

**[DENR ADMINISTRATIVE ORDER NO. 2004-59,
August 31, 2004]**

**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 of 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 (5%) percent 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, 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:

	(has.)
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	- 10
4.9 Landing site (Air trip)	- 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	- 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 minimum areas, such agreements shall be approved by the Secretary.

SECTION 5. Duration of FLAg. The FLAg shall have a minimum 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;