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Republic of the Philippines
Department of Environment and Natural Resources

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AUG 31 2004

DENR Administrative Order

No. 2004- 59

SUBJECT : RULES AND REGULATIONS GOVERNING THE SPECIAL USES OF FORESTLANDS

Pursuant to the provisions of Section 2, Article XII of the 1987 Philippine Constitution, Executive Order No. 192 of 1987, Executive Order No. 278 of 1987, Executive Order No. 318 of 2004, Presidential Decree No. 705, as amended; Republic Act Nos. 7160 and 7161, and Presidential Decree 1586, the following rules and regulations governing the special uses of forestlands are hereby promulgated.

CHAPTER I
POLICIES, OBJECTIVES AND DEFINITION OF TERMS

Section 1. Policy and Objectives.

1.1 Basic Policy:

In line with the policy of the State to sustainably manage and provide equitable access to forestlands and forest resources, the government shall provide security of tenure to qualified person/s to occupy, develop, utilize and sustainably manage forestlands through appropriate forest land use management agreements.

1.2 Objectives:

- 1.2.1 To develop the country's forestlands into the appropriate productive uses consistent with the concept of sustainable development;
- 1.2.2 To provide equitable economic opportunities to local communities and other stakeholders;
- 1.2.3 To generate additional revenues for the government; and
- 1.2.4 To optimize the use of forestlands through sustainable management to ensure the continuous productive uses and services therefrom;

Section 2. Definition of Terms. For the purpose of this Order, the following terms shall be used in, and understood to mean as follows:

- 2.1 Abandonment – the voluntary relinquishment by the agreement holder of the privilege to use the forestland, as manifested by a voluntary surrender of the agreement to the DENR, or by continued absence of any activity that would indicate that the agreement holder is managing and using the land for the purpose(s) stipulated in the agreement;

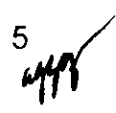
- 2.2 Entry Fee - the bid amount to be submitted by the bidders, the minimum amount of which should not be lower than 5% of the most recent zonal value of the area.
- 2.3 Environmental Compliance Certificate (ECC) – the document issued by the Secretary, or the Director or Regional Director of the Environmental Management Bureau (EMB), certifying that based on the representations of the proponent and the preparers, as reviewed and validated by the EIA Review Committee, the proposed project or undertaking will not cause a significant negative environmental impact; that the proponent has complied with the requirements of the EIA 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.
- 2.4 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.
- 2.5 Forestlands – lands of the public domain comprising of public forests, permanent/established forest reserves and other reservations.
- 2.6 Foreshore area – the part of the shore which is alternately covered and uncovered by ebb and flow of the tide.
- 2.7 Government share - the amount to be paid by a forestland user as its share to the government in the form of user's fee, for the use of a certain parcel of forest land. It shall be negotiated between the DENR and the winning bidder before the agreement is awarded, provided, that it shall not be less than five percent (5%) of the most recent zonal value as defined in Section 2.15.
- 2.8 Improvement – is a valuable addition made to a property or economic resource, or an amelioration in its condition, amounting to more than a mere repair or replacement of parts, involving capital expenditures and labor, which is intended to enhance its value, beauty or utility or to adopt it for new or other purposes. It may be a permanent or temporary improvement.
- 2.8.1 Permanent Improvement – includes those which are permanently annexed to the land under contract/agreement in such a manner that these cannot be separated therefrom without causing damage thereto.
- 2.8.2 Temporary Improvement – refers to those which can be removed without causing any damage to the land under contract/agreement and to which the same has been attached.
- 2.9 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 Environmentally Critical Area.

- 2.10 Protected Areas – refer to identified portions of land and water set aside as initial components of, or as proclaimed under the NIPAS, by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.
- 2.11 Reservation – refers to a tract of public forestland set aside by the President of the Philippines by proclamation for a specific purpose or purposes and which thereafter such reservation shall not be altered, or otherwise disposed of, but shall remain indefinitely as such, unless otherwise revoked by the President.
- The President of the Philippines may, upon the recommendation of the Secretary of the Department of Environment and Natural Resources, by proclamation, modify the boundaries of any such reservation to conform with subsequent precise survey.
- 2.12 Secretary – refers to the Secretary of the Department of Environment and Natural Resources.
- 2.13 Special Forest Landuse Agreement (FLAg) – is a contract between the government as first party represented by the Secretary or the Regional Executive Director concerned, and a second party or a person, authorizing the latter to temporarily occupy, manage and develop in consideration of a government share, any forestland of the public domain for specific use defined in Section 3 hereof, to undertake any authorized activity therein for a period of 25 years and renewable for the same period upon mutual agreement by both parties.
- 2.14 Special Uses – include all types of legal uses of the forestlands other than the production of timber and non-timber resources which are covered by other agreements such as, but not limited to, Integrated Forest Management Agreement (IFMA), Socialized Industrial Forest Management Agreement (SIFMA), Timber License Agreement (TLA), Forestland Grazing Management Agreement (FLGMA), Forest Land Management Agreement (FLMA), Community Forest Stewardship Agreement (CFSA), Communal Forest (CF) and Community-Based Forest Management Agreement (CBFMA).
- 2.15 Zonal Value – is the value of a piece of forestland as determined by the Department of Finance (DOF) through the Bureau of Internal Revenue (BIR).

CHAPTER II SCOPE AND COVERAGE

Section 3. Areas Available for Special Forest Landuse Agreement (FLAg). FLAg may cover all forest lands which are found suitable and available for FLAg pursuant to Section 9 of this Order and which are not otherwise classified as protected areas or are subject to vested rights, licenses/leases, permits or other instruments. **Provided**, that areas covered by vested rights or with existing permits/instruments may be made suitable for FLAg upon issuance of a waiver of right; **Provided further**, that a free and prior informed consent (FPIC) and certification of precondition shall be required, if the area is covered by a Certificate of Ancestral Domain/Land Claim/Title (CADC/CALC/CADT/CALT); **Provided finally** that Right-of-Way and other facilities of vital public importance may be allowed in the protected area subject to separate agreement with the respective Protected Area Management Board (PAMB) where applicable, and to existing laws, rules and regulations on the matter.

Section 4. Special Forest Landuse Agreements (FLAg) and Allowable Areas – The following are the Special Forest Landuse Agreements to be approved by the RED concerned, for which the areas shall not exceed:

		<u>(has.)</u>
4.1	Bodega/Warehouse site	5
4.2	Drydock site/shipbuilding/ ship breaking site	24
4.3	Industrial Processing site	24
4.4	Herbal/Medicinal Plantation	10
4.5	Nipa Plantation	10
4.6	Fish drying site	5
4.7	Other Lawful Purposes	10
4.8	Communication Station site	3
4.9	Landing site (Air strip)	As recommended by the Dept. of Transportation and Communications (DOTC) – Air Transportation Office (ATO)
4.10	Log Pond/Log Depot site	5
4.11	Lumberyard	5
4.12	Mineral storage and/or crushing site (outside MPSA area)	subject to the joint recommendation of RTD-FMS and RD-MGB concerned
4.13	Mining Waste Disposal Site (outside MPSA area)	subject to the joint recommendation of RTD-FMS and RD-MGB concerned
4.14	Motor pool site	5
4.15	Plant nursery site	3
4.16	Power Station site	5
4.17	Right-of-Way (including but not limited to Transmission Line Right-of-Way (TLRW), Communication Right of-Way (CRW)	subject to the joint recommendation of RED/s and Regional Head/s of Agency/ ies concerned
4.18	School site	5 

- 4.19 Water reservoir or Impounding dam - subject to the joint recommendation of RTD-FMS and Regional Head/s of Agency/ies concerned

Should it be necessary for a project to cover a larger area than the above maximum areas, such agreements shall be approved by the Secretary.

Section 5. Duration of FLAg. The FLAg shall have a maximum duration of twenty five (25) years renewable for the same period. After the expiration or non-renewal of the agreement, all non-removable or permanent improvements and structures in the area shall accrue to the government.

Section 6. Qualified Applicants. The following are qualified to apply for FLAg:

- 6.1 A Filipino citizen of legal age.
- 6.2 An association, corporation, cooperative or partnership or a juridical person, at least 60% of the capital of which by Filipino citizens, whether private or public, duly created and/or registered under Philippine laws, which is financially capable, or has the capability to mobilize finances, to develop the area applied for FLAg.

Section 7. Mode of Award of FLAg Areas. Areas suitable for FLAg shall be awarded thru competitive bidding, except in the following cases:

- a) where the area applied for FLAg only serves as an ancillary to an existing bigger project already covered by FLAg or a tenurial instrument or agreement;
- b) where the area applied for falls within the adjoining forestland under Special Land Use Permit/Lease of the permittee/lessee concerned. The permittee/lessee shall be given preferential right to apply within sixty (60) days upon receipt of "notice of preferential rights" for such land adjoining his/her existing lease/permit area; and
- c) where there are existing permanent improvements introduced by the applicant who had applied for Special Land Use Permit/Lease prior to the moratorium on the use of small islands.

Section 8. Application Requirements. The following requirements shall be submitted by the applicant together with the duly accomplished application form (Annex A) available at the DENR field offices:

- 8.1 The pertinent documents to show proof that the applicant is a legitimate entity qualified to be the holder of a forestland tenurial instrument or agreement, as follows:
- 8.1.1 For an individual applicant, certified copy of birth certificate or, if applicant is a naturalized Filipino citizen, a certified copy of his/her Certificate of Naturalization;
- 8.1.2 For a corporation, association or partnership, certified copy of SEC registration certificate and Articles of Incorporation/Partnership, and a resolution of the corporate governing body (Board of directors, Board of Trustees, etc.) designating the authorized representative of the said corporation, association or partnership;

- 8.1.3 For a cooperative, certified copy of certificate of registration with the Cooperative Development Authority;
- 8.2 An Indicative Management Plan (Annex B) describing how the area will be developed, including the strategies, schemes or plans to generate the necessary development financing;
- 8.3 For areas covered by specific laws, such as Palawan, or by co-management scheme, clearance/authorization from the appropriate governing body/authority.

CHAPTER III IDENTIFICATION AND DELIMITATION OF SPECIAL LAND USES FOR FOREST LANDS

Section 9. Identification and Delineation of Special Forest Landuses Areas.

- 9.1 CENROs shall identify areas suitable and available for FLAg sites within their respective areas of responsibility using DENR control maps, Comprehensive Land Use Plans of LGU(s) concerned, and other relevant secondary references. The CENRO should verify that the areas so identified are not covered by pending applications for, or covered by, existing forestry tenurial and/or forest use instruments or agreements,
- 9.2 The technical description and the preliminary map of the identified site(s) shall be forwarded to the RED, who shall then organize a composite team made up of representatives from the Regional Office, PENRO, CENRO, and the LGU(s) concerned. The Composite Team shall validate on the ground the suitability of the area in terms of biophysical characteristics, the presence or absence of socio-economic considerations that may impede or promote the full development of the area(s) under FLAg, including the determination of the presence or absence of valid land claims and forest occupants. The Team shall also undertake consultations with adjoining communities. The final output of the work of the composite team is the final determination of: (1) the metes and bounds of the FLAg area, defined by the technical description and final map at a scale of 1:20,000 and geo-referenced to the Philippine Reference System (PRS 92); (2) request for indorsement by the LGU Sanggunian(s) concerned, and; (3) indorsement to the RED for approval of the FLAg area.
- 9.3 For purposes of LGU indorsement, where the area falls within one barangay, the Sangguniang Barangay shall indorse; where an area falls across more than one barangay, the indorsement shall be from the Sangguniang Bayan/Sangguniang Panglunsod or all the Sangguniang Barangays concerned; and where the area falls across more than one municipality/city, the indorsement shall be from the Sangguniang Panlalawigan or all the Sangguniang Bayans concerned.
- 9.4 After the approval of the site by the RED, copies of the map with the technical description of the area shall be furnished the Forest Management Bureau, the PENRO concerned, and the CENRO concerned, for purposes of recording such site in the FLAg Registry which shall be maintained at the Forest Management Bureau, the DENR Regional Office, the PENRO and the CENRO concerned. The LGU(s) concerned shall likewise be furnished the same map and technical description.

Section 10. Registry of Areas. A registry of areas shall be established by FMB, RENRO, PENRO and CENRO. It shall include the following information: map, together with technical description, characterization of the area, documentation of the process involved in the determination and delineation of the areas, and, if available, assessed value of the land. The registry shall be made available through the DENR website, public notices posted at the DENR Regional, PENR and CENR Offices and at the Provincial, City, Municipal and Barangay Offices concerned.

CHAPTER IV PREQUALIFICATION AND BIDDING PROCEDURE, AWARD AND SETTING OF PERFORMANCE BOND

Section 11. Creation of Screening and Awards Committee

The Regional Executive Director (RED) shall create a FLaG Screening and Awards Committee (FLAgC) which shall be primarily responsible for the proper receipt, recording, safekeeping and evaluation of prequalification and bid proposals pertaining to the potential FLaG areas. It shall also be responsible for the conduct of bidding and in recommending the award of an area into FLaG in accordance with these regulations.

The members of the FLAgC shall be designated by the RED and shall be composed of the Regional Technical Director for Forest Management Services (RTD-FMS) as Chairman, and the Regional Technical Director for Protected Areas, Wildlife and Coastal Zone Services (RTD-PAWCZS), the Regional Administrative Officer, the Legal Officer and two (2) representatives from the technical forestry group with the rank not lower than a Division Chief, or its equivalent as members and the Commission on Audit representative as observer.

The FLAgC shall create a Secretariat to serve as technical support and assist them in the proper receipt and documentation of the bidding process.

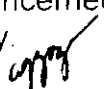
Section 12. Bidding Procedures.

12.1 Invitation to Pre-qualify to Bid.

Prospective bidders over available areas for FLaG identified in Sec. 9 hereof shall be invited to pre-qualify to bid over the area through public announcement by way of public invitation, weekly publication in at least two (2) newspapers (one for general circulation and the other for local circulation) for two (2) consecutive weeks and the DENR website. Copy of the Notice shall be posted at the DENR Regional, Provincial and Community Offices concerned, **Provided**, that the notice shall specify, among others, the location and technical description of the area.

12.2 Submission of Documents/Proponent Requirements.

All requirements stated in Sec. 8 shall be submitted in five (5) copies together with prequalification documents in sealed envelopes at the DENR Regional Office concerned not later than the time and date specified in the invitation to prequalify.



12.3 Evaluation of Prequalification Requirements.

The FLAgC shall, upon receipt of a prospective bidder's application documents and supporting papers, immediately number the pages of the submitted documents and record the same and the date and time of receipt, including the number of pages. The FLAgC shall, within 10 working days from the deadline for submission of prequalification applications, evaluate the documents taking into account the completeness of requirements as specified in Sec. 8 and the Indicative Development Plan *cum* financing as provided for under Sec. 8.2. The prospective bidder should show proof of available capital to undertake developmental activities provided in the Indicative Plan. This shall be supplemented by proofs of available credit line together with a certificate of undertaking stating among others that said amount shall be used only in the development of the subject area.

12.4 Action on Application Documents.

If, upon evaluation, the prospective bidder meets all the requirements, the application for prequalification shall be stamped "PREQUALIFIED". Subsequently, the Committee shall inform the concerned parties within five (5) days after approval that they have been pre-qualified and be required to submit their bid proposal in the form of an offer on the amount of the entry fee, as provided for in Sec 2.2, they are willing to pay, on the date and place specified therein.

On the other hand, applications of prospective bidders who do not meet the requirements shall be stamped "DISQUALIFIED". Applicants shall be informed in writing within five (5) days that they have been disqualified, stating the grounds for disqualification.

12.5 Receiving and Opening of Bids.

Bid proposals shall be submitted to the FLAgC within the specified period and shall be stamped by the record officer of the Secretariat indicating the date and time of receipt thereof. All bids must be accompanied by a Bidder's Bond of not less than Two Hundred Pesos (P200.00) per hectare, in cash or surety bond from a reputable bonding company.

The Chairman shall open the sealed bids publicly at the place, time, and date stated in the notice which shall be attended by the bidders or their duly authorized representatives. Every page of the bid proposal, including the documents attached thereto, shall be numbered consecutively and initialed by the FLAgC members.

After the opening and the numbering of the pages of the bid proposals have been completed, the corresponding abstract shall be prepared and signed by the committee members and the resident auditor or his representative, attaching supporting papers/documents and the proceedings of the bidding.



12.6 Basis of Award.

The area subject of bid shall be awarded to one who has the highest entry fee offer. **Provided**, that if there are two or more equal bids, another sealed bidding shall be conducted between and among those who submitted equal bids.

12.7 Decision of Award.

The RED, based on a review of the evaluation report of FLAgC, shall make his decision within 10 days from receipt of the recommendation, as to whom the area shall be awarded, and for which a Notice of Award shall be issued; **Provided**, that should the awardee refuse or fail to comply with the requirements called for in the Notice of Award within the period prescribed therein, the award shall be nullified and the Bidder's bond submitted shall be forfeited in favor of the Government; **Provided further**, that in such an eventuality, the second highest complying bidder shall be considered provided that his offer is at least 75% of the highest bidder offer, but not lower than the minimum entry fee. **Provided furthermore**, that these rules shall apply to the third highest bidder in case of refusal on the part of the second highest bidder, and so on.

12.8 Minimum Entry Fee

The FLAgC shall determine the reasonable minimum entry fee advantageous to the government for each type of forestland use, which should not be lower than 5% of the zonal value of the area.

12.9 The Notice of Award shall be given to the winning bidder within three (3) working days from the date the RED has decided on the awardee. Likewise, the losing bidder(s) shall be informed accordingly within the same period.

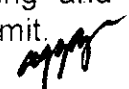
12.10 Preparation and Issuance of FLAg.

Within fifteen (15) days after the payment of the entry fee, a FLAg (Annex C), together with the final map of the area, shall be prepared in the Regional Office and approved by the Regional Executive Director concerned.

Section 13. EIA Requirement. After the approval of the FLAg, the area subject of the FLAg and any improvements introduced/found therein shall be subject to the EIA requirement.

The FLAg holder shall prepare an Environmental Impact Statement/Initial Environmental Examination (EIS/IEE) as shown on Annex "F-1" for submission to the Director or Regional Director, Environmental Management Bureau, as the case may be, which shall be the basis for the issuance of an Environmental Compliance Certificate (ECC).

Section 14. Conversion of Existing Special Land Use Permits to FLAg. Existing Special Land Use Permits may be converted to FLAg. Provided, that the holder thereof has shown satisfactory performance based on DENR's monitoring and evaluation system and has complied with all the terms and conditions of the permit.



CHAPTER V
TERMS AND CONDITIONS OF FLAg

Section 15. Terms and Conditions of the FLAg. The FLAg issued in consonance with this regulations shall be subject to the following provisions:

- 15.1 The FLAg granted shall be confined within the perimeter of the parcel of land described herein and no other parcel of public forestland outside what is granted shall be utilized by the holder without first securing therefor the prior permission of the Secretary;
- 15.2 The holder shall, within six (6) months from the issuance of the FLAg, delineate and mark on the ground the boundaries of the FLAg and its sub-areas subject to verification by the DENR and shall preserve the monuments and other land marks indicating corners and outlines along the boundaries and within the confines of the area covered by the FLAg;
- 15.3 The holder shall submit within three (3) months from the issuance of the FLAg, a Comprehensive Development and Management Plan (CDMP) as shown on Annex "F". Said Plan will be submitted to the RED where the same shall be deliberated upon by a Committee composed of mainly of technical staff of the Forest Management Service. The approved plan shall form part of the FLAg;
- 15.4 The holder shall utilize the area only for the purpose for which the FLAg is granted. In the event that the area will be utilized for purpose(s) other than what is approved, said use is subject to the prior approval of the Secretary or his/her duly authorized representative;
- 15.5 In the case of Nipa and Medicinal/Herbal plantations, the holder shall introduce improvements within one (1) year from the execution of the FLAg and complete the development within two (2) years. The holder shall have the right to harvest and utilize all products planted/introduced herein in accordance with the approved CDMP;
- 15.6 The holder shall protect the FLAg area from unprescribed forest fires and other forms of forest destructions and place his employees or workers under the direction of a registered forester or other authorized agents of the Secretary, whenever required;
- 15.7 The holder shall submit an Annual Report of activities showing developmental activities undertaken in accordance with the CDMP in the form shown as Annex "E" hereof. In the case of Nipa and Medicinal/Herbal Plantations; report shall include but not be limited to volume harvested by species; area planted (in ha.) by species, etc. using the prescribed format under Annex "E-1" hereof;
- 15.8 The holder shall not impede, obstruct or in any manner prevent the passage of legitimate stakeholders and/or other forest users and the public;
- 15.9 The holder may construct permanent infrastructure that are necessary in the development of the area as stated in the submitted CDMP. However, additional improvement not listed in the submitted plan shall be subject to prior approval of the Secretary or his/her duly authorized representative;

- 15.10 No trees in the FLAg area shall be cut regardless of species, if found within twenty (20) meters from banks of rivers, creeks or streams and of public roads. In case said 20 meters strip is bereft of trees, same shall be reforested by the FLAg holder;
- 15.11 The holder shall strictly adopt ecological solid waste management and abide with the provisions of the Clean Water Act;
- 15.12 The FLAg holder shall protect and conserve unique, rare and endangered flora and fauna identified as such under existing laws, rules and regulations;
- 15.13 All authorized DENR officials and/or employees shall be allowed to enter and inspect the area, for purpose of monitoring and evaluating the activities therein in accordance with the approved CDMP, using as guide Annex D, and using the monitoring and evaluation system prescribed for the purpose by the Secretary;
- 15.14 The FLAg holder shall inform the RED or his duly authorized representative on any changes in the management, ownership or capital stock of the company or corporation or transfer of a majority of the stock or shares of the company or corporation as provided for in PD 705, as amended;
- 15.15 To surrender to the RED or his duly authorized representative the agreement if not to be renewed on the date of expiration, or if the holder is no longer interested in the area, or in case of cancellation, immediately after the effectivity of its cancellation;
- 15.16 The agreement shall immediately terminate upon the abolition of the corporation;
- 15.17 In case of death of individual FLAg holder, the heir(s) may apply for the transfer of FLAg within ninety (90) days upon his/her death;
- 15.18 Such portion of the area granted which is not actually occupied for the purpose or purposes shall be planted with appropriate species. All clearings made in the development shall be replanted by the FLAg holder to maintain the ecological balance of the area; and
- 15.19 The FLAg shall not be construed as permit for the holder to obstruct the free navigation of any stream, creek or river adjoining or flowing through the area, or to prohibit or interfere with the passage of people along such streams, creeks or rivers or the banks thereof, or to impede the flow and ebb of the tide to and from the interior of the swamps.

Section 16. Additional Conditions for Certain Types of Special Uses of forestlands. The following special and additional conditions for certain types of special uses of forestland are hereby prescribed:

16.1 Right-of-Way

- 16.1.1 Right-of-Way for telecommunications and power transmission lines shall be confined only to the parcel of land described in the management agreement and shall be limited to a width of not more than twenty (20) meters;

- 16.1.2 For Road Right-of-Way. The opening of portions of the area under management agreement for road right-of-way shall not exceed the designed road width including the embankments; **Provided**, that the applicant of such road right-of-way shall seek prior clearance and pay the affected stakeholder a reasonable compensation for any damage to improvements; **Provided further**, that if public interest requires, such prior clearance shall be dispensed with; and
- 16.1.3 Cutting of trees affected by the right-of-way may be allowed, provided that all the trees cut shall be covered with permit, and shall be turned over and delivered to DENR or DENR-designated log depot. The FLAg holder shall also plant the same species or species to be determined by the DENR within designated areas to compensate for the trees cut.
- 16.2 Saltworks and other uses of tidal flats, mangrove ponds, marshes and streams within public forest lands.
- 16.2.1 When so required, such portion of the area granted which is not actually occupied by saltworks or other uses shall be planted with appropriate species. All clearings made in the operations of saltworks on the area shall be replanted by the FLAg holder whenever the area is no longer in use.

CHAPTER VI MONITORING AND EVALUATION, AND PAYMENT OF GOVERNMENT SHARE

Section 17. Monitoring and Evaluation. To ensure compliance to the terms and conditions of the FLAg, and proper monitoring and evaluation of the developments and improvements introduced in the area, the following guidelines shall be adopted:

- 17.1 The RED shall provide the PENRO and CENRO including the FMB copies of the approved FLAg including maps and CDMP of each FLAg issued;
- 17.2 The FLAg holder shall submit its annual report as to its compliance with the approved CDMP;
- 17.3 The Regional Composite Team composed of representative from the PENRO, CENRO, RTD for Forestry, and the RD-EMB shall conduct monitoring and evaluation of the development and submit monitoring report to the Regional Executive Director and the FMB Director. The FMB shall then submit an annual report to the Secretary; and
- 17.5 The DENR Central Office may validate the annual accomplishment report submitted by the FLAg holder.

Section 18. Payment of Government Share and Surcharges for Late Payment –
The government share shall be at least five percent (5%) of the most recent zonal value of the nearest commercial zone of the barangay/municipality/city or province whichever is higher.



The government share shall be paid within thirty (30) days upon issuance of the FLAg and annually thereafter within the same month that the FLAg was issued. Failure to pay within the prescribed period shall be subject to surcharges of 8.33% monthly for late payment or 100% for one (1) year.

CHAPTER VII GROUNDS FOR SUSPENSION AND CANCELLATION OF FLAg

Section 19. Grounds for Suspension or Cancellation. The FLAg may be suspended or cancelled by the RED for violation of the terms and conditions stipulated in the management agreement for any of the following causes:

19.1 Suspension (until infirmity has been cured):

19.1.1 Failure of the FLAg holder to settle administrative dues including government share after three (3) consecutive notices, after these become due and demandable.

19.1.2 Failure of the FLAg holder to provide for the necessary protection of the area.

19.1.3 Failure to advise or furnish the authorized issuing official with copy of all private transactions affecting the FLAg area or secure approval of concerned DENR Official such transactions before they become effective.

19.1.4 Encroachment by the FLAg holder of an area other than that covered by the management agreement.

19.1.5 For allowing other person/s to use the area or any portion thereof; or for using the area or any portion thereof for purposes other than what is specified in the management agreement.

19.2 Cancellation:

19.2.1 Violation of any of the terms and conditions or failure to comply with, or perform the obligations imposed in the management agreement or pertinent laws, decrees, letters of instructions and policies affecting the exercise of privilege granted therein, or any of the provisions of this Order.

19.2.2 If the privilege was obtained through fraud, misrepresentation or omission of material facts existing at the time of filing of the application.

19.2.3 Abandonment of the area or failure to exercise the privilege granted within the prescribed period of six (6) months from the issuance of the FLAg without justifiable cause.

19.2.4 Failure to introduce improvement/development within the prescribed period as indicated in the CDMP.

19.2.5 When national interest so requires; provided, that the government shall compensate, subject to existing laws, rules and regulations on the matter, the FLAg holder the value of the non-removable and permanent structures introduced by the FLAg holder.

19.2.6 Repeated violations of the provisions of Section 19.1.

CHAPTER VIII MISCELLANEOUS PROVISIONS

Section 20. Transfer. A FLAg Holder may transfer the FLAg or any rights therein or any assets used therewith, if authorized by the Secretary, and if:

- 20.1 The FLAg has been in existence for at least three (3) years;
- 20.2 The FLAg Holder has been faithfully complying with all the terms and conditions of the FLAg, including implementation of CDMP;
- 20.3 The transferee has all the qualifications and none of the disqualifications to hold a FLAg area;
- 20.4 The transferee shall assume all the obligations and responsibilities of the transferor specified in FLAg, CDMP and ECC; and
- 20.5 For FLAg areas in which development is being financed by loan funds, the concurrence of financing institution concerned shall be obtained prior to the transfer.

Section 21. Conversion of Special Land Use Permit to FLAg. Special Land Use Permits/Leases which have been in existence with established improvements may be converted into FLAg. Provided, that the permittee/lessee has religiously complied with all the terms and conditions of the permits/leases as evidenced by a comprehensive performance evaluation commissioned or undertaken by authority of the Secretary.

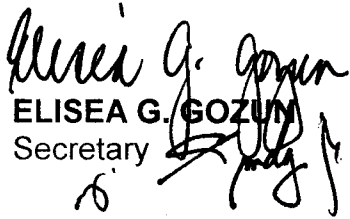
Section 22. Transitory Provisions. Exempted from bidding, provided they pay the minimum entry fee and other incidental expenses (i.e. application fee, cash performance bond and government share), are the following:

- 22.1 Those existing Special Land Use Permits that will be converted to FLAg.
- 22.2 Those with pending valid applications for a DENR permit prior to the signing of this Order.

Section 23. Repealing Clause. All existing rules, regulations, circulars, instructions, memoranda or portion/s thereof which are inconsistent herewith are hereby repealed or amended accordingly.

Section 24. Separability Clause. In case any portion or provision of this Order is declared unconstitutional or invalid, the other portions or provisions hereof which are not affected shall continue in full force and effect.

Section 25. Effectivity. This Order shall take effect fifteen (15) days after its publication in a newspaper of national circulation and submission to the Office of the National Administrative Registry (ONAR).


ELISEA G. GOZUM
Secretary

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SEPTEMBER 10, 2004