

**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.

1. 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