from receipt thereof.

Section 242. Non-Transferability of Order of Survey

Order of Survey is non-transferable except in cases of death, physical incapacity of the deputized Geodetic Engineer, or any other causes which render it impracticable to execute the survey, subject to the approval of the Director/concerned Regional Director: *Provided*, That the execution of the survey shall be completed within the remaining period covered by the original Order of Survey.

CHAPTER XXVI

DRILLING OF AREAS BY THE BUREAU

Section 243. General Provisions

In line with the policy of the Government to hasten the exploration, development and utilization of the mineral resources of the country and to address the water crisis and other priority concerns of the Government, the Bureau may conduct exploration in any areas other than Mineral Reservations upon its own initiative or upon request by claimant/Contractor/Permittee in areas covered by existing and valid mining claims/contracts/permits: *Provided*, That whatever expenses that may be incurred thereof shall be taken from the appropriation of the Bureau or from the requesting party, as the case may be.

Section 244. Priority Areas

The Director shall determine whether the area is included in the priority list of areas and contains critical minerals included in the mineral and water development programs of the Government.

If it is ascertained that the area should be explored, a contract between the Contractor/claimant/Permittee and the Director shall be executed to include, among others, a statement that the Bureau shall conduct the necessary geological studies on the area and, if warranted, undertake diamond drilling, test pitting, trenching or auger drilling operations thereon.

In case the drilling reveals substantial ore reserves to warrant commercial mining operations, the Contractor/claimant/Permittee as well as his/her successor(s) or assignee(s) shall then take all steps required to secure any mode of Mineral Agreement.

Section 245. Reimbursement

Upon completion of exploration activities by the Bureau in open areas other than Mineral Reservations, it shall render a certified report on the total expenses incurred thereon. Any interested party who wish to apply for a mining right shall reimburse to the Bureau the certified amount plus an interest of twelve percent (12%) of the expenses.

Section 246. Lease of Drilling Equipment

The Director may lease the drilling equipment of the Bureau to Permittees, Lessees, Contractors and Permit Holders desiring to conduct exploration and development work on the area applied for.

Drilling equipment may be leased upon application by any Qualified Person with the Director.

Section 247. Preferential Right to Lease

In case there are two or more applications, the Director shall grant the Lease Agreement to the first applicant who has satisfactorily complied with all the requirements.

Section 248. Terms and Conditions of the Drilling Lease Agreement

The terms and conditions of the Drilling Lease Agreement are the following:

- a. The lessee shall have an approved Exploration Permit;
- b. The drilling equipment shall be used exclusively for exploration purposes in the areas specified in the Agreement;

- c. The drilling equipment shall not be subleased to any person, partnership or corporation;
- d. The lessee shall satisfactorily comply with all the requirements imposed by the Director;
- e. The lease shall be for a minimum period of three (3) months from the date specified in the Lease Agreement;
- f. The Lease Agreement may be renewed by the Director when the evaluation of the drilling results justifies the continuation of the drilling program: *Provided*, That the lessee has not violated any terms and conditions of the original Lease Agreement;
- g. The Director or his/her duly authorized representative shall see to it that the drill machine pump and accessories are properly used and maintained;
- h. The Director or his/her duly authorized representative may conduct an inspection of the drilling operation at any time during the term of the lease at the expense of the lessee;
- i. The lessee shall pay the daily rental plus a surcharge of 100% per day for failure to return the leased equipment as stipulated in the Agreement;
- j. The lessee has not violated any terms and conditions of previous Lease Agreement; and
- k. The violation of any terms and conditions of the Lease Agreement shall be a ground for cancellation of the same.

Section 249. Rights and Obligations of the Lessee

The following are the rights and obligations of the lessee:

- a. The lessee shall maintain and keep the equipment in good working condition during the term of the lease until it is returned to the Bureau;
- b. The lessee shall replace and/or repair all parts rendered unusable through breakage, loss or abnormal wear during the term of the lease. All parts missing at the time the equipment is returned shall be replaced within one (1) month from the time such equipment are returned. For this purpose, the lessee shall make the required cash deposit. If the lessee returns the equipment in bad condition and fails to restore them into running condition or fails to replace the missing parts or accessories within the allowable time, the lessor shall use the cash deposit and/or forfeit the bond without prior notice to the lessee to put the equipment back into running condition or replace any missing accessories. The lessee shall be required to deposit additional cash to defray the above-mentioned expenses if the original cash deposit for the purpose is insufficient;
- c. Transportation of the drilling equipment and all its accessories from the Bureau and return shall be for the lessee's account;
- d. The lessee shall submit monthly to the Director all the information, data and footage obtained through drilling which shall be treated as confidential. Such information, however, shall be made available to the public after a period of two (2) years;

- e. The lessee shall pay the required monthly rental fee (Annex 26-A);
- f. To guarantee the faithful compliance with the terms and conditions of the Lease Agreement and to answer for any loss and/or damage of the equipment during the term of the lease, the lessee shall file with the Bureau the required surety bond issued by a company accredited by the Insurance Commission, which may either be in cash or with a surety satisfactory to the Director;
- g. The lessee shall pay in advance an amount corresponding to two (2) months rentals and per diems including transportation expenses of one (1) driller upon the signing of the contract of Lease Agreement. The rentals and per diems for succeeding months shall be due and payable at the beginning or the first day of every month;
- h. Rentals not paid within thirty (30) calendar days after they become due and payable shall bear a surcharge of five percent (5%) per month until fully paid. Rentals shall continue to be charged for returned equipment not in running condition and for accessories lost or missing until repaired and replaced respectively; and
- i. Balance of rentals and per diems paid and/or deposits made after termination of the lease shall be applied to pending obligations of the lessee with the lessor. Excess rentals or deposits shall be refunded to the lessee.

Section 250. Receipts from Rentals

All rentals fees of drilling equipment shall accrue to the Drilling Fund which shall be used for the purchase of

supplies, materials and spare parts needed in the repair of said drilling equipment subject to the provisions of Commonwealth Act No. 246, as amended.

CHAPTER XXVII
FISCAL PROVISIONS AND SCHEDULE OF
PAYMENTS AND CHARGES FOR WORK
WHICH THE BUREAU MAY PERFORM

Section 251. Occupation Fees, Rentals, Royalties, Taxes

Proof of payment of the occupation fees shall be submitted to the concerned Regional Office. Holders of mining leases, Quarry Permits and contracts shall submit to the Regional Director evidence that the rentals and taxes on the occupied premises and the royalties due the Government arising out of the operation thereof had been paid when applicable.

Section 252. Work Authorized

Consistent with the provisions of Section 7 hereof, the Bureau may perform or accomplish work or service for Government offices, agencies, instrumentalities or private parties and collect payment or charge therefor in accordance with the schedule hereinafter prescribed, which work or service shall include, but shall not be limited to, the following:

- a. To execute surveys of mining claims and other mineral lands for location, patent, permit, contracts, lease or development purposes;
- b. To docket and conduct office and field investigations of conflicting mining locations;
- c. To perform geological, geophysical and geochemical surveys in onshore and offshore

- areas and make mineralographic, petrologic, petrographic and paleontologic examinations;
- d. To verify and investigate mineral discoveries and locations, exploration and development work;
 - e. To perform fire and wet assays and smelting and metallurgical tests of ores and to sample ore piles for shipment;
 - f. To check and evaluate ore reserves for the Securities and Exchange Commission, for other Government entities and/or private parties who may request or order for such work;
 - g. To perform drafting or projection work;
 - h. To issue blue or white prints of survey plan or sketch plan; and
 - i. To do such other work and/or service to interested parties as may be requested and which is within the scope of the functions of the Bureau.

Section 253. Mines Survey and Investigation and Monitoring Fund

All payments and charges for work performed or to be performed by the Bureau/Regional Office shall accrue to the Mines Survey, Investigation and Monitoring Fund of the Bureau/Regional Office to be deposited as Trust Fund against which shall be charged expenses in connection with any of the work mentioned in Section 252 hereof, which expenses shall include salaries and wages, travel expenses, supplies and materials, sundry expenses and purchase of furniture and equipment: *Provided*, That any balance in the payment or charge left after the completion of the work requested may be used by the Bureau/Regional Office in the maintenance of the work force and

equipment necessary to render the work or services authorized in this order: *Provided, further*, That if the work is discontinued due to some reasonable cause, whatever balance remaining after deducting the expenses already incurred by the Bureau/Regional Office in connection with the work, shall be refunded by the Director/concerned Regional Director to the applicant upon the latter's request.

Section 254. Request for Work

Request for survey, investigation, analysis or examination of mineral or rock sample or any other work performed by the Bureau shall be submitted in the form prescribed for the purposes: *Provided*, That if the prescribed form is not available, the request may be made in letter form. The request shall contain, among others, the name and address of the person or entity requesting the work and a full and complete information of the work desired.

Section 255. Time of Making Payment

Payment, based on schedule of payments and charges herein prescribed (Annex 5-A), unless otherwise stated, shall first be made by the applicant before any work requested shall be performed or executed.

Section 256. Services to Local Government Offices, Instrumentalities or Agencies

For services or work requested by National or Local Government offices, instrumentalities or agencies, the schedule of payments and charges herein prescribed shall apply.

Section 257. Reservation to Reject Any Job Request

The Bureau may reject any job request when the nature of the work is considered impractical or when the work at hand is of such

volume as to prevent the request from being complied with and which will seriously impair the other work of the Bureau or endanger the lives or health of the personnel of the Bureau.

Section 258. Use of Reports on Work Done

Reports of said investigation, examination, or analysis shall be treated as confidential. However, copies thereof may be furnished other persons upon written request and approval of the person for whom the report was made: *Provided*, That any information and/or data contained in said reports shall be available for official use of the Bureau in connection with its studies of minerals, mines and mineral industry of the Philippines: *Provided, further*, That such reports may be released to the public after the lapse of two (2) years from their submission unless the Secretary and/or the Director directs otherwise.

Section 259. Work Not Covered by the Schedule

For work or service not covered by this schedule, the payment or charges therefor shall be determined and approved by the Director

Section 260. Charges for Fieldwork, In General

Charges for the following fieldwork shall be by man days:

- a. For field verification of approved surveys for contract/mining area, investigation of conflicts, renewal or extension of mining contract and permit, verification of tax-exempt equipment, verification of ore stockpile and umpiring of ore shipments, inspection of mechanical and electrical installation, verification of mining operations done by Permittees/Contractors,

- verification of explosive magazines and blasting schemes and conducting ventilation, dust and gas surveys, ₱ 1,000 per man per day, provided that the minimum charge is ₱ 3,000.
- b. For evaluation of mining claims or geological investigation and geological verification of mining properties, ₱ 1,000 per man per day, provided the minimum charge is ₱ 3,000.
 - c. Counting of the number of working days shall start from the day the fieldman leaves his/her official station and ends upon his/her return.
 - d. In addition to the charges under Paragraphs (a) and (b) above, the applicant or interested party shall pay for the transportation of Bureau personnel from the official station to the area and return, as well as expenses for freight, labor, materials and analyses of samples.

CHAPTER XXVIII

RECORDING SYSTEM AND MINERAL GAZETTE

Section 261. Mining Recorder Unit

The Bureau and its Regional and other offices shall have a Mining Recorder Unit in their respective offices to receive, record and manage all mining documents submitted by concerned individuals or companies relating to mining rights. However, same unit may be established in Provincial Governor's/City Mayor's Office.

Documents relating to applications for Mineral Agreements, FTAAs, Exploration Permits and Small-Scale Mining Permits in Mineral Reservations shall be registered at the Bureau.

Documents relating to applications for Mineral Agreements, FTAAs and Exploration Permits outside Mineral Reservations and Industrial Sand and Gravel Permits covering more than five (5) hectares shall be registered at the Regional Offices.

Documents relating to applications for Quarry Permits, Sand and Gravel Permits, including Industrial Sand and Gravel Permits covering five (5) hectares or less, Guano Permits, Gemstone Gathering Permits and Small-Scale Mining Permits outside Mineral Reservations shall be registered at the Provincial Governor's or City Mayor's Office where the area applied for is located.

The functions of the Mining Recorder Unit shall include the following:

- a. Pre-processing of applications particularly the documentary provisions of these implementing rules and regulations;
- b. Computation of fees to be paid by the applicant;
- c. Recording of mining documents;
- d. Providing information and advice on the status of applications;
- e. Inputting data relating to applications, contracts and permits into the Mining Rights Management System;
- f. Organizing and maintaining record holdings on mining rights applications in accordance with standard records management practices;
- g. Issuing certifications and copies of mining documents;

- h. Follow-up compliance of requirements needed in the processing of mining rights applications; and
- i. Projection/verification of area applied for either through the mining rights management system or control maps of the unit if free from mining conflict.

Section 262. Mining Register

A mining register is a hardbound logbook, arranged in rows and columns, for chronologically recording a set of documents received by the Mining Recorder.

The following shall have their own mining register:

- a. Applications for mining rights:
 - 1. Exploration Permits;
 - 2. Mineral Agreements;
 - 3. FTAAAs;
 - 4. Quarry, Sand and Gravel, Guano, Gemstone Gathering Permits; and
 - 5. Small-Scale Mining Permits
- b. Mining rights involving:
 - 1. Exploration Permits;
 - 2. Mineral Agreements;
 - 3. FTAAAs;
 - 4. Quarry, Sand and Gravel, Guano, Gemstone Gathering Permits; and
 - 5. Small-Scale Mining Permits

- c. Miscellaneous Documents:
 - 1. Powers of Attorney;
 - 2. Deeds of Assignment/Transfer/Conversion;
 - 3. Operating Agreements;
 - 4. Protests or Adverse Claims; and
 - 5. All other instruments concerning or affecting mining rights.

All applications for mining rights shall be recorded in their corresponding mining register with the following information, among others:

- a. Application number;
- b. Date and time of filing;
- c. Applicant's/Proponent's name;
- d. Location;
- e. Area applied for in blocks/hectares;
- f. Official receipt number; and
- g. Amount paid.

For approved mining rights, the contract or permit number and the Contractor's or Permit Holder's name should be recorded in lieu of application number and applicant's/proponent's name, respectively.

All miscellaneous documents shall be recorded in their respective mining registers containing the following information:

- a. Date and time of filing,
- b. Document or application number,
- c. Entity involved,
- d. Document title,
- e. Page number,
- f. Book number,
- g. Year series,

- h. Amount paid and
- i. Official receipt number.

Section 263. Administrative Fees relating to Mining Registration

Before any of the documents enumerated in Section 261 can be registered, payment of the required fees in accordance with the rates specified in Annex 5-A shall be made. The amount, receipt number and time of payment shall be recorded in the appropriate mining register.

Section 264. Registration and Filing Procedures

Upon compliance with the documentary requirements and payment of required fees, all documents subject for registration shall be recorded immediately in the appropriate mining register in black ink by the Mining Recorder.

Copies of applications for mining rights and their supporting documents shall be compiled with and bound in durable folders/boxes arranged chronologically and each page of the document consecutively numbered starting from the bottom page of the earliest document, herein referred to as a marked page. A document inventory report indicating the contents of the folder/box beginning from the marked page number 1 shall be maintained at all times. The document inventory report shall contain the following:

- a. Document control number;
- b. Marked page number(s) of the document; and
- c. Brief description of the document.

The document control number is a unique number recorded in the general receiving and releasing logbook of the Bureau or Regional Office. The Regional Office shall submit to the Bureau an annual

document inventory report which shall serve as a guide for easy retrieval and reconstruction of file in case of loss.

For miscellaneous documents, their physical files shall be compiled according to type (that is, Special Power of Attorney, Deed of Transfer, etc.); numbered consecutively in the order of time and date of receipt; and bound in a book form beginning with Book 1 and where practicable, each book to contain two hundred fifty (250) documents. An inventory report of each book shall also be maintained and provided to the Bureau annually. Original copies should be kept as restricted files inaccessible to unauthorized persons. Photocopies or extra duplicate copies, bound in book form, will be kept in shelves as working copies for public use.

Duplicate copies of miscellaneous documents shall be sent to the Bureau within thirty (30) calendar days from date of registration for archiving purposes: *Provided*, That a certified photocopy issued and signed by the Mining Recorder could serve the purpose in the absence of a duplicate copy.

Section 265. Mining Document Archive

A national mining document archive shall be established at the Bureau and maintained by its Mining Recorder. Original or duplicate copies of applications/contracts/permits and relevant documents sent by Regional Offices shall be filed in this archive to produce a replica of the regional records. Copies of these documents sent by Regional Offices shall contain the control numbers and the marked page numbers written on the original document to guide the filing of the records.

A microfilm or digital copy of each relevant record, if available, may replace the paper records in the archive. The Bureau shall plan and acquire an efficient and appropriate technology for archiving these documents.

Section 266. Mineral Rights Management System

In order to facilitate the mechanical processing and recording of applications/contracts/permits and provide a systematic basis for the management of data relating to applications/contracts/permits, a computer-based Mining Rights Management System shall be established and maintained by the Bureau and its Regional Offices which may be updated and improved as the need arises. This system should not only guide and expedite the mechanical processing of applications but should also be capable of building up a national database and producing reports and maps that may be required by the Bureau and its Regional Offices or requested by its clients and linking or interfacing with other mining industry-related systems which the Bureau may later acquire or develop.

A set of standards covering procedures, programming, data codes, data definitions, training, operating system/platform and related matters shall be established by the Bureau to guide the operation and development of the system. A system documentation and a user's manual shall be produced and maintained for each new version.

A guideline on the operation and establishment of the responsibility of the Bureau and its Regional Offices on the implementation of the system is given in Annex 28-A, which may also be updated as the need arises.

Section 267. Mineral Resources Database System

A mineral resources database shall also be established at the Bureau and concerned Regional Office(s) to record all exploration and related data from its own projects and those submitted by mining rights holders to serve as repository of such information for national and regional policy and planning studies, monitoring and research purposes.

This database should be designed to be accessed by the mining rights management system provided for in the previous Section and other mining industry-related systems to be established or acquired by the Bureau.

Section 268. Mineral Gazette Publication

To provide an official medium for releasing information on mining policy issuances of the Government, mining rules and regulations, current listing of mining rights and their locations on the map, other official acts affecting mining and other information relevant to mineral resources development, a Mineral Gazette of nationwide circulation shall be organized and established by the Bureau. This Gazette shall be published at least annually and be made available to libraries of the Department, the Bureau, its Regional Offices, U.P. Law Center, the National Library, appropriate information offices or Provincial Governments and Municipal Offices and such other places as may be determined by the Director: *Provided*, That such Gazette shall also be made available for subscription to the public at a reasonable price.

Section 269. Recording System and Publication Fund

The Director and Regional Directors shall ensure that adequate budget shall be allocated every year from their regular appropriations to effect and sustain the physical filing and recording setup, the publication of the Mineral Gazette and the development, operation and maintenance of Mining Rights Management System, the mineral resources database system and other mining industry-related system which the Bureau may establish or acquire.

Funds to be allocated for the Mining Rights Management System shall include adequate capital outlay for the purchase of the required softwares, hardwares and support equipment and their subsequent upgrades. Funds shall also be provided for transportation

and travel expenses needed in troubleshooting, in-house training, repairs and upgrading of hardwares and related equipment, cost of supplies and materials, cost of external training, subscription services and cost of communication services for data exchange and system coordination.

CHAPTER XXIX REPORTING REQUIREMENTS AND FINES

Section 270. Reporting Requirements

Every Contractor/Permittee/Permit Holder or holder of a Mineral Processing Permit or its operator is required to submit the following reports:

- a. Monthly Report On Production, Sales and Inventory of Metallic Minerals and Employment

A Contractor or its operator or holder of Mineral Processing Permit shall submit to the Director a sworn Monthly Report on Production, Sales and Inventory of Metallic Minerals and Employment as prescribed in MGB Forms Nos. 29-1 to 29-9, whichever mineral is applicable, within fifteen (15) working days after the end of each calendar month.

- b. Monthly Report On Production, Sales and Inventory of Non-Metallic Minerals and Employment

In the case of Mineral Agreements, FTAAAs or Mineral Processing Permits involving

non-metallic minerals, a Contractor or its operator or Permit Holder shall submit to the concerned Regional Director, copy furnished the Director, a sworn Monthly Report on Production, Sales and Inventory of Non-Metallic Minerals and Employment as prescribed in MGB Form No. 29-10 within fifteen (15) working days after the end of each calendar month.

- c. Quarterly Report on Production, Sales and Inventory of Quarry Resources (Except Sand and Gravel) and Employment

A holder of a Quarry Permit or its operator shall submit to the Provincial Governor/City Mayor, copy furnished the Director and concerned Regional Director, a sworn Quarterly Report on Production, Sales and Inventory of Quarry Resources and Employment as prescribed in MGB Form No. 29-11 within fifteen (15) working days after the end of each calendar quarter.

- d. Monthly Report on Production, Sales and Inventory of Industrial Sand and Gravel and Employment

A holder of an Industrial Sand and Gravel Permit or its Operator shall submit to the Director, copy furnished the concerned Regional Director, a sworn Monthly Report on Production, Inventory and Sales of Industrial

Sand and Gravel and Employment as prescribed in MGB Form No. 29-12 within fifteen (15) working days after the end of each calendar month.

- e. Monthly Report on Production and Sales of Commercial Sand and Gravel and Employment

A holder of a Commercial Sand and Gravel Permit or its Operator shall submit to the Provincial Governor/City Mayor, copy furnished the Director and concerned Regional Director, a sworn Monthly Report on Production, Sales and Inventory of Commercial Sand and Gravel and Employment as prescribed in MGB Form No. 29-13 within fifteen (15) working days after the end of each calendar month.

- f. Quarterly Report on Production and Sales of Small-Scale Metallic Mines and Employment

The holder of a Small-Scale Metallic Mines Permit shall submit to the Provincial Governor/City Mayor, copy furnished the Director and concerned Regional Director, a sworn Quarterly Report on Production and Sales of Small-Scale Metallic Mines and Employment as prescribed in MGB Form No. 29-14 for metallic minerals other than gold or MGB Form No. 29-15 for gold mineral only, within fifteen (15) working days after the end of each calendar quarter.

- g. Integrated Annual Report

A Contractor or Mineral Processing Permit Holder or its operator shall submit to the Director a sworn Integrated Annual Report using prescribed MGB Form No. 29-16 within two (2) months after the end of each calendar year.

A holder of a Quarry Permit or its Operator shall likewise submit same report (MGB Form No. 29-16) to the concerned Provincial Governor/City Mayor, copy furnished the Director and the concerned Regional Director, within two (2) months after the end of each calendar year.

All books of accounts, reports and correspondences shall be filed and kept by the Contractor/Quarry Resources Permit Holder or its Operators and shall be open at all times for verification by the Director or its duly authorized representative.

A Small-Scale Mining Permit Holder shall submit to the Provincial Governor/City Mayor, copy furnished the Director and the concerned Regional Director, a sworn Integrated Annual Report for Small-Scale Mines as prescribed in MGB Form No. 29-17 within two (2) months after the end of each calendar year.

h. Quarterly Energy Consumption Report

A Contractor or Mineral Processing Permit Holder or its Operator shall submit to the Director, copy furnished the concerned Regional Director, a Quarterly Energy Consumption Report using prescribed MGB Form No. 29-18 within fifteen (15) working days after the end of each calendar quarter.

A holder of a Quarry Permit or its Operator shall submit to the Provincial Governor/City Mayor, copy furnished the Director and the concerned Regional Director, a Quarterly Energy Consumption Report using prescribed MGB Form No. 29-18 within fifteen (15) working days after the end of each calendar quarter.

i. Quarterly Drilling Report

A Contractor or Permittee conducting any drilling project or a lessee of a Bureau drill machine shall submit to the Director, a sworn Quarterly Drilling Report in its contract area/Permit Holder/project area within thirty (30) calendar days at the end of each calendar quarter. This drilling report shall include, among others, a description of the geology, a topographic-drill collar location map in 1:50,000 scale and corresponding drill section showing geology, structures and orebody, if applicable; and the core log which shall contain

the coordinates of the collar elevation, drill inclination, direction and length and the physical/chemical analysis of the cores.

j. Annual Mineral Reserve Inventory Report

A Contractor or its operator shall submit to the Director, copy furnished the concerned Regional Director, an Annual Mineral Reserve/Resources Inventory Report using the prescribed MGB Form No. 29-19, on or before the end of the first quarter of each calendar year.

For areas outside Mineral Reservations, a holder of Quarry, Sand and Gravel and Small-Scale Mining Permit or its operator shall likewise submit the same report (MGB Form No. 29-20) to the concerned Provincial Governor/City Mayor, copy furnished the Director and the concerned Regional Director, on or before the end of the first quarter of each calendar year. For areas within Mineral Reservations, the Permit Holder or its operator shall submit the same report to the Director.

The Contractor/Permittee/operator may submit other types of mineral reserve report provided that the required information data contained in the said form must be included in their report.

k. Monthly General Accident Report

A Contractor, Permit Holder or its operator shall submit to the Regional Office and Bureau within fifteen (15) working days after each calendar month a Monthly General Accident Report using MGB Form 15-5.

l. Monthly Explosive Consumption Report

Holders of Purchaser's License for Explosives shall submit to the Regional Director, copy furnished the Director, a Monthly Explosive Consumption Report within fifteen (15) working days after each calendar month using the prescribed MGB Form 15-8.

m. Semiannual Report on Mine Waste and Tailings Generated

Refer to relevant section in these implementing rules and regulations.

n. Semiannual Status Report on the Environmental Work Program

Refer to relevant section in these implementing rules and regulations.

o. Quarterly Report on Production, Sales and Inventory of Small-Scale Mines Within Mineral Reservation

The holder of a Small-Scale Mining Permit within Mineral Reservation shall submit to the Director, a sworn and verified Quarterly Report on Production, Sales and Inventory of Small-Scale Mines Within Mineral Reservations as prescribed in MGB Form No. 29-20 within thirty (30) calendar days after the end of each calendar quarter.

- p. Annual and Quarterly Status Report based on Work Program of MPSA/FTAA Contractor

Refer to relevant Sections of these implementing rules and regulations.

- q. Annual Land Use Report

A Contractor or its operator shall submit to the Director a sworn annual land use report within sixty (60) calendar days after each calendar year.

- r. Other reports as may be required by the Director

The Contractor of a Mineral Agreement or the holder of a Quarry Permit, any of the Sand and Gravel Permits, Guano Permit, Gemstone Gathering Permit or Small-Scale Mining Permit is also required to submit reports (a) to (h) mentioned in this Section, whichever is applicable to its operation, even when there is no production for a given period. The report, however, should indicate the causes or reasons

why there was no production for the period. The Director, concerned Regional Director and in the case of quarry resources and Small-Scale Mining Permits, the Provincial Governor/City Mayor shall be promptly notified in writing before implementation of any mine suspension or mine closure.

Submission of the applicable report cited above shall be made part of the terms and conditions of Mineral Agreements, FTAA, Exploration Permit, Quarry Permit, Sand and Gravel Permit, Guano Permit and Gemstone Gathering Permit.

Section 271. Fines

In case of late or non-submission of any of the reports mentioned in Section 270 (a) to (h) and (o), the following fines shall be imposed:

- a. Late submission of any of the required reports including copies to be furnished to the Director and concerned Regional Director.

<u>Basic Fine</u>	<u>Daily Fine</u>	
1st Violation	1,000.00	10.00
2nd Violation	2,000.00	20.00
3rd Violation and subsequent violations	3,000.00	30.00

- b. Non-submission of any of the required reports after one (1) month from the prescribed reporting period.

<u>Basic Fine</u>	<u>Daily Fine</u>	
1st Violation	2,000.00	20.00
2nd Violation	3,000.00	30.00
3rd Violation and subsequent violations	5,000.00	50.00

Provided, That a late report classified under non-submission category shall not pay the accumulated fine in (a) but instead pay the fines imposed in (b) of this Section: *Provided, further*, That the total fine for non-submission of any of the required reports at any one time shall not exceed Ten Thousand Pesos (₱ 10,000.00).

- c. Failure of the Contractor or holder of any of the quarry resources permits or its Operator to submit any of the reports prescribed in the preceding Section three (3) months after the third violation or failure to pay fines within one (1) year shall be sufficient ground for cancellation or non-renewal of a permit, Mineral Agreement or FTAA.

In case of late or non-submission of reports mentioned in Section 270 (h) to (q) except (m), a fine of One Thousand Pesos (₱ 1,000.00) shall be imposed. The Secretary may adjust the above-mentioned fines from time to time as conditions may warrant such changes.

Payment of fines involving the herein cited reports shall be made to the Treasurer or Cashier of the following offices:

- a. Provincial Governor/ - MGB Form No. 29-11
 City Mayor - MGB Form No. 29-13
 - MGB Form No. 29-14
 - MGB Form No. 29-15
 - MGB Form No. 29-17
 - MGB Form No. 29-18

- b. Regional Director - MGB Form No. 29-10
 (for Mineral Agreements and FTAAAs)

- c. Director - MGB Forms No. 29-1 to 29-9
 - MGB Form No. 29-16
 - MGB Form No. 29-18
 - MGB Form No. 29-12

CHAPTER XXX
TRANSITORY AND MISCELLANEOUS PROVISIONS

Section 272. Non-Impairment of Existing Mining/Quarrying Rights

All valid and existing mining lease contracts, permits/licenses, leases pending renewal, Mineral Production Sharing Agreements, FTAA granted under Executive Order No. 279, at the date of the Act shall remain valid, shall not be impaired and shall be recognized by the Government: *Provided*, That the provisions of Chapter XXI on Government share in Mineral Production Sharing Agreement and of Chapter XVI on incentives of the Act shall immediately govern and apply to a mining Lessee or Contractor unless the mining Lessee or Contractor indicates its intention to the Secretary, in writing, not to avail of said provisions: *Provided, further*, That no renewal of mining lease contracts shall be granted after the expiration of its term: *Provided, finally*, That such leases, Production-Sharing Agreements, FTAAAs shall

comply with the applicable provisions of these implementing rules and regulations.

All pending applications for MPSA/FTAA covering forest land and Government Reservations shall not be required to re-apply for Exploration Permit: *Provided*, That where the grant of such FTAA applications/proposals would exceed the maximum contract area restrictions contained in Section 34 of the Act, the applicant/proponent shall be given an extension of one (1) year, reckoned from September 13, 1996, to divest or relinquish pursuant to Department Administrative Order No. 96-25 in favor of the Government, areas in excess of the maximum area allowance provided under the Act. For this purpose, a Special Exploration Permit of limited applications and activities shall be issued by the Secretary upon the recommendation of the Director, subject to the terms and conditions specified in the Permit and pertinent provisions of Chapter V hereof: *Provided*, That an area permission shall be granted likewise by the Secretary to undertake limited exploration activities in non-critical forest reserves and forest reservations and such other areas within the jurisdiction of the Department. In other areas, however, the applicant/proponent shall secure the necessary area clearances or written consent by the concerned agencies or parties, as provided for by law: *Provided, further*, That the time period shall be deducted from the life of the MPSA/FTAA and exploration costs can be included as part of pre-operating expenses for purposes of cost recovery should the FTAA be approved: *Provided, finally*, That this provision is applicable only to all FTAA/MPSA applications filed under Department Administrative Order No. 63 prior to the effectivity of the Act and these implementing rules and regulations.

All pending applications for Industrial Sand and Gravel Industrial Permit covering more than five (5) hectares with the Local Government Unit shall be endorsed to the concerned Regional Office for its processing, evaluation and approval.

Section 273. Recognition of Valid and Existing Mining Claims and Lease/Quarry Applications

Holders of valid and existing mining claims, lease/quarry applications shall be given preferential rights to enter into any mode of Mineral Agreement with the Government until September 14, 1997: *Provided*, That failure on the part of the holders of valid and subsisting mining claims, lease/quarry applications to exercise their preferential rights within the said period to enter into any mode of Mineral Agreements shall constitute automatic abandonment of the mining claims, quarry/lease applications and the area thereupon shall be declared open for mining application by other interested parties.

Section 274. Separability Clause

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

Section 275. Repealing and Amending Clause

Department Administrative Order No. 95-23 and all orders, rules and regulations inconsistent with or contrary to the provisions of these implementing rules and regulations are hereby repealed 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 provisions of the Act) to any provision of these implementing rules and regulations with the end in view of ensuring that the Act is appropriately implemented, enforced and achieved.

Section 276. Effectivity

These implementing rules and regulations shall take effect fifteen (15) days following its complete publication in two newspapers of general circulation.

VICTOR O. RAMOS
Secretary

DENR Memorandum Order

No. 96-13

July 26, 1996

**SUBJECT : Requiring Mining/ Quarrying
Companies Nationwide to Display
Billboards on their Operations, “So
The People May Know”**

As part of the Information Education Campaign Program of this Department and to make the people aware of the importance and benefits from mining/quarrying operations, all Regional Directors of the mines and Geosciences Bureau are hereby instructed to coordinate with such entities to display billboards measuring at least 1.2 m x 2.0 m. in conspicuous places in accordance with the attached format as ANNEX “T”. All regional directors shall submit compliance reports within thirty (30) days from issuance of this order.

This order shall take effect immediately.

VICTOR O. RAMOS

Secretary

DENR Memorandum Order
No. 96-14
September 05, 1996

TO : The Director and All Regional Directors,
Mines and Geosciences Bureau

In view of the current transition period in the implementation of DAO 96-25 and DAO 96-25A Amending Section 257 of the Implementing Rules and Regulations of R.A. 7942, acceptance of applications for Mineral Agreements, FTAA, Exploration Permits, and other types of mining rights applications in areas covered by FTAA applications filed under DAO 63, s. 1991; and MPSA applications filed under DAO 57, s. 1987, are hereby suspended during the period September 12, 1996 to September 16, 1996, inclusive.

For your immediate compliance.

VICTOR O. RAMOS
Secretary

ENVIRONMENT

**DENR Administrative Order
No. 96-08
February 20, 1996**

**SUBJECT : Amending Certain Provisions of
DENR Administrative Order No.
41, Series of 1991 Governing the
Deputation of Environment and
Natural Resources Officers
(ENROs)**

In order to facilitate the processing of applications and approval of deputation orders pursuant to DAO No. 41, Series of 1991, the Undersecretary for Field Operations is hereby authorized to approve and sign such deputation orders for Deputy Environment and Natural Resources Officers (DENROs).

As such, the following amendments to Section 6.3.3 and paragraph 3 of Section 10 of said Order are hereby made:

1. "Section 6.3.3 The Regional Executive Director shall indorse applications for Deputy Environment and Natural Resources Officer (DENRO), when proper, to the Undersecretary for Field Operations with categorical recommendation for final consideration and approval."
2. Para. 3 Section 10 "Renewal of deputation orders for Special DENRO shall be issued by the Regional Executive Director subject to clearance by the Undersecretary for Field Operations."

All other provisions of DAO No. 41, Series of 1991 remain the same.

This Order shall take effect immediately.

VICTOR O. RAMOS
Secretary

**DENR Administrative Order
No. 96-37
December 02, 1996**

SUBJECT : Revising DENR Administrative Order No. 21, Series of 1992, to Further Strengthen the Implementation of the Environmental Impact Statement (EIS) System.

Consistent with the continuing effort of the Department of Environment and Natural Resources (DENR) to strengthen the implementation of the Environmental Impact Statement (EIS) System established under Presidential Decree (PD) No. 1586, and pursuant to Section 7 of Executive Order No. 192, Series of 1987, the following provisions revising Department Administrative Order (DAO) No. 21, Series of 1992, are hereby promulgated.

ARTICLE I

BASIC POLICY, OBJECTIVES AND DEFINITION OF TERMS

Sec. 1 Basic Policy

It is the policy of the DENR to attain and maintain a rational and orderly balance between socio-economic growth and environmental protection through the sustainable use, development, management, renewal and conservation of the country's natural resources, including the protection and enhancement of the quality of the environment, not only for the present generation but for the future generations as well.

Sec. 2 Objectives

This Administrative Order (Order) shall have the following objectives:

- a. Ensure that environmental considerations are incorporated at the earliest possible stage of project development.
- b. Further streamline the current procedures in the conduct of the Environmental Impact Assessment (EIA) in order to improve its effectiveness as a planning, regulatory, and management tool.
- c. Enhance maximum public participation in the EIA process to validate the social acceptability of the project or undertaking so as to ensure the fullest consideration of the environmental impact of such project or undertaking.

Sec. 3 Definition of Terms

For purposes of this Order, the following terms shall mean:

- a. **CENRO** - the Community Environment and Natural Resources Office of the Department of Environment and Natural Resources.
- b. **DENR** - the Department of Environment and Natural Resources.
- c. **EIS Procedural Manual** - a detailed guide on the procedures to be observed by the parties involved in the EIS System. It shall include, among others, guidelines on public participation and social acceptability, the EIS/IEE review criteria, and scoping procedures.

- d. **EMB** - the Environmental Management Bureau of the DENR.
- e. **EMPAS** - the Environmental Management and Protected Areas Sector of the DENR Regional Office.
- f. **Environmental Compliance Certificate (ECC)** - the document issued by the DENR Secretary or the Regional Executive Director certifying that based on the representations of the proponent and the preparers, as reviewed and validated by the EIARC, the proposed project or undertaking will not cause a significant negative environmental impact; that the proponent has complied with all the requirements of the EIS System and that the proponent is committed to implement its approved Environmental Management Plan in the Environmental Impact Statement or mitigation measures in the Initial Environmental Examination.
- g. **Environmentally Critical Area (ECA)** - an area that is environmentally sensitive and is so listed under Presidential Proclamation (Pres. Proc.) No. 2146, Series of 1981 as well as other areas which the President of the Philippines may proclaim as environmentally critical in accordance with section 4 of P.D. No. 1586.
- h. **Environmentally Critical Project (ECP)** - a project that has high potential for significant negative environmental impact and is listed as such under Pres. Proc. No. 2146, Series of 1981 and Pres. Proc. No. 803, Series of 1996, as well as other projects which the President may proclaim as environmentally critical in accordance with Section 4 of P.D. 1586.

- i. **Environmental Guarantee Fund (EGF)** - a fund that proponents required or opting to submit an EIS shall commit to establish when an ECC is issued by the DENR for projects or undertakings determined by the latter to pose significant public risk to answer for damage to life, health, property, and the environment caused by such risk, or requiring rehabilitation or restoration measures.
- j. **Environmental Impacts** - the probable effects or consequences of proposed projects or undertakings on the physical, biological and socioeconomic environment that can be direct or indirect, cumulative, and positive or negative.
- k. **Environmental Impact Assessment (EIA)** - the process of predicting the likely environmental consequences of implementing projects or undertakings and designing appropriate preventive, mitigating and enhancement measures.
- l. **Environmental Impact Assessment Review Committee (EIARC)** - a body of independent technical experts and professionals of known probity from various fields organized by the EMB/RED whose main tasks are to evaluate the EIS and other documents related thereto, and make appropriate recommendations to the EMB/RED regarding the issuance or non-issuance of ECCs.
- m. **Environmental Impact Statement (EIS)** - the document(s) of studies on the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall contain in every case all relevant information and details about the proposed

project or undertaking, including the environmental impacts of the project and the appropriate mitigating and enhancement measures.

- n. **Environmental Impact Statement (EIS) System** - the entire process of organization, administration, and procedures institutionalized for purposes of assessing the significance of the effects of any project or undertaking on the quality of the physical, biological and socio-economic environment, and designing appropriate preventive, mitigating and enhancement measures.
- o. **Environmental Management Plan (EMP)** - a section in the EIS that details the prevention, mitigation, compensation, contingency and monitoring measures to enhance positive impacts and minimize negative impacts of a proposed project or undertaking.
- p. **Environmental Monitoring Fund (EMF)** - a fund that proponents required or opting to submit an EIS shall commit to establish when an ECC is issued by the DENR for its project or undertaking, to be used to support the activities of the multi-partite monitoring team.
- q. **Environmental Risk Assessment (ERA)** - the use of scientific methods and information to define the probability and magnitude of potentially adverse effects which can result from exposure to hazardous materials or situations.
- r. **Initial Environmental Examination (IEE)** - the document required of proponents describing the environmental impact of, and mitigation and enhancement measures for, projects or undertakings located in an ECA. The IEE shall replace the Project Description required under DAO 21, series of 1992.

- s. **Multipartite Monitoring Team (MMT)** - a multi-sectoral team covered for the primary purpose of monitoring compliance by the proponent with the ECC, the EMP and applicable laws, rules and regulations.
- t. **PENRO** - the Provincial Environment and Natural Resources Office of the DENR.
- u. **Preparer** - the proponent's technical staff or a competent professional group commissioned by the proponent to prepare the EIS/IEE and other related documents.
- v. **Project or Undertaking** - any activity, regardless of scale or magnitude, which may have significant impact on the environment.
- w. **Proponent** - any natural or juridical person intending to implement a project or undertaking.
- x. **Public Participation** - a transparent, gender sensitive, and community-based process involving the broadest range of stakeholders, commencing at the earliest possible stage of project design and development and continuing until post-assessment monitoring which aims to ensure social acceptability of a project or undertaking.
- y. **Public Risk** - exposure of public health or the environment to toxic substances, hazardous or organic wastes, extraction of natural resources, or activities or structures that could endanger life, health, property, or the environment.
- z. **RED** - the Regional Executive Director of the DENR Regional Office.

- aa. **Scoping** - the stage in the EIS System where information and assessment requirements are established to provide the proponent with the scope of work for the EIS.
- bb. **Secretary** - the Secretary of the DENR.
- cc. **Social Acceptability** - the result of a process mutually agreed upon by the DENR, key stakeholders, and the proponent to ensure that the valid and relevant concerns of stakeholders, including affected communities, are fully considered and/or resolved in the decision-making process for granting or denying the issuance of an ECC.
- dd. **Stakeholders** - persons who may be significant affected by the project or undertaking, such as, but not limited to, members of the local community, industry, local government units (LGUs), non-governmental organizations (NGOs), and people's organizations (POs).

ARTICLE II

SCOPE OF THE EIS SYSTEM

Sec. 1.0 Coverage

The following projects and undertakings are covered by the EIS System:

- a. Environmentally Critical Projects (ECPs)
 - i. Heavy industries
 - 1. Non-ferrous metal industries
 - 2. Iron and steel mills
 - 3. Petroleum and petro-chemical industries, including oil and gas

4. Smelting plants
- ii. Resource extractive industries
 1. Major mining and quarrying projects
 2. Forestry projects
 - a. Logging
 - b. Major wood processing projects
 - c. Introduction of fauna (exotic animals) in public/private forest
 - d. forest occupancy
 - e. Extraction of mangrove products
 - f. Grazing
 3. Fishery projects
 - a. Dikes for/and fishpond development projects
 - iii. Infrastructure projects
 1. Major dams
 2. Major power plants (fossil-fueled, nuclear fueled, hydro-electric, or geothermal)
 3. Major reclamation projects
 4. Major roads and bridges
 - iv. Golf course projects
- b. Project located in Environmentally Critical Areas (ECAs)
 - i. All areas declared by law as national parks, watershed reserves, wildlife preserves, and sanctuaries

- ii. Areas set aside as aesthetic potential tourist spots
- iii. Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine wildlife (flora and fauna)
- iv. Areas of unique historic archeological or scientific interest
- v. Areas which are traditionally occupied by cultural communities or tribes (indigenous cultural communities)
- vi. Areas frequently visited and/or hard-hit by natural calamities (geologic hazards, floods, typhoons, volcanic activity, etc.)
- vii. Areas with critical slopes
- viii. Areas classified as prime agricultural lands
- ix. Recharged areas of aquifers
- x. Water bodies characterized by one or any combination of the following conditions:
 - 1. tapped for domestic purposes
 - 2. within the controlled and/or protected areas declared by appropriate authorities
 - 3. which support wildlife and fishery activities
- xi. Mangrove areas characterized by one or any combination of the following conditions:

1. with primary pristine and dense young growth
 2. adjoining mouth of major river systems
 3. near or adjacent to traditional productive fry or fishing grounds
 4. which act as natural buffers against shore erosion, strong winds and storm floods
 5. on which people are dependent for their livelihood
- xii. Coral reefs characterized by one or any combination of the following conditions:
1. with fifty percent (50%) and above live coralline cover
 2. spawning and nursery grounds for fish
 3. which act as natural breakwater of coastlines.

No person shall undertake or operate any such declared ECP or project within an ECA without first securing an ECC.

Sec. 2.0 Non-Coverage

The following projects and undertakings are not covered by the EIS System:

- a. Projects which are not considered as environmentally critical or located within an ECA;

- b. ECPs or projects within ECAs which were operational prior to 1982 except in cases where their operations are expanded in terms of daily production capacity or area, or the process is modified;
- c. countryside business and barangay entities (CBBEs) covered by Republic Act No. 6810, otherwise known as the Magna Carta for Countryside and Barangay Business Enterprises (Kalakalan 20), and registered with the Department of Trade and Industry between 1991 to 1994, inclusive. *Provided* that, unless otherwise amended by law, non-coverage of such CBBEs shall only subsist for a five(5)-year period beginning from its date of registration.

Sec. 3.0 EIS/IEE for Covered Projects or Undertakings

If a project is considered an ECP, the proponent shall be required to prepare an EIS. If the project is located within an ECA, the proponent shall be required to submit an IEE, without prejudice to the submission of an EIS as may be further required by the RED. In the alternative, the proponent of a project within an ECA may, at its option, submit an EIS as provided in Section 29, Article III.

If a project or undertaking is an ECP located within an ECA, the procedure for submission of an EIS for ECPs under Article III (A) shall be observed.

Sec. 4.0 Environmental Safeguards for Projects or Undertakings Not Covered by the EIS System

Projects or undertakings not covered by the EIS System may proceed without further environmental impact assessment studies. The

RED may, however, require the proponent to provide additional environmental safeguards for its project or undertaking.

ARTICLE III PROCEDURAL FLOW OF THE EIS SYSTEM

A. Environmentally Critical Projects

Sec. 1.0 Objectives of Scoping

Scoping shall be initiated by the proponent at the earliest possible stage of project development to define the range of actions, alternatives and impacts to be examined. The objectives of scoping shall be to:

- a. provide an early link between the DENR and the proponent to ensure that the EIA addresses relevant issues and presents results in a form consistent with EIA review requirements;
- b. allow stakeholders to make their concerns known to ensure that the EIA adequately addresses the relevant issues;
- c. establish an agreement at the outset of the EIA between the proponent, the DENR and stakeholders on what issues and alternatives are to be examined;
- d. address issues on carrying or assimilative capacity of the environment and identify possible legal constraints or requirements regarding the project proposal;
- e. determine whether the project or undertaking requires the conduct of an environmental risk assessment; and

- f. determine and agree on the process of dealing with issues relating to social acceptability.

Sec. 2.0 Initial Identification of EIARC Members

The EMB shall, at the scoping stage, identify prospective members of the EIARC who shall be invited to join the scoping sessions for the particular project or undertaking whenever possible. The EIARC shall, however, be formally convened only upon submission of the EIS.

Sec. 3.0 Formal Scoping Report

Based on said scoping process, the proponent shall submit a formal scoping report to the EMB.

Sec. 4.0 Review of Scoping Report

The EMB shall review the scoping report submitted by the proponent and, after consultation with the latter, determine the actual scope of the EIS. In determining the scope of the EIS, the EMB shall take into account the concerns of and the recommendations of stakeholders.

Sec. 5.0 Agreed-upon Scope

The agreed-upon scope shall be recorded and shall serve as a basis for the EIA and the review of the EIS.

Sec. 6.0 Adjustment of Scope

The scoping may be adjusted during the course of the study to take into account new information or changing conditions.

Sec. 7.0 Submission of EIS

Upon completion of the EIA Study, the proponent shall submit at least ten (10) legible copies of the EIS and a complete electronic file in computer diskettes to the EMB for review. The EMB may require the proponent to submit additional copies as necessary.

The proponent shall likewise furnish a copy of the EIS to the Offices of the Undersecretary handling the environment, the concerned Regional Executive Director, PENRO, CENRO and the Municipality/City Mayor where the project is proposed to be located.

Sec. 8.0 Eligible Preparers

The EIS may be prepared by the proponent's technical staff or a professional group commissioned by the proponent, provided that only EIS preparers duly accredited by the EMB in accordance with its accreditation procedures shall be allowed to actually prepare the EIS.

Sec. 9.0 Contents of the EIS

Subject to the agreed-upon scope described in Section 5.0, Article III and the EIS Procedural Manual, an EIS shall at least contain the following basic items:

- a. Project Description, including data on project location, specifically describing the primary and secondary impact zones, project rationale, alternatives, including alternative sites or actions, no action alternatives, and project phases;
- b. Scoping Report;

- c. Baseline Environmental Conditions for land, water, air, and people;
- d. Impact Assessment, including a discussion of the impact of the project or undertaking on the environment and public health;
- e. Environmental Risk Assessment, when appropriate;
- f. Environmental Management Plan;
- g. Proposals for Environmental Monitoring and Guarantee Funds when required;
- h. Supporting Documents, such as documents on social acceptability, process of public participation, technical and socio-economic data used, gathered, or generated; and
- i. Accountability Statements of the preparer and the proponent.
- j. For projects located in ancestral lands or domains, as defined under DAO No. 2, series of 1993, or subsequently by law, of indigenous communities, a specific chapter in the socio-economic impact assessment shall be devoted to a discussion of indigenous peoples' concerns and possible socio-economic, political and cultural impacts of the proposed project on such people.
- k. For projects or undertakings with significant impact on women, a specific chapter in the socio-economic impact assessment shall be devoted to a discussion and consideration of gender issues.

- I. For projects or undertakings with significant impact on population, a specific chapter on the socio-economic impact assessment shall be devoted to a discussion of the relationship among population, development, and the environment.

Some or all of the foregoing items may, when appropriate, be presented in a format using the checklist approach.

Sec. 10.0 Initial Review of EIS Documents

Upon receipt of the EIS, the EMB shall immediately determine the completeness of the documents submitted by the proponents. If the documents are found to be incomplete or in need of revision, the same shall be immediately returned to the proponent for completion or revision.

Sec. 11.0 Convening of, and Endorsement to, the EIARC

Within 15 days from the date of submission of the EIS, the EMB shall convene the EIARC and endorse the EIS to said body for substantive review.

Sec. 12.0 Substantive Review by the EIARC

After proper endorsement, the EIARC shall evaluate the EIS in accordance with the review criteria set forth in the EIS Procedural Manual. The EIARC shall validate the EIS through methods deemed appropriate such as, but not limited to, ocular inspections/site visits and technical studies conducted by experts and relevant institutions. The EIARC shall consider the process documentation report in the validation of the EIS. The EIARC shall endeavor to complete the substantive review of the EIS within 60 days from receipt thereof.

Sec. 13.0 EIARC Report

Within 15 days from completion of review, including public consultations and hearings, the EIARC shall submit a report to the EMB Director containing the results of its review/evaluation and its recommendations with respect to the issuance/non-issuance of the ECC. Said report, which shall begin with a brief description of the project or undertaking, shall discuss:

- a. environmental impacts and corresponding costed mitigation and enhancement measures of the project or undertaking;
- b. key issues/concerns;
- c. proponent's response to issues;
- d. compliance with review criteria, technical/substantive content and social acceptability requirements; and
- e. the acceptability of the proposed EMB.

Sec. 14.0 Recommendation of the EMB Director

Within 15 days from receipt of the EIARC report, the EMB Director shall make his or her own recommendations to the Office of the Secretary for final decision. Copies of the EIARC report and other pertinent documents shall be attached to the EMB Director's recommendations.

Sec. 15.0 Issuance of ECC

Within 15 days from receipt of the report of the EMB Director, unless circumstances warrant a longer period of time, the Secretary shall either grant or deny the issuance of the ECC. In granting or denying the issuance of the ECC, the Secretary shall take into account the social

and environmental cost implications relative to the judicious utilization, development and conservation of the country's natural resources.

Sec. 16.0 Transmittal of EIS Records and ECCs

In the event that an ECC is issued, the Secretary shall cause the transmittal of the EIS, all pertinent records and documents, and the ECC to the EMB within 10 days from the date of such issuance. The offices of the concerned Regional Executive Director, PENRO, CENRO, the Municipal/City Mayor and the proponent shall also be furnished a copy of the ECC within the same period.

B. Projects within Environmentally Critical Areas

Sec. 17.0 Submission of IEE

The proponent shall submit at least ten (10) legible copies of the IEE and a complete electronic file in computer diskettes to the EMPAS for review. The EMPAS may require the proponent to submit additional copies as necessary.

The proponent shall likewise furnish a copy of the IEE to the concerned PENRO, CENRO and the Office of the Municipal/City Mayor where the project is proposed to be located.

Sec. 18.0 Eligible Preparers

The IEE may be prepared by the proponent's technical staff or a professional group commissioned by the proponent, provided that only IEE preparers duly accredited by the EMB in accordance with its accreditation procedures shall be allowed to actually prepare the IEE.

Sec. 19.0 Contents of the IEE

Subject to the EIS Procedural Manual, an IEE shall at least contain the following basic items:

- a. a brief description of the environmental setting and receiving environment, including the primary and secondary impact areas;
- b. a brief description of the project or undertaking and its process of operation;
- c. a brief description of the environmental impact of the project or undertaking, including its socio-economic impact;
- d. a matrix of mitigation and enhancement measures;
- e. a documentation of the consultative process undertaken, when appropriate;
- f. a brief discussion of indigenous peoples' concerns and possible socio-economic, political and cultural impacts of the proposed project or undertaking on such people for projects or undertakings located in ancestral lands or domains, as defined under DAO No. 2, series of 1993, or subsequently by law, of indigenous communities;
- g. a brief discussion of gender issues for projects or undertakings with significant impact on women;
- h. a brief discussion of the relationship among population, development, and the environment for projects or undertakings with significant impact on population; and

- i. Accountability Statements of the preparer and the proponent.

Some or all of the foregoing items may, when appropriate, be presented in a format using the checklist approach.

Sec. 20.0 Review and evaluation of IEE

Upon receipt of the IEE, the EMPAS shall determine the completeness of the documents submitted by the proponents. If the documents are found to be incomplete or in need of revision, the same shall be immediately returned to the proponent for completion or revision.

Sec. 21.0 Substantive Review by the EMPAS

Within 15 days from the date of submission, the EMPAS shall conduct substantive review of the IEE. The EMPAS shall evaluate the IEE in accordance with the review criteria set forth in the EIS Procedural Manual . The EMPAS shall validate the IEE through methods deemed appropriate such as, but not limited to, ocular inspections/site visits, studies conducted by experts and relevant institutions and shall consider the process documentation report in the validation of the EIS. The EMPAS shall endeavor to complete substantive review of the IEE within 30 days from receipt thereof.

Sec. 22.0 EMPAS Report

Within 15 days from completion of review, including public consultations, the EMPAS shall submit a report to the RED. The EMPAS may recommend the issuance or non-issuance of the ECC, or the preparation of an EIS. Should the EMPAS recommend the issuance of the ECC, the report, which shall begin with a brief description of the project or undertaking, shall discuss:

- a. the environmental impacts and corresponding costed mitigation and enhancement measures of the project or undertaking;
- b. key issues/concerns;
- c. proponent's response to issues;
- d. compliance with review criteria, technical/substantive content and social acceptability requirements; and
- e. acceptability of proposed EMP.

Sec. 23.0 Decision on the IEE

Within 15 days from receipt of the EMPAS report, unless circumstances warrant a longer period of time, the RED may;

- a. either grant or deny the issuance of the ECC; or
- b. decide that an EIS is further required, in which case he or she shall inform the proponent of such decision.

Sec. 24.0 Issuance of ECC pursuant to section 23, Article III

In granting or denying the issuance of the ECC, the RED shall take into account the social and environmental cost implications relative to the judicious utilization, development and conservation of the country's natural resources.

Sec. 25.0 Scoping

Should the RED decide that an EIS is further required, he or she shall likewise determine whether the IEE process was sufficient for

scoping purposes or not. If the RED finds that scoping is still necessary, the procedure outlined in Sections 1 to 6, Article III (A) shall be followed. Provided, however, that the responsibilities of the EMB and the EIARC shall be assumed by the EMPAS and the Regional EIARC, respectively. The RED's decision to forego scoping shall not preclude the proponent from voluntarily undergoing scoping.

Sec. 26.0 Submission of EIS Upon Order of the RED

Within 15 days from submission of the required EIS, the RED shall convene a Regional EIARC for substantive review of the EIS. If a Regional EIARC can not be convened due to inadequacy of persons who are willing and able to serve as members of the Regional EIARC, or for other compelling reasons, the RED may seek the assistance of the EMB in convening and lending technical support to the Regional EIARC. Within the same period, the RED shall endorse the EIS to the Regional EIARC.

The proponent shall likewise furnish a copy of the EIS to the EMB, the concerned PENRO, CENRO and the Office of the Municipality/City Mayor where the project is proposed to be located.

Sec. 27.0 Review of EIS

The Regional EIARC shall, upon proper endorsement of the RED pursuant to the immediately preceding section, evaluate the EIS in accordance with the review criteria set forth in the EIS Procedural Manual. The Regional EIARC shall validate the EIS through methods seemed appropriate such as, but not limited to, ocular inspection/site visits and technical studies conducted by experts and relevant institutions. The Regional EIARC shall consider the process

documentation report in the validation of the EIS. The Regional EIARC shall endeavor to complete the substantive review of the EIS within 60 days from receipt thereof.

Sec. 28.0 Regional EIARC Report

Within 15 days from completion of review, including public consultations and hearings, the Regional EIARC shall submit a report to the RED containing the results of its review and recommendations with respect to the issuance or non-issuance of the ECC. Said report, which shall contain a brief description of the project or undertaking, shall discuss:

- a. matrix of environmental impacts and corresponding costed mitigation and enhancement measures of the project or undertaking;
- b. key issues/concerns;
- c. proponent's response to issues;
- d. compliance with review criteria, technical/substantive content and social acceptability requirements; and
- e. acceptability of proposed EMP.

Sec. 29.0 Decision on the EIS Submitted Pursuant to Section 26.0, Article III

Within 15 days from receipt of the Regional EIARC's report, unless circumstances warrant a longer period of time, the RED shall either grant or deny the issuance of the ECC. In granting or denying the issuance of the ECC, the RED shall take into account the social and

environmental cost implications relative to the judicious utilization, development, and conservation of the country's natural resources.

Sec. 30.0 Optional Submission of EIS

If the proponent has reasonable grounds to believe that a project or undertaking within an ECA is of such nature and magnitude that an EIS will be required, as provided in Sections 22 and 23 (b), Article III, the proponent may opt to immediately prepare and submit an EIS to the DENR Regional Office in lieu of an IEE. In such case, the provisions on the procedural flow of EIS under Sections 1 to 13, Article III (A) shall apply. *Provided*, however, that the responsibilities of EMB and the EIARC referred to therein shall be assumed by the RED and the Regional EIARC, respectively.

Sec. 31.0 Issuance of ECC Pursuant to Section 30, Article III

Within 15 days from receipt of the Regional EIARC report, unless circumstances warrant a longer period of time, the RED shall either grant or deny the issuance of the ECC. In granting or denying the issuance of the ECC, the RED shall take into account the social and environmental cost implications relative to the judicious utilization, development and conservation of the country's natural resources.

Sec. 32.0 Transmittal of ECCs Issued Pursuant to Sections 29.0 and 30.0, Article III

In the event that an ECC is issued pursuant to Sections 29.0 or 30.0, Article III, the RED shall provide the Offices of the Undersecretary handling the environment, the EMB, PENRO, CENRO, and the Municipal/City Mayor a copy of the ECC within ten (10) from the date of such issuance..

Sec. 33,0 Coordination of EMB and Regional Office on EIS of Projects within ECAs

In case of an EIS submitted pursuant to either Section 26 or Section 30, Article III, the EMB shall coordinate with the Regional Office regarding the processing of the EIS within that region.

ARTICLE IV

Public Participation and Social Acceptability

Sec. 1.0 Social Acceptability

The acceptability of the environmental impact of a project or undertaking can only be fully determined through meaningful public participation and a transparent EIS process. In determining social acceptability, the DENR shall consider, among others, the following factors:

- a. ecological/environmental soundness of the proposed project;
- b. effective implementation of the public participation process;
- c. resolution of conflicts;
- d. promotion of social and intergenerational equity and poverty alleviation;
- e. effective environmental monitoring and evaluation; and
- f. proposed mitigation and enhancement measures.

Sec. 2.0 Public Information

- a. All information about the proposed project or undertaking shall be presented by the proponent to the public in a language and manner that are easily understood. Such information shall include an evaluation of public health, environmental, population, gender, socio-economic, and cultural impacts of the project or undertaking and the appropriate mitigation and enhancement measures.
- b. A notice of the submission of an IEE/EIS shall be posted by the proponent, in coordination with the Regional Office or EMB, as the case may be, in the barangay and municipal halls and other conspicuous places in the affected community, together with a summary of the proposed project or undertaking.

Evidence demonstrating compliance with these requirements shall form part of the supporting documents to be submitted with the IEE/EIS.

Sec. 3.0 Public Consultation

Proponents of projects or undertakings required to undergo an EIA shall initiate the conduct of public consultations as provided in the EMB Guidelines on Public Participation and Social Acceptability, to ensure that the public's concerns are fully integrated into the EIA process.

Sec. 4.0 Public Hearings

The DENR, upon recommendation of the EIARC, shall hold public hearings for projects or undertakings requiring an EIS whenever:

- a. the magnitude of the project is such that a great number of people are affected;
- b. there is mounting public opposition against the proposed project; or
- c. there is a written request for the conduct of such public hearing from any of the stakeholders.

Sec. 5.0 Conduct of Public Hearings

The DENR shall conduct such hearings at a period to be agreed upon between the DENR and the proponent in consultation with other key stakeholders. All public hearings shall be summary in nature and shall not strictly adhere to the technical rules of evidence.

Sec. 6.0 Notice of Public Hearing

Notice of public hearing shall be published once a week for two (2) consecutive weeks in any newspaper of general circulation at least 15 days prior to the scheduled hearing. Notice shall likewise be posted in a conspicuous place in the municipality and barangay where the project is proposed to be located. All expenses incurred for the notices shall be charged to the proponent.

Sec. 7.0 Hearing Officer

The EMB Director/RED shall designate the hearing officer who shall be:

- a. of known probity and independence;
- b. familiar with rules and procedures in the conduct of public hearings;

- c. skilled in effective dispute or conflict resolution; and
- d. sensitive to the need for social acceptability and public participation in the EIA process.

Sec. 8.0 Alternative Dispute or Conflict Resolution Processes

The DENR, in consultation with the proponent and other major stakeholders, shall nevertheless exert efforts to agree to adopt appropriate alternative dispute or conflict resolution processes, including but not limited to mediation, facilitated decision-making and negotiation, taking into consideration the unique characteristics of the project, the issues, and the stakeholders.

Sec. 9.0 Process Documentation Report

The proponent shall prepare a process documentation report on the public consultation, public hearing, alternative dispute or conflict resolution processes used, which report shall be validated by the EMB/EMPAS through appropriate means. Such process documentation shall constitute part of the records of the EIA process. A copy of said report shall be transmitted to the PENRO/CENRO within seven (7) days from the end of the public hearing/consultation and shall, upon request, be made available by the PENRO/CENRO to all stakeholders and other interested parties. Copies of the report shall be considered as public documents.

Sec. 10.0 Compliance Monitoring

- a. A multi-partite monitoring team (MMT) shall be formed immediately after the issuance of an ECC pursuant to an EIS. The MMT shall be principally tasked to undertake monitoring

of compliance with the ECC conditions, the EMP and applicable laws, rules and regulations.

- b. Monitoring of compliance with the proponent's ECC issued pursuant to an IEE, and applicable laws, rules and regulations, shall be undertaken by the concerned PENRO and CENRO with support from the Regional Office and/or EMB whenever necessary.

Sec. 11.0 Composition of the MMT

The composition of the MMT and their responsibilities shall be provided in a Memorandum of Agreement (MOA) negotiated by the proponent, the DENR and the major stakeholders. In all cases, the MMT shall be composed of representatives of the proponent and of a broad spectrum of stakeholder groups, including representatives from the LGUs, NGOs/POs, the community, women sector, concerned PENRO and CENRO, with support from the Regional Office and/or the EMB, whenever necessary, the academe, relevant government agencies, and other sectors that may be identified in the negotiations leading to the execution of the MOA.

Sec. 12.0 Delegation of Monitoring Responsibilities

The MMT may seek the assistance of experts in its monitoring activities. However, such assistance shall not absolve members of the MMT from their responsibilities under the MOA.

ARTICLE V

ENVIRONMENTAL MONITORING AND GUARANTEE FUNDS

Sec. 1.0 Environmental Monitoring Fund

Proponents required or opting to submit an EIS are mandated to include in their EIS a commitment to establish an environmental monitoring fund (EMF) when an ECC is eventually issued. The EMF shall be established by the proponent not later than the initial construction phase of its project or undertaking.

Sec. 2.0 Amount of EMF

The amount to be allocated for the EMF shall be determined on the basis of the estimated cost of approved post-assessment monitoring and environmental information programs.

Sec. 3.0 EMF Mechanics

The amount to be paid out from, and the manner of utilization of, the EMF shall be set forth in the EIS Procedural Manual and incorporated as part of the MOA referred to in Section 11.0, Article IV.

Sec. 4.0 Environmental Guarantee Fund

An Environmental Guarantee Fund (EGF) shall be established for all projects or undertakings that have been determined by the DENR to pose a significant public risk as herein defined or where the project or undertaking requires rehabilitation or restoration.

Sec. 5.0 Presumption of Public Risk

A significant public risk may be presumed by the DENR if any of the following conditions exists:

- a. Presence of toxic chemicals and hazardous wastes as defined in Republic Act No. 6969;
- b. Extraction of natural resources that requires rehabilitate or restoration;
- c. Presence of structures that could endanger life, property, and the environment in case of failure; or
- d. Presence of processes that may cause pollution as defined under Pres. Decree No. 984, or other related pollution laws.

Sec. 6.0 Recovery from the EGF

The manner of recovery from the EGF and the amounts to be paid out shall be set forth in the EIS Procedural Manual and incorporated as part of the MOA referred to in Section 11.0, Article IV.

ARTICLE VI

ADMINISTRATIVE APPEALS

Sec. 1.0 Appeal to the Office of the Secretary

Any party aggrieved by the final decision of the RED may, within 15 days from receipt of such decision, file an appeal with the Office of the Secretary. The decision of the Secretary shall be immediately executory.

Sec. 2.0 Grounds for Appeal

The grounds for appeal shall be limited to grave abuse of discretion and serious errors in the findings of fact which would cause grave or irreparable injury to the aggrieved party. Frivolous appeals shall not be countenanced.

Sec. 3.0 Who May Appeal

The proponent or any stakeholder, including but not limited to, the LGUs concerned and affected communities, may file an appeal.

ARTICLE VII

ROLES AND RESPONSIBILITIES

Consistent with the principles and standards laid down in this Order, the following persons and officers shall perform the functions hereinafter provided.

Sec. 1.0 Proponent

The proponent shall:

- a. comply with the standards and guidelines on public participation and social acceptability;
- b. conduct an EIA of the proposed project and submit its findings to the EMB/EMPAS in accordance with the prescribed guidelines;
- c. provide a true, complete, and accurate EIS/IEE. An accountability statement for this purpose, as indicated in Annex A, shall be signed and attached to the EIS/IEE;

- d. be jointly and solidarily responsible with the preparer for the veracity of the latter's representations;
- e. initiate the establishment of the EMF and/or the EGF as may be stipulated in the ECC;
- f. ensure that appropriate post-assessment monitoring and reporting are carried out as required; and
- g. submit the required reports to the EMPAS/EMB.

Sec. 2.0 Preparers

Preparers of submitted IEEs and EISs shall be responsible for the accuracy of the said documents. An accountability statement for preparers, as indicated in Annex B, shall be attached to the submitted IEE/EIS. The preparers shall be held principally liable and may be charged with appropriate administrative, civil and criminal sanctions for any information imputable to them which are found to be false and tend to misrepresent the findings of the study.

Sec. 3.0 DENR Secretary

The DENR Secretary shall:

- a. grant or deny the issuance of an ECC in accordance with the process described in this Order;
- b. advise the President on the promulgation of rules, regulations, and other issuances relative to the EIS System;
- c. establish policies and standards for the efficient and effective implementation of the EIS System;
- d. promulgate rules, regulations and other issuances necessary in carrying out the intent of P.D. 1586;

- e. exercise supervision over the administration of the EIS System including establishing a system of review that is objective, efficient and transparent;
- f. decide appeals from the decisions of the RED and EMB Director assessing fines and imposing penalties, and the decision of the RED to issue or deny an ECC;
- g. conduct periodic audits of the implementation of the EIS System;
- h. enter into agreement with appropriate authorities or agencies with jurisdiction over special economic zones and similar entities for the effective implementation of the EIS System; and
- i. issue supplemental guidelines for the implementation of the EIS System in specific areas, such as forestry and mining.

Sec. 4.0 Environmental Management Bureau

The EMB shall:

- a. process EISs for ECPs submitted by proponents and make recommendations to the Secretary regarding the issuance or non-issuance of the ECC;
- b. provide information regarding the status of an ECC application when so requested;
- c. develop an effective database management system;

- d. administer EIA training systems and programs;
- e. foster linkages with environmental units of national government agencies and other governmental/no-governmental organization.
- f. recommend possible legislation, policies and guidelines to enhance the effective administration of the EIS System;
- g. recommend rules and regulations for EIA and provide technical assistance for their implementation and monitoring;
- h. periodically report on the progress of the implementation of the EIS System including implementing a system of review that is objective, efficient and transparent;
- i. advise the DENR Regional Offices in the efficient and effective implementation of EIA policies, programs, and projects;
- j. render necessary support to the PENRO and CENRO in their compliance monitoring of projects covered by the EIS system; and
- k. assess and collect fines as herein provided.

Sec. 5.0 DENR Regional Office

The DENR Regional Office shall:

- a. implement laws, policies, plans, programs, projects, rules and regulations of the DENR relative to the EIS System;

- b. advise proponents on existing administrative and procedural guidelines of the EIS System;
- c. assess and evaluate IEEs;
- d. conduct public hearings whenever necessary;
- e. approve or deny the ECC for ECAs;
- f. provide information regarding the status of an ECC application when so requested;
- g. render necessary support to the PENRO and CENRO in their compliance monitoring of projects covered by the EIS system within their areas of jurisdiction;
- h. investigate EIA-related complaints;
- i. assess and collect fines as herein provided;
- j. assist EMB in the conduct of on-site inspection and make necessary recommendations;
- k. coordinate with other government agencies, NGOs, LGUs, private offices and project proponents in the region in the implementation and enforcement of the EIS System rules and regulations and public information campaigns;
- l. conduct site verification to facilitate classification of projects;
and
- m. periodically report on the progress of the implementation of the EIS System within their area of jurisdiction.

Sec. 6.0 The EIARC/Regional EIARC

The EIARC/Regional EIARC shall review the EIS in accordance with the standards set forth herein and in the EIS Procedural Manual, and shall make recommendations regarding the granting or denial of the issuance of the ECC for the proposed project or undertaking.

Sec. 7.0 Local Government Units

Consistent with the provisions of the Local Government Code of 1991 and related laws, rules and regulations, the LGUs shall:

- a. serve as a forum for public participation at the local level;
- b. participate as a member of the MMT and other appropriate committees that may be formed to implement the EIS System or monitor the projects within its territory; and
- c. coordinate with the DENR in the dissemination of information and in monitoring the implementation of the EIS System.

Sec. 8.0 PENRO and CENRO

The PENRO and CENRO shall:

- a. coordinate with LGUs, NGOs/POs and local communities relative to the EIS System;
- b. conduct public information campaigns on the EIS System;

- c. facilitate information dissemination of process documentation relative to projects and undertakings within its jurisdiction; and
- d. set up the compliance monitoring of projects with ECCs in their area of jurisdiction;
- e. represent the DENR in the MMT that may be formed upon the issuance of ECCs in specific cases;
- f. manage the environmental monitoring fund (EMF) that may be set up upon the issuance of ECCs in specific cases; and
- g. assists the Regional Offices in the conduct of on-site inspections and monitoring.

Sec. 9.0 Other National Government Agencies

Pursuant to Executive Order No. 291, Series of 1996, national government agencies, government-owned and controlled corporations, and government financial institutions, through their respective environmental units, shall provide support for the effective implementation of the EIS System by:

- a. coordinating their projects or programs with the policies of the EIS System;
- b. providing inputs that may be helpful in the review of the IEE/EIS; and
- c. ensuring that their respective agencies meet the procedural requirements of the EIS System.

ARTICLE VIII

SCHEDULE OF FEES

Sec. 1.0 Payment of Fees

All proponents, upon submission of the IEE/EIS, shall pay a filing fee of P310.00 a processing fee of P 1,750.00, and a legal and research fee of P 70.00.

Sec. 2.0 Additional Costs

The proponent shall be responsible for the payment of all costs relating to the review of its IEE/EIS, in accordance with the guidelines in the EIS Procedural Manual.

ARTICLE IX

FINES, PENALTIES AND SANCTIONS

The EMB Director or the RED shall impose penalties upon persons or entities found violating provisions of P.D. 1586 or its implementing rules and regulations.

Sec. 1.0 Administrative Investigation

Penalties shall be imposed after an investigation wherein the respondent shall be given notice and afforded an opportunity to be heard. The investigation report prepared by the hearing officer shall include the following matters:

- a. a brief background of the project, including previous violations committed by the respondent, if any;

- b. the provision of law or rules and regulations, ECC conditions, or EMP provisions violated;
- c. findings of fact, including the results of any measurement, sampling or monitoring activities conducted either by the EMB, the DENR Regional Office, DENR-accredited research institutions, or academic and/or technical organizations and the results obtained and the corresponding adverse impacts caused by the violations; and
- d. the recommended amount of fine to be imposed.

Sec. 2.0 Submission of Reports to EMB Director/RED

The report shall be submitted to the EMB Director or the RED, as the case may be, for appropriate action.

3.0 Decision of the EMB Director/RED

The EMB Director or the RED shall issue a decision based on the investigation report within 15 days from receipt of the report.

4.0 Appeal to the Secretary

The decision of the EMB Director or the RED may be appealed to the Secretary within 15 days from receipt of a copy of the decision.

5.0 Cease and Desist Order (CDO)

The EMB Director or the RED may issue a Cease and Desist Order (CDO) in order to prevent grave or irreparable damage t the

environment. Such CDO shall be effective immediately. An appeal or any motion seeking to lift the CDO shall not stay its effectivity.

6.0 Scope of Violations

Violations under the EIS System are classified as follows:

a. Projects which are established and/or operating without an ECC

Any project or activity which has been classified as environmentally critical and/or located in an environmentally critical area established and/or operating without a valid ECC shall be ordered closed, through a CDO, without prejudice to its applying for an ECC pursuant to the process outlined in this Order after the payment of a fine of P50,000.00 for every violation.

b. Projects Violating ECC Conditions, EMP or Rules and Regulations

Projects violating any of the conditions in the ECC EMP or rules and regulations pertaining to the EIS System shall be punished by suspension or cancellation of its ECC and/or a fine in an amount not to exceed P50,000.00 for every violation of an ECC condition, or the EMP, or the EIS System rules and regulations. The suspension or cancellation of the ECC shall include the cessation of operations through the issuance of a CDO.

c. Misrepresentations in the IEE/EIS or other documents

Misrepresentations in the IEE/EIS or any other documents submitted by the proponent pursuant to this Order shall be

punished by the suspension or cancellation of the ECC and/or a fine in an amount not to exceed P50,000.00 for every misrepresentation. The proponent and the preparer responsible for the misrepresentation shall be solidarily liable for the payment of the fine, without prejudice to the withdrawal of accreditation of the preparers involved.

Sec. 7.0 Administrative Authority/Sanctions

- a. DENR personnel are not allowed to participate in any manner whatsoever, directly or indirectly, in the preparation of the EIS, or IEE, or from soliciting favors from proponents or any stakeholder to facilitate or influence DENR personnel or EIARC members in the evaluation and decision-making process. Violation of this provision shall result in the imposition of administrative sanctions and penalties in accordance with the Civil Service laws, without prejudice to criminal proceedings under the Anti-Grant and Corrupt Practices Act and other relevant laws.

- b. DENR personnel who fail to perform their duties during the periods stated herein shall submit an explanation in writing to their immediate superior, copy furnish the Secretary and the proponent, setting forth the reason for such failure. Should said explanation be found unsatisfactory by the superior, said personnel shall be subject to the appropriate administrative sanctions and penalties in accordance with Civil Service laws.

Sec. 8 Records-keeping and Accountability of the DENR for Submitted Documents

The DENR, pursuant to Article II, Section 7, and Article II, Section 28 of the 1987 Constitution, and Executive Order No. 87,

Series of 1993, shall ensure the implementation of the Government's policy of accessibility and transparency at every phase of the EIS process.

The EMB/EMPAS shall be responsible for records-keeping of all documents submitted by the proponents applying for ECCs. All documents generated during the processing of applications shall be considered public documents. The DENR shall set up an orderly and systematic procedure for filing, retrieving, and providing public access to all EIA-related documents. No employee of the DENR may release any document without a written request and proper authorization from the head or duly authorized officer of the corresponding office.

ARTICLE X

TRANSITORY PROVISIONS

The EMB shall prepare an EIS Procedural Manual for the implementation of this Order within a period of 60 days from the effectivity hereof. The system of accreditation for EIS/IEE preparers shall be finalized within a period of one (1) year from the effectivity of this Order. Pending approval of the EIS Procedural Manual, the EMB Director shall issue such interim guidelines as may be necessary.

ARTICLE XI

EFFECTIVITY

This Order shall take effect 30 days after its publication in a newspaper of general circulation.

ARTICLE XII

REPEALING CLAUSE

This Order supersedes Department Administrative Order NO. 21, Series of 1992.

VICTOR O. RAMOS

Secretary

Published at: TODAY December 06, 1996 pages 06-07

MANILA TIMES December 06, 1996 pages 18-19

DENR Administrative Order
No. 96-38
December 13, 1996

SUBJECT : Renaming/ Redefinition of Functions of Some Divisions/Units of the Environmental Management Bureau (EMB)

In the interest of the service and consistent with the Department's urgent concern to upgrade the EIA-ECC process, the EMB's Legal Division is hereby renamed as **Environmental Impact Assessment Division** and its functions correspondingly redefined.

The new EIA Division shall be headed by a designated Division chief (full-fledged or OIC) and consist of three (3) sections, namely: (a) Energy and Industry Section; (b) Infrastructure Section; and (c) Resource Extraction Section. Each section shall consist of a Section Chief, a Records and Documentation Officer and not more than seven (7) Review Officers.

The EIA Division shall be primarily responsible for the management and coordination of the EIA review process. It shall also receive all applications for Environmental Compliance Certificate (ECC) and keep all records/documentation pertaining to the EIA-ECC process. The EIA Division shall conduct preliminary review of all ECC applications and, depending on its capability and available competencies, may conduct the complete/full review of the same. It shall also initiate the drafting of all ECC's for issuance by the Secretary.

In addition to the regional/filed offices monitoring activities, monitoring of ECC compliance shall be primarily performed by the

Environmental Quality Division, with assistance from the EIA and other EMB Divisions, whenever necessary.

The EMB Director is hereby authorized to designate the personnel of the EIA Division and define their respective detailed functions, upon proper consultation with the Undersecretary for Environment and Programs Development. He may also hire consultants and constitute a Review Committee whenever necessary and solicit personnel assistance from other DENR Offices particularly the Regional Offices through the Undersecretary for Field Operations, which are hereby instructed to provide necessary assistance for this purpose.

The personnel of the former Legal Division who may not be absorbed in the new EIA Division shall report directly to the Director to constitute the Office of the Director's Legal Staff without diminution of salary, rank and benefits including RATA, if any. The specific tasks and functions of the Legal Staff shall be determined/defined by the EMB Director.

The designated Chief of the EIA Division, if he/she is a full-fledged Division Chief, shall continue to receive his/her corresponding RATA. This Order though shall not cause an increase in the budget and personnel of EMB.

This Order however shall not preclude action on the Department's pending appeal with the Office of the President/DBM for additional budget and personnel for the creation of EIA divisions both in the central and regional offices.

This Order shall take effect immediately and shall supersede/amend all Orders inconsistent herewith.

VICTOR O. RAMOS
Secretary

PROTECTED AREAS AND WILDLIFE

**DDENR Administrative Order
No. 96-02
January 23, 1996**

**SUBJECT : Amendment to DENR
Administrative Order No. 95-28 Re:
Composition and Authority of
PAMB Executive Committee and
the Role of PASu.**

In order to ensure the effective management and operation of the PAMB and its Executive Committee, Section 22, 25 and 26 of DAO No. 25, Series of 1992 are hereby amended to read as follows:

"Section 22. **Executive Committee.** In view of the large size of the Management Board expected in some NIPAS sites, the PAMB may create an Executive Committee to be composed of the Regional Technical Director (RTD) or the PENRO concerned as the Chairman, one (1) representative from the autonomous regional government, if applicable; at least two (2) representatives from the Local Government Unit (LGU); two (2) representatives from Non-Government Organizations (NGOs)/Peoples Organizations (POs)/Cooperatives; three (3) representatives from Indigenous Cultural Communities, if applicable; one (1) representative from other Government Unit, as members. The Board shall determine the authorities to be delegated to the Executive Committee".

"Section 25. **Authority of the RED to delegate the PAMB Chairmanship.** The Secretary shall authorize, as he hereby authorizes, the RED to designate his RTD or PENRO concerned, as the case may be, to represent him as Chairman of the PAMB whenever the RED can not personally attend Board meetings."

"In the event, however, that a specific protected area falls within the jurisdiction of more than one PENR Office, the PENRO who has the management jurisdiction over the larger portion of said protected area shall be designated".

“Section 26. **Secretariat.** The protected area staff shall serve as the Secretariat to the PAMB and Executive Committee under the direction of the Protected Area Superintendent”.

This Order shall take effect immediately and supersedes all other orders and issuances inconsistent herewith.

VICTOR O. RAMOS

Secretary

**DENR Administrative Order
No. 96 - 16
April 15, 1996**

SUBJECT : Amending DENR Administrative Order No. 95-22 Dated 30 June 1995 Re: Guidelines on the Accreditation and Registration of Zoos and Wildlife Facilities of Private Collector/s Including Wildlife Stocks Thereat.

In order to give zoo owners and private wildlife collectors ample time for the registration and accreditation of their wildlife facilities and collections as provided for under DENR Administrative Order No. 95-22 dated 30 June 1995 re: Guidelines on the Accreditation and Registration of Zoos and Wildlife Facilities of Private Collector/s Including Wildlife Stocks Thereat, Section 5.1 of the aforementioned DAO is hereby amended to read as follows:

"Section 5. Procedure

5.1 Application for accreditation and registration shall be filed with the nearest DENR Regional Office not later than 30 June 1996."

All other provisions of DAO No. 95-22 remain in force and effect.

This Order takes effect immediately.

VICTOR O. RAMOS
Secretary

DENR Administrative Order

No. 96 - 17

April 19, 1996

Subject : Creating the NIPAS Evaluation Committee (NEC) to Assess the Performance of the Protected Areas Superintendents

In the interest of the service and in order to ensure the smooth implementation of the locally and foreign-assisted National Integrated Protected Areas System (NIPAS) Projects, a NIPAS Evaluation Committee (NEC) is hereby created to assess the performance of the Protected Area Superintendents (PASus) to be composed of the following:

1. PAMB Chairman or his duly designated PAMB member
- Chairperson
2. Chief, Protected Areas and Wildlife Division (PAWD) - Vice
Chairperson concerned DENR Regional Office
3. One representative, PAWB - Member
4. One representative, concerned IPAS Project Management
Office - Member
5. One representative, concerned NGOs - Member

The function of the NEC are as follows:

1. Evaluate the performance of the PASus following the Performance Evaluation System (PES) for supervisors adopted by the DENR.

2. Meet every six months for the duration of the project for the purpose;
3. Recommend for the termination of the contract (if contractual) or reassignment (if permanent) of the PASu if he does not obtain a satisfactory rating which is the minimum expected output for supervisors under the PES;
4. Evaluate and recommend the hiring or designation of a new PASu if the incumbent did not qualify under PES; and
5. Set other standards as may be necessary to carry out their task efficiently.

Expenses to be incurred by the NEC in the performance of the aforesaid functions shall be chargeable against the funds of the members' respective offices.

This Order takes effect immediately and supersedes all other orders inconsistent herewith.

VICTOR O. RAMOS
Secretary

DENR Administrative Order

No. 96-20

June 21, 1996

SUBJECT : Implementing Rules and Regulations on the Prospecting of Biological and Genetic Resources.

Pursuant to Section 15 of Executive Order No. 247 dated 18 May 1995 otherwise known as “Prescribing Guidelines and Establishing a Regulatory Framework for the Prospecting of Biological and Genetic Resources, Their By-Products and Derivatives, For Scientific and Commercial Purposes, and for Other Purposes”, this Administrative Order setting forth the rules and regulations governing the implementation of the Order is hereby promulgated.

The purpose of this Order is to provide in detail the processes by which the DENR and other concerned institutions and agencies will administer Executive Order 247 in order to regulate the research, collection, and use of biological and genetic resources.

**SECTION I
BASIC POLICY**

- 1.1 Section 2 Article XII of the Philippine Constitution provides that wildlife, flora and fauna, among others, are owned by the State and the disposition, development and utilization thereof are under its full control and supervision. The policy of the State further provides that the management, protection, sustainable development and/or use of biological and genetic resources shall be undertaken primarily to ensure the conservation of the

same and that the use of these resources must be consistent with that principle.

- 1.2 Section 10 Article XIV of the Philippine Constitution provides that the State shall support indigenous, appropriate, and self-reliant scientific and technological capabilities, and their application to the country's productive systems and national life.
- 1.3 The Preamble of the United Nations Convention on Biological Diversity, of which the Philippines is a state-party, recognizes the close and traditional dependence of many indigenous and local communities embodying traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components.

SECTION 2 DEFINITION OF TERMS

- 2.1 For the purpose of these rules and regulations, the following terms shall be defined as follows:
 - a) **Academic Research Agreement** - refers to the agreement entered into by and between duly recognized Philippine universities and academic institutions, domestic governmental entities or intergovernmental entities and national government agencies concerned for the purpose of undertaking academic and scientific researches relative to bioprospecting;
 - b) **Affiliate** - refers to a registered student or scientist/researcher who is formally appointed to a staff or faculty position in a University or other academic

institution acting as a Principal, or a representative of a domestic academic or governmental institution or a representative of an intergovernmental institution assisting in the bioprospecting research by virtue of a formal Agreement duly signed by both the Principal and the affiliate or a certified true copy of his enrollment form in the case of a registered student.

- c) **Ancestral domains** - refer to all lands and natural resources occupied or possessed by indigenous cultural communities/indigenous people, by themselves or through their ancestors, communally or individually, in accordance with their customs and traditions since time immemorial, continuously to the present except when prevented or interrupted by war, force majeure, displacement by force, deceit or stealth, and other usurpation. It includes all adjacent areas generally belonging to them and which are necessary to ensure their economic, social and cultural welfare;
- d) **Ancestral land** - refers to land occupied, possessed and utilized by individuals, families or clans who are members of the indigenous cultural communities/ indigenous people since time immemorial by themselves or through their predecessors-in-interest, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit or stealth;
- e) **Benefit sharing** - refers to the sharing of results of bioprospecting activity and benefits arising from the utilization or commercialization of the biological or genetic resources fairly and equitably with the

indigenous cultural community/ local community/ protected area/ private land owner concerned and the national government by the Principal/Collector. Among the results and benefits that may be shared are payment for access to specimens, royalties, data, technology, capacity building, training, joint research;

- f) **Biological diversity** - refers to the variability among living organisms from all sources, including inter-alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;
- g) **Biotechnology** - refers to any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.
- j) **By-product** -refers to any part taken from biological and genetic resources such as hides, antlers, feathers, fur, internal organs, roots, trunks, branches, leaves, stems, flowers and the like, including compounds indirectly produced in a biochemical process or cycle;
- k) **Collector** - refers to any person commissioned by the Principal to conduct for him prospecting of biological and genetic resources;
- l) **Commercial Research Agreement** - refers to the Research Agreement entered into by and between private persons or corporations, or foreign international entities, and the government agency concerned for the

purpose of undertaking bioprospecting intended directly or indirectly for commercial use;

- m) **Derivative** - refers to something extracted from biological and genetic resources such as blood, oils, resin, genes, seeds, spores, pollen and the like, taken from or modified from a product;
- n) **Equitable sharing** - refers to the benefit sharing mutually agreed upon by the parties to the Research Agreement;
- o) **Genetic material** - refers to any material of plant, animal, microbic, or other origin containing functional units of heredity;
- p) **Genetic resources** - refers to genetic materials of actual or potential value;
- q) **Holotype** - refers to either the sole specimen or element used by the author of scientific name or the one specimen or element designated by such author as the type;
- r) **Indigenous Cultural Communities or Indigenous Peoples (IPs)** - refers to a homogenous society identified by self-ascription and ascription by others, who have continuously lived as community on communally bounded and defined territory, sharing common bonds of language, customs, traditions and other distinctive cultural traits, and who, through resistance to the political, social and cultural inroads of colonization, became historically differentiated from the majority of Filipinos;

- s) **IACBGR** - refers to the Inter-Agency Committee on Biological and Genetic Resources created to ensure the enforcement and implementation of the provisions of this Order;
- t) **Intergovernmental entity** - refers to academic and/or scientific organization and institution, whether global or regional created by an agreement among different States and with the Republic of the Philippines as a party thereof;
- u) **Local Community** - refers to the basic political unit wherein the biological and genetic resources are located;
- v) **Principal** - refers to any person or institution, corporation, domestic governmental entity, intergovernmental entity, or foreign international entity, represented by its President, Head, or duly designated official who enters into a Research Agreement with the Philippine Government for the prospecting of biological and genetic resources;
- w) **Prior informed consent** - refers to the consent obtained by the applicant from the Local Community, IP, PAMB or Private Land Owner concerned, after disclosing fully the intent and scope of the bioprospecting activity, in a language and process understandable to the community, and before any bioprospecting activity is undertaken;
- x) **Protected Area** - refers to a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives. It refers to identified portions of land and water set aside by reason

of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation;

- y) **Protected Area Management Board (PAMB)** - refers to the decision-making body created by R.A. 7586 which exercises jurisdiction over a protected area within its areas of responsibility;
- z) **Public Domain** - refers to water and lands owned by the State that have not been declared alienable and disposable;
- aa) **Sustainable use** - refers to the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological and genetic resources, thereby maintaining its potential to meet the needs and aspirations of present and future generations;
- bb) **Traditional use** - refers to the customary utilization of biological and genetic resources by the local community and indigenous people in accordance with written or unwritten rules, usages, customs and practices traditionally observed, accepted and recognized by them.

SECTION 3 SCOPE AND COVERAGE

3.1 This Order shall govern the following:

- a) Prospecting of all biological and genetic resources in public domain, including natural growths in private lands,

intended to be utilized by both foreign and local individuals, entities, organizations, whether government or private;

b) Except traditional use, all bioprospecting activities aimed at discovering, exploring, or using these resources for pharmaceutical development, agricultural, and commercial applications.

SECTION 4

BIOPROSPECTING WITHIN PROTECTED AREAS

4.1 Prospecting of biological and genetic resources shall be allowed in all categories of protected areas (PAs), in conformity with RA 7586 and its implementing rules and regulations.

4.2 All Research Agreements entered into by any person, entity or corporation, foreign or domestic, with the Philippine government, upon recommendation of the IACBGR, shall be reviewed and approved first by the concerned PAMB of the protected area as stipulated under DENR Administrative Order No. 42, as amended by DAO No. 95-10, Series of 1995.

SECTION 5

BIOPROSPECTING WITH ANCESTRAL LAND, DOMAIN AND LOCAL COMMUNITIES

5.1 Prospecting of biological and genetic resources within areas of local communities, including ancestral lands and domains of Indigenous Cultural Communities/Indigenous Peoples (IPs) shall be allowed only with the prior informed consent of such communities obtained through the procedures prescribed under Section 7 hereof;

5.2 The government agency concerned in the areas, including the PAMBs in Protected Areas (PAs), shall see to it that the consent required is obtained in accordance with the customary traditions, practices and more of the concerned communities and, where appropriate, concurrence of the Council of the Elders in a public consultation/meeting in the site concerned.

SECTION 6

REQUIREMENTS AND PROCEDURES FOR APPLICATION AND PROCESSING OF RESEARCH AGREEMENTS

6.1 REQUIREMENTS:

The Principal/Collector shall be required to submit the following:

6.1.1 Letter of Intent addressed to the IACBGR and 3 copies of Research Proposal following the attached format (Annex A);

6.1.2 Duly accomplished application form (Annex B) accompanied by the following supporting documents:

- a) Letter of acceptance from Filipino counterpart(s) authorized by or representing the host institutions, to cooperate in the activities in the Philippines, where applicable;
- b) Letter of endorsement from Head of Institution where applicant is affiliated or reputable Institution, Museum or University as may be required;
- c) Company/Institution/Organization/Agency Profile; and,

- d) Others as may be required by the concerned government agency.

6.1.3 Prior Informed Consent (PIC) Certificate obtained in accordance with Section 7 hereof from the following:

- a) Indigenous Cultural Communities/Indigenous Peoples (IPs) - in cases where the prospecting of biological and genetic resources will be undertaken within their ancestral domains/lands;
- b) Local Communities (LC) - in cases where the prospecting of biological and genetic resources will be undertaken within their area/s of jurisdiction;
- c) Protected Area Management Board (PAMB) - in cases where the prospecting of biological and genetic resources will be undertaken within a protected area. Provided that, if the PAMB for a certain protected area has not been organized, a letter of consent shall be obtained from the concerned Regional Executive Director under whose jurisdiction the protected area is located;
- d) Private Land Owner - in cases where the prospecting of biological and genetic resources will be undertaken within the private land.

6.1.4 Environmental Impact Assessment (EIA) as determined by the Technical Secretariat;

6.1.5 Application/Processing fees in the following amounts to be paid upon application:

Philippine national - P1025/application

Foreign national - P2025/application

6.2 Procedures for Processing of Application - The procedure for processing of applications shall follow the process indicated hereunder (Annex C):

6.2.1 Initial Screening of Proposal - The IACBGR, through the Technical Secretariat, shall undertake an initial screening of the research proposal to determine whether the research/project activity is within the coverage of EO 247.

6.2.2 Submission of Other Requirements - Upon determination by the IACBGR, through the Technical Secretariat, that the proposed research/project undertaking is within the coverage of EO 247, the Principal/Collector shall submit additional documents based on the checklist to be provided by the TS and other requirements as may be required depending on the nature of the bioprospecting activity to be undertaken. Also, the Principal/Collector shall submit a copy of the research proposal to the recognized head of the IP, Municipal or City Mayor of the Local Government Unit, PAMB or Private Land Owner concerned for the required PIC Certificate;

6.2.3 Submission of the PIC Certificate - The Principal/Collector shall submit to the IACBGR, through the Technical Secretariat, a PIC Certificate signed by the recognized head of the IP, Municipal or City Mayor of the Local Government Unit, PAMB, or Private Land Owner concerned, together with proof/s of public notification and/or sectoral consultation, as the case maybe, pursuant to Section 7 hereof. In the case of applications for an ARA, the applications

may be processed and ARA may be executed without the PIC Certificate; Provided, that the Principal/Collector shall secure the PIC Certificate prior to commencement of actual bioprospecting activity in accordance with Section 7.2 hereof;

6.2.4 Initial Review and Evaluation of the Application and Documents - The Technical Secretariat shall conduct initial review and evaluation of the application and documents, and shall submit the evaluation results including the draft Research Agreement to the IACBGR for final evaluation within 30 days from receipt of all requirements from the Principal/Collector;

6.2.5 Final Evaluation - The IACBGR shall conduct final evaluation and submit its recommendation to the agency concerned after receipt of the documents from the Technical Secretariat;

6.2.6 Approval - The Secretary of the Agency concerned shall approve the Research Agreement favorably recommended by IACBGR;

6.2.7 Transmittal - The Agency concerned shall transmit the signed Research Agreement to the Technical secretariat who shall furnish a copy to the Principal/Collector, IP, Local Community, PAMB or Private Land Owner concerned.

SECTION 7 PRIOR INFORMED CONSENT (PIC)

Prospecting of biological and genetic resources shall only be allowed with the PIC of the concerned IPs, LCs, PAMBs and Private Land Owners.

7.1. PIC for Commercial Research Agreement. - The Principal/ Collector must secure the PIC Certificate from the concerned IPs, Municipal or City Mayor of the Local Government Unit, PAMB or Private Land Owners as a requirement in the processing of and prior to approval of the CRA, following the procedure (Annex D) hereunder enumerated:

7.1.1 Public Notification. - The Principal/Collector shall inform the IPs, LCs, PAMB or Private Land Owners concerned through various media such as, but not limited to, newspaper, radio or television advertisements that the Principal/Collector intends to conduct bioprospecting within their particular areas, fully disclosing the activity to be undertaken; that copy/ies of a summary of the research proposal fully disclosing the activity has been filed with the recognized head of the IP, Municipal or City Mayor of the Local Government Unit, PAMB or Private Land Owner concerned, and an application for Research Agreement has been filed with the IACBGR through the Technical Secretariat;

7.1.2 Sector Consultation. The Principal/Collector shall call for a community assembly, notice of which shall be announced or posted in a conspicuous place in the area where bioprospecting shall be conducted, at least a week before said assembly. The Principal/Collector shall likewise furnish the recognized Head of the IP, Municipal or City Mayor of the Local Government Unit, PAMB and Private Land Owners concerned, a copy/ies of a brief summary or outline of the research proposal in a language or dialect understandable to them stating therein the purpose/s, methodology/ies, duration, species/specimen and number/quantity to be used and/or taken, equitable and reciprocal benefits to parties concerned before, during and after the duration of the approved bioprospecting

activity and a categorical statement that said activity to be conducted in their area/s will not in any way affect their traditional use of the resources. Where IPs are concerned, the proposal shall be coursed through or taken up in accordance with their customary laws/traditions/practices;

7.1.3 The recognized head of IPs, Municipal or City Mayor of the Local Government Unit, PAMB or Private Land Owner concerned shall issue the PIC Certificate upon compliance with Sections 7.1.1 and 7.1.2 hereof. Provided, however, that no PIC Certificate shall be issued until after 60 days have lapsed since the submission of the proposal pursuant to Section 4 of EO 247;

7.1.4 A representative/s of the IACBGR and/or non-government organizations/people's organizations may participate in the conduct of activities provided for under Sections 7.1.1 and 7.1.2 hereof, and shall sign as witnesses in the PIC Certificate.

7.2 PIC for Academic Research Agreement. The Principal must ensure that its affiliates have secured the necessary PIC Certificates from the concerned IPs, Municipal or City Mayor of the Local Government Unit, PAMB or Private Land Owner prior to commencement of actual bioprospecting activity, following the procedure hereunder enumerated:

7.2.1 Public Notification. - The Principal/Collector or its affiliate shall inform the IPs, Local communities, PAMB or Private Land Owners concerned through various media advertisements or direct communication that the Principal/Collector intends to conduct bioprospecting within their particular areas, fully disclosing the activity to be undertaken; and that copy/ies of a summary of the research

proposal fully disclosing the activity has been filed with the recognized head of the IP, Municipal or City Mayor of the Local Government Unit, PAMB or Private Land Owner concerned; and that an application for Academic Research Agreement had been filed with the IACBGR through the Technical secretariat, or that, an Academic Research Agreement exists between the Principal/Collector and the agency concerned;

7.2.2 Sector Consultation. - The Principal/Collector or its affiliate shall call for a community assembly, notice of which shall be announced or posted in a conspicuous place in the area where bioprospecting shall be conducted, at least one week before said assembly. The Principal/Collector or its affiliate shall likewise furnish the recognized head of IP, Municipal/City Mayor of the Local Government Unit, PAMB and Private Land Owner concerned, a copy/ies of a brief summary or outline of the research proposal in a language or dialect understandable to them stating therein the purpose/s, methodology/ies, duration, species/specimen and number/quantity to be used and/or taken, equitable benefits, if any, to parties concerned, and a categorical statement that said activity to be conducted in their area/s will not in any way affect their traditional use of the resources;

7.2.3 The recognized head of IPs, Municipality/City Mayor of the Local Government Unit, PAMB or Private Land Owner concerned shall issue the PIC Certificate upon compliance with Sections 7.2.1 and 7.2.2 hereof. Provided, further, that opposition/protest has been brought to his attention against the proposal for bioprospecting by concerned members of the communities; Provided, further, that issuance of PIC Certificate

shall be made only after 60 days from the submission of the proposal pursuant to Section 4 of EO 247;

7.2.4 A representative/s of the IACBGR and/or non-government organizations/people's organizations may participate in the conduct of activities provided for under Sections 7.2.1 and 7.2.2 hereof, and shall sign as witnesses in the PIC Certificate.

7.2.5 Undergraduate, masteral and doctorate students carrying out researches strictly for the purpose of complying with academic requirements and who do not receive any funding from a commercial entity need not comply with Sec. 7.2.2. Provided that where there is a request for a sector consultation on the basis of the proposal, the Principal/Collector or its affiliate shall ensure that such shall be conducted and witnessed by representative/s of the IACBGR and/or NGOs/POs.

7.3 PIC Certificate. - The PIC Certificate (Annex E) shall be submitted by the Principal/Collector to the IACBGR, through the TS, together with proofs of compliance with Sections 7.1 and 7.2 hereof.

SECTION 8 MINIMUM TERMS AND CONDITIONS OF A RESEARCH AGREEMENT

8.1 General Terms and Conditions of a Research Agreement.

- The following terms and conditions shall apply to both the Academic Research Agreement and Commercial Research Agreement:

- 1) The Principal/Collector shall ensure that animals collected from the wild and/or transported outside the country

are free from any diseases that can pose danger to the health and safety of human and other living organisms;

2) A complete set of all voucher specimens collected shall be deposited with the National Museum of the Philippines (NMP) or duly designated entity in the area, provided that holotypes, properly labeled and preserved, are retained at the NMP;

3) A complete set of all living specimens collected, shall be deposited in mutually agreed and duly designated depositories, i.e., National Plant Genetic Resources Laboratory (NPGRL) of the institute of Plant Breeding (IPB) for agriculture species; Ecosystems Research and Development Bureau (ERDB) for forest species, and in the National Institute of Biotechnology and Applied Microbiology (NIBAM) for microorganisms;

4) All Filipino citizens and any Philippine governmental entities shall be allowed complete access to specimens deposited at an internationally recognized ex-situ depository or genebank; Provided that, access to these materials and documents shall be governed by International Agreement consistent with the Convention on Biological Diversity, the FAO International Undertaking on Plant Genetic Resources, and other international agreements to which the Philippines is a party thereof;

5) Exportation of biological and genetic resources shall be subject to strict quarantine procedures, existing CITES rules and regulations on exportation and other applicable rules and regulations;

6) Exportation of varieties, lines, strains, and planting materials for scientific or international germplasm exchange

purposes shall be governed by the provision of Article 42, Section 5 of the IRR of the Seed Industry Development Act of 1992, Republic Act No. 7308;

7) Transport of collected biological and genetic resources shall be subject to a transport of postal clearance/permit secured from the concerned government agency;

8) A quarterly report of the collections made, indicating the kind and quality of the biological and/or genetic material/resources/specimens collected, and semi-annual progress reports, including the ecological condition/state of the study area/s and/or species and research results shall be submitted to the IACBGR through its Technical Secretariat; Provided that, the concerned parties shall take all the necessary and reasonable steps to ensure the confidentiality of information and relevant data mutually agreed to be regarded as such;

9) All discoveries of commercial product/s derived from Philippine biological and genetic resources shall be made available to the Philippine government and local communities concerned.

10) The Principal shall submit a list of Philippine species that have already been collected, utilized or are currently developing, including database and other information, such as the year, area of collection and collector; and shall also provide a list of private and government museums, herbaria, zoos, breeding farms and ranches and any other institution that have used or are currently using Philippine species and their database and information as required by the agency concerned;

11) All immediate, medium and long term benefits resulting directly or indirectly from the bioprospecting activities conducted, shall be shared equitably and upon mutual consent among the Philippine government, communities concerned and the principal;

12) All bioprospecting researches, including technological development of a product derived from the collected biological and/or genetic resources, by any foreign individual, entity, etc. shall be conducted in collaboration/cooperation with the Philippine scientists from the government agency concerned, Philippine universities or academic institutions and/or other agencies, whether government or non-government or in an affiliate capacity with a Principal which is a duly-recognized Philippine university, academic institution, domestic governmental entity and/or intergovernmental entity. All expenses to be incurred for the purpose by the Philippine scientist shall be borne by the Collector;

13) In instances where technology/ies are developed from the conduct of Research on Philippine endemic species, the Principal shall make available to the Philippine government, through a designated Philippine institution, the use of such technology, commercially and locally without paying royalty to the Principal. Provided, however, that where appropriate and applicable, other agreements may be negotiated by the parties. Provided, further, that in case of germplasm exchange the technology shall be shared with the collaborating National Agricultural Research systems in line with the mission statement of such center in accordance to the protocol under the International Law thereof;

14) A separate agreement shall be made for the transfer of royalty, benefits, technology and agreements; Provided that, said benefit sharing agreement must ensure that benefits and results received shall also accrue to the benefit of the Local Communities/IPs/PAs concerned and be allocated for conservation measures;

15) A bioprospecting fee as determined by the IACBGR shall be paid by the Principal upon approval of the Research Agreement;

16) The ownership of all biological and genetic resources shall remain with the state.

17) Where the commercial or academic collector is merely an agent or merely collecting for another person or entity, the agreement between the collector and the principal must be reviewed by the IACBGR to ensure that the said agreement does not undermine the substantive requirements of EO 247;

8.2 Specific Terms and Conditions of a Commercial Research Agreement (CRA). - The following specific terms and conditions shall apply to a CRA:

1) Only the kind and quantity of biological and genetic resources listed/specified in the CRA shall be collected. Collection shall be made only in designated collection sites. Any changes in the quantity or collection area shall be made only upon written request of the collector and/or Principal subject to the approval of the Secretary of the Agency/PAMB concerned;

- 2) IN the event that a technology or a commercial product is developed and marketed out of the biological and/or genetic resources/specimens collected in the Philippines, an equity or remittance, in the amount to be mutually agreed upon by the parties concerned, shall be equitably shared with the Philippine government, or with the Integrated Protected Areas Fund (IPAF) if the materials or resources come from the PAs or with the concerned IP, local community who gave the PIC and with the individual person who modified such material or resource that came from private property;
- 3) The Principal shall donate some of the equipment used in the conduct of the research to the Philippine government agency, institutions or universities concerned;
- 4) The Principal shall submit a performance, compensation, ecological rehabilitation bond to be deposited in favor of the government and the amount be determined by the IACBGR. in accordance with the extent and scope of the project;
- 5) The CRA shall be valid and effective for a period of three (3) years, and may be renewed by the concerned Agency, subject to review and recommendation by the IACBGR. A separate agreement shall be drawn between the Principal and the Government Agency concerned regarding payment of royalties.

8.3 Specific Terms and Conditions of an Academic Research Agreement (ARA). - The following specific terms and conditions shall apply to an ARA:

- 1) The ARA may be comprehensive in scope, and may cover, at the maximum, four administrative regions as may be projected;
- 2) Any scientist/researcher who is an affiliate of a duly-recognized university, academic institution, domestic governmental and/or intergovernmental entity with a valid ARA with the concerned government agency, shall be allowed to undertake the research under the aegis of the said ARA subject to the acquisition of a PIC Certificate from the communities/PAMB concerned. Provided that the terms and conditions stipulated in the said ARA are complied with by the affiliated scientist or researcher: Provided further, that the principal shall duly inform the IACBGR of the research to be conducted by its affiliate/s;
- 3) The principal applying for an ARA must include as part of its application a Code of Conduct to be prepared by the IACBGR which shall govern subsequent bioprospecting activity to be undertaken by collector/s affiliated with it;
- 4) The principal with an existing RA shall be bound to enforce the Code of Conduct referred to in Section 8.3.3. Failure to enforce said Code of Conduct shall merit cancellation of the ARA;
- 5) Data or materials collected under an ARA shall be for the exclusive use of the Parties thereof and shall not in any manner be transferred to other commercial groups or institutions unless the agreement is reclassified as a CRA. Provided, however, that the institutions shall have to present their data, in thesis or open publications;

6) In case the academic research being conducted has potential commercial prospects, as determined by IACBGR, a CRA shall be applied for by the Principal and drawn between the parties concerned;

7) The ARA shall be valid for a period of five (5) years and may be renewed upon review and recommendation by the IACBGR.

SECTION 9. RESCISSION OF THE RESEARCH AGREEMENT

9.1 When the PIC Certificate has been obtained and a Research Agreement has been entered into by the proper parties, subsequent recantation by the concerned IPs, Municipal or City Mayor of the Local Government Unit, PAMB or Private Land Owner of the PIC Certificate shall not be a cause for rescission of the Research Agreement unless it is based on any of the following lawful causes:

1) That the consent of the IPs was obtained thru fraud, stealth, false promises and/or intimidation;

2) That the continuance of the Research Agreement shall impair the rights of the IPs to the traditional uses of biological resources;

3) That the continuance of the Research Agreement is against public interest and welfare;

9.2 The parties may rescind the Research Agreement should the other party violate any of the terms and conditions therein stipulated.

9.3 The Principal concerned has the right to apply for a rescission of the Research Agreement on the grounds of bankruptcy, force

majeure and security problems. Provided, that in the case of bankruptcy, all bonds shall be forfeited and all equipment, materials and knowledge shall be transferred to the institutions previously identified in the Research Agreement. In case of force majeure or security problem, an alternative site for collection may be provided, subject further to the submission of PIC Certificate.

SECTION 10
INTER-AGENCY COMMITTEE ON BIOLOGICAL AND
GENETIC RESOURCES
(IACBGR)

10.1 Composition of the IACBGR. - The IACBGR shall be attached to the DENR and its members shall comprise the following:

10.1.a An Undersecretary of the Department of Environment and Natural Resources designated by the DENR Secretary who shall be the Chairperson of the Committee;

10.1.b An Undersecretary of the Department of Science and Technology (DOST) designated by the DOST Secretary who shall be Co-Chairperson of the Committee;

10.1.c A permanent representative of the Secretary of the Department of Agriculture, who must be knowledgeable about biodiversity or biotechnology;

10.1d Two permanent representatives of the Philippine science community from the academe and who must be experts in any of the following fields: biodiversity, biotechnology, genetics, natural products chemistry or similar disciplines;

10.1.e A permanent representative of the Secretary of the Department of Health who must be knowledgeable about pharmaceutical research and development, with emphasis on medicinal plant/herbal pharmaceudynamics;

10.1.f A permanent representative of the Department of Foreign Affairs who has to facilitate international linkage relative to bioprospecting;

10.1.g A permanent representative of the National Museum who has expertise on natural history and/or biological diversity;

10.1.h A representative from Non-Government Organization (NGO) active in biodiversity protection;

10.1.i A representative from a People's Organization (PO) with membership consisting of indigenous cultural communities/indigenous peoples and/or their organizations.

10.2 Duties and Functions of the IACBGR.

10.2.a Process applications for Research Agreements and recommend for approval thereof to the Secretary of DENR, DOH, DA or DOST depending on the nature and character of the bioprospecting activity;

10.2.b Ensure that the conditions for the Research Agreements are strictly observed as provided for in Section 8 hereof;

10.2.c Determine the list and amount of biological and genetic materials that may be taken from the area and ensure that these are complied with;

10.2.d Deputize and train appropriate agencies so as to ensure that no biological and genetic materials are taken from the Philippines and exported abroad except under a valid Research Agreement. It shall be also ensured that the specimens collected have been deposited in the designated depository in the Philippines;

10.2.e Ensure that the rights of the indigenous cultural communities/indigenous peoples and local communities wherein the collection or researches being conducted are protected, including the verification that the PIC requirements in Section 7 are complied with. The IACBGR, after consultations with the affected sectors, shall formulate and issue guidelines implementing the provision on PIC;

10.2.f Study and recommend to the President and the Congress appropriate laws on the utilization of biological and genetic resources including new laws on intellectual property rights;

10.2.g Involve local scientists in the decision making process by creating a Multi-Disciplinary Advisory Board and other entities as may facilitate local involvement in the research, collection and utilization of biological and genetic resources;

10.2.h Develop a conceptual framework, using the Research Agreements entered into as well as other data as basis, for significantly increasing knowledge on Philippine biodiversity. The IACBGR shall establish mechanisms to ensure the integration and dissemination of the information generated from research, collection and utilization activities;

10.2.i Coordinate with the National Committee on Biosafety in the Philippines (NCBP) when necessary or appropriate;

10.2.j Issue rules and regulations to effectively carry out the provisions of this Implementing Rules and Regulations;

10.2.k Perform such other functions as may be necessary to implement these Implementing Rules and Regulations.

10.3 Roles and Functions of IACBGR Member-Agencies.

10.3.1 Department of Agriculture (DA)

The DA shall:

- a) Through the Bureau of Agricultural Research (BAR), assist in the review and evaluation of proposals in the areas of agricultural, fishery, and other resources which management falls within its jurisdiction;
- b) Create a multi-disciplinary committee that will evaluate the proposals on bioprospecting in agriculture and fishery concerns and recommend for further evaluation to the IACBGR;
- c) Through the Secretary or his authorized representative, sign/approve Research Agreements concerning prospecting of agricultural and fishery biological and genetic resources;
- d) Through BAR, monitor and evaluate the implementation of the Research Agreements the agency entered into;

- e) Formulate policies and issue permits relative to the acquisition, importation and exportation of agricultural and fishery commodities on biological prospecting and genetic resources not covered in this IRR.

10.3.2 Department of Foreign Affairs (DFA)

The DFA shall:

- a) Thru PCARRD and PCAMRD, assist in the review and evaluation of proposals in the areas of germplasm collection, documentation, conservation, evaluation and utilization and related bioprospecting activities;
- b) Thru PCARRD and PCAMRD, assist in the identification, assessment and involvement of local and international institutions that may wish to be part of bioprospecting activities;
- c) Thru the Secretary or his authorized representative, sign/approve Research Agreements concerning germplasm collection, documentation, conservation, evaluation and utilization, and related bioprospecting activities;
- d) Thru PCARRD and PCAMRD, monitor and evaluate the implementation of the Research Agreements the agency entered into;
- e) Through PCARRD in collaboration with the NPGRL of the IPB, and the PCAMRD in collaboration with the National Marine Science Institute, be responsible in

setting directions and formulating policies on plant aquatic and marine genetic resources.

10.3.4 Department of Health (DOH)

The DOH shall:

- a) Thru the Traditional Medicine Unit (TMU), assist in the review and evaluation of research proposals in the areas of pharmaceutical/ medicinal research and development, including the utilization of extracts, products and by-products and derivatives for commercial and academic purposes;
- b) Thru the Secretary or his authorized representative, sign/approve Research Agreements relative to activities on pharmaceutical/medicinal research and development, including the utilization of extracts, products and by-products and derivatives for commercial and academic purposes;
- c) Thru the TMU, monitor and evaluate the implementation of the Research Agreements the agency entered into;
- d) Thru the TMU, coordinate all research activities related to medicinal plants and act as a screening body to prevent duplication of proposals by keeping a database on these proposals;
- e) Thru the TMU, enforce the protection of our medicinal plants from unauthorized exploitation by channeling appropriate action to the appropriate government agencies.

10.3.5 Department of Environment and Natural Resources (DENR)

The DENR shall:

- a) Act as the primary government agency responsible for the implementation and enforcement of EO 247 and its Implementing Rules and Regulations;
- b) Thru PAWB and/or ERDB, assist in the review and evaluation of research proposals pertaining to wildlife resources which management falls within its jurisdiction;
- c) Thru the Secretary or his authorized representative, sign/approve Research Agreements relative to prospecting of wildlife resources which management falls within its area of jurisdiction;
- d) Thru PAWB and/or ERDB, monitor and evaluate the implementation of the Research Agreements the agency entered into;
- e) Thru the PAWB Director, act as Chairman of the Technical Secretariat of the IACBGR and lead in the performance of the functions of the TS as stipulated under Section 11.2 hereof;
- f) Thru PAWB, serve as the central depository of all documents relative to bioprospecting.

10.3.6 National Museum of the Philippine (NMP)

The NMP shall:

- a) Assist in the review and evaluation of proposals submitted to the IACBGR;
- b) Assist in the monitoring and evaluation of the implementation of the Research Agreements as may be requested by other member-agencies concerned;
- c) Act as the official depository of holotypes, properly labeled and preserved, including voucher specimens collected as indicated in the Research Agreement;

10.3.7 Non-Government Organizations (NGOs)

The NGOs shall:

- a) Thru their representative in the IACBGR, assist in the review and evaluation of proposals submitted to the IACBGR;
- b) Thru their representative in the IACBGR, assist in the monitoring and evaluation of the implementation of the Research Agreements;
- c) Thru the Sub-Committee on Biodiversity (SCB) of the Philippine Council for Sustainable Development (PCSD), assist in disseminating information and raising awareness of communities and civil society on the provisions of the Executive Order in particular and on bioprospecting issues in general; and,
- d) Either thru their representative in the IACBGR or through their own initiative, shall monitor the conduct of community consultations and the process followed in obtaining the PIC Certificate.

10.3.8 People's Organizations (POs)

The POs, consisting of Indigenous Cultural Communities/Indigenous People and/or their organizations, shall:

- a) Thru their representative in the IACBGR, assist in the review and evaluation of proposals submitted to the IACBGR;
- b) Thru their representative in the IACBGR, assist in the monitoring and evaluation of activities as stipulated in the Research Agreement;
- c) Thru the SCB of the PCSD, assist in disseminating information and raising awareness of communities and civil society on the provisions of the Executive Order in particular and on bioprospecting issues in general; and,
- d) Either thru their representative in the IACBGR or through their own initiative, monitor the conduct of community consultations and the process followed in obtaining the PIC Certificate.

10.4 Designation of IACBGR Members. The Secretary of the concerned government agency shall designate its representative to the IACBGR. Representatives of the Philippine science community from the academe shall be designated by the DOST Secretary after nomination from and consultations with the science community. Representatives of the NGOs/POs shall be nominated through a process designed by themselves and later endorsed by the PCSD.

An alternate representative for each of the IACBGR members shall be designated to ensure continuity of the participation of the concerned agency. Said alternate shall participate only in the absence of the permanent member.

10.5 Term of Office and Compensation. IACBGR members shall serve for a period of three years, renewable for another three years. They shall be entitled to actual and necessary traveling, subsistence and other expenses incurred in the performance of their duties. Provided that in case of death, resignation, removal or other circumstance which requires the replacement of a member, said member may be succeeded by another person with the same qualifications and appointed in a similar process. The replacement shall serve the unexpired term of the member replaced.

10.6 Meetings. The IACBGR shall meet at least once every quarter. Provided that the Chairperson may call special meetings as deemed necessary. The IACBGR shall formulate guidelines on calling special meetings and how they should be conducted. A quorum shall consist of a majority of the IACBGR members. All decisions of the IACBGR must be by a majority of all its members.

10.7 Minutes of the Meeting. Minutes of the IACBGR meetings shall be prepared by the Technical Secretariat created under Section 6 of said EO, and approved by the Chairperson of the IACBGR within seven days of the meeting.

SECTION 11

TECHNICAL SECRETARIAT OF THE IACBGR

11.1 Technical Secretariat. There shall be created a Technical Secretariat (TS) to support the IACBGR. The Technical Secretariat shall be chaired by the Director of the Protected Areas and Wildlife Bureau (PAWB) or his duly authorized representative. It shall be

staffed with personnel from the PAWB and other designated personnel from IACBGR member-agencies.

An alternate representative of each of the members of the TS shall be designated to ensure continuity of the participation of the concerned agency.

11.2 Functions of the Technical Secretariat. The TS shall have the following functions:

- a. Sign notices of IACBGR meetings, serve as Secretariat during said meetings and prepare minutes of the meetings; and,
- b. Undertake initial screening of proposals, sign IACBGR Form I and refer the proposals to agency concerned if the proposed research/project activity is not within the coverage of EO 247;
- c. Conduct initial review and evaluation of bioprospecting applications and documents;
- d. Prepare evaluation results, draft Research Agreement and submit same to the IACBGR for final evaluation;
- e. Furnish concerned parties with copies of signed Research Agreements;
- f. Establish a mechanism to ensure the integration and dissemination of the information generated from the research, collection, and utilization activities;
- g. Perform such other functions as may be assigned by the IACBGR.

SECTION 12 MONITORING AND IMPLEMENTATION OF THE RESEARCH AGREEMENT

12.1 The monitoring of the Research Agreement shall be conducted by the respective member agencies using a standard monitoring scheme to be devised by the IACBGR for the purpose;

12.2 The IACBGR Monitoring Team shall be headed by the Technical Secretariat with the participation of the concerned PAMB and/or regional offices of the member agencies of IACBGR. The Team shall be responsible in establishing a mechanism to ensure the integration and dissemination of the information generated from research, collection, and utilization activities;

12.3 A separate Monitoring Team headed by the IACBGR through DOST and DFA, shall monitor the progress of the research, utilization, commercialization done out of the country.

SECTION 13 APPEALS

13.1 Decisions of the concerned Secretary regarding approval, disapproval and/or rescission of the Research Agreement may be appealed to the Office of the President within 30 days from receipt of such decision, otherwise, said decision shall be final. Recourse to the courts shall be allowed after exhaustion of all administrative remedies.

SECTION 14 SANCTIONS AND PENALTIES

14.1 Any act of bioprospecting without the required Research Agreement and/or PIC Certificate as mandated under E.O. 247 shall be

subject to criminal prosecution as may be proper under existing laws, including NIPAS Law of 1992 (R.A. 7586) and the Revised Forestry Code (PD 705), as amended.

14.2 Where the violator is a juridical person, its Head, President or General Manager shall be held liable therefor.

14.3 Non-compliance with the provisions stipulated in the Research Agreement shall result to the automatic cancellation/revocation of said agreement and confiscation of collected biological and genetic specimens in favor of the government, forfeiture of bond, and imposition of perpetual ban on prospecting of biological and genetic resources in the Philippines, without prejudice to the imposition of administrative sanctions by the concerned agency. The violation committed shall be published in national and international media, and shall be reported by the IACBGR to the Secretariats of international agreements/treaties and regional bodies.

SECTION 15

TRANSITORY PROVISIONS

15.1 All existing researches, contracts and agreements entered by DENR, DA, DOH, DOST, and other government agency with any person/institutions, foreign or local, shall likewise remain valid and effective, provided that a new agreement conforming with this Order shall be entered into between the parties concerned;

15.2 All existing agreements relative to bioprospecting within protected areas shall be reviewed and ratified by the PAMB concerned. The PAMB shall decide whether these agreements warrant amendment or not. In either case, the parties shall enter into a new agreement to conform with the provisions of EO 247.

SECTION 16 FUNDING

16.1 The activities of the IACBGR shall be funded in accordance with law. Such funding, where allowed by law, may include savings coming from the appropriate and concerned Departments and proceeds from the fees imposed on the Research Agreements. The fund shall be administered by DENR-PAWB through a trust fund, thereafter, all IACBGR member-agencies shall allocate an annual appropriation to finance the activities of IACBGR. In case of PAs, such fees shall accrue to the IPAF in accordance with Section 16 of R.A. 7586.

SECTION 17 GENERAL PROVISIONS

17.1 Amendment. This Order may be amended wholly or in part by the Secretary through public notification.

17.2 Repealing Clause. This Order repeals, modifies or amends accordingly all previous orders, memoranda, circulars and other issuances inconsistent herewith.

17.3 Effectivity. This Order shall take effect fifteen (15) days after its complete publication in two (2) newspapers of general circulation.

VICTOR O. RAMOS
Secretary

Published at: TODAY July 9, 1996 pages 6-8
 ISYU July 9, 1996 pages 7-10

**DENR Administrative Order
No. 96-22
June 21, 1996**

SUBJECT : Guidelines on the Establishment and Management of Integrated Protected Area Funds (IPAF).

Pursuant to the provisions of Republic Act. No. 7586 otherwise known as the National Integrated Protected Areas System (NIPAS) Act of 1992 and its implementing rules and regulations, and in order to provide guidelines on the establishment and management of an Integrated Protected Areas Fund (IPAF), the Order is hereby issued for the guidance of all concerned.

Sec. 1 Title This Administrative Order shall be known as “Guidelines on the Establishment and Management of Integrated Protected Areas Fund (IPAF).”

Sec. 2 Objectives It shall be the objective of this Order to set forth the procedure which the DENR shall follow in the establishment and management of the Central Integrated Protected Areas Fund and the Protected Areas Sub-fund to promote the sustained financing of the **NIPAS**.

Sec. 3 Scope This Order shall cover all areas comprising the National Integrated Protected Areas System (**NIPAS**).

Sec. 4 Definition of Terms For the purpose of this Order, the following terms shall mean as follows:

4.1 **IPAF** - is a trust fund created or established for the purpose of promoting the sustained financing of the System. The fund shall include taxes, donations, endowments, grants, fees, fines and all

income/revenues generated from the operation of the System as defined in Section 16 of the NIPAS Act and Section 58 of DAO 25, Series of 1992.

- 4.2 **Trust Fund** - is an account maintained in any government depository bank for a specific purpose.
- 4.3 **Central IPAF** - is a trusts fund maintained by **PAWB** in any government depository bank representing the 25% remittances from the different protected areas in accordance with Section 61 of DAO 25, Series of 1992.
- 4.4 **Protected Area Sub-Fund** - is a trust fund maintained in any government depository bank in the name of the protected area where 75% of the income derive therefrom is deposited.
- 4.5 **IPAF Governing Board** - a 10 member body formally appointed for a term of 3 years by the DENR Secretary upon endorsement of the NIPAS Policy and Program Steering Committee to administer and allocate the IPAF among the components of the NIPAS.
- 4.6 **PAMB** - Protected Area Management Board
- 4.7 **PAWB** - Protected Areas and Wildlife Bureau
- 4.8 **PENRO** - Provincial Environment and Natural Resources Office
- 4.9 **PASu** - Protected Area Superintendent
- 4.10 **MOF** - Ministry of Finance (now known as the Department of Finance)

Sec. 5 ESTABLISHMENT AND MANAGEMENT OF CENTRAL IPAF - The following procedures shall be adopted in the establishment of the Central IPAF.

- 5.1 The IPAF Governing Board shall authorize the PAWB Director to open an account in any Philippine Government depository Bank in the name of the Central IPAF.
- 5.2 The Central IPAF account number shall be provided to all PAMBs and 25% remittances shall be deposited in the said account.
- 5.3 Consistent with Section 58 of DAO 25, Series of 1992, the IPAF Governing Board thru PAWB may receive donations, contributions, endowments, and grants to be deposited in Central IPAF account for the operation of NIPAS.
- 5.4 All donations, contributions, endowments, and grants shall be properly accounted for by PAWB thru deeds of donation or acknowledgment receipts.
- 5.5 Upon request by the PAMB, disbursement from the Central IPAF shall be approved by the IPAF Governing Board in accordance with allocation criteria, in the amounts authorized by the Secretary or his duly designated representative.
- 5.6 All Central IPAF disbursements shall be subject to government accounting and auditing rules and regulations.

Sec. 6 ESTABLISHMENT AND MANAGEMENT OF PROTECTED AREA SUB-FUND. The following procedures shall be adopted in the establishment of the IPAF sub-fund in each protected area:

- 6.1 The PAMB shall establish the sub-fund for each protected area. The PAMB, through the PASu shall open a special account in the name of the protected area which shall be called Protected Area sub-fund.
- 6.2 The sub-fund shall be opened in any government depository bank.
- 6.3 Consistent with Section 59, and 60 of DAO 25 Series of 1992, the PAMB thru the PASu is authorized to collect/receive incomes and exercise responsibilities as therein indicated.
- 6.4 All incomes/donations generated by the protected area shall be properly accounted for in a journal of receipts and expenditures to be maintained by the PASu and certified by the Accountant of the Region or the nearest PENR Office.

Donations over P10,000.00 shall be properly covered with a deed of donation, or acknowledgment receipts. Details of remittances and statements of account shall be reported by the PASu to the PAMB on a quarterly basis certified by the Regional or PENRO accountants, as the case maybe.

The frequency or deposit shall follow the provisions specified in joint Circular No. 1-81 of COA and MOF hereto attached as Annex A.

- 6.5 All interest earnings shall be credited to the sub-fund and shall form part of the Fund subject to existing rules and regulations.
- 6.6 Seventy-five percent (75%) of income derived from the operation of the concerned protected area shall accrue to the PA sub-fund while the remaining twenty-five percent (25%)

shall be remitted to the Central IPAF as provided for in Section 61 of DAO 25, Series of 1992.

- 6.7 The PA Sub-fund shall be disbursed solely for the protection, maintenance, administration and management of the PA concerned and duly approved projects by PAMBs, in the amounts authorized by the Secretary or his duly designated representative as provided for in Section 66 of DAO 25, S. of 1992.
- 6.8 To utilize the income generated by the protected area, the PASu shall submit to the PAMB the following requirements:
- a. Work and Financial Plan (WFP);
 - b. Report of Income by the protected area duly signed by the concerned accountant; and
 - c. Certified photocopy of the Bank's statement.
- 6.9 All PA Sub-Fund disbursements shall be approved by the PAMB subject to existing government auditing and accounting rules and regulations.

Sec. 7 RESPONSIBILITIES OF PASU, PAMB AND IPAF GOVERNING BOARD

- 7.1 PASu
- a. Shall collect and/or receive pertinent fees, charges, donations and all other income as provided in Section 58 of DAO 25 and deposit the same in the sub-fund;

- b. Shall submit quarterly report of collection to PAMB which shall in turn be submitted to the IPAF Governing Board thru the Protected Areas and Wildlife Bureau;
- c. Shall maintain book of accounts and records;
- d. Shall prepare and submit the WFP and other requirements as basis for disbursements;
- e. Shall maintain records/documentation of all expenditures vouchers, receipts, etc.; and
- f. Shall prepare reports of expenditures based on the approved WFP.

7.2 **PAMB**

- a. Shall review, approve and monitor implementation of WFP;
- b. Shall monitor all collection, disbursements and expenditures; and
- c. Shall approve all disbursement of PA Sub-Fund not exceeding P200,000.00 in accordance with the approved WFP.

7.3 **IPAF Governing Board**

- a. Shall oversee the management of the IPAF;
- b. Shall provide specific policies, guidelines and criteria on the establishment, management and disbursement of the IPAF;

- c. Shall approve requests for funding assistance for the operation of the NIPAS;
- d. Shall provide effective mechanism for monitoring and evaluation of financial reports;
- e. Shall validate financial report submitted by PASu and PAMB/PAWB as the need arises; and
- f. Shall designate the PAWB director to sign all disbursements of PA Sub-Fund more than P200,000.00 in accordance with the approved WFP.
- g. Shall designate the PAWB Director to sign all disbursements of Central IPAF in accordance with the criteria of Section 66 of DAO 25, Series of 1992.

This order shall take effect immediately and revokes, supersedes, and amends any other order and/or instructions inconsistent herewith.

VICTOR O. RAMOS

Secretary

DENR Administrative Order
No. 96-28
September 19, 1996

SUBJECT : Requirements for the Deputation of Barangay Volunteers and Members of Tribal Communities as Field Officers within Protected Areas.

Pursuant to Section 10(e) and 18 of R.A. 7586, DENR upon the recommendation of the Protected Area Management Board (PAMB) shall deputize field officers in all protected areas. Field officers shall be vested the authority to investigate and search premises and buildings and buildings and effect arrest for the violation of laws and regulations relating to protected areas. Barangay volunteers and members of tribal communities who will to be deputized as field officers within protected areas will submit the following requirements:

1. Endorsement from their respective offices or organizations duly signed by the head of the office, organization or tribal group/council;
2. Bio-data with picture; and
3. Certificate of good moral character issued by the Barangay Captain/Tribal Leader/Parish Priest/Minister/Pastor where the volunteer or tribal member resides.
4. Duly signed and/or fingerprinted document containing simplified list of roles and responsibilities of deputized officers as enumerated by the DENR and PAMB that will signify

understanding and agreement by the deputized field officers to such roles and responsibilities.

The complete set of requirements under Section 5 of DAO 41, Series of 1991 “Guidelines Governing the Deputation of Environment and Natural Resources Officers (ENROs)”, however, shall be retained for the deputation of other persons enumerated under Section 3 of said Order. Provided, that in case of NGOs and POs (People’s Organizations), proof of accreditation from the DENR and LGU respectively shall likewise be submitted.

This Order shall take effect immediately and repeals, amends, supersedes or revoke any order or issuance inconsistent herewith.

VICTOR O. RAMOS
Secretary

DENR Administrative Order
No. 96-31
October 31, 1996

SUBJECT : Amendment of Section 61 of DAO No. 25, S. 1992 re: Implementing Rules and Regulations of RA 7586 (National Integrated Protected Areas Act of 1992)

Pursuant to Section 16 of RA 7586 and in order to facilitate the administration of funds generated by the Ninoy Aquino Parks and Wildlife Nature Center (NAPWNC) and Hinulugang Taktak National Park (HTNP) which are directly under the management of Protected Areas and Wildlife Bureau per Executive Order No. 192 dated June 10, 1987 and R.A. 6964 dated September 18, 1990, Section 61 of DAO No. 25, Series of 1992 is hereby amended to read as follows:

“Section 61. Fund Administration. - An IPAF Governing Board shall be established to administer the Fund and to decide on fund allocation among the protected areas. This shall include the creation of subfunds or accounts for: (i) each protected area to receive revenues generated by that area or contributions specified for that area; and (ii) contributions or other funds specified for a particular activity that may involve more than one area. Allocations for any protected area shall be managed by its respective PAMB subject to guidelines established by the Board, except the Ninoy Aquino Parks and Wildlife Nature Center and Hinulugang Taktak National Park. Provided, that at least seventy-five percent of the revenues generated by a protected area shall be retained for the development and maintenance of that area and utilized subject to the IPAF Board guidelines cited above, with the balance being remitted to the Central IPAF Fund.

Pending the actual creation of the Board, the NIPAS Policy and Program Steering Committee shall provide the: (i) guidelines for the establishment of a Trust or Endowment Fund which shall be prepared in consultation with pertinent government agencies, and (ii) the allocation criteria and the expense outlays for which the Fund may be appropriately used. In such deliberations, the views of pertinent NGOs shall be taken and considered.

Provided, further, that all income which shall be generated from the operations of NAPWNC and HTNP shall be managed by the Protected Areas and Wildlife Bureau subject to the approved Work and Financial Plan by the DENR Secretary or his authorized representative”.

This Order supersedes all orders and instructions inconsistent herewith and shall take effect immediately.

VICTOR O. RAMOS
Secretary

Recommending Approval

DELFIN J. GANAPIN, JR.
Undersecretary for Environment and
Programs Development

DENR Memorandum Circular
No. 96-09
November 27, 1996

SUBJECT : Clarification on Who Shall Take Lead in the Implementation of NIPAS Activities Within Protected Areas Under the Administrative Jurisdiction of Other Government Instrumentalities Including the Organization of Individual Protected Area Management Boards.

Pursuant to the provisions of Republic Act 7586 of 1992 and in order to identify the agencies that will undertake the required activities for the inclusion of protected areas under the jurisdiction of government instrumentalities other than the DENR into the National Integrated Protected Areas System (NIPAS), the following guidelines are promulgated for the guidance of all concerned:

1. Section 15 of RA 7586, Series of 1992 specifically states that protected areas under the jurisdiction of other government agencies other than DENR (e.g. Sta. Cruz Island NP under the Department of Tourism, Hundred Island NP under the Philippine Tourism Authority and Angat Watershed under the National Power Corporation, etc.) shall remain in the said government instrumentalities provided that the preparation of the management plan for the protected area shall be coordinated with DENR.
2. Inasmuch as these protected areas are identified by the law as initial components of NIPAS, the required activities such as the conduct of Protected Area Suitability Assessment (PASA),

Public Hearing, Census and Registration of Protected Area Plan and draft Proclamation and other activities required by the NIPAS Act shall be undertaken jointly by the DENR (as lead agency thru its Regional Offices) and the concerned government instrumentalities currently managing the protected areas to effect their inclusion to the System.

3. The concerned DENR Regional Offices shall provide necessary technical assistance and the concerned government instrumentalities shall provide other necessary assistance e.g. financial in the implementation of the activities mentioned above. The required NIPAS Reports shall be prepared by the concerned Regional Office in coordination with the concerned government instrumentalities. The concerned Regional Office shall submit results of the activity undertaken to PAWB for evaluation to facilitate the proclamation of these areas under NIPAS.
4. Protected Areas Management Boards for each of these protected areas shall be organized in accordance with the provisions of Section 11 of the NIPAS Act and chapter V of DAO NO. 25, Series of 1992, its subsequent amendments and support policies. The head of the local office of the department or government instrumentalities who has the administrative jurisdiction over the protected area or a portion thereof shall serve as a member to the PAMB to be organized.

This circular shall take effect immediately.

VICTOR O. RAMOS
Secretary

**DENR Memorandum Order
No. 96 - 02
January 23, 1996**

**SUBJECT : Reiterating the Creation of Field
NIPAS Coordinating Office.**

In support to the vision and mission of RA 7586 otherwise known as the NIPAS Act of 1992, and pursuant to DENR Special Order No. 1138, Series of 1994, the creation of NIPAS Coordinating Office (NICO) in all DENR Regional and Provincial Offices is hereby reiterated.

The membership and functions of the NICOs and PNICOs are stipulated in DENR S.O. No. 1138, series of 1994.

The NICO (and PNICO thru NICO) will, after one (1) month from approval hereof submit progress reports on the implementation of this Order and thereafter submit the quarterly and annual reports, copy furnished the Protected Areas and Wildlife Bureau as required in the abovementioned Special Order.

This Order shall take effect immediately.

VICTOR O. RAMOS
Secretary

DENR Memorandum Order
No. 96 - 07
March 20, 1996

ATTN : All Regional Executive Directors

In line with the provisions of the National Integrated Protected Areas System Act of 1992 (R.A. 7586) specifically Section 3(g) of DAO 25, Series of 1992 regarding preparation of the Initial Protected Area Plan as a requirement for the establishment of the initial components under NIPAS it is hereby clarified that Resource Protection and Restoration activities intended for each protected area shall form part of the initial protected area plan to be prepared by the Regional Offices.

In consideration of our concern to protect the remaining resources within protected areas, the Regional Offices are hereby advised to undertake regular patrolling activities and Information Education Campaign in the protected areas in the meantime that the establishment of the area under NIPAS is being worked out to prevent further destructive development activities in the area.

This Order shall take effect immediately.

VICTOR O. RAMOS
Secretary

Recommended by:

VIRGILIO Q. MARCELO
Undersecretary for Field Operations

DENR Memorandum Order
No. 96-15
September 11, 1996

TO : All Regional Executive Directors

**THROUGH : The Undersecretary
Field Operations**

SUBJECT : PAMB Membership

Pursuant to Republic Act No. 7192 otherwise known as the “Women in Development and nation-Building Act”, in order to recognize the role of women in nation-building and to provide women the opportunities to enhance their welfare and to realize their full potential in the service of the nation, you are hereby instructed to involve more women members in the organization of the Protected Area Management Board (PAMB) for each protected area.

For compliance.

VICTOR O. RAMOS
Secretary

RESEARCH SECTOR

**DENR Administrative Order
No. 96-27
September 18, 1996**

**SUBJECT : Amending Department
Administrative Order No. 44 Series
of 1990.**

Pursuant to Executive Order No. 192 which mandates the Department of Environment and Natural Resources (DENR) as the primary government agency responsible for the sustainable development of the country's environment and natural resources, and in order to effectively manage its research and development tasks, Department Administrative Order No. 44 Series of 1990 is hereby amended and shall read as follows:

Sec. 1 Statement of Policies

It is the policy of the Department that Research and Development (R & D) activities shall be focused on the most urgent, high priority areas defined to ensure a more rationalized disposition and efficient utilization of the country's natural resource sin consonance with the policy focus on ecological balance, ecosystems productivity, equity and social justice. Furthermore, R & D shall also provide the necessary technological backstopping to push development forward in line with the government's desire to maintain the momentum of development in the Philippine economy.

Sec. 2 Objectives

To establish policies on R & D management systems towards the attainment of a more effective and efficient way of preparing, implementing, evaluating and monitoring DENR R & D activities.

Sec. 3 Definition of Terms

- 3.1 National Research and Development Framework - spells out the general direction for the various integrated ecosystems approach programs and identifies the priority areas or gaps requiring attention. It guides the research sector in formulating activities that are problem and clientele-oriented and should contribute to the overall national as well as regional development goals.
- 3.2 Research Thrusts/Priority Areas - refer to the specific research thrusts/priority areas of the region which were identified in the National and Regional R and D Agenda.
- 3.3 Ecosystems Approach - pertains to holistic, integrated, and interdisciplinary undertakings.
- 3.4 Commodity Approach - pertains to a single discipline or commodity undertaking.
- 3.5 Ecosystem Research and Development - is an organized, systematic and scientific search for knowledge leading to an understanding of the relationship or interaction of one component with the other components for the protection, rehabilitation, utilization and appropriate management of ecosystems.
- 3.6 Basic Research - is the experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, with no particular application or use in view.
- 3.7 Applied Research - is an original or verifactory investigation undertaken to acquire new knowledge and is directed primarily

towards a specific aim or objective to resolve a particular problem.

- 3.8 Research Proposal - is a document which defines clearly the objectives/targets; establishes the time frame and strategy of actions and specifies the resources required to attain the objectives. This is broadly classified into program, project and study.
- 3.8.1 A program involves a group of interrelated or complementing research projects on a multi-disciplinary approach to meet established goals within a specific time frame.
- 3.8.2 A project is a set of interrelated studies or a component of a program to meet pre-determined objectives within a specific timeframe.
- 3.8.3 A study is a basic unit in the investigation of a specific problem identified under a project. A study could either be classified as short term, or long term. A study shall be classified as short term if it has a duration of a year or less, otherwise, the study shall be classified as long term.
- 3.9 Technology - may be a product, service, information, system, method or technique which when utilized contributes towards the enhancement of the productivity, income and general welfare of specific group of individuals.
- 3.10 Technology Generation - is the process of conducting research with the primary aim of solving specific problems previously identified. It includes reporting of results obtained.

- 3.11 Technology Verification - is the conduct of further verification research to test and/or refine previously generated technology on a small (pilot) or large (commercial) scale.
- 3.12 Technology Transfer - is the process of moving the results of research from the generator to the end-user.
- 3.13 Packaging of technology - is the means of processing the information or technology in conformity with established form, content and language appropriate for acceptance and adoption of the technology by the target clientele.
- 3.14 Dissemination of packaged technology - is the process of bringing the packaged technology to the intended end-user through a selected medium (e.g. print, television, radio, etc.).
- 3.15 National Agriculture and Resources Research and Development Network (NARRDN) - is an R & D network established and managed by the Philippine Council for Agriculture, Forestry and Natural Resources Research and Development (PCARRD) with the task of promoting coordination and linkages among agencies and institutions in agriculture, forestry and natural resources sectors.
- 3.16 DENR R & D Network - comprises of ERDB, ERDS, and other DENR offices and units i.e., Mines and Geosciences, Environmental Management, Protected Areas and Wildlife Sectors/Bureaus, conducting research and development.
- 3.17 Field evaluation - is an activity, the purpose of which is to evaluate results, progress and problems of research activities in the field. This activity is a component of the annual in-house review.

- 3.18 In-house review - is an annual activity with the end-in-view of evaluating results, highlights, and problems of research undertaking and recommend appropriate actions for improved research identification or implementation.
- 3.19 ERDB Technical Review Board (ETRB) - is the highest technical body responsible for the monitoring and evaluation of the R and D activities undertaken by the DENR R and D network. It is composed of the ERDB Assistant Director who acts as Chairman and the technical division Chiefs who are referred to as Program Managers (PMs) as members.
- 3.20 Program Manager (PM) - is the term referred to the member of the ERDB Technical Review Board. He is responsible for managing an ecosystem or programs i.e. forest, upland farm, grassland and degraded areas, coastal zone and freshwater, urban and technology transfer.
- 3.21 Regional Research and Development Consortium - serves as a mechanism for joint planning, coordinating, monitoring, evaluating and sharing of resources of member agencies in conducting R and D activities at the regional level. The organization of regional research centers and stations into a consortium was advocated and instituted by PCARRD. At present, there are 13 regional research and development consortia in the country.

Sec. 4 Research Management System

4.1 Development of the R and D Agenda

Setting directions for research is one of ERDB's primary functions. ERDB must ensure the formulation of a well-defined National R and D network.

The formulated R and D agenda shall be reviewed and updated as the need arises through a series of regional consultation/workshop.

4.2 Research and Development Network

The DENR R and D network shall serve as a mechanism to effectively link offices in the department, each with their respective R and D activities. ERDB shall be the central research coordinating body of the Department, responsible for the coordination, monitoring and evaluation of all R and D activities in the Department. ERDS shall undertake R and D activities on specific and priority areas of investigation within their territorial jurisdiction, while ERDB and other DENR research units shall implement basic researches, applied researches which are nationwide in scope and where the technical expertise required is not available in the ERDS.

Both ERDB and ERDS shall represent the Department in the National Agriculture and Resources Research and Development Network (NARRDN).

4.3 Components of the R & D Proposal

The research thrusts/priority areas identified in the National and Regional R and D agenda shall serve as the basis for preparing research proposal.

To ensure inclusion of salient points in the proposal and to facilitate the review and evaluation processes, the standard format for the preparation of long and short term proposals is shown in Appendix Form No. 1. The components of a research proposal are as follows:

- 4.3.1 Title - This should describe the work scope in specific, clear and concise terms.
- 4.3.2 Importance/Significance of the Study - This contains the rationale in undertaking the study and the benefits obtainable from the expected results.
- 4.3.3 Review of literature - the proposal should be supported by significant recent findings from local and appropriate foreign literatures to elucidate the gaps that the proposal tries to fill up.
- 4.3.4 Objectives - This should be stated clearly and logically in a realistic and attainable way considering the resources available (manpower, facilities, money) and methods employed.
- 4.3.5 Methodology - This should clearly define and discuss in detail the manner in which the desired objectives could be achieved.
- 4.3.6 Activity Schedule - This includes the specific group of activities in chronological order at various phases of the

study and is presented by simple timetables, graphs or charts.

- 4.3.7 Budget Schedules - The budgetary requirements of major items should be presented in detail broken down on quarterly basis for 1 year and total cost on a yearly basis if proposal extends beyond a year. The major cost items are personal services, maintenance and operating expenses (i.e. traveling expenses, supplies and materials and sundry items, etc.) and capital outlay.

Sec. 5 Qualification of Research Leaders

Qualification and capability of the proponent shall be considered in the formulation and implementation of a research proposal. Qualification refers to the level of education while capability refers to the competence of personnel in handling the research study. Only personnel who occupy permanent positions shall be allowed to handle program/project/study leadership. The specialist group whose exposure and experience is directly relevant to the proposal under study may be allowed to assume study/project leadership. Program leadership/coordinatorship shall be given to personnel who specialize in a certain field of study.

Research Assistant occupying a permanent position may assume study leadership provided that he has the necessary qualifications and capabilities as recommended by his immediate superior and approved by the Regional Technical Director for Research or the agency head.

Research Assistant group, staff of PENRO/CENRO and other qualified personnel under plantilla/job contract may act as co-worker in the preparation and conduct of the study.

Sec. 6 Processing and Evaluation of R & D Proposals

A research proposal undergoes the following process and evaluation system before it is approved for implementation:

6.1 Research proposals originating from the ERDS

6.1.1 These proposals shall undergo a thorough review by the Regional Technical Director for Research (RTD). For short term research proposals, the RTD shall submit the same to the Regional Executive Director (RED) for approval and funding. For long term research proposals, the RTD shall submit the same, in six copies to the RED for endorsement to ERDB for evaluation. Such proposals, however, may be referred to the regional research and development consortium to check overlapping or duplication with any on-going, completed or submitted proposals within the region.

6.1.2 At ERDB, the proposal shall be thoroughly reviewed by at least two (2) members of the ERDB Pool of Evaluators which is composed of experts on the subject. If the proposal needs revision or modification after the evaluation, ERDB through its Planning Unit, shall transmit the consolidated comments prepared by the program manager to the proponent for revision/incorporation, within a month upon receipt of proposal. In case of conflict of comments and suggestions of evaluators, the evaluators shall sit en banc to resolve the conflict.

- 6.1.3 The proponent revises the proposal based on the consolidated comments and then transmits the revised proposal to ERDB for re-evaluation.
- 6.1.4 The designated evaluators mentioned in 6.1.2 together with the program manager shall review the revised proposal to see to it that the comments have been incorporated in the proposal. In some instances, the proponent may discuss the matter with the evaluators or submit a reaction letter if he does not agree with the whole or a portion of the evaluation report.
- 6.1.5 After the proposal passes the evaluation process, the ERDB Director endorses the proposal to PCARRD or any funding agency for clearance/approval and funding. In cases where fund source is from the general appropriation of the regional office, the ERDB Director shall endorse the proposal to the Regional Executive Director for approval. Only proposals which pass the evaluation on or before the 3rd week of September of the current year are eligible for inclusion in the R & D activities for the following budget year, except proposals which are expedient in nature as determined by the ETRB and approved by the ERDB Director.
- 6.2 ERDB initiated proposals shall be reviewed and evaluated by both the Section Chief and Division Chief of the proponent. After thorough review, the Division Chief shall endorse the proposal to the Director for evaluation following the guidelines described in Sections 6.1.2 or 6.1.5. When fund source is the general appropriation of the Bureau, the ERDB Director shall approve the proposal.

- 6.3 R & D proposals prepared by other research units of DENR shall undergo the same process following the system described in 6.1.2 to 6.1.5 of Section 6.
- 6.4 R and D proposal prepared by other research institutions/organizations and submitted to DENR for funding shall also undergo the above described processes of evaluation, and the ERDB Director shall endorse it through the Undersecretary for Environment and Programs development to the Secretary for approval and possible funding.
- 6.5 The R & D Projects Proposal Evaluation System is shown in Appendix Figure 1.

Sec. 7 Implementation of R and D Programs Projects/Studies

- 7.1 As specified in Section 4.2, ERDB shall implement basic and applied researches which are nationwide in scope while ERDB shall implement programs/projects/studies within their respective territorial jurisdiction.
- 7.2 Upon consultation with the involved research units, ERDB may deploy equipment and other logistic/requirements subject to approval by the Undersecretary for Environment and Programs Development and the Undersecretary for Field Operations.
- 7.3 ERDB may implement a project/study in a region when such region has no technical expertise as certified either by the Regional Executive Director or the Regional Technical Director.

- 7.4 ERDB shall provide technical assistance to ERDS in the implementation phase of the study in case expertise is lacking in the region. Prior to implementation, the proponent through the RED shall submit to ERDB a schedule of implementation together with a copy of the approved proposal.
- 7.5 It shall be the responsibility of the RED/RTD and the assigned ERDB evaluator to see to it that programs/projects/studies are implemented based on the approved project design and scheme of implementation.
- 7.6 Appendix Figure 2 shows the R & D project implementation system for the DENR R & D Network.

Sec. 8 Reports

- 8.1 All programs/project/study leaders of the DENR R and D Network shall submit to ERDB the quarterly Work and Financial Plan on a study basis following Appendix Form No. 4 and narrative quarterly and year-end accomplishment reports following Appendix Form Nos. 2 and 3 for monitoring and evaluation purposes. Quarterly and year-end reports shall reach the ERDB every first week of the ensuing quarter and year, respectively. Likewise, ERDS shall furnish ERDB a copy of pertinent documents such as a copy of the proposals in the pipeline together with its status, on-going studies (in case the proposals and on-going studies which did not pass ERDB's evaluation mechanism) terminal reports of completed studies following Appendix Form No. 5 and results of evaluation being conducted by the evaluators other than ERDB.

ERDB shall consolidate all reports of ERDS and submit consolidated reports to the Secretary before the 15th of the ensuing quarter or year.

- 8.2 Research undertaken by other agencies outside of the DENR R and D Network but funded by DENR shall submit report to the Undersecretary for Environment and Programs Development (copy furnished the ERDB).
- 8.3 The Reporting System for the DENR R & D Network is shown in Appendix Figure 3.

Sec. 9 Monitoring and Evaluation of R and D Activities

ERDB shall spearhead the conduct of a yearly field evaluation and in-house review of previous year's ongoing and completed program/project/study of DENR R & D Network.

The members of the evaluation Team shall come from DENR R & D Network. Representatives from member agencies of NARRDN, Planning and Policy Studies Office and Foreign Assisted and Special Projects Office of the DENR shall be invited to participate the in-house reviews.

- 9.1 The evaluation team shall report findings on the implementation of the program/project/study and recommend solutions to the problems/difficulties encountered.
- 9.2 The team may also recommend continuation or termination of the program/project/study based on the findings of the evaluation. Major revisions requiring changes in the organizational structure, methodology and termination of the program/project/study, etc. shall be decided upon by the

funding or approving agency. The Regional Technical Director for Research representing the Regional Executive Director or the ERDB Director, as the case may be, may decide on minor revisions recommended for the program/project/study. The researcher concerned shall be furnished a copy of the evaluation report.

9.3 In cases of termination or suspension, deferment or shortening of duration of program/project/study funded under the General Appropriations, any such action need the concurrence and approval of the ETRB and the ERDB Director, respectively. For ERDB, the Regional technical Director for Research for ERDS and the head of the research units for other DENR Bureaus. If funded by other agencies; such actions need their concurrence and approval of the funding agency and the agency head.

9.4 Upon termination/completion of research program/project/study, the proponent/research leader shall submit to ERDB six (6) copies of the terminal report following Appendix Form No. 5. Said terminal report shall undergo similar evaluation process as stipulated in Sections 6.1.2 to 6.1.4.

Terminal reports recommended for publication shall be forwarded by ETRB to the Technology Development Division (TDD) to assess the appropriateness as to the type of and format of publication. Upon advice of ETRB and TDD, the proponent shall revise and submit the terminal report in publishable form to TDD for review by the DENR-ERDB Editorial Board. The TDD shall forward the comments of the Editorial Board to the proponent as basis for further revision. After the Editorial Board shall have approved for publication the revised version of the terminal report, the TDD shall

edit/refine and publish the terminal report and disseminate the publication to the DENR offices and other clientele.

However, if the terminal report has been found by ETRB not worthy for publication, the revised version of said report shall be kept on file at PMISU for data banking and other purposes.

The Monitoring and evaluation System of Ongoing and Completed R & D Projects/Studies for the DENR R & D Network is shown in Appendix Figure 4.

Sec. 10 Research Management Information Systems (RMIS)

ERDB shall develop and maintain a Research Management Information System (RMIS) for the DENR R and D network. It shall be capable of supporting on-line data entry for updating and inquiry on the research project and/or about any project in the file and shall consist of 2 sub-systems:

- 10.1 Data bank for all terminal reports/abstracts of completed researches and human resources of the DENR R and D Network.
- 10.2 Research Monitoring System developed to control and monitor files of proposals, new and ongoing research programs/projects/studies including all relevant budgetary, personnel and logistics information.

ERDB, through its Planning and Management Information Services Unit, shall spearhead the development of the RMIS and shall be responsible in the training of the regional staff in implementation of the system in their respective offices in

coordination with the DENR Human Resources Development Unit.

Sec. 11 Technology Transfer

Technology derived through research should be compiled, classified and translated into packaged technology in the kind of a language that is understood by the target clientele.

- 11.1 Members of the DENR R and D Network shall be responsible for the compilation, classification, organization and integration of technology derived from their respective territorial jurisdiction while technology from national and international sources shall be the main concern of ERDB.
- 11.2 Documentation through writing, use of photos/slides, radio/T.V. coverage, and/or video/cassettes of topics of regional coverage shall be the task of the members of the DENR R & D Network while ERDB shall deal on topics of national concern or coverage.
- 11.3 Research results/technologies shall be packaged for printing (such as newsletter, journal, how to's), broadcast on Radio/T.V., or Audio-visuals.

ERDB shall be responsible for the publication of Canopy, and the Sylvatrop Journal which is a DENR technical journal, How to's , and RISE. On the other hand, Regional DENR newsletter , Techno Transfer Bulletin, ERDS Research Digest and translated versions of How to's and RISE shall be the main concern of the members of DENR R and D Network. Furthermore, research results for technical publications shall be submitted to ERDB for review and publication.

- 11.4 Members of DENR R and D Network shall spearhead the dissemination of information/extension work/establishment of demonstration farms in their respective territorial jurisdiction.
- 11.5 Members of the DENR R and D Network shall monitor and evaluate the adoption of technologies by the target clientele. They shall be responsible for institutionalizing a mechanism for feedback and impact assessment on the results of researches or technology developed.

Unlike ERDS which shall cover technologies of regional coverage, ERDB on the other hand, shall take charge of technologies which are national in scope.

- 11.6 The DENR shall retain proprietary rights over the results of completed researches, or parts thereof. Dissemination, publication, or commercialization of such can only be effected with the express permission of the DENR.

Sec. 12 Repealing Clause

All Orders, Circulars, Memoranda and other issuances which are inconsistent herewith are hereby revoked, amended or modified accordingly.

Sec. 13 Effectivity

This order takes effect immediately.

VICTOR O. RAMOS
Secretary

ADMINISTRATIVE SECTOR

**DENR Administrative Order
No. 96-01
January 17, 1996**

**SUBJECT : Amending Administrative Order
No. 14, dated April 14, 1992,
designating Human Resource
Development (HRD) Coordinators.**

In consonance with the DENR policy to promote development of its human resources and in order to further strengthen the administration of human resources development activities in the Regional Offices, DAO No. 14 is hereby amended to include the following organization and administrative responsibilities for concerned personnel:

1. HRD Coordinator

The Regional HRD Coordinator who is designated by the Regional Executive Director shall have the overall supervision on matters related to the preparation, implementation and monitoring of their respective Career Development Plan and Training Plan, and administration of Personnel Performance Appraisal and Individual Development System (PAIDS).

2. Chief of Administrative Division

The Chief of Administrative Division shall directly supervise the Human Resource Development Section. He/She shall be responsible in the supervision of activities related to training and career development of all personnel under the jurisdiction of the Regional Office. He/she shall maintain and update a human resources information system and personnel database.

3. **Human Resources Development Section**

Under the direct supervision of the Chief, Administrative Division, the Human Resources Development Section shall be responsible for the preparation and implementation of the training and development activities and career development, maintenance of personnel database, preparation of the budget for training and development, and acts as Secretariat to the Scholarship Screening Committee for all personnel under the jurisdiction of the Region.

Provision of DAO No. 14, Series of 1992 not inconsistent herewith remain in force.

This Order takes effect immediately.

VICTOR O. RAMOS

Secretary

Recommending Approval:

RAMON J. P. PAJE

Assistant Secretary, Management Services

DENR Administrative Order
No. 96-03
January 30, 1996

**SUBJECT : Creation of an International
Environmental Affairs Staff.**

In view of the Department's growing international environmental concerns and to ensure compliance with its international commitments, and Ad-hoc International Environmental Affairs Staff (IEAS) is hereby created to perform the following functions:

- (1) coordinate implementation and monitoring of all DENR international commitments and other functions pertaining to international environmental affairs;
- (2) review and evaluate DENR compliance with international environmental agreements, conventions, protocols and other commitments;
- (3) recommend and implement programs and strategies that will enhance the Departments active participation in the international community; and
- (4) perform other functions as may be assigned by the Secretary.

The IEAS shall be supervised by the Undersecretary for Environment and Programs Development (EPD) who shall act as Senior Supervising Officer for all international environmental commitments of the Department. The IEAS shall be headed by a designated Coordinator, not lower than an Assistant Secretary, who shall report directly to the Undersecretary for EPD. The Coordinator shall

designate/determine the personnel of said Staff and their corresponding specific functions.

If deemed necessary, the Staff is authorized to engage the services of private individuals/consultants who shall assist the Staff in the performance of its functions.

All expenses incurred for this purpose shall be charged against DENR funds, subject to the usual accounting and auditing rules and regulations.

This Order shall take effect immediately and shall supersede/amend all orders inconsistent herewith.

VICTOR O. RAMOS

Secretary

Recommending Approval:

DELFIN J. GANAPIN, JR.

Undersecretary for Environment and
Programs Development

**DENR Administrative Order
No. 96 - 07
February 20, 1996**

SUBJECT : Transfer of Administrative Supervision of LIUCP to the Undersecretary for Field Operations from the Undersecretary for Environment and Programs Development.

In the interest of the service and consistent with the Management's policy to strengthen the DENR Field Offices in the implementation of Foreign-Assisted Projects (FAPs), the administrative supervision of Low-Income Upland Communities Project is hereby transferred to the Undersecretary for Field Operations from the Undersecretary for Environment and Programs Development.

This Order takes effect immediately.

VICTOR O. RAMOS
Secretary

Recommending Approval:

DELFIN J. GANAPIN, JR.
Undersecretary for Environment
and Programs Development

VIRGILIO Q. MARCELO
Undersecretary for Field
Operations

**DENR Administrative Order
No. 96 - 09
March 05, 1996**

SUBJECT : Guidelines in the Procurement of Goods and Services.

Despite the lifting of the requirement of public bidding for purchases worth P 50,000 and above, per COA Res. 95-244, dated May 18, 1995, the DENR Central Office, in the interest of the services and to promote advantageous purchases of goods and services, hereby adopts an internal policy to bid, with publication in newspapers of general circulation, all transactions/purchases from P500,000 and above.

Moreover, the Secretary may exempt or waive in writing the conduct of public bidding and may authorize negotiation on a case to case basis, pursuant to Vol. I, Title 7, Chapter I, Article 6 of the Government Accounting and Auditing Manual.

For all other transactions/purchases, all concerned offices are hereby required to exercise prudence and ensure that said transactions/purchases are most advantageous to the government using existing procedures (i.e. sealed/open canvass; negotiated contract; etc.) subject to existing rules and regulations.

Small purchases which are urgent/emergency in nature may be procured through the use of cash advance authorized for the purpose, subject to existing auditing and accounting rules and regulations.

All Regional Offices, Bureaus and Attached Agencies are hereby required to develop their own bidding guidelines pursuant to existing rules and regulations.

VICTOR O. RAMOS
Secretary

DENR Administrative Order
No. 96-10
March 07, 1996

SUBJECT : Institutionalizing the National Search for Likas Yaman Awards for Environmental Excellence.

In the interest of the service and in order to promote greater participation and partnership in environmental endeavors and, at the same time give due recognition and honor to individuals and institutions which have excelled in this effort, a National Search for Likas Yaman Awards for Environmental Excellence is hereby institutionalized.

A National Committee shall be created as the policy-making body of the Awards Program. It shall be composed of the following DENR officials:

- Chairperson - DENR Secretary
- Vice-Chairperson - Undersecretary for Environment and Programs Development
- Member - Undersecretary for Legal, Legislative Affairs and Attached Agencies
- Member - Undersecretary for Field Operations
- Member - Assistant Secretary for Policy and Planning

Heads/representatives of some government and allied institutions shall be included as members of the National Committee.

To oversee the implementation of this program, a National Secretariat shall be established composed of the following:

National Coordinator	-	Assistant Secretary for Management Services
Deputy Coordinator	-	Special Concerns Office Director
Member	-	Public Affairs Office Director
Member	-	All Bureau Directors

At the Regional level, a Regional Secretariat shall be chaired by the respective Regional Executive Directors. The member of the Regional Secretariat shall include the following:

1. Five (5) Regional Technical Directors (RTDs)
2. Administrative and Finance Officers
3. Regional Public Affairs Officers
4. Regional NGO Desk Officers

The said Secretariat shall be supported by a Multi-Sectoral Committee composed of the following:

- One (1) Representative from the Academe
- One (1) Representative from a Socio-Civic Organization
- One (1) Representative from a Religious Organization
- One (1) Representative from a Local Media Organization
- Two (2) Representatives from Youth Organizations

The attached Manual of Operations of said Awards Program shall form part of this Order.

This Order shall take effect immediately and supersedes all other Orders inconsistent herewith.

VICTOR O. RAMOS
Secretary

**DENR Administrative Order
No. 96 - 11
March 15, 1996**

SUBJECT : Streamlining of Special Concerns Office

In the exigency of the service and in accordance with the new strategies and thrusts of the Secretary, the functions of the Special Concerns Office are hereby streamlined as follows:

1. NGO coordinating function is transferred to all the Bureaus and all the Regional Offices as a regular and inherent function of their offices.
2. The Multi-Sectoral Forest Protection Committee (MFPC)-National TWG is to report to the Office of the Undersecretary for Field Operations.
3. The functions of the existing divisions are to be reformulated into the following:
 - 3.1 Special Events Unit (SEU)
 - 3.2 Assistance to Specialized Groups (ASG)

The division shall be tasked to address emerging issues and needs of sectors of the Philippine society that require special and immediate attention/action. It shall assist specialized groups which include the following:

- 3.2.1 Upland and Indigenous Communities
- 3.2.2 Women
- 3.2.3 Labor and OCW
- 3.2.4 Local Government Units
- 3.2.5 Youth

3.3 Program Support for Effective Systems Delivery (PROSESD)

3.3.1 Morale Upliftment Program (Internal IEC)

3.3.2 Institutional Networking Program (External IEC)

3.3.3 Environmental Resource Information Coordinating Center

All SCO personnel are to report to the new SCO Director for their specific work assignments.

This Order takes effect immediately.

VICTOR O. RAMOS

Secretary

**DENR Administrative Order
No. 96 - 12
March 20, 1996**

SUBJECT : Prescribing the Organizational and Management Arrangement, Functions and Responsibilities for the Pasig River Rehabilitation Program (PRRP) and the River Rehabilitation Secretariat (RRS).

In the interest of the service and in order to strengthen the implementation of the River Rehabilitation Program particularly the Pasig River, the following organizational and management arrangement, functions and responsibilities for the Pasig River Rehabilitation Secretariat are hereby prescribed as follows:

A. Pasig River Rehabilitation Program Steering Committee (PRRPSC)

a. Composition

A Pasig River Rehabilitation Program Steering Committee is hereby created with the Undersecretary for Environment and Programs Development and the Undersecretary for Field Operations of the Department of Environment and Natural Resources (DENR) as Chairman and Vice-Chairman, respectively. The General Manager of the Laguna Lake Development Authority (LLDA), the Regional Executive Director of the National Capital Region (NCR) of the DENR, and the Director of the Environmental Management Bureau (EMB), shall serve as members.

b. Functions of PRRPSC

1. Promulgate policies and guidelines in accordance with the over-all policies of the program;

2. assist the Presidential Task Force on Pasig River Rehabilitation (PTF-PRR) in resolving PRRP issues and secure inter-agency support and participation in the program's activities; and
3. formulate policies that will institutionalize and integrate the function of the River Rehabilitation Secretariat (RSS) within DENR.

B. River Rehabilitation Secretariat

a. Composition and Structure

The River Rehabilitation Secretariat shall be composed of the following:

1. A management team headed by a Coordinator, with deputy Coordinator and the Program Manager of the Danish International Development Assistance (DANIDA) as members;
2. working groups;
3. technical support unit; and
4. administrative support unit.

b. Functions

1. The integration and coordination of planning, implementation and monitoring of activities undertaken by the participating agencies related to the rehabilitation program;

2. implementation and testing of operational procedures for inter-agencies coordination;
3. generation of baseline data for the program;
4. manage the planning and overall implementation of the RRS component activities;
5. act as overall secretariat to the PTF-PRR;
6. Recommend policies to the PRRPSC and formulate programs and funding mechanics related to river rehabilitation activities;
7. package lessons learned from the Pasig river rehabilitation activities for application in other river rehabilitation work; and
8. prepare and recommend the RRS annual budget and decide on resource allocation matters in consultation with participating agencies/ units.

c. Duties and Responsibilities of the PRRP/RRS Coordinator

1. Assume overall coordinating and monitoring activities for the effective implementation of the program's components;
2. exercise management and administrative functions within the existing guidelines and regulations of DENR and oversight agencies for the effective management of the RRS;
3. recommend policy directions and measures for the efficient and effective management of the RRS; and

4. assume the duties and authorities of a Project Director such as overall administration of the RRS, efficient utilization of funds and property and supervision of staff funded out of the government of the Philippines (GOP) funds.
- d. Duties and Responsibilities of the Deputy Coordinator
1. Assist the program coordinator in the exercise of his functions and responsibilities for the effective implementation of the program;
 2. establish proper coordination with the technical assistance team, participating units, and the working groups; and
 3. performs other functions as may be assigned by the Program Coordinator relative to the program.
- e. Function of the Working Groups
1. Monitor and coordinate the implementation of projects/activities that are being undertaken in their respective groups/sectors;
 2. develop plans and review targets/projects;
 3. coordinate with other working groups, participating agencies, non-governmental organizations (NGOs), and people organizations (POs) in the implementation of projects/activities;
 4. identify and initiate new projects including gaps, resource needs, policy issues, and concerns as well as recommend solutions; and

5. report regularly to the RRS and PTF the progress of their activities, plans and programs.

C. River Rehabilitation Unit (RRU)

a. Composition and Structure

The RRU shall be created in the DENR-NCR and shall be composed of an Action Officer as head with technical and operational personnel complements. The RRU, which shall be responsible for coordinating its activities with the PRRP/RRS, shall be under the direct supervision of the Regional Technical Director for Environment of NCR.

b. Functions

1. Undertake industrial and domestic liquid and solid waste management activities along the Pasig river and its major tributaries in close coordination with LLDA, Metropolitan Manila Development Authority (MMDA), and the Philippine Navy;
2. implement riverside management such as linear park development, urban, forestry, dredging of the Pasig and San Juan rivers, removal of sunken derelicts and relocation/resettlement related activities in close coordination with LLDA, MMDA, National Housing Authority (NHA), Local Government Units (LGUs), Philippine Coast Guard and other NGOs.

3. Coordinate with the PRRP/RRS on matters related to the operational aspects on functions 1 and 2 including submission of periodic reports.

The existing DANIDA Technical Assistance shall continue to be with the RRS, and its Program Manager shall closely work with the Program Coordinator to attain the goals and objectives of the DANIDA Technical Assistance/Grant.

This order shall take effect immediately and supersedes/revokes all orders inconsistent with its intent and content.

VICTOR O. RAMOS
Secretary

Recommended by:

DELFIN J. GANAPIN, JR.
Undersecretary for Environment
and Programs Development

VIRGILIO Q. MARCELO
Undersecretary for Field
Operations

**DENR Administrative Order
No. 96 - 15
April 12, 1996**

SUBJECT : Revised Implementing Rules and Regulations on Local Scholarship Program.

Pursuant to Section 7(b) of Executive Order 192 and in order to bring about a rational implementation of the Local Scholarship Program (LSP) of this Department, its Implementing Rules and Regulations (IRR), as prescribed by DENR Administrative Order No. 06, Series of 1990, are hereby revised as follows:

Section 1 Objectives of the Program

The DENR-LSP shall promote professional growth for deserving employees while at the same time develop a pool of young professionals in various fields of environment and natural resources sector.

Section 2 Scope/Coverage of the Program

The Program is open to all qualified and deserving employees of the DENR who may wish to pursue degree and non-degree courses relevant or supportive to DENR's goal of environment and natural resources (ENR) management.

It is also open to high school graduates with high scholastic performance and aptitude to pursue undergraduate studies/courses with DENR's goal, aforesated.

Section 3 Types of Scholarships and Courses

3.1 Non-degree (short courses)

3.2 Degree Courses

Baccalaureate Degree Environmental Science, Forestry, Geodetic Engineering, Geology, Mining Engineering and other Natural Science courses.

Masters Environmental Science, Forestry, Geology, Mining Engineering, Geodesy, Public Management/ Administration, Biodiversity, Wildlife Mgt., Community Organizing and other Natural and Social Science Course.

Doctorate Natural Environment and Social Science Courses.

Section 4 Qualification of Applicants

4.1 For Employees

An employee who possesses the following qualifications can avail of this program:

- a. has a permanent appointment at the time of the filing;
- b. has rendered at least two uninterrupted years of service in the DENR;
- c. has obtained performance ratings of Very Satisfactory for the last two consecutive rating prior to application;
- d. has high scholastic ratings in high school or in college, if already a degree holder;
- e. not more than 45 years old at the time of application;

- f. physically and mentally fit;
- g. no pending administrative and/or criminal case; and
- h. must not have availed of any foreign or local scholarship in the past two years prior to the awarding of the grant.

4.2 High School Graduates

To qualify admission, the student must possess the following requirements:

- a. graduated in high school in the upper ten (10) percentile with preference to a valedictorian or salutatorian;
- b. mentally and physically fit;
- c. with good moral character as certified by the school principal; and
- d. combined gross income of parents/guardians must not be more than P100,000 per annum;
- e. must have passed the required admission test of the school;
- f. must be willing to pursue the course enumerated in Sec. 3 of this Order;
- g. must be willing to work for the DENR after completion of the course.

Section 5 Privileges of the Scholars

A DENR-LSP grantee is entitled to the following benefits:

5.1 For Employees

- a. Study on official time for the duration of the grant;
- b. Relief from official duties and responsibilities for the duration of the grant;
- c. Continue to receive his salary and other allowances such as:

Personnel Emergency and Relief Allowances (PERA)
 Additional Compensation Allowance (ACA)
 Thirteenth month pay and cash gift
 Other Personnel Benefits

- d. Receive a monthly stipend
 Baccalaureate/Undergraduate (P2,500)
 Masters/Doctorate (P3,000)
- e. Payment by DENR of tuition, matriculation and other school fees assessed by the university;
- f. Books and supplies allowance
- g. Payment of actual expenses for course related field trips
- h. Thesis/Dissertation Allowance
 Baccalaureate/Undergraduate (P 7,000)
 Masters (P20,000)
 Doctorate (P25,000)
- i. Reimbursement of graduation expenses such as diploma fee, alumni fee, school annual, rental of toga, graduation picture, and other relevant expenses based on actual amount; and
- j. Transportation expenses from provincial residence to the school and back may be allowed for a maximum of two round trips per school year, subject to the availability of funds.

5.2 High School Honor Graduates

A grantee in this category is entitled to the following privileges:

- a. Receive a monthly stipend
Baccalaureate/Undergraduate (P 2,500)
- b. Payment by DENR of tuition, matriculation and other school fees assessed by the university;
- c. Books and supplies allowance
- d. Payment of actual expenses for course related field trips
- e. Thesis Allowance (P 7,000)
- f. Reimbursement of graduation expenses such as diploma fee, alumni fee, school annual, rent toga, graduation picture, and other relevant expenses based on actual amount; and
- g. Transportation expenses from provincial residence to the school and back maybe allowed for a maximum of two round trips per school year, subject to the availability of funds.

- 5.3 Waiver of any requirement/s shall only be decided by the Secretary.

Section 6 Obligations/Responsibilities of Scholars

A DENR-LSP scholar has the following responsibilities:

- a. Enrolls in a school/university accredited by the DENR though a Memorandum of Understanding (MOU) with academic workload specified thereunder:

Per Semester

Undergraduate	Not less than 18 units
Masters/Doctorate	Not less than 9 units

Per Summer

Undergraduate	Not less than 9 units
Masters/Doctorate	Not less than 6 units

- b. Maintains an average rating computed at the end of the annual academic year;

Undergraduate	At least 2.5 or its equivalent
Masters/Doctorate	At least 1.75 or its equivalent

- c. Signs a scholarship contract covering the terms and conditions of the grant;
- d. Submits a copy of the academic record or grades to the HRDS within four weeks after each semester or summer;
- e. Must refund to the DENR all the expenses incurred in connection with the grant including stipend, allowances and other remuneration's upon termination of the grant prior to the expiration of the contract; and
- f. Upon completion of the course, he/she shall serve the DENR for two years for every year of scholarship or a portion thereof in excess of six months. However, when the excess is six months or less, the scholar shall serve the DENR for additional one year.

Section 7 Administration of the Program

7.1 The DENR Local Scholarship

A Committee for Local Scholarship shall be constituted and shall have the following functions:

- a. recommend criteria for the selection of scholars;
- b. screening and selection of candidates for scholarship;

7.2 Human Resource Development Service (HRDS)

The HRDS shall act as Secretariat and shall have the following functions:

- a. Announce the types of courses open for scholarship for a particular school year;
- b. Prepare list of applicants for scholarship for screening and selection by the Committee;
- c. Prepare documents such as Special Order, vouchers for claims of expenses during the scholarship, and other pertinent papers for the scholar;
- d. Conduct orientation on the responsibilities for new scholars;
- e. Coordinate with schools where scholars are enrolled;
- f. Monitor the academic performance of scholars;

Section 8 Repealing Clause

The guidelines on the GRANT supersedes, modifies all other orders, memoranda, guidelines and other Department and Bureau issuances inconsistent herewith and may be revised as often as necessary upon the recommendation of the COMMITTEE, as long as such revisions shall not be contrary to the general guidelines on personnel development program of the Department subject to the approval of the Secretary.

Section 9 Effectivity Clause

These guidelines shall take effect immediately.

VICTOR O. RAMOS
Secretary

Recommending Approval:

SABADO T. BATCAGAN
Assistant Secretary for Planning
and Policy Studies and Chairman,
Local Scholarship Committee

DENR Administrative Order
No. 96 - 18
May 31, 1996

**SUBJECT : Functional Staffing Pattern of the
Office of the Undersecretary for
Field Operations**

In the interest of the service and in order to operationalize the proposed provisional organizational structure of the Office of the Undersecretary for Field Operations, the following staffing pattern is hereby created:

Office of the Chief Staff Officer

Chief Staff Officer
Administrative Officer
Secretary
Records Clerk (2)
Data Encoder (2)
Document Tracking (2)
Finance and Supply Officer
Utility
Messenger

Office of the Directorate for Technical Support

Director for Technical Support
Forestry Specialist (2)
Environment, Protected Areas and Research Specialist (2)
Mines Specialist
Lands Specialist
Encoder
Records Clerk

Office of the Directorate for Operations

Directorate for Operations

Deputy Directorate for Luzon, Visayas and Mindanao

Operations Specialist/Analyst for Luzon, Visayas and
Mindanao

Legal Officer

Liaison Officer

Cartographer

Encoder

Records Clerk

Office of the Directorate for Intelligence

Director for Intelligence

Researcher (2)

Intelligence Analyst (2)

Encoder

Records Clerk

The NFDO, SAID and LIUCP shall be under the administrative supervision and/or direct operational control of the Undersecretary for Field Operations as provided by Special Order Nos. 95-1074, DAO No. 95-29 and DAO No. 96-07, respectively.

This Order shall take effect immediately.

VICTOR O. RAMOS

Secretary

DENR Administrative Order
No. 96-23
June 28, 1996

SUBJECT : Launching of the Gender and Development (GAD) Service Awards and Providing Guidelines for its Implementation

Pursuant to Republic Act No. 7192 otherwise known as the “Women in Development and Nation-Building Act” and in support to the mainstreaming of the GAD concerns to the DENR programs, projects and activities in consonance with the Philippine Plan for Gender-Responsive Development (PPGD) for 1995-2025 as approved and adopted by virtue to EO 273, Series of 1995, the Gender and Development Service Awards is hereby officially launched and the guidelines for its implementation is likewise adopted.

Respective screening committees and board of judges at the regional and national levels are hereby created and tasked to perform the functions set forth in the attached Guidelines on the Gender and development Service Awards which shall form part of this Order.

The awards shall be given out simultaneously with the Likas Yaman Awards for Environmental Excellence, except for the first set of awards which will be granted in December 1996.

The National GAD Focal Point System is likewise authorized to review the Guidelines on the Gender and Development Service Awards and cause for its revision based on the status of the mainstreaming of GAD concerns to the DENR programs, projects and activities.

All concerned officials and employees of the Department are hereby enjoined to participate in the awards.

This Order takes effect immediately.

VICTOR O. RAMOS
Secretary

GUIDELINES ON GENDER AND DEVELOPMENT PROGRAM (GAD) SERVICE AWARDS OF THE DENR

I. BACKGROUND

It is the declared policy of the State to ensure that women must be provided with facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation. This is articulated in Article III, Section 14 of the 1987 Constitution. To set the tone, the government issued Executive Order 348 (EO 348), Series of 1989 approving and adopting the “Philippine Development Plan for Women (PDPW) for 1989-1992. On February 12, 1992, Republic Act No. 7192 (RA 7192) otherwise known as “Women in Development and Nation-Building Act” reinforced the previous policies by recognizing the role of women in nation-building and ensuring the fundamental equality before the law of women and men. As a sequel to PDPW, the Philippine Plan for Gender-Responsive Development (PPGD) for 1995-2025 was approved and adopted by virtue to EO 273 signed on 08 September 1995. The PPGD, which is a 30 - year perspective plan outlines the range of gender issues and their corresponding strategy and program responses which government should realize the vision for a gender responsive society - a society where women and men equally contribute and benefit from development. The Environment and Natural Resources chapter in the PPGD is DENR’s contribution for attaining the Gender and Development vision.

DENR on the other hand, is a government agency, mandated to manage and develop natural resources of the country. As a guide, it has adopted the Philippine Strategy for

Sustainable Development (PSSD) which was integrated to the Medium Term Philippine Development Plan (MTPDP) for 1993-1998. In this strategy, women play an important role along with the men. Therefore, it is worth to recognize efforts geared towards the attainment of MTPDP particularly those that are gender-sensitive and involve women as managers or leaders in order to spark the need for GAD in DENR. Hence, the awards for OUTSTANDING GENDER-RESPONSIVE PROGRAM/PROJECT AND OUTSTANDING WOMAN PROJECT IMPLEMENTOR in the DENR is hereby launched.

II. GOAL AND OBJECTIVES

The awards intend to enhance the participation of women in the promotion of PSSD and with men, ensure women's equal benefit from the fruits of development. Specifically, the awards are meant to:

1. Give due recognition to projects which have promoted the welfare of both women and men in all aspects of environment and natural resources development; and
3. Acknowledge the contribution of women in the management of the country's environment and natural resources program/projects for national development.

III. AWARDS CATEGORIES

There are two (2) categories, namely:

1. Outstanding Gender-Responsive Program/Project
2. Outstanding Woman Implementor

IV AWARDS ADMINISTRATION

The awards shall be administered by Search/Screening Committees and Board of Judges at the regional and national levels, with the following functions and composition:

A. Functions

Regional Screening Committee

- a. Conduct initial screening of all projects enumerated in item 1 of section V of this document, through ocular inspection, review of project documents, interviews with community/beneficiaries and/or administration of survey questionnaires to be designed by the Committee pursuant to the Evaluation Guide herein provided as Annex 1;
- b. Validate/assess the nominees using assessment criteria also indicated in Annex 1; and
- c. Submit comprehensive report to the Regional Board of Judges with supporting documents indicating therein validations and findings. The supporting documents may include audio-visual materials such as photographs, video cassette and/or other documentation forms.

Regional Board of Judges

- a. Review the comprehensive report of the Regional Screening Committee;
- b. May introduce additional criteria to finally select the region's candidates. The said criteria shall be stated in the endorsement of the Board to the national level; and
- c. Endorse one (1) candidate for each category.

National Screening Committee

- a. Accept entries endorsed by the Regional Offices;
- b. Review each entry and ensure that all forms are complete and duly accomplished;
- c. Evaluate the recommendation of the Regional Board of Judges;
- d. Short list the nominees and conduct field inspections and interviews, and apply necessary analytical instruments to validate entries;
- e. Submit to the National board of Judges the validated entries from the short list of nominees with supporting documents relative to the nominations.

National Board of Judges

The National board of Judges shall undertake the final evaluation and selection of the nominees and awardees.

B. Composition

1. REGIONAL LEVEL

- a. Screening Committee - Regional GAD Focal Points
- b. Board of Judges - Regional GAD Executive Committee and Representative of NGO recommended by concerned DENR-RED

2. NATIONAL LEVEL

- a. Screening Committee - National GAD Focal Point System
- b. Board of Judges - National GAD Executive Committee NGO Representative, others as maybe designated by the DENR Secretary

Chairperson - DENR Secretary

Vice-Chairperson - Dr. Helena Z. Benitez

Members - NCRFW Executive
Director,
USEC for Env. & Prog.Dev.,
USEC for Field Operations,
ASEC for Legal Affairs,
ASEC for Planning and Policy,
ASEC for Mgt.,
DENR Bureau Directors,
DENR Focal Point System
Chairperson, NGO Representative,
Highest Ranking Female DENR Official

V. SELECTION CRITERIA

1. For the **OUTSTANDING GENDER-RESPONSIVE PROGRAM/PROJECT**, the search would include any DENR foreign-assisted, locally-funded and regular program/project, whether managed by a male or a female, and meets the following criteria:
 - a. has been under successful implementation in terms of schedule and meeting targets for at least three (3) years;
 - b. community-based;
 - c. DENR-led whether in the over-all project/program or sub-component projects;
 - d. shows measurable equal access by both men and women to project benefits;
 - e. replicable;

- f. has tapped external and internal resources on its own initiative e.g. physical, financial technical assistance, etc.;
- g. employs and/or generates participation of both men and women in decision-making; and
- h. women hold responsible positions in the program/project organization.

2. For the **OUTSTANDING WOMAN PROJECT IMPLEMENTOR**, the candidate should be a Woman Project Implementor of any on-going DENR program/project which may be foreign assisted or locally-funded, who meets the following criteria:

- a. being on-site program/project leader/manager, irrespective of age or job tenure, who is directly responsible for the day-to-day operations of a DENR-led program/project;
- b. has rendered at least two (2) years of continuous service in the project at the time of nomination;
- c. the project managed should be a successful development project or an action research project where the local or adjacent communities are involved or directly benefitted by the project;

- d. has employed gender-responsive strategies in project implementation;
- e. has provided clear and measurable access by both men and women to project benefits;
- f. has tapped and/or catalyzed external and internal resources on her own initiative;
- g. has initiated replicability of projects including cross-visits between and among similar projects;
- h. has employed innovative approaches for women's empowerment in project decision-making;
- I. has established alliances/networking with members of the community, at different levels including other sectors; and
- j. with no pending administrative or graft and corruption charges.

RANKING

- A. Qualified candidates for the **OUTSTANDING GENDER-RESPONSIVE PROJECT AWARD** will be ranked finally based on the following criteria and point scores (Please refer to Annex 1) Only those which garnered a total point score of at least 75, will be considered.

- a. Planning Stage 5 points

If gender concerns were reflected/included in the project objectives/designs.

- b. Implementation Stage 55 points

If there is an active participation of women in the project

- c. Development Stage 40 points

If there is a mechanism of empowering women in terms of benefits and access to the resource.

B. Pre-qualified candidates for the OUTSTANDING WOMAN PROJECT IMPLEMENTOR AWARD will be ranked using the following criteria and point scores (Please refer to Annex 1). Only those who have a total of 80 points will be considered.

- a. Project Performance 25 points

This gauges the project manager's ability to handle a project. Project performance must have achieved at least 80% performance efficiency rating for the last two years.

- b. Leadership qualities 20 points

She should possess leadership qualities which encourage others to perform as desired.

- c. Personality/Moral Character 10 points

She should possess self-confidence, dignity, respectability and moral integrity.

- d. Public Relations 20 points

She should have the ability to develop and maintain harmonious relations with supervisor, colleague, subordinates in one hand, and the immediate public with which she transacts official business on the other.

- e. Resourcefulness and Innovativeness 25 points

She should have employed gender-responsive strategies in project implementation, have provided both men and women measurable access to project benefits, have initiated tapping of external and internal resources and replicability of the project, and have helped empower women in decision-making.

VI. AWARDS AND PRIZES

1. The Outstanding Woman Project Implementor a plaque and a cash prize of PHP 15,000.00. Cash prizes may be increased by P 5,000.00 every year thereafter, subject to availability of funds.
2. The Outstanding Gender-Responsive Project will receive a plaque and a cash prizes of PHP 50,000.00. The cash prize for this category must be used by the project/program gender and development-related activities such as livelihood projects, etc. The winner

will be asked to come up with a simple plan of action to utilize the fund.

3. The Regional Finalists will receive Certificates of Recognition from the National Gender and Development Executive Committee.

VII. TIME TABLE

March 11, 1996 - Announcement of the Awards on GAD in the DENR FEATURING the Search for the Most Gender-Responsive Programs/Projects and Outstanding Women Project Implementor

March 11, 1996 - Ceremonial Launching of the Awards

July 15, 1995 - Deadline for submission of candidates to the Central Office

July 16 - Sept. 1996 - Validation Period by National GAD Focal Point System

October 30, 1996 - Submission of assessment reports to the National Board of Judges

December 16, 1996 - Proclamation and Awarding of Winners

VIII. BUDGET ESTIMATES

Validation of Entries	PHP	150,000.00
Prizes		85,000.00

2 plaques (7x9)	-	5,000.00	
Cash Prizes	-	65,000.00	
15 plaques (6x8)	-	15,000.00	
Supplies and Materials			5,000.00
Briefing for Board of Judges (snacks)		5,000.00	
Miscellaneous			50,000.00
			<hr/>
SUB-TOTAL	PHP	290,000.00	
Plus 10% contingency			29,000.00
TOTAL	PHP	319,000.00	

Annex 1

EVALUATION GUIDE FOR MOST GENDER-SENSITIVE PROJECT

PLANNING STAGE (1 point for each question): **5 points**

1. Did the needs assessment look into the special or different problems and needs of both women and men in the community?
2. Were women involved in conducting the needs assessment, and were the women of the community asked for their opinion on their problems and needs?
3. Do the project objectives make clear that project benefits are intended equally for women as for men?
4. In what ways, specifically, will the project lead to women's increased empowerment? e.g. Increased access to credit? Increased participation in decision-making at the level of family and community? Increased control of income resulting from their own labor?
5. Are there specific ways proposed for encouraging and enabling women to participate in the project despite their traditionally more domestic location and subordinate position within the community?

(Source Documents for the Planning Stage would be Feasibility Studies, Project Documents, Project Profile, Survey)

IMPLEMENTATION STAGE (To get maximum of **55 points**, all questions must have a Yes answer)

1. Is there a clear guiding policy for management on the integration of women within the development process?
(5 points)
2. Are women and men of the affected community represented equally on the management committee? (10 points)
3. Was there a gender awareness and gender analysis training for management? (5 points)
4. Has management been provided with the human resources and expertise necessary to manage and monitor the women's development component within the project?
(5 points)
5. Do implementation methods make sufficient use of existing women's organizations and networks such as women's clubs, church organizations and party political organizations? (10 points)
6. Are women included in the implementation team?
(5 points)
7. Are women the target group involved in project implementation? (5 points)
8. Are there methods for monitoring the progress in reaching women? For instance, by monitoring their increased income, increased occupation of leadership roles, increased utilization of credit facilities, increased participation in project management and implementation, increased influence over decision-making process
(10 points)

(Source Documents for the Implementation Stage would be Approved Work and Financial Plans, Circulars, MOUs, any written orders, etc.)

DEVELOPMENT STAGE (10 points for each question)

40 points

1. Do women receive a fair share, relative to men, of the benefits arising from the project?
2. Does the project redress a previous unequal sharing of benefits?
3. Does the project give women increased control over material resources, better access to credit and other opportunities and more control over the benefits resulting from their productive efforts?
4. What are the (likely) long-term effects in terms of women's increased ability to take charge of their own lives, understand their situation and the difficulties they face, and to take collective action to solve problems?

(Source Documents for the Development Stage would be Annual Accomplishment Reports Mid 1993- Mid 1996)

NOTE:

The evaluators have the flexibility to establish the range of each set of points for all functions/areas of consideration.

**SEARCH FOR OUTSTANDING WOMAN PROJECT
IMPLEMENTOR**

CRITERIA	POINT SCORE
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1.	PROJECT PERFORMANCE	25 points
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If physical accomplishment is 100% and above	25 points
If PA is 90% - 99%	15 points
If PA is 80%	10 points

(The average physical accomplishment of the project for the last two years i.e. 1994 and 1995, should be computed. For example, if PA for 1994 is 85% and PA for 1995 is 95%, average physical accomplishment for two years is 90% and therefore the point score is 15 points).

2.	LEADERSHIP QUALITIES	20 points
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Use DENR PAS Form II-A for Supervisors (Part 1 only).
Compute the average point score for two rating periods

If the average point score is 4.6 - 5.0	20 points
If average point score is 3.6-4.5	10 points
If average point score is 2.6-3.5	5 points

DENR PAS Form II-A (Part I) should be accomplished by the nominees' immediate supervisor, and concurred by the next higher official

3. PERSONALITY/MORAL CHARACTER 10 points

Shows enthusiasm in her job, goes out of her way to improve project affectivity 5 points

Can work harmoniously with co-employees, i.e. supervisors, peers, subordinates, and is able to obtain their cooperation 5 points

(Add up the point scores of all items applicable to the nominee)

4. PUBLIC RELATIONS 20 points

Very effective in dealing with the public-courteous, accommodating, considerate, tactful. 5 points

Able to project good image of self, the project and the office which she represents; there are no valid complaints against her 5 points

Has established alliances/networking with members of the community, at different levels, including other sectors 10 points

(Add up the point scores of all items applicable to nominee)

5. Resourcefulness/Innovativeness 25 points

Have employed gender-responsive strategies in project implementation 5 points

Has exemplified her project with measurable access to project benefits for both men and women 5 points

Has tapped and/or catalyzed external and internal resources on her own initiative 5 points

Has initiated replicability of projects including cross-visits between and among similar projects 5 points

Has employed innovative approaches for women's empowerment in project decision making 5 points

TOTAL POINT SCORE

 100 Points

**DENR Administrative Order
No. 96-32
October 21, 1996**

SUBJECT : Delegation of Authorities/Functions to Officials Involved in the Implementation of the crocodile Farming Institute (CFI).

SPECIFIC FUNCTIONS PERFORMING OFFICIALS

		Recommending Officer	Approving Officer
A.	Designation or removal of Project Director (PD)/ Asst. Director (APD)	PAWB Director (D)	Secretary
B.	Designation, re-assignment of personnel detailed in the Project below the rank of PD/APD	Project Director, CFI, thru PENRO	D
C.	Appointment or removal of contractual/casual project personnel	PD thru PENRO	D
D.	Approval of Work and Financial Plan, Travel Plan, Procurement Plan		

	including revisions/ realignment thereof	PD thru PENRO	D
E.	Travel Orders and Itineraries of Travel		
	E.1 Seven (7) days or less		
	e.1.1 Project Director	PENRO	D
	e.1.2 Project personnel	PD	PENRO
	E.2 More than seven (7) days		
	e.2.1 Project Director	D	Secretary or his authorized representative
	e.2.2 Project personnel	D	Secretary or his authorized representative
F.	Approval of Cash Advances for payments of project expenses		
	f.1 amounts not exceeding P200,000.00	PD	PENRO
	f.2 above P200,000.00 but not exceeding P300,000.00	PENRO	D

f.3	above P300,000.00 but not exceeding P500,000.00	D thru ASEC for Mgt. & Int'l Environ- mental Affairs	USEC for Env. & Programs Dev.
f.4	above P500,000.00	USEC for EPD	Secretary
G.	RIV's and purchase/letter orders for office, nursery, agricultural, animal, supplies and materials including contracts for non-personal services, provided that no splitting of requisitions, purchases/services shall be made		
g.1	amounts not exceeding P200,000.00	PD	PENRO
g.2	above P200,000.00 but not exceeding P300,000.00	PENRO	D
g.3	above P300,000.00 but not exceeding P500,000.00	D	UEPD
g.4	above P500,000.00	UEPD	Secretary
H.	ROA and Disbursement Vouchers for payment of project expenses		
h.1	not exceeding P200,000.00	PD	PENRO
h.2	above P200,000.00 but not exceeding P300,000.00	PENRO	D

h.3 above P300,000.00 but not exceeding P500,000.00 D UEPD

h.4 above P500,000.00 UEPD Secretary

I. Signing of checks

i.1 amount not exceeding P200,000.00 PD Admin. Officer, PENRO

i.2 above P200,000.00 but not exceeding P300,000.00 PENRO D

i.3 above P300,000.00 but not exceeding P500,000.00 D UEPD

i.4 above P500,000.00 UEPD Secretary

J. Contract for Civil Works awarded thru local/international competitive bidding

j.1 not more than P200,000.00 PD PENRO

j.2 more than P200,000.00 but not exceeding P300,000.00 PENRO D

j.3 more P300,000.00 but not exceeding P500,000.00 D UEPD

j.4 above P500,000.00 UEPD Secretary

K.	Plans, designs/Specifications and Cost Estimates for Civil Works and Equipment		
k.1	not exceeding P200,000.00	PD	PENRO
k.2	more than P200,000.00 but not exceeding P300,000.00	PENRO	D
k.3	more than P300,000.00 but not exceeding P500,000.00	D	UEPD
k.4	more than P500,000.00	UEPD	Secretary
L.	Approval of authority including Awarding of contract for Civil Works to be implemented by administration/force account		
l.1	not exceeding P200,000.00	PD	PENRO
l.2	more than P200,000.00 but not exceeding P300,000.00	PENRO	D
l.3	more than P300,000.00 but not exceeding P500,000.00	D	UEPD
l.4	more than P500,000.00	UEPD	Secretary

M. Change Orders/Extra Work Orders on Civil Works

m.1	not exceeding P200,000.00	PD	PENRO
m.2	more than P200,000.00 but not exceeding P300,000.00	PENRO	D
m.3	more than P300,000.00 but not exceeding P500,000.00	D	UEPD
m.4	more than P500,000.00	UEPD	Secretary

N. Cancellation and/or termination of on-going contracts and prosecution thereof for damages arising from breach of the same

n.1	not exceeding P200,000.00	PD	PENRO
n.2	more than P200,000.00 but not exceeding P300,000.00	PENRO	D
n.3	more than P300,000.00 but not exceeding P500,000.00	D	UEPD
n.4	more than P500,000.00	UEPD	Secretary

- O. Participation/Nomination of Project personnel in local seminars, in-service trainings, workshops, conferences, etc.
 - o.1 within the province PD PENRO
 - o.2 within Region IV PENRO D
 - o.3 National (and other Regions) D UEPD
- P. Foreign Travels (Project-related) UEPD Secretary

The PAWB Director, PENRO-Puerto Princesa City and other Offices/units concerned are hereby directed to carry out effectively and efficiently the above-delegated authorities.

This Order shall take effect immediately and supersede all Orders inconsistent herewith.

VICTOR O. RAMOS
Secretary

DENR Administrative Order

No. 96-33

October 31, 1996

SUBJECT : Implementing Rules and Regulations on the Anti-Sexual Harassment Act of 1995 (R.A. 7877)

Pursuant to Section 4 (a) of Republic Act 7877 otherwise known as “An Act Declaring Sexual Harassment Unlawful In The Employment, Education or Training Environment, And For Other Purposes”, this Administrative Order setting forth the rules and regulations governing implementation of the Act is hereby promulgated.

Sec. 1 Basic Policy and Objective. The State values the dignity of every individual, enhances the development of its human resources, guarantees full respect for human rights, and upholds the dignity of workers, employees, and applicants for employment in the Civil Service. Sexual harassment is recognized as a violation of human rights, defeats and impairs morale and efficiency in the workplace, violates the merit and fitness principle in the civil service and creates or fosters a hostile environment in the workplace which adversely affect productive performance.

The Department of Environment and Natural Resources (DENR) hereby promulgates these Rules and Regulations to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution , settlement or prosecution and adjudication of sexual harassment cases.

Sec. 2 Coverage. These Rules shall apply to all officials and employees of the DENR, including the Bureaus, Regional and Field Offices and Attached Agencies, whether in the Career or Non-Career service and holding positions under permanent, temporary,

contractual, coterminous and casual status. These shall likewise apply to prospective employees, applicants for employment, trainees, consultants of the DENR, employees who have been dismissed by reason of the application of these rules, and other similarly-situated persons.

Sec. 3 Jurisdiction. The DENR shall exercise its jurisdiction and authority to impose discipline and proper decorum over all its officials and employees particularly acts and omissions which constitute sexual harassment.

Sec. 4 Definition of Sexual Harassment. Sexual harassment is a form of misconduct committed in a work or training environment involving an act of demanding, requesting or otherwise requiring any sexual favor from another, regardless of whether the demand, request or requirement for submission is accepted or rejected by the object of said act, or other verbal or physical behavior of a sexual nature, made directly or impliedly.

Sec. 5 Specific Acts Constituting Sexual Harassment. Sexual harassment in a work-related or employment or training environment constitutes, though not limited to, the following specific acts:

- (a) Demanding, requesting or requiring sexual favor for any of the following considerations:
 - 1. as a condition for hiring or employment, re-employment or continued employment of an individual, or
 - 2. as a condition for granting favorable compensation, terms or conditions of employment, promotion or privileges;
 - 3. as a basis for any other employment decision;

4. as a basis or condition for granting a request for cooperation, support, or prompt response in any work or employment/training-related activity;
- (b) Demanding, requesting or requiring sexual favor from an individual whose work or training is entrusted for supervision to or otherwise assigned for coordination or cooperation with the offender;
- (c) Demanding, requesting or requiring sexual favor which affects the offended individual in any of the following manner:
1. by interfering with the individual's work performance;
 2. by causing discrimination, insecurity, discomfort, offense or humiliation to the individual;
 3. by creating an intimidating, hostile or offensive environment for the individual;
 4. by impairing the individual's rights or privileges under existing civil service laws, rules and regulations;
- (d) Upon refusal of any such demand, request or requirement for sexual favor, limiting, classifying or segregating an individual as would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said individual;

For this purpose, work or employment related sexual harassment may take place in the following:

1. in the office at all hours of the day;
2. at office related social functions;
3. while on official business outside the office or during work-related travel;
4. at official conferences, for a, symposia or training sessions;
5. through letters, over the telephone, cellular phone, fax machine, E-mail and other forms of communications; and
6. in any other place or form of work, training or employment environment.

Sec. 6 Forms of Sexual Harassment. The acts of sexual harassment may take any of the following forms:

- (a) Physical
 - I. Physical contact or malicious touching
 - ii. Overt sexual advances
 - iii. Unwelcome, improper or any unnecessary gesture of a sexual nature; or
 - iv. Any other suggestive expression or lewd insinuation
- (b) Verbal, such as requests or demands for sexual favors or lewd remarks
- (c) Use of objects, pictures, letters or written notes and other media with bold persuasive sexual underpinnings and which

create a hostile, offensive or intimidating work or training environment which is annoying or disgusting to the victim.

Sec. 7 Persons Liable for Sexual Harassment.

Any employee or official, regardless of sex, position, authority, influence or moral ascendancy over another person in the DENR is liable for sexual harassment in the Department.

Any official or employee in the DENR regardless of sex shall similarly be held liable for sexual harassment under any of the following circumstances:

1. Directing or inducing another to commit any of the acts of sexual harassment defined in these rules (Principal by Inducement); or
2. Cooperating in the commission of the act of sexual harassment by another without which it would not have been committed (Principal by Indispensable Cooperation).

Sec. 8 DENR Initiatives Against Sexual Harassment. The DENR hereby initiates the following measures regarding sexual harassment:

- (a) prevent or deter the commission of acts of sexual harassment through an extensive awareness campaign or informal education on gender-related issues, research and survey data to determine extent of the problem, the profile of harassers and their victims and the forms that sexual harassment take and its consequences;
- (b) promulgate appropriate rules and procedures in consultation with and jointly approved by the employees through their duly-designated representatives, prescribing the guidelines on proper

decorum, the procedures for the investigation of sexual harassment cases and the administrative sanctions therefor;

- (c) created a Committee on Decorum and Investigation of Sexual Harassment Cases; and
- (d) furnish a copy of these Rules and Regulations to each of the officer and employee in the department and post a copy thereof in two conspicuous locations in places of work or training.

Sec. 9 Committee on Decorum and Investigation of Sexual Harassment cases. A Committee on Decorum and Investigation of Sexual Harassment Cases is hereby created in the DENR central Office and each Regional Office. Said Committee shall perform the following:

- (a) Receive the complaint, file the formal charge and investigate and conduct hearings in accordance with the procedures hereinafter set forth. It shall submit a report of its findings with the corresponding recommendation to the Assistant Secretary for Management who shall give final action within five (5) days after receipt of the report. Said report shall be considered strictly confidential.
- (b) Conduct meetings and other consultative fora with officers, employees and trainees to increase understanding of gender-related issues and proper decorum in the Department.
- (c) Initiate and support extensive awareness campaign or informal education on gender-related issues to prevent or deter incidents of sexual harassment; and

- (d) Recommend measures to the Secretary that will expedite the investigation and adjudication of sexual harassment cases, and any other measures that will help attain the objectives of these rules and regulations.

In the Regional office, the authority to investigate and hear sexual harassment cases shall devolve upon the local committee which shall submit the report of investigation with its finding and recommendation directly to the Assistant Secretary for Management.

When a member of the committee is a complainant or respondent in a sexual harassment case, the member shall inhibit himself/herself from the deliberations of the committee.

Sec. 10 Composition. The Committee on Decorum and Investigation of Sexual Harassment Cases shall be composed of the following:

- (a) DENR Central Office
- Chairperson: An official occupying supervisory position appointed by the Secretary for a term of at least one (1) year
 - Members: A Representative from the Administrative Services Division
 - A Representative from the DENR Gender and Development Focal Point System
 - A Representative from the Legal Service Division
 - A Representative from the duly-designated union or association of employees of the DENR
 - An employee in the Second Level
 - An employee in the First Level

(b) DENR Bureaus/Regional Offices/Attached Agencies

- The Bureau Director/Regional Executive Director/Head of Attached Agency as Chairperson for a term of at least one (1) year
- Members: A Representative from the Gender and Development Focal Point System
- A Representative from the Legal Division
- A Representative from the Personnel Division
- A Representative from the duly-designated union or association of employees
- An employee in the Second Level
- An employee in the First Level

The members of the Committee shall likewise be appointed by the Secretary, Bureau Director, Regional Executive Director, or Head of the Attached Agency, as the case may be, upon the recommendation of the employees or members of the concerned office, bureau, or agency.

In all cases, the Committee must always be fairly represented by both women and men who are reputedly aware of and sensitive to gender issues.

Sec. 11 Procedures in the Disposition of Sexual Harassment Cases. All complaints for sexual harassment may be commenced by submitting a formal letter-complaint duly signed by the complainant to any member of the Committee on Decorum and Investigation of Sexual Harassment Cases. Such letter-complaint may be supported with the statements of his/her witnesses and other documents. Complaints shall be investigated and disposed of in accordance with the rules hereinafter set forth. No. action shall be taken on an anonymous complaint, nor shall any civil servant be required to answer or comment on said anonymous complaint.

Sec. 12 Action on the Complaint. Upon receipt of the formal letter-complaint, the Committee through its Chairperson shall notify the respondent of the charges, to which shall be attached copies of the complaint, statements and other documents submitted.

The respondent shall be given a period of five (5) days from receipt of the complaint within which to submit a formal answer, duly signed by him/her. Such answer may be supported with the statements of his/her witnesses and other documents.

The Committee for this purpose shall designate a hearing officer from among themselves.

Sec. 13 Initial Investigation. An initial investigation shall be conducted by the duly-designated hearing officer, wherein the complainant and the respondent shall submit their statements under oath, as well as those of their witnesses, if any. Failure of the respondent to submit his/her reply statements within the specified period shall be construed as a waiver thereof.

During the initial investigation, the parties and their witnesses shall be asked to affirm their signatures on said documents and the truthfulness of the statements contained therein. Under no circumstance shall cross-examination of the witnesses be allowed but the hearing officer may propound clarificatory questions.

Sec. 14 Failure to Affirm Signature and the Contents of Statement. Failure of the parties or witnesses to affirm their signatures in their statements and the contents thereof during the initial investigation shall render such statements without evidentiary value.

Sec. 15 Record of Proceedings. During the initial investigation, the hearing officer shall record in his/her own handwriting his/her clarificatory questions to the parties and their witnesses and the answers given thereto. Such record and other notes made by the hearing officer shall form part of the records of the case.

Sec. 16 Duration of Initial Investigation. The initial investigation shall commence not later than five (5) days from the lapse of the period within which respondent is allowed to answer and shall be terminated not later than ten (10) days thereafter.

Sec. 17 Investigation Report. Within five (5) days from the termination of the initial investigation, the hearing officer shall submit the Report and the complete records of the proceedings to the Committee on Decorum and Investigation of Sexual Harassment Cases for appropriate action.

Sec. 18 Formal Charge and Investigation. When the Committee finds the existence of a prima facie case, the respondent shall be formally charged. A formal investigation shall thereupon be conducted for the sole purpose of ascertaining the truth and without necessarily adhering to the technical rules applicable in judicial proceedings.

The direct evidence of the complainant and the respondent shall consist of the statements and documents submitted in support of the complaint or answer, as the case may be, without prejudice to the presentation of additional evidence deemed necessary but was unavailable at the time of the filing of the complaint or answer, upon which the cross-examination by respondent and complainant, respectively, shall be based. Following the cross-examination, there may be re-direct and re-cross examination.

Sec. 19 Service of Counsel, Witnesses and Documents. Either party may avail himself/herself of the services of counsel and may opt to require the attendance of witnesses and the production of documentary evidence in his/her favor.

Sec. 20 Duration of Formal Investigation. The formal investigation shall be completed within thirty (30) days from the date of the service of the formal charge, unless the period is extended by the Committee in meritorious cases.

Sec. 21 Continuous Hearing Until Terminated: Postponement. Hearing shall be conducted on the hearing dates set by the hearing officer or as agreed upon during the initial investigation. Postponements shall not be allowed except in meritorious cases, provided, that a party shall not be granted more than two (2) postponements.

The parties, their counsel and witnesses, if any, shall be given a notice at least five (5) days before the first scheduled hearing specifying the time, date, and place of the said hearings and subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without further notice.

If the respondent fails or refuses to appear during the scheduled hearings, the investigation shall proceed ex parte or despite his/her absence and the respondent is deemed to have waived the right to be present and to submit evidence in his/her favor during those hearings.

Sec. 22 Administrative Liabilities. Any person who is found guilty of sexual harassment shall, after investigation and depending on the gravity of the offense committed, be meted any of the following penalties by the Assistant Secretary for Management, who shall give his/her final action after receipt of the report and recommendation by the Committee.

- a) Reprimand, fine, and/or suspension;
- b) Transfer or demotion in salary and/or rank;
- c) Dismissal from service.

If the offense of sexual harassment is found to have been committed by an official who has authority, influence, or moral ascendancy over the offended party in a work or training environment, the Committee shall, in all instances and depending on the gravity of the offense, impose the penalty of suspension for one (1) year or dismissal from service. (Refer to Annex "A")

Sec. 23 Responsibility and Liability of Heads of Offices, Bureaus, Attached Agencies and Divisions. It is the duty of the heads of the Central and Regional Offices, Bureaus, Attached Agencies, and their respective Divisions to prevent or mitigate any damage or injury to the offended person if he/she has been informed by the offended person of the act of sexual harassment. Any such head or officer who fails to act thereon after having been informed by the offended person shall be charged with neglect of duty and shall be solidarily liable for damages arising from the acts of sexual harassment committed.

Sec. 24 Prescriptive Period. Any complaint or action arising from the violation of these Rules should be filed within three (3) years from the commission of such violation. Otherwise, the same shall be deemed to have prescribed.

Sec. 25 Appeal. The decision of the Assistant Secretary for management, upon the recommendation of the Committee on Decorum and Investigation of Sexual Harassment Cases, shall be final unless appealed to the Secretary.

Sec. 26 Effect on Other Issuances. Memorandum Circular No. 19, series of 1994 of the Civil Service Commission shall be supplementary to these Rules in so far as it is not inconsistent herewith.

Sec. 27 Repealing Clause. Rules and Regulations, other issuances, or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

Sec. 28 Amendment. The Department of Environment and Natural Resources may amend or modify these Rules as may be necessary.

Sec. 29 Effectivity Clause. These Rules and Regulations shall take effect immediately.

VICTOR O. RAMOS
Secretary

ANNEX ‘A’

GUIDELINES ON THE PENALTIES THAT MAY BE IMPOSED:

- A. CASES WHERE THE PENALTY OF REPRIMAND, FINE AND/OR SUSPENSION FROM TEN (10) TO THIRTY (30) DAYS MAY BE IMPOSED:
- (1) Persistently telling sexist/smutfy jokes thereby causing embarrassment or offenses, told or carried out after the person joking has been advised that they are offensive or embarrassing, or are by their very nature clearly embarrassing, offensive, or vulgar;
 - (2) Leering or ogling which is non-consensual, suggestive, and/or flirtatious, or knowing and malicious look at another person;
 - (3) Voyeurism or act of sexual stimulation derived through visual means;
 - (4) Displaying, exhibiting, or overtly distributing sexually offensive pictures, materials, or graffiti;
 - (5) Persistently inquiring or commenting about another person’s sex life, which act is unwelcome by the person to whom the inquiry or comment is directed;
 - (6) Flirting with, making advances to, or prostituting another person, which act has sexual undertones and is unwelcome and/or detested by the person to whom the sexual flirtations, advances, or prostitutions are directed;

- (7) Persistently seeking contact with or attention from another person after the end of a romantic relationship or courtship, which act is unwelcome and unwanted by the person from whom contact or attention is sought;

B. CASES WHERE THE PENALTY OR SUSPENSION FROM SIX (6) TO EIGHT (8) MONTHS, TRANSFER OR DEMOTION IN RANK OR SALARY MAY BE IMPOSED:

- (1) Pinching, unnecessarily touching or brushing against another person's body;
- (2) Expressing in any form derogatory or degrading remarks or innuendo directed towards a member or members of a particular sex, or one's sexual orientation, or sexual preferences;
- (3) Making verbal abuses and/or threats in connection with, or by reason of any of the foregoing circumstances;
- (4) Making any other suggestive expressions and/or lewd insinuations;

C. CASES WHERE THE PENALTY OF TRANSFER OR DEMOTION IN RANK OR SERVICE, SUSPENSION FOR ONE (1) YEAR , OR DISMISSAL FROM SERVICE MAY BE IMPOSED:

- (1) Requesting for intimate dates, or offering sexual favors, in exchange for or as a condition for (a) employment, re-employment, continued employment; (b) granting favorable compensation, promotion, benefits, and other

employment decision; or (c) granting any request for cooperation, support or prompt response;

- (2) Unsolicited touching of the private parts of another person's body, or any other malicious touching not included under the instances mentioned in (B);
- (3) Sexual assault.

DENR Memorandum Circular

No. 96 - 01

February 09, 1996

SUBJECT : Amending Certain Provisions of DENR Memorandum dated 09 May 1990, Regarding Operation of Regional, Provincial and Community Public Affairs Office/Units

In the interest of the service, and in line with the policy of this Office of further strengthening the implementation of the DENR Information, Education and Communications (IEC) Program, DENR Memorandum dated 09 May 1990 is hereby amended as follows:

1. The RPAO Chief is hereby authorized to attend and participants in all national, regional and provincial planning workshops to familiarize them with the flagship thrusts of the Department both at the national and regional levels;
2. The RPAO shall consult with the REDs, PENROs, CENROs, and Managers of Special Projects for the purpose of defining and firming up IEC priorities and targets after which the RPAOs shall formulate and prepare their respective updated objective oriented Regional Annual IEC Plan. The Regional Executive Director shall approve the Regional Annual IEC Plan upon proper endorsement by the concerned Regional Technical Director;
3. All funds intended for IEC operations in support of regular, foreign assisted and special projects shall henceforth be lumped into a single/common regional IEC Fund and placed under the direct control of the Regional Executive Director to be

disbursed in accordance with the previously approved Region-wide IEC Program;

4. The RPAO Chief, under the direction of the RED, shall supervise the conceptualization, production and dissemination of IEC materials, including pre-testing and post-testing of said IEC materials in support of regular, foreign-assisted and DENR special projects;
5. The RPAO shall have priority access to available communication and transportation facilities for use in media relations and information dissemination activities;
6. The RPAO is hereby authorized an allotment of P2,000.00 per month, chargeable against the Regional Appropriation as representation expenses in Media Relations, subject to the usual auditing rules and regulations.

All provisions of DENR Memorandum dated 09 May 1990 not inconsistent herewith shall remain in full force and effect.

This Memorandum Circular shall take effect immediately.

VIRGILIO Q. MARCELO
Undersecretary for Field Operations

DENR Memorandum Circular

No. 96 - 03

February 14, 1996

SUBJECT : Guidelines for the Turn-over and Sharing of Equipment Support to the Local Government Units (LGUs) and Communities for RRMP Regions IX, X and XIII.

Consistent with Memorandum Circular No. 12 dated May 10, 1995 on the turn-over design of RRMP in Regions IX and X under the ENR-SECAL Program to communities and LGUs, the following guidelines are hereby issued to direct the proper deployment and turn-over of vehicles, construction equipment and office equipment to Local Government Units (LGUs), barangays, and communities:

BOOKING AND ACCOUNTING OF VEHICLES AND EQUIPMENT

- a) Based on the approved deployment schedule, vehicles, construction and office equipment intended for the LGUs purchased through International and Local Competitive Bidding (ICB/LCB) where the procurement was done by RMO shall be turned-over to the LGUs concerned by the RED through the PENROs.
- b) Transfer of equipment to the LGU from the PENRO shall be through a Memorandum of Agreement (MOA). The MOA shall provide that assets shall be taken up by the LGU as **trust account (asset in trust)** until completion of the project. All vehicles and equipment shall be properly booked and accounted for with a designated property number assigned for each item.

- c) Deployment of vehicles and equipment to LGU shall be covered by sub-Memorandum Receipts (sub-MR) which should be issued to the authorized accountable and responsible LGU official, a copy of which should be furnished to the RPMO and PENRO.

- d) All vehicles and equipment assigned to the LGUs shall remain the property of DENR during program implementation. Ownership, however, shall be effected upon program completion through a deed of donation to be executed by DENR.

DEPLOYMENT OF SERVICE VEHICLES AND EQUIPMENT

- a) For Region IX, pick-up vehicles and motorcycles intended for the LGUs as per approved deployment schedule (Annex B) shall be deployed to the concerned cities and municipalities involved in the implementation of the project. The construction equipment (e.g. dumptrucks, rollers, material and testing) shall be provided to the provincial governments.

Other motorcycle units shall be assigned to NGO/WMU by the CENRO through a MOA in connection with the activities of the project. A Memorandum Receipt (MR) shall be issued to the CENRO and a sub-Memorandum Receipt subsequently issued to the concerned NGO representative/official.

- b) For Regions X and XIII, distribution of pick-up vehicles, motorcycles and construction equipment (dumptrucks) to the municipal and provincial offices shall be made through a sharing

scheme due to limited number of units available based on the attached deployment schedule (Annexes A & A1).

Other motorcycle units shall be deployed to site officers and BDU foresters who are contractual personnel hired by the project. These units shall be issued memorandum receipts to site officers who are permanent employees of DENR.

- c) Vehicles and office equipment deployed to NGOs shall be returned to DENR upon contract termination and the corresponding MOA shall be automatically revoked.

SHARING OF EQUIPMENT

- a) Joint use of service vehicles and construction equipment for Regions IX, X and XIII by the LGUs shall be guided by the following conditions:
 - i) a work schedule (rotation basis, i.e. daily, weekly) shall be prepared by municipal and provincial offices concerned and shall be the basis to determine the urgency of work needing equipment assistance;
 - ii) the required number of hours where such equipment shall be used must be indicated to provide proper timing for other activities on schedule;
 - iii) the most strategic garage/depot/site where accessibility of said equipment is guaranteed to all concerned units must be determined.
- b) The Regional Project Management Office of ENR-SECAL shall coordinate the implementation of the sharing scheme agreed upon.

MAINTENANCE, REPAIR AND OTHER OPERATIONAL EXPENSES OF VEHICLES AND EQUIPMENT

- a) Receiving units (including NGOs) of vehicles, construction and office equipment shall provide funds for repair, operation and maintenance expenses such as gasoline and oil;
- b) LGUs and NGOs/WMUs concerned shall be responsible for the registration and payment of the corresponding comprehensive insurance of the vehicles.
- c) Operation, repair and maintenance expenses of existing LGU construction equipment (e.g. dumptrucks, etc.) assigned for ENR-SECAL project use may be charged against LGU project funds, provided that this arrangement is likewise stipulated in the DENR-LGU MOA.

The ENR-SECAL/RRMP shall devise a system that will provide a regular monitoring of equipment/vehicles especially those deployed under Memorandum Receipts or Sub-Memorandum Receipts to non-permanent government officials/employees and non-government organization (NGO) representatives.

This Circular takes effect immediately.

VICTOR O. RAMOS
Secretary

DENR Memorandum Circular
No. 96-07
August 05, 1996

**SUBJECT : Guidelines in the Implementation of
the ENR-SECAL Working Fund**

Consistent with the DOF/DBM/CAO Circular NO. 2-94 and NEDA/DOF/BSP/DBM/BTR Joint Resolution no. 96-1 and in order to facilitate the implementation of the ENR-SECAL Working Fund System by the DENR Regional and Provincial Offices under the Program, the following guidelines and procedures are hereby reiterated and prescribed, to wit:

**1. TRANSFER OF LOAN PROCEEDS/WORKING FUND
REPLENISHMENT TO REGIONAL OFFICE/PENRO
(See Flowchart No. 1 for release of Working Fund World
Bank to DENR-Central Office)**

Guidelines and Procedures

1. Transfer of funds shall be through a Letter of Allotment Advice (LAA). a) All loan proceeds (LP) allotment to the field shall be covered by a comprehensive LAA. b) The Regional Offices shall be furnished copies of the LAAs of the various PENROs/ c) Funding cheques to be released shall not exceed the current comprehensive LAAs released to the field units. d) Accounts Payable and Continuing Appropriations shall be provided only upon submission of the required accounting documents and after MPO evaluation. e) Cheques once approved shall be released to the implementing units through telegraphic transfer.

2. Replenishment of the Working Fund at the field shall be made on a monthly basis or upon utilization of 50% of the previous transfer, whichever comes first.
3. The amount to be transferred shall be based on the actual expenditures for loan proceeds as reported in the Statement of Expenditures (SOE).
4. The SOEs submitted shall be summarized by PMO in a summary sheet by expense category.
5. The withdrawal application (WA) form of the World Bank shall be accomplished by PMO with the SOE and the Bank Statement as supporting documents. The WA shall be signed by the authorized signatory and forwarded to the World Bank.
6. The Bureau of Treasury shall be furnished a copy of WA, SOE and Bank Statement.
7. World Bank reviews application and remits the amount to replenish the Working Fund.
8. Upon receipt of the Working Fund from the World Bank, the PMO shall prepare the distribution of funds as follows:
 - a) An amount equivalent to 5% of the remittance shall be retained in the Dollar Account as contingency fund;

- b) 10% shall be retained for Technical Assistance payment and Training Contracts; and
 - c) 85% to be withdrawn for deposit to the peso account. Of this amount, 80% shall be released to the Regions/PENROs and 5% shall be allotted for the operation of the Program Management Office (PMO).
9. The PMO and the DENR units involved in the processing of the Working Fund release to the implementing units are enjoined to facilitate the processing of the funds. Funding cheques shall be released within 8 working days upon the preparation of the Distribution list and the Disbursement Voucher by PMO based on Flow Chart 2 (M to T).

2. GUIDELINES AND PROCEDURES FOR DISBURSEMENT BY REGIONAL OFFICE/PENRO

The following guidelines and procedures shall be followed for disbursement by the RO/PENRO (Please refer to Flow Chart No. 3 - Process In The Disbursement of Working Fund By Region/PENRO)

Guidelines:

1. Only eligible expenditures as provided in the loan agreement shall be charged to the working fund.
2. The Disbursement Voucher (DV) shall be processed in accordance with existing the Loan Proceeds (LP) and Philippine Counterpart (GOP) components of the transactions.

3. Only one ROA and one obligation number shall be assigned for each transaction.
4. Disbursement shall be covered by two separate checks: one check chargeable against the NCA directly released by DBM for GOP Counterpart, and another check chargeable against the Working Fund for Loan Proceeds.

Procedure:

1. The Project Accountant prepares the Expense Monitoring Form (Form 10) for approval by the authorized signatory.
2. The Project personnel prepare DV and forward to the authorized signatories and then to the Budget Division.
3. The Budget Division prepares the request for obligation of allotment (ROA), attach ROA to DV, then forwards the document to the Accounting Division.
4. The Accounting Division approves ROA, obligates, enters in the JAO, and certifies the availability of funds. The LP and GOP shall be segregated in the JAO. DV is forwarded to the approving official for his signature.
5. The Approving official signs DV and is forwarded to the Cashier.
6. The Cashier prepares the check, signs and forwards to the approving official. Two checks are prepared, one

for GOP counterpart chargeable against the NCA and one for LP chargeable against the Working Fund if the transactions involve both component.

7. Cashier releases check to payee.
8. DV is forwarded to Auditor.
9. Auditor renders post Audit.

3. GUIDELINES IN REPORTING

The following guidelines shall be followed in the Financial Reporting.

Guidelines:

1. The transactions shall be incorporated in all the reports required under existing rules and guidelines.
2. Only one Report of Checks Issued (RCI) shall be prepared using the form prescribed by COA.
3. The Statement of Expenditures (SOE) shall be prepared every end of the month and submitted to PMO on or before the 10th of the succeeding month or when the outstanding balance of working fund is less than 50% of the preview amount transferred.
4. The SOE shall include all transactions eligible for reimbursement to the World Bank (including fund transferred to LGUs which were already liquidated). Expenses which are 100% GOP i.e., Personal services and tax payments, shall not be included.

4. PROCEDURE IN THE PREPARATION OF SOE

1. The existing SOE form shall be adopted (Annex A).
2. The Project Accountant prepares/fills up the SOE and is approved by the concerned PENRO or the Regional Executive Director.
3. The Project Accountant furnishes the Auditor a copy of the monthly SOE for post Audit purposes.
4. Under the check columns of the form, both checks (GOP and LP) issued for a certain transaction shall be indicated.
5. SOE should be sorted by World Bank categories in accordance with allowable expenditures (refer to Annex B - Chart of Accounts.) The percentage of expenses to be financed under the Loan Proceeds are as follows:

CATEGORY	PERCENT OF EXPENDITURE TO BE FINANCED BY LOAN PROCEEDS
-----------------	---

- | | |
|----------------------------------|---|
| 1. Works (B-2) | 75 % |
| 2. Goods (B-3) | 100% of foreign expenditures
or procurement by
International Competitive
Bidding (ICB) and 85% of
local expenditures for other
items procured locally. |
| 3. Agroforestry
Inputs (B-4) | 75% |
| 4. Project Manage-
ment (B-5) | |

Consultancy
Services
Personal
Services 0 %

5. Incremental
Cost (B-6) 74%

6. The Project Accountant submits the SOE to PMO every 10th day of the succeeding month consistent with item 3.3 of this Circular.

5. PROCEDURE OF PAYMENT IN THE CENTRAL OFFICE

The following guidelines shall be followed in the payment of Central Office Transactions:

1. Payment of Technical Assistance shall be in accordance with Memo Circular No. 44 dated December 21, 1994.
2. Payment for local transactions and transfer of funds under Loan Proceeds to the Regional/PENRO shall be as follows:
 - 2.1 A peso current account shall be maintained in the Land Bank of the Philippines to serve as clearing account. All amount withdrawn from the Working Fund Dollar Account intended to pay the local transactions and transfer of funds to the Region/PENRO for the Loan Proceeds shall be deposited in the peso current account.

- 2.2 Only eligible expenditures shall be charged against the peso account.
- 2.3 Procedure in the payment of local peso transactions:
 - 2.3.1 Claimants submit claim documents.
 - 2.3.2 PMO prepares the Disbursement Voucher (DV) and the Expense Monitoring Form indicating the amount chargeable to the Working Fund and that chargeable to Modified Disbursement System account.
 - 2.3.3 Program Director approves Form 10. He also initials or approves DV. Form 10 and DV are forwarded to Budget Division.
 - 2.3.4 Budget Division prepares ROA, attach the DV and forward to accounting Division.
 - 2.3.5 Accounting Division approves ROA, obligates, enter in JAO, certifies to the availability of fund and forwards DV to approving authority.
 - 2.3.6 Approving authority signs DV and forwards to cashier.

- 2.3.7 Cashier prepares check/checks, signs and forward to the approving authority for counter signature.
- 2.3.8 Approving authority counter signs check/checks, forwards to Cashier.
- 2.3.9 Cashier issues check/checks to payee/payees.
- 2.3.10 PMO prepares the SOE.

This order shall take effect immediately.

VICTOR O. RAMOS
Secretary

RECOMMENDING APPROVAL:

RAMON J. P. PAJE
Assistant Secretary for Management Services

RAMON T. ACOSTA
ENR-SECAL Program Director

DENR Memorandum Circular
No. 96-08
November 04, 1996

SUBJECT : Amendment of the Flexi-Time Work Schedule at the DENR Central Office

Pursuant to Section 6, Rule 17, of the Omnibus Rules implementing Book V of Executive Order 292, the CSC MC NO. 14, series of 199, and consistent with the program thrust of this Department to promote the welfare and development of human resources as a tool to improve productivity and service to the public; the following guidelines are hereby adopted for the implementation of the Flexi-time Working Schedule, hereinafter referred to as Flexi-time.

Sec. 1 Scope. The Flexi-time covers all rank-and-file employees up to Division Chief level irrespective of their employment status (Permanent, Temporary, Contractual and Casual).

Sec. 2 Regular Working Hours. The regular working hours shall be from 8:00 am - 12:00 am and 1:00 pm - 5:00 pm. Employees are required as much as possible to observe the regular working hours.

Sec. 3 Flexi-time Working Schedule. Notwithstanding the provisions of the next preceding Section, an employee may avail of the flexi-time herein prescribed, which commences at 7:00 am and closes at 6:00 pm of the same day.

3.1 The flexible time within which an employee may report to work shall be between 7:00 am and 9:00 am. He or she shall render at least eight-hour services within the day exclusive of the one-

hour break. Any employee who renders services for less than eight hours a day shall be considered undertime.

- 3.2 Any reporting time of an employee earlier than 7:00 am shall not be counter in determining the number of hours he/she rendered services. On the other hand, if the reporting time of an employee is 9:01 am or later, he/shall automatically be considered tardy.
- 3.3 To ensure a continuous and efficient service, a sufficient number of employees in a Division or organizational unit shall be required to be present during the regular working hours prescribed in Section 2. This may be made on a rotation basis, or on some other arrangement as may be devised and agreed upon by the Division Chief/Supervisor and the employee concerned.

Sec. 4 Offsetting of Time. No employee shall be allowed to render overtime services for the purpose of offsetting his/her tardiness or undertime at any given period.

Sec. 5 Extraordinary Circumstances. Under extraordinary circumstances, the Head of Office/Division may require his staff to report for work earlier than 7:00 am. or extend his working hours beyond 6:00 pm. Moreover, and in the interest of the Service, any employee may be required to render services during Saturdays and Sundays with or without overtime compensation.

Sec. 6 Use of Bundy Clock/Log Book. All employees are hereby required to record their daily attendance using the Bundy Clock and the log Book specially provided by their respective offices.

Sec. 7 Validity. If any part of this Circular shall be declared contrary to law or unconstitutional, the other provisions shall remain valid and enforceable.

Sec. 8. Repealing Clause. All Orders inconsistent herewith are hereby amended, modified, and/or repealed accordingly.

Sec. 9. Effectivity. This Circular takes effect immediately.

VICTOR O. RAMOS
Secretary

DENR Memorandum Order
No. 96-01
January 17, 1996

**SUBJECT : Delegation of Authority to RED
MARIANO Z. VALERA**

In the exigency of the service RED MARIANO Z. VALERA is hereby authorized to sign for the Undersecretary for Field Operations, memoranda, endorsements and/or referrals intended for the Regional Executive Directors relative to requests, queries, status of cases, submission of data/information/reports and/or actions on issues and concerns affecting technical regional operations.

This Order is effective immediately and shall be in force until revoked in writing by the undersigned.

VIRGILIO Q. MARCELO
Undersecretary for Field Operations

DENR Memorandum Order
No. 96 - 03
January 23, 1996

SUBJECT : Organizing Special Task Action Groups in the DENR Central Office and Regional Offices for Disaster Control and Management.

In the interest of the public service and pursuant to the implementation of the agency's contingency plans for natural calamities and disasters, the Undersecretary for Field Operations and all Regional Executive Directors are hereby instructed to organize and form Special Task Action Groups (STAGs) in their respective offices and regions which shall be responsible for the effective implementation of the Department's National and Regional Contingency Plans to minimize if not totally avert adverse impact of natural calamities and disasters.

Membership in the Special Task Action Groups shall be drawn from the different sectoral services of the Department.

Special task action groups shall, among others, perform the following:

1. Continue to update and monitor activities related to calamity/disaster control and management.
2. Identify and assess flood-prone and landslide-prone areas within the region which maybe affected or hit during occurrence of typhoons, earthquakes, volcanic eruptions, storm surges and tidal waves (tsunamis).
3. Classify these disaster/calamity-prone areas according to risk levels involved as low, moderate or high, considering various factors such as (1) climate and rainfall pattern (b) topography or slope (c) existence and proximity to geologic faults (d) geologic

structures (e) proximity to active volcanoes (f) location and proximity to stream channels and open shorelines.

4. Prepare and update flood and geohazard maps and disaster control measures to cope with impending or probable calamities within the identified area.
5. Provide the different Disaster Coordinating Councils (RDCC, PDCC and MDCC) and the local government units with the map and disaster control plan for their information and reference and for coordination purposes;
6. Conduct an information, education and communication campaign on disaster prevention, preparedness and mitigation in coordination with the RDCC, PDCC and MDCC.
7. Provide appropriate recommendations for actions to be taken by local government units in identified flood-prone and landslide-prone areas during heavy rainfall or typhoon.

The organized Special Task Action Groups should be provided with the necessary transport and radio communication facilities, equipment and supplies to cope with activities before, during and after calamities and disasters.

Special Task Action Groups shall also be organized at PENRO and CENRO levels to complement the central and regional groups. They shall serve as quick response teams of the Department at the central, regional, provincial and municipal levels in times of disaster/calamities and emergency situations.

The members of the Special Task Action Groups as constituted under this Order shall be entitled to hazard pay and other emoluments under the General Appropriations Act of the Philippine Government and its provisions under Item/Section entitled "Hazard Duty Pay" implemented by National Compensation Circular No. 76 dated March 31, 1995 issued by the Department of the Budget and Management in view of the dangers, risks and hazards faced during typhoons,

earthquakes, flood and other calamities and under emergency situation, subject to accounting rules and regulations.

Funding for hazard duty pay shall be provided as a regular item of expenditure under the respective budgets of each operating unit.

This Order shall take effect immediately and shall continue to remain in force until revoked in writing by the undersigned or by higher authority.

VICTOR O. RAMOS
Secretary

DENR Memorandum Order

No. 96-04

January 30, 1996

**SUBJECT : Publication and Submission to the
UP Law Center of Rules and
Regulations Adopted by the
Department**

1. Publication

Existing jurisprudence provides guidance on which administrative rules and regulations require publication as a condition for effectivity.

Administrative rules and regulations which seek to enforce or implement existing law pursuant to a valid delegation must be published. On the other hand, interpretative regulations and those merely internal in nature, regulating only the personnel of the administrative agency and not the public, need not be published. Neither is publication required of the instructions issued by administrative superiors concerning the rules or guidelines to be followed by their subordinates in the performance of their duties.

To assure effective, efficient, and economical promulgation of DENR Rules and Regulations, all offices drafting rules/guidelines which would:

- a. enforce or implement existing law; and/or
- b. affect the public,

should expressly include in the effectivity section of the draft rules/guidelines a provision that it shall be endorsed

for publication by the Records Management and Documents Division (RMDD).

2. Filing at UP Law Center.

The RMDD shall be the functionary designated to carry out the requirements provided under Sec. 3 (2) Book VII of the 1987 Administrative Code. The RMDD, through the Director, Administrative Service, shall be responsible for the filing with the UP Law Center three (3) certified copies of every rule and regulation adopted by the Department. All DENR Orders, except those concerning internal guidelines to be followed by only DENR personnel, must be submitted to the UP Law Center.

Every Staff Line Bureau is also instructed to submit to the RMDD, for submission to the UP Law Center, all rules promulgated prior to the Department's reorganization, i.e. Forestry Administrative Orders, Land Administrative Orders, etc. which:

- a. establishes an offense;
- b. defines an act which, pursuant to law, is punishable as a crime or subject to a penalty; or
- c. may be used as a basis of any sanction against any person.

Please be guided accordingly.

VICTOR O. RAMOS
Secretary

DENR Memorandum Order
No. 96 - 05
February 09, 1996

SUBJECT : Grant of Hazard Duty Pay to DENR Personnel.

Pursuant to National Compensation Circular No. 76 "Guidelines on the Grant of Hazard Pay" and Civil Service Commission Memorandum Circular No. 28, series of 1995, enjoining government agencies to grant Hazard Pay to its officials and employees, payment of hazard pay to DENR employees is hereby authorized for the calendar year 1995 only, subject to the following guidelines:

1. All permanent, temporary, casual and contractual employees of DENR Central Office, who have rendered actual services, shall be entitled to hazard duty pay;
2. All Bureau Directors, Regional Executive Directors and Heads of Attached Agencies are hereby authorized to issue the authority to grant payment of hazard pay to their employees including personnel of projects within their respective jurisdictions, whenever they deem appropriate;
3. The hazard pay shall be P500 each per month;
4. Officials and employees who have received less than the herein authorized hazard pay shall be paid the difference;
5. Payment of hazard pay shall be chargeable against savings of respective offices, subject to the usual budgeting, accounting and auditing rules and regulations; and
6. If and when the grant of hazard pay be disallowed in audit, officials and employees shall be asked to refund the same through salary deduction(s).

All Orders or instructions inconsistent herewith are hereby repealed or amended accordingly.

This Order shall take effect immediately.

VICTOR O. RAMOS
Secretary

DENR Memorandum Order
No. 96-16
September 11, 1996

**SUBJECT : Validity Period of Approved Integrated
Annual Operations Plan For CY 1996**

Consistent with existing policies on the preparation submission and approval of Integrated Annual Operations Plan (IAOP) of holders of Timber License Agreements (TLAs) and Industrial Forest Management Agreements (IFMAs), the IAOPs cleared by the Office of the Secretary for approval shall be valid for a period of 12 months upon the date of its approval by the Regionall Executive Director (RED) concerned.

This Order shall take effect immediately and supplements existing rules and regulations on the matter.

VICTOR O. RAMOS
Secretary

OTHER
RELATED
ISSUANCES

**Executive Order
No. 291
January 24, 1996**

**SUBJECT : Improving the Environmental
Impact Statement System**

WHEREAS, the Environmental Impact Statement (EIS) System was established to facilitate the attainment and maintenance of a rational and orderly balance between socio-economic growth and environmental protection;

WHEREAS, the integration of the EIS System early into the project development cycle would enhance and promote its desired function as a planning tool for sustainable economic development and environmental planning and conservation;

WHEREAS, it is necessary to further strengthen the Environmental Management Bureau's and the DENR Regional Office's capabilities to effectively and efficiently accomplish their mandate in relation to the protection of the environment, in general, and the EIS System, in particular;

WHEREAS, the continued updating and improvement of the Philippine EIS System is vital to expedite the National Government's efforts to make the delivery of vital infrastructure to the country faster and be consistent with the principles of sustainable development;

WHEREAS, a systematic and cohesive EIS System shall ensure that national development goals are achieved as planned and without delay;

NOW, THEREFORE, I, FIDEL V. RAMOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1, *Declaration of Policy.* It is policy of the State that optimum economic development shall be achieved without delay and shall be pursued consistent with the principles of sustainable development. Hence, the State shall ensure that the present generation meets its needs without compromising the ability of the future generations to meet their own needs.

Sec. 2 *Simultaneous Conduct of the Environmental Impact Study and Feasibility Study.* To maximize the use of resources, project proponents are hereby directed to simultaneously conduct the environmental impact study and the feasibility study of the proposed project. Proponents are urged to use simultaneous conduct of the environmental impact study and the feasibility study as a planning tool, with the end in view of minimizing or managing adverse environmental impacts of the proposed activity.

Sec. 3 *Establishment of In-house Environmental Units in All Implementing Agencies.*

Consistent with Section 4 (Environmental Impact Statements) of PD 1151 and upon approval of the Department of Budget and Management, National Government agencies, government-owned and controlled corporations (GOCCs) and government financial institutions (GFIs) are encouraged to create their respective environmental units (EUs). However, all agencies, whose mandate includes the introduction of physical plants and infrastructure, are required to create their respective EUs. The costs attendant to the establishment of these units shall be within the respective approved budgetary ceilings of the concerned agencies, corporations, and institutions.

These functions of the above-mentioned units are as follows:

- i. The EUs of national government agencies and GOCCs shall assist in the preparation of EIS, ensure that their respective agencies/GOCCs meet the procedural requirements of the EIS System, facilitate the securing of the ECCs of their respective projects and, upon securing the ECC, shall ensure the project's compliance with the conditions of the ECC.
- ii. The EUs of the GFIs shall ensure that loan or related funding applications of government and private institutions have complied with the EIS System.

The Department of Environment and Natural Resources (DENR) and the Environmental Management Bureau (EMB) shall monitor compliance with the ECC, and be in-charge of the formulation, dissemination and enforcement of policies on environmental standards and compliance monitoring.

SEC. 4 Continuous Strengthening of the Environmental Impact Assessment Capability of the DENR.

The importance of environmental impact assessment in pursuing balanced economic growth will have to be supported by continuing efforts to further upgrade DENR-EMB's and DENR Regional Office's capabilities to undertake fast and efficient review of EIS. These efforts shall include but are not limited to the expansion of the EIA Review Committee members and setting their honoraria within the limits and qualifications set forth by DBM National Compensation Circulars.

SEC. 5 *Repealing Clause.* All orders, issuances, circulars, rules and regulations or portions thereof inconsistent with the provisions of this Executive Order are hereby repealed or amended.

SEC. 6 *Effectivity.* This Order shall take effect immediately.

DONE in the City of Manila, this 12th day of January in the year of Our Lord, Nineteen Hundred and Ninety-Six.

FIDEL V. RAMOS

President

By the President:

RUBEN D. TORRES

Executive Secretary

**Executive Order
No. 374
October 15, 1996**

Subject : Creating The Presidential Task Force On Water Resources Development and Management

WHEREAS, it is the policy of the State to ensure sustainable, adequate, safe and affordable water supply to meet the requirements of the country's development;

WHEREAS, growing contamination and pollution limits the available water supply to meet the present and future requirements of the population and water consuming sectors of the economy;

WHEREAS, the development and management of our water resources requires the efficient rationalization of the competing demands for such resources;

WHEREAS, the timely and effective provision of the needed infrastructure and organization a support are essential for ensuring the widest access to water resources by these sectors;

WHEREAS, there is a need for an apex body that will oversee and coordinate government policies and programs to enhance the development and management of water resources;

NOW, THEREFORE, I, FIDEL V. RAMOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. *Creation of the Presidential Task Force on Water Resources Management.* There is hereby created a Presidential Task Force to ensure the efficient development and management of the country's water resources.

SECTION 2. *Composition.* The Task Force shall have the following composition:

- Chairman - Secretary, Department of Environment and Natural Resources
- Vice-Chairman - Chairman, National Water Resources Board
- Members - Secretary, Department of Energy
- Secretary, Department of Health
- Secretary, Department of Agriculture
- Secretary, Department of Interior and Local Government
- President, League of Provinces
- President, League of Municipalities
- Administrator, MWSS
- Administrator, LWUA
- Three (3) representatives from the private sector, preferably from the environmentalist, water management and consumer groups to be designated by the Task Force Chairman

SEC. 3 *Powers and Functions.* The Task Force shall serve as an oversight body for ensuring the efficient sourcing and use of water resources, in particular the provision of policy and program are commendations of the following:

- a. Water supply planning and coordination, including the efficient allocation of water resources to its different users;

- b. Prioritization of programs and projects critical for ensuring sustainable, adequate, safe and affordable water supply;
- c. Coordination and monitoring of water policies and programs; and
- d. Pricing policies on water resources.

The Task force shall also perform such other functions as may be assigned to it by the President.

SEC. 4 *Secretariat.* The DENR shall provide secretariat support to the Task Force. To meet technical requirements of Task Force, the DENR may also tap the technical assistance of other government agencies.

SEC. 5 *Reports.* The Task Force shall submit a quarterly report to the President on its activities, including the status of implementation of the critical water policies, programs and projects.

SEC. 6 *Funding.* The amount of P50 Million for the organization and operation of the Task Force, to include its regional, provincial and community components and its secretariat, for the current year shall be provided from the savings/reserves of the department of Budget and Management and the Office of the President. Thereafter, the yearly budget of the task Force shall be sourced from the contributions of its member Agencies.

SEC. 7 *Repealing Clause.* All executive issuances, orders, rules and regulations and/or similar issuances inconsistent with this Executive Order are hereby revoked, amended or modified accordingly.

SEC. 8 *Effectivity.* This Order shall take effect immediately.

DONE in the City of Manila, this 15th Day of October, in the Year of Our Lord, Nineteen Hundred and Ninety-Six.

FIDEL V. RAMOS

By the President:

RUBEN D. TORRES

Executive Secretary

Republic Act
No. 8180
March 28, 1996

**SUBJECT : An Act Deregulating the
Downstream Oil Industry, and For
Other Purposes**

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

CHAPTER I - GENERAL PROVISIONS

Sec. 1 *Short Title.* - This Act shall be known as the
“Downstream Oil Industry Deregulation Act of 1996.”

Sec. 2 *Declaration of Policy* - It shall be the policy
of the State to deregulate the downstream oil industry to foster a truly
competitive market which can better achieve the social policy objectives
of fair prices and adequate, continuous supply of environmentally-clean
and high-quality petroleum products.

Sec. 3 *Coverage* - This Act shall apply to all persons
or entities engaged in any or all the activities of the domestic
downstream oil industry, as well as persons or companies directly
importing refined petroleum products for their own use.

Sec. 4 *Definition of Terms.* - For purposes of this
Act, the following terms are herein below defined:

- a) *Downstream oil industry* shall refer to the business of
importing, exporting, re-exporting, shipping, transporting,
processing, refining, storing, distributing, marketing and/or

selling, crude oil, gasoline, diesel, liquefied petroleum gas (LPG), kerosene, and other petroleum and crude oil products;

- b) *DOE* shall refer to the Department of Energy;
- c) *Board* shall refer to the Energy Regulatory Board;
- d) *Person* shall refer to any person, whether natural or juridical, who is engaged in the downstream oil industry;
- e) *Petroleum* shall refer to a naturally occurring mixture of compounds of hydrogen and carbon with a small proportions of impurities and shall include any mineral oil, petroleum gas, hydrogen gas, bitumen, asphalt, mineral wax, and all other similar or naturally-associated substances, with the exception of coal, peat, bituminous shale, and/or other stratified mineral fuel deposits;
- f) *Crude oil* shall refer to oil in its natural state before the same has been refined or otherwise treated, but excluding water, bottom substances and foreign substances;
- g) *Petroleum products* shall refer to products formed in the course of refining crude petroleum through distillation, cracking, solvent refining and chemical treatment coming out as primary stocks from the refinery such as, but not limited to, LPG, Naphtha, gasolines, solvent, kerosenes, aviation fuels, diesel oils, fuel oils, waxes and petrolatums, asphalts, bitumens, coke and refinery sludges, or such refinery petroleum fractions which have not undergone any process or treatment as to produce separate chemically-defined compounds in a pure or commercially pure state and to which various substances may have been added to render them suitable for particular uses;

- Provided*, That the resultant product contains not less than fifty percent (50%) by weight of such petroleum products;
- h) *Wholesale Posted Price (WPP)* shall refer to the ceiling price of petroleum products set by the Board based on a formula using the Singapore Posting;
 - i) *Singapore Import Parity (SIP)* shall refer to the deemed landed cost of a petroleum product imported from Singapore at a free-on-board price equal to the average Singapore Posting for that product at the time of loading;
 - j) *Singapore Posting* shall refer to the price of petroleum products periodically posted by oil refineries in Singapore and reported by independent international publications; and
 - k) *Basel Convention* shall refer to the international accord which governs the trade or movement of hazardous and toxic waste across borders.

Sec. 5 *Liberalization of Downstream Oil Industry and Tariff Treatment.* a) Any law to the contrary notwithstanding, any person or entity may import or purchase any quantity of crude oil and petroleum products from a foreign or domestic source, lease or own and operate refineries and other downstream oil facilities and market such crude oil and petroleum products either in a generic name or its own trade name, or use the same for his own requirement *Provided*, That any person or entity who shall engage in any such activity shall give prior notice thereof to the DOE for monitoring purposes: *Provided, further*, That such notice shall not exempt such person or entity from securing certificates of quality, health and safety and environmental clearance from the proper governmental agencies: *Provided, furthermore*, That such person or entity shall, for monitoring purposes, report to the DOE his or its every

importation/exportation: *Provided, finally,* That all oil importation's shall be in accordance with the Basel Convention.

b) Any law to the contrary notwithstanding and starting with the effectivity of this Act, tariff duty shall be imposed and collected on imported crude oil at the rate of three percent (3%) and imported refined petroleum products at the rate of seven percent (7%), except fuel oil and LPG, the rate for which shall be the same as that for imported crude oil: *Provided,* That beginning on January 1, 2004 the tariff rate on imported crude oil and refined petroleum products shall be the same: *Provided further,* That this provision may be amended only by an Act of Congress.

c) For as long as the National Power Corporation (NPC) enjoys exemptions from taxes and duties on petroleum products used for power generation, the exemption shall apply to purchases through the local refineries and to the importation of fuel oil and diesel.

Sec. 6 *Security of Supply* - To ensure the security and continuity of petroleum crude and products supply, the DOE shall require the refiners and importers to maintain a minimum inventory equivalent to ten percent (10%) of their respective annual sales volume or forty (40) days of supply, whichever is lower.

Sec. 7 *Promotion of Fair Trade Practices.* The Department of Trade and Industry (DTI) and DOE shall take all measures to promote fair trade and to prevent cartelization and monopolies and combinations in restraint of trade and any unfair competition, as defined in Articles 186, 188 and 189 of the Revised Penal Code, in the downstream oil industry. The DOE shall continue to encourage certain practices in the oil industry which serve the public interest and are intended to achieve efficiency and cost reduction,

ensure continuous supply of petroleum products, or enhance environmental protection. These practices may include borrow-and-loan agreements, rationalized depot operations, hospitality agreements, joint tanker and pipeline utilization, and joint actions on oil spill control and fire prevention.

Sec. 8 *Monitoring.* The DOE shall monitor and publish daily international oil prices to enable the public to determine whether current market oil prices are reasonable. It shall likewise monitor the quality of petroleum products and stop the operation of businesses involved in the sale of petroleum products which do not comply with the national standards of quality. The Bureau of Product Standards (BPS), in coordination with DOE, shall set national standards of quality that are aligned with the international standards/protocols of quality.

The DOE shall monitor the refining and manufacturing processes of local petroleum products to ensure that clean and safe (environment and worker-benign) technologies are applied. This shall also apply to the process of marketing local and imported petroleum products.

The DOE shall maintain a periodic schedule of present and future total industry inventory of petroleum products for the purpose of determining the level of supply. To implement this, the importers, refiners, and marketers are hereby required to submit monthly to the DOE their actual and projected importations, local purchases, sales and/or consumption, and inventory on a per crude/product basis.

Any report from any person of an unreasonable rise in the prices of petroleum products shall be immediately acted upon. For this purpose, the creation of a Department of Energy (DOE) - Department of Justice (DOJ) Task Force is hereby mandated to determine the

merits of the report and to initiate the necessary actions warranted under the circumstances to prevent cartelization, among others.

Sec. 9 *Prohibited Acts.* To ensure fair competition and prevent cartels and monopolies in the downstream oil industry, the following acts are hereby prohibited:

- a) *Cartelization* which means any agreement, combination or concerted action by refiners and/or importers or their representatives to fix prices, restrict outputs or divide markets, either by products or by areas, or allocating markets, either by products or by areas, in restraint of trade or free competition; and
- b) *Predatory pricing* which means selling or offering to sell any product at a price unreasonably below the industry average cost so as to attract customers to the detriment of competitors.

Any person, including but not limited to the chief operating officer or chief executive officer of the corporation involved, who is found guilty of any of the said prohibited acts shall suffer the penalty of imprisonment for three (3) years and fine ranging from Five hundred thousand pesos (P500,000) to One million pesos (P1,000,000).

Sec. 10 *Other Prohibited Acts.* To ensure compliance with the provisions of this Act, the failure to comply with any of the following shall likewise be prohibited: 1) submission of any reportorial requirements; 2) maintenance of the minimum inventory; and, 3) use of clean and safe (environment and worker-benign) technologies.

Any person, including but not limited to the chief operating officer or chief executive officer of the corporation involved, who is

found guilty of any of the said prohibited acts shall suffer the penalty of imprisonment for two (2) years and fine ranging from Two hundred fifty thousand pesos (P250,000) to Five hundred thousand pesos (P500,000).

CHAPTER II - TRANSITION PHASE

Sec. 11 *Phases of Deregulation.* - In order to provide a smooth implementation of deregulation, the policy shift shall be done in two phases: Phase I (Transition Phase) and Phase II (Full Deregulation Phase).

Sec. 12 *OPSF Claims/Buffer Fund.* - Upon the effectivity of this Act and prior to Phase I, the Secretary of DOE shall seek the condonation of all outstanding claims against the OPSF: *Provided, however,* That it shall keep or provide a buffer fund of One billion pesos (P1,000,000,000) therein.

Sec. 13 *OPSF Coverage.* - Paragraph (c) Section 8 of Presidential Decree No. 1956, as amended by Executive Order No. 137, is hereby further amended to read as follows:

“c) Any additional amount to be imposed on petroleum products to augment the resources of the Fund through an appropriate Order that may be issued by the Board requiring payment by persons or companies engaged in the business of importing, manufacturing and/or marketing of petroleum products, including persons or companies that will directly import refined petroleum products for their own use.”

Sec. 14 *Automatic Oil Pricing Mechanism.* - To enable the domestic price of petroleum products to approximate and promptly reflect the price of oil in the international market, an automatic

pricing mechanism shall be established. To this end, the following laws are hereby amended:

a) Paragraph (a), Section 8 of Republic Act No. 6173, as amended by Section 3 of Executive Order No. 172, to read as follows:

“Sec. 8. *Powers of the Board Upon Notice and Hearing.* - The Board shall have the power:

a) To set the wholesale posted price of petroleum products during the transition phase.

For this purpose and for the protection of the public interest, the Board shall after due notice and hearing at which any consumer of petroleum products and other parties who may be affected may appear and be heard, and within three (3) months after the effectivity of this Act, approved a formula to determine the wholesale posted prices (WPP) of petroleum products based on the Singapore posting of refined petroleum products.

Thereafter, the Board shall at the proper times automatically adjust the WPP of petroleum products based on the Singapore posting using the approved formula, through appropriate orders, without the need for notice and hearing.

The Board shall, on the dates of effectivity of the automatic oil pricing formula, the initial WPP or the adjusted WPP publish the same, together with the corresponding computation, in two (2) newspapers of general circulation.”

b) Paragraph 1 of Letter of Instruction No. 1441, to read as follows:

“). To review and reset prices of domestic petroleum products up or down as necessary on or before the third Monday of each month to reflect the new WPP of refined petroleum products based on the approved automatic pricing formula.”

c) Paragraph 2 of Letter of Instruction No. 1441 is hereby deleted. In lieu thereof a new paragraph is inserted to read as follows:

“2. The price adjustment shall be reflected automatically in the approved wholesale posted prices of each petroleum product. Any price increase beyond fifty centavos (P0.50) per liter shall be charged against the OPSF. For this purpose, the OPSF accrued balance shall be initially fixed at One billion pesos (P1,000,000,000).”

d) The provisions of Section 3 (a) and (c) and Section 5 of Executive Order No. 172 to the contrary notwithstanding, the Board shall, during the Transition Phase, maintain the current margin of dealers and the rates charged by water transport operators, haulers and pipeline concessionaires. Depending on the basis of the automatic pricing mechanism, the Board may, within three (3) months after the effectivity of this Act and after proper notice and full public hearing, prescribe a formula which will automatically set the margins of the refiners, marketers and dealers, and the rates charged by water transport operators, haulers and pipeline concessionaires: *Provided*, That such formula shall take effect simultaneously with the effectivity of the said margins and rates based on the approved formula without the necessity for public notice and hearing.

The Board shall, on the day of the effectivity of the aforesaid formula, publish in at least two (2) newspapers of general circulation the mechanics of the formula for the information of the public.

CHAPTER III - FULL DEREGULATION PHASE

Sec. 15 *Implementation of Full Deregulation.* -

Pursuant to Section 5(e) of Republic Act No. 7638, the DOE shall, upon approval of the President, implement the full deregulation of the downstream oil industry not later than March, 1997. As far as practicable, the DOE shall time the full deregulation when the prices of crude oil and petroleum products in the world market are declining and when the exchange rate of the peso in relation to the US dollar is stable. Upon the implementation of the full deregulation as provided herein, the transition phase is deemed terminated and the following laws are deemed repealed:

- a) Republic Act No. 6173, as amended;
- b) Section 5 of Executive Order No. 172, as amended;
- c) Letter of Instruction No. 1431 dated October 15, 1984;
- d) Letter of Instruction No. 1441, dated November 20, 1984, as amended;
- e) Letter of Instruction No. 1460, dated May 9, 1985;
- f) Presidential Decree No. 1889; and
- g) Presidential Decree No. 1956, as amended by E.O. No. 137.

Sec. 16 Section 3 of Executive Order No. 172, is hereby amended to read as follows:

“Sec. 3, *Jurisdiction, Powers and Functions of the Board.* - The Board shall, upon proper notice and hearing, fix and regulate the rate of schedule or prices of piped gas to be charged by duly franchised

gas companies which distribute gas by means of underground pipe system.”

Sec. 17 *Foreign Exchange Forward Cover.* - Any law to the contrary notwithstanding and upon full deregulation, no foreign exchange forward cover shall be extended by the Government to any private importation of crude oil and petroleum products.

Sec. 18 *OPSF Balance.* - Upon full deregulation, all outstanding claims during the transition phase against the OPSF shall be settled out of the One billion-peso (P1,000,000,000) buffer fund and the balance, if any, shall be transferred to the General Fund.

CHAPTER IV - FINAL PROVISIONS

Sec. 19 *Implementing Rules and Regulations.* - The DOE, in coordination with the Board, the Department of Environment and Natural Resources, Department of Labor and Employment, Department of Health, Department of Finance, Department of Trade and Industry and National Economic and Development Authority, shall formulate and issue the necessary implementing rules and regulations within sixty (60) days after the effectivity of this Act.

Sec. 20 *Administrative Fine.* - The DOE may, after due notice and hearing, impose a fine in the amount of not less than One hundred thousand pesos (P100,000) but not more than One million pesos (P1,000,000) upon any person or entity who violates any of its reportorial and minimum inventory requirements, without prejudice to criminal sanctions.

The Secretary of the DOE may recommend to the proper government agency the suspension or revocation and termination of the business permit of the offender concerned.

Sec. 21 *Public Information Campaign.* - The DOE, in coordination of the Board and the Philippine Information Agency; shall undertake an information campaign to educate the public on the deregulation program of the downstream oil industry.

Sec. 22 *Budgetary Appropriations.* - Such amount as may be necessary to effectively implement this Act shall be taken by the DOE from its annual appropriations and the DOE's Special Fund created under Section 8 of Presidential Decree No. 910, as amended.

Sec. 23 *Separability Clause.* - If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such parts not affected thereby shall remain in full force and effect.

Sec. 24 *Repealing Clause.* - All laws, presidential decrees, executive orders, issuances, rules and regulations or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 25 *Effectivity.* - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved.

JOSE DE VENECIA, JR.
Speaker of the House
of Representatives

NEPTALI A. GONZALES
President of the Senate

This Act, which is a consolidation of Senate Bill No. 1253 and House Bill No. 5264, was finally passed by the Senate and the House of Representatives on March 25, 1996 and March 27, 1996, respectively.

CAMILO L. SABIO
Secretary General
House of Representatives

HEZEL P. GACUTAN
Secretary of the Senate

FIDEL V. RAMOS
President of the Philippines

**Malacañang Administrative Order
No. 300
November 04, 1996**

SUBJECT : Further Strengthening the Philippine Environmental Impact Statement System and Clarifying the Authority to Grant or Deny the Issuance of Environmental Compliance Certificates

WHEREAS, Section 4 of Presidential Decree No. 1586 establishing the Philippine Environmental Impact Statement System empowers the President or his duly authorized representative to grant or deny the issuance of environmental compliance certificates (ECCs) for environmentally critical projects and projects within environmentally critical areas;

WHEREAS, Section 7 of Executive Order No. 192 providing for the reorganization of the Department of Environment, Energy, and Natural Resources and renaming it as the Department of Environment and Natural Resources (DENR) vests in the Secretary of the DENR the authority and responsibility to exercise the mandate of the DENR, accomplish its objectives and discharge its powers and functions;

WHEREAS, the Secretary of DENR, as alter ego of the President, is deemed to have the implied power to grant or deny the issuance of ECCs on behalf of the President;

WHEREAS, under Section 21, Chapter 4, Title XIV, Book IV of Executive Order No. 292, Instituting the Administrative Code of 1987, the DENR Regional Offices are responsible for, *inter alia*, implementing laws, policies, plans, programs, projects, rules and

regulations of the DENR to promote the sustainability and productivity of natural resources, social equity in natural resource utilization and environmental protection in their respective regions;

WHEREAS, the DENR Regional Executive Director, as the highest officer of the DENR in each Regional Office, is directly charged with carrying out said responsibility;

NOW, THEREFORE, I FIDEL V. RAMOS, President of the Philippines, by virtue of the powers vested in me by Constitution, do hereby confirm the power of the Secretary of the Department of Environment and Natural Resources and the DENR Regional Executive Directors to grant or deny the issuance of environmental compliance certificates (ECCs).

This Administrative Order shall take effect immediately.

DONE in the City of Manila, this 4th day of November in the year of Our Lord, Nineteen Hundred and Ninety-Six.

FIDEL V. RAMOS
President

By the President:

RUBEN D. TORRES
Executive Secretary

JOINT DAR-DA-DENR-DILG

Administrative Order No. 01

February 02, 1996

SUBJECT : Rules and Regulations Governing the Conversion of Public Agricultural Lands to Fishponds and Prawn Farms Pursuant to Republic Act (R.A.) No. 6657, As Amended by R.A. No. 7881.

I. PREPARATORY STATEMENT

Section 5 of R.A. No. 7881 incorporates new sections into Section 65 of R.A. No. 6657. Section 65-A provides that no conversion of public lands into fishponds or prawn farms shall be allowed except under certain conditions to be provided by the concerned government instrumentalities, and that the conversion or change of land use shall not apply to environmentally critical projects and are areas pursuant to Title No. (a) sub-paragraph two, (B-5) and (C-1) and Title (B), No. 11 of Proclamation No. 2146. Section 65-B further provides that the Bureau of Fisheries and Aquatic Resources of the Department of Agriculture (BFAR-DA) shall undertake and finish the inventory of all public and private fishpond and prawn farms, and that no lease may be granted until after the inventory is completed. Section 65-C provides for the protection of mangrove areas.

To effectively operationalize the above provisions, these rules and regulations are hereby prescribed.

II. POLICY STATEMENT

A. No conversion of public agricultural lands into fishpond or prawn farms shall be allowed except when the concerned

agencies of the government declare a coastal zone as suitable for fishpond development.

- B. The Department of Environment and Natural Resources (DENR) shall allow the lease and development of coastal zones for fishpond development provided that the declaration shall not apply to environmentally critical projects and areas as contained in Title No. (A) sub-paragraph two, (B-5) and C-1) and Title (B), No. 11 of Proclamation No. 2146, entitled “Proclaiming Certain Areas and Types of Projects as Environmentally Critical and within the scope of the environmental impact statement system (EIS) established under Presidential Decree No. 1586”, to ensure the protection of river systems, aquifers, and mangrove vegetation from pollution and environmental degradation.
- C. Small-farmer cooperatives and organizations shall be given preference in the award of new Fishpond Lease Agreements (FLA) covering areas declared suitable for fishpond and prawn farm development by the provincial government with the concurrence of the BFAR and DENR.
- D. The Department of Agrarian Reform (DAR), through the Provincial Agrarian Reform Officer (PARO), shall screen small farmer/fisherfolk cooperatives or associations in coordination with the Cooperative Development Authority (CDA).
- E. The local government units (LGUs) shall recommend the conversion of public agricultural lands into fishpond and prawn farms in coordination and confirmation with the BFAR and DENR, respectively.

- F. A buffer zone as defined herein shall be established on a sufficient portion of the fishpond area fronting the sea to protect the environment and to be planted to specified mangrove species as determined in consultation with the Regional Office of the DENR, pursuant to DENR Department Administrative Order (DAO) No. 76, Series of 1987.

The Secretary of DENR shall provide the penalties for any violation of this undertaking as well as the rules for its implementation pursuant to Section 65-C of R.A. No. 6657, as amended by Section 5 of R.A. No. 7881.

- G. The proponent shall conduct an Environmental Impact Assessment (EIA) of the area subject of application to determine its suitability for fishpond and prawn farm development.

III. COVERAGE

These Rules and Regulations shall cover public agricultural lands, both alienable and disposable, and lands of the public domain found within the coastal zone which are declared suitable for conversion to fishpond or prawn farm development, by the provincial government, with the concurrence of the BFAR and the DENR.

IV. DEFINITIONS

For purposes of this order, the following terms are defined as follows:

- a. Fishpond means an artificially constructed pond for raising fish of any species from fry stage to marketable size, or a natural pond where fish is impounded.

- b. Coastal Zone Environment is an area where, at any given time, socio-economic interaction occurs between humans and land-based and sea-based natural resources.
- c. Buffer Zones are strips of 50 meters in mangrove or swampland areas throughout the country fronting seas, oceans and other bodies of water and 20 meters on both sides of river channels/banks maintained and developed to enhance the protective capability of the mangroves against strong currents, winds and high waves.
- d. Environmental Impact Statement (EIS) refers to the documentation of the Environmental Impact Assessment (EIA) study on the project including a discussion of the direct and indirect consequences upon human welfare and ecological and environmental integrity.
- e. fishpond Lease Agreement (FLA) is a privilege granted by the state to a person or entity to occupy and possess, in consideration of a specified rental, any public land for the raising of fish or other aquatic life with fishpond.
- f. Fishpond Development Projects are aquaculture activities within the mangrove ecosystem which include prawn and shrimp culture seaweed farming, oyster, mussel and clam culture, and other fishpond production activities.
- g. Public agricultural lands refer to all alienable and disposable lands not titled administratively or juridically and lands of the public domain whose actual use is agricultural in nature as defined under R.A. No. 7881 which includes the cultivation of the soil, planting of crops and growing of fruit trees and the harvesting of its produce.

- h. Conversion shall mean the change in the utilization of the land from agriculture to fishpond purposes as defined by R.A. No. 7881.
- I. Environmental Compliance Certificate refers to the permit issued by the President of the Philippines or his duly authorized representative certifying that the new fishpond development will not bring about unacceptable environmental impact and that the component has complied with the requirements of the EIA System.

V. APPLICANTS

Any person, natural, juridical, may apply for the conversion of public agricultural lands into fishpond or prawn farms; however, in the award of the FLAs, priority shall be given to small farmer/fisherfolk cooperatives and organizations.

VI. QUALIFICATIONS FOR MEMBERSHIP IN A COOPERATIVE AND/OR ASSOCIATION

- a. small marginal farmers and fisherfolk residing in the barangay or in the municipality where the area for fishpond development is located;
- b. must be a resident in the barangay or municipality for at least six (6) months from the date of filing of the application, to be certified by the Barangay Agrarian Reform Committee (BARC)/Sangguniang Barangay/Non-Government Organization (NGOs)/Peoples Organizations (POs) of the barangay;
- c. willingness of the majority to organize into a cooperative or association and abide by the rules and regulations as provided in the by-laws of the cooperative or association; and

- d. must be at least fifteen (15) years of age from the date of filling of the application.

VII. CRITERIA IN THE AWARD OF FISHPOND LEASE AGREEMENTS (FLAs) TO SMALL FARMERS/FISHERFOLK COOPERATIVES AND/OR ASSOCIATION

- a. must be a duly organized cooperative and/or association in the locality where the area for fishpond development is located;
- b. must be certified and recommended by the DAR through the PARO; and
- c. willing to put up the minimum financial requirement as provided by the BFAR (a certification from the Land Bank of the Philippines (LBP) guaranteeing the financial requirement may be accepted).

VIII. PROCEDURES

A. Provincial/City/Municipal Government, through the Sanggunian concerned shall:

- 1. identify coastal zones suitable for fishpond development in coordination with the BFAR, DAR and NGOs/POs in the area;
- 2. conduct public hearings with the small farmers, fishpond and fish workers, NGOs and POs on the conversion of coastal zones for fishpond development in the area, pursuant to Section 5 of R.A. No. 7881;

3. request the DENR, by way of resolution, to release the area for fishpond development pursuant to Section 9 of P.D. No. 705, as amended by P.D. NO. 1559 and as implemented by Ministry of Natural Resources (MNR) Administrative Order (A.O.) No. 3, Series of 1995;
4. issue or pass an ordinance declaring the portion of the subject public agricultural lands or coastal zones suitable for fishpond development upon receipt of a copy of the administrative order issued by the Secretary of DENR approving the release of the area subject of the resolution. The ordinance shall be published in a local newspaper and copies thereof shall be posted in a bulletin board at the entrance of the provincial capitol or city, municipal or barangay hall as the case may be, and in at least two (2) other conspicuous places in the concerned government instrumentalities for a period of fifteen days. The same shall take effect ten (10) days from the date of publication and posting; and
5. transmit the same to the DENR for proper disposition.

B. The DENR, shall:

1. evaluate the resolution and findings of the LGUs and the BFAR on the suitability of the coastal area for fishpond development;

2. determine whether the area subject of the LGU resolution has been zonified, certified and declared suitable for fishpond development pursuant to Section 13 of P.D. No. 705, as amended, and as implemented by MNR A.O. No. 3, Series of 1975 and if so, issue an administrative order declaring the said area as available and suitable for fishpond development and transfer its jurisdiction to the BFAR, copy furnished the concerned LGUs, for proper disposition;
3. on areas not yet zonified and certified as available for fishpond development but recommended by the LGUs with the concurrence of the BFAR, conduct an inspection/investigation on whether the area is suitable and available for fishpond development based on the criteria provided under MNR A.O. No. 3, Series of 1982 subject to the provisions of DENR DAO Nos. 34 and 19, Series of 1991 and 1993, respectively. If the findings indicate that the area is suitable and available for fishpond development, issue an administrative order declaring the area as suitable and available for fishpond development pursuant to R.A. No. 7881; and
4. issue an environmental Compliance Certificate (ECC) based on the favorable results of the EIA conducted by the proponent.

C. The DA, through the BFAR, shall:

1. provide the PARO with a list of areas zonified and approved by the DENR that are suitable and available for fishpond and prawn farm development,

2. conduct investigation and ocular inspection of the fishpond area;
3. provide application forms and other required documents, accept and process applications for FLAs and collect application fees and other dues thereon, giving preference to small farmer/fisherfolk cooperatives and associations as recommended by the PARO; and
4. prepare and issue FLAs.

D. The DAR, through the PARO, shall:

1. screen prospective beneficiaries such as small farmer/fisherfolk cooperatives or associations in coordination with the CDA upon receipt of a list of areas suitable and available for fishpond development from the BFAR;
2. assist the small farmers/fisherfolk association/cooperative in filing their application for FLAs;
3. extend technical assistance to small farmer/fisherfolk cooperatives/associations in the preparation and documentation of feasibility studies for the development and operation of fishpond and by availing of loan assistance from the LBP; and
4. forward and recommend the application to BFAR together with the certification that the members of the association are coastal fishpond or fish workers in the area..

IX. REPEALING CLAUSE

All other Orders, Circulars, Memoranda and Rules and Regulations or portions thereof inconsistent herewith are hereby revoked, canceled or modified accordingly, otherwise, they have supplementary effect.

X. EFFECTIVITY CLAUSE

This Administrative Order shall take effect ten (10) days after its publication in two (2) national newspapers of general circulation.

Diliman, Quezon City, 02 February 1996.

ERNESTO D. GARILAO

DAR Secretary

Signed on 20 Sept. 1995

ROBERTO S. SEBASTIAN

DA Secretary

Signed on 29 Sept. 1995

VICTOR O. RAMOS

DENR Secretary

Signed on 02 Feb. 1996

RAFAEL M. ALUNAN III

DILG Secretary

Signed on 14 Nov. 1995

Memorandum of Agreement and Permit

KNOW ALL MEN BY THESE PRESENTS:

This memorandum of agreement and permit executed by and between;

DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES, an agency of the Philippine Government with office address at Visayas Avenue, Diliman, Quezon City herein represented by its Secretary, Hon. Victor D. Ramos who is duly authorized to represent it in this agreement, herein referred to as **DENR**;

and

NATIONAL POWER CORPORATION, a corporation duly organized and existing under and by virtue of Republic Act 6395 as amended, with office address at BIR Road Corner, Quezon Avenue Extension, Diliman, Quezon City, Metro Manila herein represented by its President, Guido Alfredo A. Delgado who is duly authorized to represent it in this agreement herein referred to as **NPC**;

WITNESSETH THAT;

WHEREAS, **NPC** is responsible for the reliable transmission of electric power to its customers all over the Philippines,

WHEREAS, **NPC** has many transmission lines of various voltages along roads & highways & across residential, commercial, industrial areas, fields and mountains transmitting electric power all over the Philippines,

WHEREAS, vegetation and/or trees, that sprout and/or are planted inside and/or adjacent to the transmission line Right of Way (ROW) are causing unnecessary tripping/outages of NPC's transmission lines,

WHEREAS, to ensure the reliability of NPC's transmission lines, there is a need for NPC to trim or cut vegetation and/or trees within or adjacent to the ROW which affect the reliability of the transmission lines,

WHEREAS, the DENR requires that a permit be obtained from concerned DENR offices prior to cutting of vegetation especially trees.

NOW THEREFORE, for and in consideration of the foregoing premises the parties herein agreed as follows;

1. Cognizant of the need for a reliable and efficient transmission of electric power to propel the development of the country, blanket authority & permit is granted by DENR to NPC to trim or cut any or all vegetation and/or trees inside or adjacent to the transmission line ROW where and when necessary to ensure reliability of the transmission line against unnecessary tripping/outages due to vegetation or trees.
2. Prior to trimming or cutting of vegetation or trees, NPC shall inform the owners especially if outside the transmission line ROW and get their consent/agreement.
3. When trimming or cutting vegetation or trees covered by this agreement, NPC shall exercise due care to prevent accidents or damages especially to third parties and shall dispose all cuttings in accordance with the rules & regulations, & guidelines of the DENR.

IN WITNESS WHEREOF, the parties hereto have signed these document in ___ on _____ 1996.

DEPARTMENT OF ENVIRONMENT
& NATURAL RESOURCES (DENR)

NATIONAL POWER
CORPORATION
(NPC)

VICTOR O. RAMOS
SECRETARY

G.A.A. DELGADO
PRESIDENT

ACKNOWLEDGEMENT

Republic of the Philippines)
In the City of Baguio) s.s.

BEFORE me a Notary Public, for and in the City of Baguio, this 15th day of April 1996 personally appeared to me **VICTOR O. RAMOS** representing and acting in his capacity as Secretary of Department of Environment & Natural Resources (DENR) with his Community Tax Certificate No. 2714 issued at Quezon City on January 27, 1996 and **GUIDO ALFREDO A. DELGADO** representing and acting in his capacity as President of the National Power Corporation (NPC) with his Community Tax Certificate No. 16751644 issued at Quezon City on January 24, 1996 both known to me to the same persons who executed the foregoing instrument and acknowledged to me that the same is their voluntary act and deed.

This instrument refers to Memorandum of Agreement and Permit consisting of two (2) pages including this page where in this

page wherein this ACKNOWLEDGEMENT is written and signed by all the parties as their instrumental witnesses on each page whereof.

Witness my hand and seal.

Doc. No. 190
Page No. 39
Book NO. II
Series of 1996

TITA MARILYN P. VILLORDON
NOTARY PUBLIC

**Memorandum of Agreement
Municipality of Alabel
Sarangani**

KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement made and entered into by and between and among:

The Department of Environment and Natural Resources, a government agency organized by and existing under the laws of the Republic of the Philippines with principal address at Visayas Avenue, Quezon City, represented in this agreement by its Secretary, **VICTOR O. RAMOS** hereinafter referred to as **DENR:**

and

The **Municipality of Alabel**, a local government unit organized by, and existing under the laws of the Philippines, with principal Office at Alabel, Sarangani, represented in this office by its Mayor **HON. HERNANDO L. SIBUGAN**, herein referred to as Local Government Unit.

WITNESSETH

WHEREAS, the Department of Environment and Natural Resources by virtue of Executive Order No. 192 is the lead national agency tasked with environmental management and protection ;

WHEREAS, by virtue of Memorandum Circular No. 88, Series of 1994, the DENR was made the Chairman of the Presidential Task Force on Waste Management ;

WHEREAS, the said PTFSW is tasked to ensure the implementation of the Integrated National Solid Waste Management System Framework as approved for adoption during the Cabinet Meeting in October 19, 1993 and to ensure the continuous coordination and compliance by concerned agencies on the matter as well as on the various policies and Presidential Directives issued on Waste Management ;

WHEREAS, RA 7160, otherwise known as the Local Government Code devolves the responsibility for the provision of basic services and facilities to local government units;

WHEREAS, the basic services and facilities, include, but are not limited to general hygiene and sanitation, beautification and solid waste management;

WHEREAS, solid waste which pollutes our land, water and air is one of critical environmental problems which the country faces;

WHEREAS, the DENR and the local government units are two arms of government which are responsible for the protection of environment;

WHEREAS, the DENR recognizes the value of strengthening its cooperation with the local government units in the planning and implementation of national projects;

NOW THEREFORE, for and in consideration of these premises and the mutual covenants therein contained, the PARTIES do hereby agree and bind themselves to collaborate in its effort to address the solid waste problem in Alabel, Sarangani in order to achieve its shared objective of effectively protecting the environment and safeguarding the health of the people. Specifically the parties herein agree to the following :

Section 1. Role of DENR

1. Encourage the adoption of a policy on Ecological Waste Management which includes reduction and segregation at source, composting, recycling and re-use by the :
 - a. Providing modules on successful Ecological Waste Management Project that LGUs can adopt, e.g. commercial composting of market waste and other bio-degradable waste as in Sta. Maria, Bulacan experience, barangay-based waste reduction efforts as in the Bustos experience, school-based waste management as in the Kamuning Elementary School experience;
 - b. Providing the draft of a generic ordinance on Ecological Waste Management to include garbage fees, tipping fees, among others which can guide the LGU in preparing their own ordinances;
 - c. Mobilizing internal and external technical experts and NGOs to train the LGU personnel on Ecological Waste Management and assist them develop their action plan;
 - d. Assisting in the Information, Education and Communication campaign to generate support for the Ecological Waste Management Program of the LGU; and
 - e. Assisting in the identification of potential markets for organic fertilizers and recyclables.
2. Provide technical assistance in the identification of landfill sites to make the disposal system environmentally sound by :

- a. Providing the basic geo-hazard map to guide LGUs in landfill site identification ;
 - b. Providing a Manual for Landfill Identification and Design;
 - c. Assisting in the technical evaluation of the suitability of the identified site/s;
3. Provide guidance to the LGUs in their compliance with the Environmental Impact Assessment (EIA) process ;
 4. Review the Environmental Impact Statement to be submitted by the LGU concerned and issuing the Environmental Compliance Certificate; and
 5. Monitor compliance of the LGU to the terms and conditions of the ECC.

Section 2. Role of Government Units

1. Adopt Ecological Waste Management as the policy for solid waste management through the passage of a local ordinance;
2. Assign people to be trained on Ecological Management Waste Program in their locality;
4. Encourage the participation of the private sector/NGOs in the implementation and maintenance of the ecological waste management program;
5. Conduct extensive IEC on Ecological Waste Management to encourage its constituents to cooperate/comply;

6. Strictly enforce the provisions of the Ecological Waste Management Ordinance;
7. Identify possible landfill sites using the basic geo-hazard maps as guide;
8. Set aside and/or acquire the area needed for the city landfill;
9. Design the landfill incorporating all environmental considerations to minimize its possible adverse environmental impact;
10. Prepare the Environmental Impact Statement for the proposed landfill for review and evaluation of the DENR;
11. Ensure compliance with the terms and condition of Environmental Compliance Certificate in the constructions, operations and maintenance of the landfill;
12. Construct, operate and maintain the landfill or supervise private investors (BOT or management contracts) who will actually construct, operate and maintain the landfill; and
13. Close the existing dumpsite once the landfill is operational.

This agreement shall take effect and shall remain in force unless recended by any of the parties involved.

IN WITNESS THEREOF, the parties have agreed hereunto affixed their signature on this 5th day of March 1996 at General Santos City.

DENR:

LGU :

VICTOR O. RAMOS

Secretary

HERNANDO L. SIBUGAN

Municipal Mayor

Signed in the presence of:

JULIAN D. AMADOR

Regional Technical Director

AUGUSTUS L. MOMONGAN

Regional Executive Director