

DENR ADMINISTRATIVE ORDER
No. 01

SUBJECT: Revised Regulations and Guidelines Governing the Establishment and Development of Industrial Tree Plantations

Pursuant to PD 705, as amended by PD 1559, and Executive Order No. 725 dated September 1, 1981, and in line with the policy of Government of ensuring the sustainable productivity of forest lands, and in recognition of its role as a tool to economic recovery and national security, the following regulations and guidelines governing the establishment and development of industrial tree plantations (ITP) are hereby promulgated:

CHAPTER I

Title, Policies, Objectives, and Definition of Terms

SECTION 1. Title

This Administrative Order shall be known as the "Revised Industrial Tree Plantations Regulations".

SEC. 2 Policies and Objectives

The policies and objectives of Government on the establishment and development of industrial tree plantations shall be:

- 2.1 To accelerate the revegetation of the country's open, denuded, brushland and inadequately stocked areas in order to supply the raw material requirements of wood-based and related industries and energy-generating facilities;
- 2.2 To provide the incentives to interested and deserving applicants for the establishment and development of industrial tree plantations; and
- 2.3 To improve and maintain a desirable forest ecosystem.

SEC. 3 Definition of Terms

The following terms are to be understood or interpreted as they hereunder defined:

- a. *Industrial Tree Plantation (ITP)* – refers to any tract of forestland planted to tree crops primarily to supply the raw material requirements of existing or proposed wood processing and energy-generating plants, and related industries.

- b. *Lease* – is a privilege granted by the State to a person to occupy and possess in consideration of a specified rental, any forest land of the public domain in order to undertake any authorized activity therein.
- c. *Secretary* – refers to the Secretary of DENR
- d. *Undersecretary* - refers to the Undersecretary for Field Operations of DENR
- e. *Regional Executive Director* – refers to the Regional Executive Director (RED) of the 13 Regional Offices of the DENR and the Cordillera Administrative Region.
- f. *PENRO* – refers to Provincial Environment and Natural Resources Office.
- g. *CENRO* – refers to Community Environment and Natural Resources Office.
- h. *Open Land* – refers to bare or grass-covered tracts of forestlands devoid of trees.
- i. *Denuded Land* – refers to forestland that has been depleted of its natural forest cover due to the activities of men, fire or other natural causes.
- j. *Brushland* – refers to forest land which is covered with brush.
- k. *Inadequately-stocked* – shall refer to forestlands with an existing stand of timber containing an average per hectare of less than 20 trees of dipterocarp and endangered species with a diameter breast height (dbh) of not more than 20 centimeters.
- l. *Premium species* – are tree species the wood of which has some special characteristics such as strength or durability, beauty, scarcity or rarity, or is used for special purposes, as contained in the list of such premium tree species which shall be prepared by Forest Management Bureau (FMB) from time to time.
- m. *Endangered tree species* – tree species that are rare, scarce, or nearing extinction.
- n. *Fastgrowing species* – are tree species that grow relatively faster than common forest trees and whose rotation age is 4 to 20 years with a mean annual increment of at least ten (10) cubic meters per hectare under favorable site conditions.

CHAPTER II

SEC. 4 Forestlands Available for ITP and Disposition for Plantation Development

The following forestland areas are available for the industrial tree plantation development.

- a. Bare, open denuded or grass-covered tracts of forest lands, brushlands, and/or inadequately-stocked areas within or outside timber concessions.
- b. Portion and/or areas covered by pasture leases or permits needing immediate reforestation.
- c. Government reforestation projects or portions thereof found to be more suitable for or can be better developed as industrial tree plantation in terms of benefits to the government and to the surrounding community.

SEC. 5. Areas not Available for Industrial Tree Plantation Development

The following areas may not be subject of ITP as said areas are to be forested by the government through contractual reforestation as well as by holders of timber license agreements (TLA) in pursuance of their obligation to reforest.

- a. Denuded or inadequately-timbered areas proclaimed by the President as civil reservations, military reservations, watershed forest reservations, critical watersheds, national parks, game refuge and bird sanctuaries, national shrines, and national historic sites.
- b. Adequately-stocked logged-over areas.
- c. All open, denuded and brushland areas within forest concessions to be reforested by the concessionaries.
- d. Wilderness areas and greenbelts within concessions designated in accordance with LOI 917 and 971-A.

SEC. 6. Size of the Area

The maximum area that maybe granted for ITP shall be the area that can be developed within five (5) years by the lessee but not to exceed 20,000 hectares, PROVIDED, however, that the foregoing limitations shall not preclude the granting of additional areas on a case basis depending upon the excellent performance of the lessee determined through evaluation of the accomplishment thereof.

SEC. 7. Identification and Delimitation of Potential ITP Areas

The DENR shall identify, with the aid of the latest forest resources condition maps, aerial photographs, satellite imageries and/or other appropriate technical data and references, lands of the public domain, the biophysical features of which indicates the feasibility of establishing an Industrial Tree Plantation.

Areas so identified shall be delimited on a map of convenient scale as the basis in determining the relative location and extent of the areas that maybe made available for ITP.

SEC. 8. Mode of Disposition of Available Areas

The area available for ITP development shall be granted to qualified applicants through an ITP Lease which shall have a term of twenty five (25) years which shall be automatically renewed at the option of the lessee for another twenty five (25) years, PROVIDED, that the terms of the ITP lease shall be subject to future Congressional action on production-sharing scheme in accordance with the New Constitution.

SEC. 9. Application Requirements

The application shall be filed in the prescribed form hereto attached as Annex "A" at the Office of the CENRO concerned and shall be accompanied, by the following preliminary requirements;

- a. Non-refundable filing fee of P/0.50 per hectare or a fraction thereof.
- b. If applicant is a government official or employee, whether in career or non-career service, written permission from the Department head or head of agency concerned.
- c. If the applicant is a married woman, the written consent of her husband.
- d. If the applicant is naturalized Filipino citizen, a copy of his/her Certificate of Naturalization certified by the Clerk of Court of First Instance that issued the same, and a certification by the Office of the Solicitor General that he has not filed application for his denaturalization, or any action that may affect his citizenship.
- e. If the applicant is a corporation, three (3) copies of the minutes of meeting of the Board of Directors indicating the present Officers and Stockholders, Articles of Incorporation and By-Laws, and financial statement for the preceding year, *if the applicant is already in existence at the time*, and stating the authority of the officers to file the application in behalf of the corporation.

- f. If the applicant uses, a name, style or trade name other than its true name, three (3) copies of the Certificate of Registration of such name, style or trade name with the Bureau of Domestic Trade, certified by an authorized officer of said Bureau.
- g. Indicative development plan, the outline of which is hereto attached as Annex "B".

SEC. 10. Qualification of Applicants

Any Filipino citizen who is at least twenty-one (21) years of age, corporation, partnership or association or cooperatives registered under Philippine laws, at least sixty percent (60%) of the capital of which is owned or controlled by Filipino citizen, may file an application for Industrial Tree Plantation.

SEC. 11. Formulation of new corporation for tree plantation development

For the establishment, development and operation of the ITP, a timber license holder may form a new corporation as the major stockholder with other investors. The timber license holder shall warrant the development and implementation of the ITP in accordance with the provisions of the ITP Lease Agreement. Should the new corporation fail to carry out the development of such plantation within the period specified in such agreement, the lease agreement shall be cancelled.

SEC. 12. When application is considered filed

An application is considered filed on the date of receipt of all the application requirements called for under Sec. 9 of this Order.

SEC. 13. Processing of Applications

- a. In the CENRO Office — Upon the receipt of the application, the CENRO shall have the area inspected by at least a Forester in the presence of the applicant or his representative. The inspecting Forest Officer — shall within 30 days submit his report showing, the following:
 - 1. Conformity with the guidelines for availability of the area set forth in Section 4 of this Order.
 - 2. Sketch of the area indicating the location, boundary, extent, vegetative condition, present land use, occupancy, description of adjacent areas and other relevant information.
 - 3. Suitability of the area for the purpose taking into account the vegetation in and around the area applied for, site indicators within the area, climatic conditions and products.

4. **Remarks/recommendations**

The CENRO shall immediately evaluate the report and if found in order, prepare the indorsement and forward all papers to the PENRO with his recommendations within fifteen (15) days from submission of the report of the Inspecting Forest Officers.

- b. In the PENRO – Upon receipt of the application and all pertinent documents, the PENRO shall have the documents evaluated and if found in order, prepare indorsement to the Regional Executive Director (RED) thru the Regional Technical Director (RTD) for Forestry within fifteen (15) days from receipt of the report.
- c. In the DENR Regional Office – In the Regional Office, the Regional Technical Director (RTD) shall have the documents evaluated and if found in order, prepare the lease agreement in accordance with the ITP Lease Agreement, format hereto attached as Annex “C” and forward all papers to the RED with his recommendation. The RED reviews and approves the lease agreement if the area is below three hundred (300) hectares, otherwise forwards same to DENR for consideration.
- d. In the DENR Office – Approval of lease agreement at the DENR Office shall be made by DENR Officials as follows:
 - 300-500 hectares – Assistant Secretary for Operations
 - 501-750 hectares – USEC for Field Operations
 - over 750 hectares – Secretary

SEC. 14. Management and Development Plan

The lessee shall, within twelve (12) months from the issuance of the ITP lease, submit to the Secretary a twenty five (25) years comprehensive development and management plan following the outline provided for the purpose (Annex “B”).

CHAPTER III

Government Incentives

SEC. 15. Nominal Filing Fee

A nominal filing of only fifty centavos (P/.50) per hectare shall accompany any application filed for ITP Lease.

SEC. 16. Reduces Payment of Forest Charges and Land Rentals

The Lessee shall pay only 25% of regular forest charges due on timber from ITP in accordance with P.D. for ITP development shall be in accordance with the provisions of Sec. 36 of P.O. 705, as amended.

SEC. 17. Reduced Specific Tax

The specific tax payable by a lessee on the trees and other forest products grown and cut or gathered in an ITP shall only be 25% on the regular specific tax prescribed in the National Internal Revenue Code.

SEC. 18. Exemption from payment of certain Internal Revenue Taxes

Timber and other forest products planted and grown in ITP areas bartered or exchanged by the lease holder, in their original state, shall be exempted from the payment of value added tax pursuant to Executive Order (E.O.) No. 273, Series of 1987.

The lease holder shall, likewise, not be subject to any obligation prescribed in, or arising out of, the provisions of the National Internal Revenue Code on withholding tax at source upon interest paid on borrowings incurred for development and operation of the Industrial Tree Plantation.

SEC. 19. Integrity of Boundary and Status of Area

The boundaries and legal status of the area covered by an ITP once established shall not be altered or modified.

SEC. 20. Plantation development expense, tax deductible

Amount expended by a lessee in the establishment, development, and operations of an ITP prior to the time when the production state is reached may, at the option of the lessee, be regarded as ordinary and necessary business or as capital expenditures and, therefore, tax deductible.

SEC. 21. Credit Assistance

Holders of ITP Lease Agreements may apply with the Development Bank of the Philippines, the Central Bank and other government and private financing institutions for assistance in obtaining long term and low interest loans, Provided, that the lessee may assign the lease agreement as a collateral for loans which may have been granted or guaranteed by such government and private financial institutions. However, the leasehold rights should be subject to the approval of the Secretary.

SEC. 22. Other Incentives

Applicants for ITP Leases shall not be required to post forestry bond or to the payment of inspection fees. They shall be entitled to other incentives provided for under the Omnibus Investment Code of 1987. All other applicable incentives enumerated under Sec. 36 of P.D. 705, as amended, shall apply to ITP Lease holders.

SEC. 23. Ownership of Plantation Products

Trees and other products planted and grown under an ITP Lease Agreement belong to the lessee who shall have the right to sell, convey or dispose of said planted trees and other products.

SEC. 24. Export of Logs Harvested from ITPs.

Trees grown and harvested from ITPs maybe exported as logs, poles, piles, billets or in any form, without restriction in quantity or volume.

SEC. 25. Entitlement to Fair Compensation.

Upon the expiration of the ITP Lease Agreement, or on its termination when public interest demands, all permanent improvements in the area shall be retained in the area, but the LESSEE shall be entitled to fair compensation for such permanent improvements, the amount of which shall be mutually agreed upon by both the DENR and the Lessee.

SEC. 26. Development Requirements in ITP Leases.

Development and establishment of plantations shall have a definite program and schedule to be embodied in an industrial tree plantation development and management plan which shall, among others, provide for development of at least thirty percent (30%) of the area within three (3) years and 100% of the area within five (5) years after the lease is granted. Interplanting of cash crops maybe allowed in new plantation areas; PROVIDED, that planting therein will not be detrimental to the soil and water of the land and shall instead enrich the soil with nitrogen fixing bacteria or any soil conditioning elements in preparation for tree planting.

CHAPTER IV

GENERAL PROVISIONS

SEC. 27. Monitoring and Control.

The following shall be adopted to provide an effective monitoring and control system for the development and operation of ITPs:

- a. The ITP lease holder shall submit to the CENRO a quarterly report on the development of the ITP.

- b. The CENRO shall submit through the PENRO and the DENR Regional Office a quarterly report on the status of tree plantation development within its jurisdiction and copy furnish the Central Office.
- c. The DENR Regional Office shall within thirty (30) days after submission of report from the CENRO prepare a summarized report to Office of the Secretary which in turn shall maintain a nationwide status chart of ITP activities.
- d. Existing ITP Leases shall be evaluated within six (6) months from the issuance of this Order and those which have not complied with the terms and conditions of the lease shall be cancelled and the area, if it still suitable for ITP, shall be opened to qualified applicants.

SEC. 28. Grounds for the Cancellation of Lease.

The Secretary upon the recommendation of the Regional Executive Director may cancel or suspend ITP leases, depending on the gravity of the offense or the adverse affect on the management of forest land and resources based on any of the following grounds.

- 1. If the privilege was obtained through fraud, misrepresentation or omission of material facts existing at the time of the filing of the applications;
- 2. Failure of a privilege holder to pay and/or settle any forestry account, such as, rental, forest and changes, and permit fees, when they become due, or violation of any of the provisions of the National Internal Revenue Code relating to forest products,
- 3. Violation of any of the terms and conditions of, or failure to comply with or perform the obligation imposed in the lease agreement, lease, license, permit, or contract, or pertinent laws, or policies affecting the exercise of the privilege granted therein, or any of the provisions of this Order;
- 4. Conducting an operation in violation of the prescribed management or operation plan, or beyond the area covered by the privilege;
- 5. Failure to provide the necessary protection, management and development over the forest land or area covered by the privilege granted in his favor; or
- 6. Abandonment of the area or failure to exercise the privilege granted within the prescribed period, or if not prescribed, within four (4) months from the issuance of the license agreement, license, lease or permit.

SEC. 29. Inclusion of Adequately-Stocked Logged-Over Area in ITP Lease.

Adequately stocked logged – over areas within timber concessions shall not be made available for ITP development. However, the extreme cases where the inclusion of such areas will promote contiguity to the adjoining open inadequately stocked logged-over areas, the same may be allowed, PROVIDED, such areas will not exceed thirty per-

cent (30%) of the ITP lease.

SEC. 30. Regulations on Cutting Naturally Grown Trees within the ITP Lease.

The Lessee may, in consonance with the approved ITP development and management plan, be allowed to cut and utilize naturally grown, mature, overmature and defective trees inside adequately-stocked portions of the area covered by the lease areas subject to the condition that at least twenty percent (20%) of such area shall be preserved for biological diversity.

In other areas of the ITP lease, any naturally grown standing tree may be cut subject to the following conditions:

1. The cutting and extraction of timber found therein shall be in accordance with the timetable provided in the approved management/development plan.
2. Provided further, that no cutting shall be done within forty (40) meters of both sides of river banks. Enrichment planting shall be required of the ITP holder in these areas.

SEC. 30. Repealing Clause.

This Order supersedes MAO 4 and 5, series of 1982 and all forestry regulations, Memoranda, Circulars, and other instructions inconsistent herewith.

SEC. 32. Effectivity.

This Order shall take effect fifteen (15) days from the date of its publication in the Official Gazette or in a newspaper of general circulation.

FULGENCIO S. FACTORAN, JR.
Secretary

Signed on January 2, 1989