



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. (632) 929-66-26 to 29 •(632) 929-62-52
929-66-20 to 29 •929-66-33 to 35
929-70-41 to 43

JUL 25 2007

DENR ADMINISTRATIVE ORDER)

No. 2007 - 17 :

SUBJECT: RULES AND REGULATIONS GOVERNING SPECIAL USES WITHIN PROTECTED AREAS

Pursuant to RA 7586 otherwise known as the National Integrated Protected Areas System (NIPAS) Act of 1992 and its Implementing Rules and Regulations, the following rules and regulations governing special uses within protected areas are hereby promulgated:

Section 1. Basic Policy. The policy of the State provides for the conservation of biodiversity and sustainable development in protected areas to maintain essential ecological processes and life support systems.

The effective management of protected areas should encourage cooperation between and among stakeholders to manage and develop the appropriate zones of protected areas through special use agreements.

Section 2. Objectives. This Order shall set forth in detail the guidelines for the processing and issuance of special use agreements within protected areas. Specifically, this Order shall have the following objectives:

- 2.1 To provide access and economic opportunities to indigenous peoples, tenured migrant communities and other stakeholders of protected areas thereby contribute in the reduction of poverty incidence;
- 2.2 To optimize the special uses of protected areas consistent with the principles of sustainable development and biodiversity conservation in cooperation with the stakeholders;
- 2.3 To guide the development of the appropriate zones of protected areas in accordance with their management objectives; and
- 2.4 To earn revenues for the sustainability of protected areas management.

Section 3. Definition of Terms. For the purpose of this Order, the following terms shall mean as follows:

- 3.1 Special Uses – include activities and introduction of development as mentioned in Section 5 of this DAO and consistent with the Protected Area Management Plan (PAMP).
- 3.2 Special Use Agreement in Protected Areas (SAPA) – a binding instrument between the DENR through the PAMB as the first party, and a second party as defined in Section 7 hereof.
- 3.3 Ecotourism – is a form of sustainable tourism within a natural and cultural heritage area where community participation, protection and management of natural resources, culture and indigenous knowledge and practices, environmental education and ethics, as well as economic benefits are fostered and pursued for the enrichment of host communities and the satisfaction of visitors.

Section 4. Scope and Coverage. SAPA may be issued within protected areas except in Strict Nature Reserves and shall be confined only to the management zones of the protected area appropriate for the purpose.

The SAPA can be issued only in protected areas whose management zones have been identified and delineated.

Section 5. Kinds of Special Uses. The following are the special uses, that may be allowed, but not limited to, within protected areas, subject to the issuance of an Environmental Compliance Certificate (ECC) and approval by the Secretary or his duly authorized representative:

- 5.1 Ecotourism facilities
- 5.2 Camp Sites
- 5.3 Communication facilities
- 5.4 Transmission lines
- 5.5 Irrigation canals/waterways
- 5.6 Rights-of-way (such as: transmission lines, communication facilities, etc.)
- 5.7 Aqua culture

5.8 Scientific Monitoring Stations (i.e. PAGASA, PHILVOLCS, etc.)

5.9 Agro-Forestry

5.10 Forest Plantation

Section 6. Duration of the SAPA. The SAPA may have duration of twenty-five (25) years and may be renewed, subject to review and approval of the Secretary or his authorized representative upon endorsement of the Protected Area Management Board. After the expiration or non-renewal of the Agreement, all improvements and structures in the area shall be donated/turned-over to the DENR.

Section 7. Who May Apply. The following may apply for SAPA:

7.1 Indigenous Peoples

7.2 Tenured Migrants

7.3 Local Government Units

7.4 Other Government Agencies (OGAs)

7.5 Other stakeholders (corporations, cooperatives, business entities, NGOs, etc.)

The PAMB shall develop a set of criteria as guide for the selection of applicants. Preference shall be given to IPs and tenured migrants in the issuance of the SAPA.

Section 8. Qualification of Applicants. The following may apply for SAPA:

For individual applicants;

8.1 A Filipino citizen of legal age

For Groups or Corporations or Associations;

8.2 An association, corporation, cooperative, partnership or a juridical person, including non-government organizations at least sixty percent (60%) of the capital of which is owned by Filipino citizens, whether private or public, duly created and/or registered under Philippine laws.

Section 9. Application Requirements. The following are the requirements in applying for SAPA:

9.1 General Requirements:

- 9.1.1 Duly accomplished application form;
- 9.1.2 Certified copy of birth certificate or any other evidence of Filipino citizenship (for individuals) or ownership (for corporations);
- 9.1.3 Project description supported by maps and pictures of the proposed area, development plan, timetable and description of activities from preparation to project implementation. The description should show sustainable management and development;
- 9.1.4 Proof of financial capability to manage and develop the area applied for based on paid-up capital and/or collateralable real properties;
- 9.1.5 Free and Prior Informed Consent (FPIC) of concerned IPs, as the case maybe.

9.2 For Individual Applicants

- 9.2.1 For tenured migrant/s, a certification from the concerned Protected Area Superintendent;
- 9.2.2 In case of application of qualified applicants other than the PACBRMA holder within PACBRMA areas, a MOA between the proponent and PACBRMA holder is necessary;
- 9.2.3 For IPs applying for areas outside their ancestral land/domain, a certification from the Regional/Provincial NCIP that the applicant is an IP living within the protected area.

9.3 For Groups/Corporations/Associations/Cooperatives/NGOs;

- 9.3.1 Copy of the SEC registration, Articles of Incorporation and By-laws. A resolution of the governing board designating the authorized representative of the said corporation, association or partnership, if applicable;

- 9.3.2 Copy of the Resolution or Ordinance approved by the respective Sangguniang Panlalawigan/Panlungsod/Bayan, if the applicant is a Local Government Unit (LGU). It shall specify the authority of the Local Chief Executive of the concerned LGU that she/he is authorized to enter into a contract and she/he acts for and on behalf of the LGU; and
- 9.3.3 For cooperatives, a Certificate of Registration with the Cooperative Development Authority.

Section 10. Procedure in the Processing and Issuance of SAPA. The following procedure shall be followed in the processing of application and issuance of SAPA:

- 10.1 The application form (Annex A) together with all the necessary permits and pertinent requirements as stated in Section 9 of this Order, shall be filed with the Office of the concerned PASu who shall finish the review of the application within ten (10) working days upon receipt thereof.
- 10.2 If found complete and in order, the application shall be referred to the Protected Area Management Board (PAMB) for deliberation and subsequent recommendation for approval or disapproval. The PAMB shall act on the application within fifteen (15) working days upon receipt thereof;
- The applicant shall also submit the project description to EMB for technical scoping.
- 10.3 The RED upon the recommendation of the PAMB shall issue clearance/disapproval of the application, within thirty (30) days upon receipt thereof;
- 10.4 The PASu shall notify the applicant within seven (7) days of the result of the deliberation. If the application is given clearance, the applicant should obtain the result of the technical scoping from EMB;
- 10.5 The applicant should proceed with the preparation of the Comprehensive Development and Management Plan (CDMP) and together with the EIA Report submit to EMB for the issuance of ECC;
- 10.6 The CDMP and the ECC shall be submitted to the PAMB for review. Once the CDMP is approved, the Board shall pass a Resolution recommending approval of the application for the SAPA;

10.7 The Secretary or his authorized representative shall approve the SAPA;
and

10.8 The PASu shall inform the applicant.

The flow chart on the procedure for the issuance of SAPA is herein attached as **Annex B**.

Section 11. Monitoring and Evaluation. The PAMB through the protected area office (PAO) shall conduct regular monitoring and evaluation of the progress/status of developments by the SAPA holder and submit monitoring reports to the PAMB Chair.

Section 12. Grounds for the Cancellation of the SAPA. The SAPA may be cancelled by the Secretary or his authorized representative as recommended by the PAMB for any of the following:

- 12.1 Violation or non-compliance with any of the terms and conditions stipulated in the SAPA, the ECC and permits issued by other Government agencies;
- 12.2 If the Agreement was obtained through fraud, misrepresentation or omission of material facts existing at the time of filing of the application;
- 12.3 Abandonment of the area or failure to exercise the privilege granted within the prescribed period of one (1) year from the issuance of the SAPA without justifiable cause; (Include in the terms and conditions of the Agreement);
- 12.4 Bankruptcy or closure of operation of the Corporation;
- 12.5 Violation of natural resources laws, rules and regulations;
- 12.6 When national interest so requires as determined by the DENR Secretary;
- 12.7 In cases of *force majeure* resulting to the non-performance of any of the obligations of the SAPA holder, the latter shall notify the DENR within thirty (30) days from the occurrence of such events, including a statement describing the *force majeure* and its effect upon the SAPA holder's ability to comply with the terms and conditions of the Agreement. The DENR and SAPA holder shall then discuss the actions to be taken within mutually agreed schedule but not to exceed 30 days after such notice.

Section 13. Transfer. A SAPA holder may transfer the Permit or any rights therein or any assets used therewith, if authorized by the Secretary, and if:

- 13.1 The SAPA has been in existence for at least three (3) years;
- 13.2 The SAPA holder has been faithfully complying with all the terms and conditions of the SAPA, including implementation of the CDMP;
- 13.3 The transferee has all the qualifications and none of the disqualifications to hold a SAPA; and
- 13.4 The transferee shall assume all the obligations and responsibilities of the transferor specified in the SAPA, CDMP and ECC.

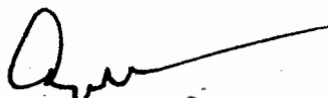
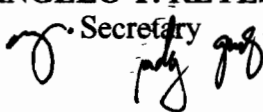
Section 14. Penalties. Violations of the provisions of this Order shall be penalized in accordance with applicable laws, rules and regulations.

Section 15. Transitory Provisions. All existing permits, agreements, contracts or leases shall be respected until their expiration. Henceforth, holders of such permits may apply for SAPA, if applicable, in accordance with this Order.

Section 16. Repealing Clause. This Order repeals Section 3 of DAO 2004-28 entitled, "Rules and Regulations Governing the Use of Forestlands for Tourism Purposes" and all other issuances inconsistent herewith.

Section 17. 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 18. Effectivity. This Administrative Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgement of receipt of a copy thereof by the Office of the National Administrative Register (ONAR).


ANGELO T. REYES
Secretary


DAOSAPAMay-16-07/Usec Borje's comments/ Lynette

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Annex A. Application Form

**Republic of the Philippines
Department of Environment and Natural Resources
Region _____**

Name of Protected Area: _____
Application No.: _____ Date Filed: _____
Status: New: _____ Renewal: _____ Date Expired: _____
Name of Applicant: _____
Address: _____
Tel. No.: _____ E-mail Add: _____

Type of Applicant:

- _____ Indigenous People
- _____ Tenured Migrant
- _____ Local Government Unit
- _____ Other Government Agency
- _____ Other Interested Party

Type of Special Use Applied for (Pls. tick appropriate box/es):

- _____ Ecotourism
- _____ Camp Sites
- _____ Communication
- _____ Transmission Lines
- _____ Irrigation Canals/Agriculture
- _____ Rights-of-Way
- _____ Aqua culture
- _____ Monitoring Stations
- _____ Other Special Uses (Pls. specify)

Brief Description of Special Use Applied for:

TERMS AND CONDITIONS OF THE SAPA

The following are the minimum terms and conditions that the SAPA holder should observe and comply with:

1. Shall confine their development activities within the area specified in the Agreement.
2. Shall pay the users fee prescribed by the Management Board.
3. Shall, within six (6) months from the issuance of the Agreement, delineate and mark on the ground the boundaries of the area covered by the same under the supervision of the PASU. The SAPA holder shall preserve at all times such markers and other natural landmarks indicative of the boundaries of the area under the Agreement.
4. Shall protect the area from destructive activities including forest fires, illegal fishing, unlawful entry, and unauthorized gathering of resources, among others.
5. Shall submit to the PAMB an annual report of accomplishments indicating management and development activities undertaken in accordance with its Comprehensive Development and Management Plan (CDMP).
6. Shall not impede, obstruct or in any manner, prevent the passage of legitimate stakeholders and/or other protected area users and the public.
7. Shall secure prior approval of the PAMB 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. Failure to do so without justifiable cause shall be sufficient ground for the cancellation of the SAPA.
8. Shall at all times comply with the conditions set forth in the ECC and permits for the project issued by other Government agencies.
9. Abandonment of the area or failure to exercise the privilege granted within the prescribed period of one (1) year from the issuance of the SAPA without justifiable cause.
10. The DENR and/or PAMB may impose additional terms and conditions in the SAPA, which are deemed, fit under the circumstances, consistent with the existing rules, laws and regulations.

ATTACHMENTS:

- _____ For tenured migrant/s, a certification from the concerned CENRO;
- _____ For IPs, a certification from the Regional/Provincial NCIP that the applicant is an IP living within the protected area;
- _____ For Government official or employee, a written permission from the Department Secretary or head of the agency concerned;
- _____ For an individual applicant, a certified copy of birth certificate or any other evidence of Filipino citizenship;
- _____ For a corporation, association or partnership, a copy of the SEC registration, Articles of Incorporation and By-laws, and a resolution of the Governing Board designating the authorized representative of the said corporation, association or partnership;
- _____ For a cooperative, a certificate of registration with the Cooperative Development Authority;
- _____ In case of application of non-tenured migrants within PACBRMA areas for activities not included in the CRMP, a MOA between the proponent and PACBRMA holder;
- _____ Indicative Development Plan;
- _____ Proof of financial capability to manage and develop the area applied for based on paid-up capital and/or collateralable real properties;
- _____ A certified copy of the applicant's Income Tax Returns for the past five (5) years. In case the applicant has been in existence for less than five years, the Income Tax Return(s) since its registration shall be submitted;
- _____ If the applied protected area is within the Province of Palawan, a clearance/authorization from the Palawan Council for Sustainable Development (PCSD) pursuant to RA 7611 (Strategic Environmental Plan for Palawan);
- _____ Free and Prior Informed Consent (FPIC) of concerned IPs and/or Prior Informed Consent (PIC) of local communities and LGUs, when necessary.

Checked and verified by : _____
Printed Name and Signature

Date verified: _____

ANNEX B. Flow Chart for the Processing of SAPA

