



Republic of the Philippines
Department of Environment and Natural Resources
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NOTICE OF MEETING

FOR : The Director
Biodiversity Management Bureau
Forest Management Bureau
Land Management Bureau

The Director
Financial and Management Service
Legal Affairs Service

FROM : The OIC Director
Policy and Planning Service

DATE/TIME : March 24, 2022 (Thursday) / 9:00 AM

VENUE : Video Conference via Zoom

May we invite you or your representative/s to a virtual Consultation Meeting with the Department of Finance, Department of Budget and Management, Department of Tourism and Department of Trade and Industry on March 24, 2022, Thursday, 9:00 AM via the Zoom platform, to discuss the draft DENR Administrative Order (DAO) entitled "Guidelines on the Collection of Fees and Charges from Tourism/Ecotourism Development Projects and other Tourism-Dependent Businesses during the Covid-19 Pandemic."

Herewith are the meeting details:

<https://us02web.zoom.us/j/85661786163?pwd=R2wzVjc2VUNHWWZhQ1YrVlZnSlc2Zz09>

Meeting ID: 856 6178 6163
Passcode: govshare

Attached is a copy of the draft DAO, for your reference. Should you have any questions regarding the meeting, please coordinate with the Policy Studies Division through telephone number 8925-1183 or through email at psddivision@gmail.com.


GLENN MARCELO C. NOBLE



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DENR ADMINISTRATIVE ORDER
NO. 2022 - _____

SUBJECT : GUIDELINES ON THE COLLECTION OF FEES AND CHARGES FROM TOURISM/ECOTOURISM DEVELOPMENT PROJECTS AND OTHER TOURISM-DEPENDENT BUSINESSES DURING THE COVID-19 PANDEMIC

Pursuant to the provisions of Republic Act (R.A.) No. 11469 or the “Bayanihan to Heal as One Act,” R.A. No. 11494 otherwise known as the “Bayanihan to Recover as One Act” and their Implementing Rules and Regulations (IRR), and Proclamation No. 1218, S. 2021 entitled “Further Extending the Period of a State of Calamity throughout the Philippines due to Corona Virus Disease 2019 Declared under Proclamation No. 1021, S. 2020,” this Order is hereby issued for the guidance and compliance of all concerned.

SECTION 1. Basic Policy. It is the policy of the State to reduce the adverse impact of Covid-19 on the socioeconomic well-being of the Filipinos through the provision of assistance, subsidies and other forms of socioeconomic relief.

On the other hand, it is also the policy of the State to mitigate the economic cost and losses stemming from the Covid-19 pandemic, and accelerate the recovery and bolster the resilience of the Philippine economy through measures grounded on economic inclusivity, and collective growth through fiscal sustainability.

SECTION 2. Objective. This Order aims to provide guidelines on the manner of collection of fees and charges from tenurial instrument holders involved in tourism/ecotourism development projects and other tourism-dependent businesses, who have been adversely affected by the Covid-19 Pandemic.

SECTION 3. Scope and Coverage. This Order shall apply to tourism/ecotourism development projects and other tourism-dependent businesses covered by Foreshore Lease Agreement (FLA), Forest Land Use Agreement for Tourism Purposes (FLAgT), Memorandum of Agreement (MOA), and Special Use Agreement in Protected Areas (SAPA) affected by the Covid-19 Pandemic, covering the period March 16, 2020 until September 12, 2022.

SECTION 4. Definition of Terms. As used in this Order, the following terms shall be defined as:

- 4.1. Fees and Charges - also known as user's fees, these shall cover the government share/annual rental, or development fee to be paid by the tenorial instrument holder to the government for the use of a certain portion of public land.
- 4.2. Foreshore Lease Agreement (FLA) - an agreement executed by and between the Department of Environment and Natural Resources (DENR) and the applicant (natural or juridical person) to occupy, develop, utilize, and manage the foreshore lands. It may also cover marshy lands or lands covered with water bordering upon the shores or banks of navigable lakes or rivers.
- 4.3. Forest Land Use Agreement for Tourism Purposes (FLAgT) - an agreement between the DENR and a natural or juridical person, authorizing the latter to occupy, manage and develop, subject to government share, any forestland of the public domain for tourism purposes and to undertake any authorized activity therein for a period of twenty-five (25) years and renewable for the same period upon mutual agreement by both parties. It shall include special forest land uses such as Bathing Establishment, Camp Site, Ecotourism Destination, Hotel Site (inclusive of related resort facilities) and other tourism purposes.
- 4.4. Memorandum of Agreement (MOA) - a document executed between the applicant and the DENR and the Protected Area Management Board (PAMB) for activities and/or development interventions that may be allowed in designated portions of protected areas subject to the payment of user fee in lieu of the SAPA.
- 4.5. Special Use Agreement Within Protected Areas (SAPA) - a binding instrument between the DENR, as the first party, and the project proponent as the second party, relating to the use and/or development of land, resources or facilities within protected areas, pursuant to the National Integrated Protected Areas System (NIPAS) Act, as amended.
- 4.6. Tenorial Instruments - are leases, permits or agreements concerning the development and utilization of the country's natural resources.

SECTION 5. Suspension of the Use of Re-evaluated/Re-appraised Rate or Value of Government Share/Rental for Tenorial Instruments and Deferment of Payment. The use of re-evaluated/re-appraised rate or value of the FLA, FLAgT, MOA and SAPA, as mandated by the following policies, shall be temporarily suspended pursuant to this Order:

- 5.1. FLAgT – pursuant to Section 16 of DENR Administrative Order (DAO) No. 2004-28 or the Rules and Regulations Governing the Use of Forestlands for Tourism Purposes, the revaluation is mandated to be conducted every five (5) years.
- 5.2. FLA – under Section 14 of DAO No. 2004-24 or the Revised Rules and Regulations Governing the Administration and Management of Foreshore Lands, re-appraisal of the area and the improvement thereon is conducted every ten (10) years from the date of approval of the lease contract.

- 5.3. SAPA / MOA – Pursuant to Rule 25.8 of DAO No. 2019-05 or the IRR of the NIPAS Act, as amended, review of rates of development fee shall be conducted every five (5) years from the issuance of the SAPA. The review of development fee for the availing SAPA/MOA holder shall be conducted two (2) years upon full payment of the arrears.

In addition to the temporary suspension of the use of the re-evaluated/re-appraised value or rate for the tenurial instrument, the payment of annual rental covering the period March 16, 2020 to September 12, 2022 is hereby deferred. For such period, the previously approved appraised rate/value shall apply. The adjusted schedule of payment, as provided in Section 10 of this Order, shall be construed that no fines or penalties shall be incurred by the tenurial instrument holder covering the period stated above. However, an interest on late payment of the deferred fees and charges to be paid for in CY 2023 to CY 2027 based on the Order: Deferment of Payment, as provided in Annex A shall be imposed.

After the coverage of this Order, the re-evaluated/re-appraised rate or value of the government share/annual rental, or development fee shall apply.

No tenurial instrument covered by these guidelines shall be suspended and/or cancelled as a result of the failure of holders to pay the fees and charges demandable during the period covered.

SECTION 6. Qualified Tenurial Instrument Holders. Any person, entity, or corporation who has passed the following qualifications may be entitled to avail of the relief granted under this Order:

- 6.1. Holders of valid DENR tenurial instruments who have no arrears on applicable fees prior to March 16, 2020; and
- 6.2. Those who are in good standing, have complied with pertinent existing laws, rules and regulations, and are compliant with the Terms and Conditions of their tenurial instrument, as determined by the DENR or the PAMB in the case of SAPA/MOA.

SECTION 7. Requirements. The following documents shall be submitted in relation to the application for the availment of the relief granted under this Order:

- 7.1. Letter of Intent (LOI) from the tenurial instrument holder or his/her Authorized Representative;
- 7.2. Certification from the Barangay and/or Municipal/City local government unit (LGU) that the tenurial instrument holder has reduced or ceased his/her business operations or was ordered to temporarily suspend operations due to the implementation of Covid-19 protocols, within the period covered by this Order. For tenurial instruments covering multiple barangays, the Certification may be obtained from the Municipal/City LGU or the Barangay LGU where the larger portion of the land covered by the tenurial instrument is located. Similarly, in case the tenurial instrument traverses two (2) or more municipalities, the Certification shall be secured from the Municipal/City LGU that has jurisdiction over the larger portion of the land covered by the tenurial instrument; and

- 7.3. Audited Financial Statements stamped received by the Bureau of Internal Revenue covering CY 2019 to CY 2021.

SECTION 8. Where to File the Application. The applicant or his/her duly authorized representative shall express his/her intent to apply or avail of the relief provided under this Order by submitting an LOI to the Community Environment and Natural Resources Office (CENRO) / Implementing Provincial Environment and Natural Resources Office (PENRO), or to the Protected Area Management Office (PAMO) / Protected Area Superintendent (PASu) having jurisdiction over the area covered by the tenurial instrument, together with all the supporting documents as stated in Section 7 hereof. He/she shall have the option to submit the LOI through email or through courier.

SECTION 9. Processing of Application. The following procedures shall apply in the processing of applications:

9.1. Timeframe

Tenurial instrument holders who are interested to avail of the relief granted herein may apply with the CENRO/Implementing PENRO or the PAMO / PASu within a period of three (3) months upon effectivity of this Order.

9.2. Procedures

9.2.1. FLA and FLAGT

- 9.2.1.1. Upon receipt of the applicant's LOI and supporting documents, the CENRO or Implementing PENRO shall evaluate the qualification of the applicant to avail of the relief granted under this Order and the sufficiency of the requirements, assess the demandable fees and charges/billing for the period covered, and prepare the evaluation report. Any application with incomplete documents shall not be accepted.

If the applicant is qualified to avail of the relief granted, the CENRO or Implementing PENRO shall prepare the Order: Deferment of Payment duly concurred by the applicant and submit the same together with all the documents to the PENRO, then to the Regional Office (RO), or from the Implementing PENRO to the RO, through proper channels, for review. This processing stage shall have a maximum period of fifteen (15) working days, excluding the period for the concurrence of the applicant.

In case of non-qualification of the tenurial instrument holder to avail of the relief granted under this Order, the CENRO or the Implementing PENRO shall inform the applicant in writing within one (1) working day. The tenurial instrument holder shall also be informed to comply with the prerequisites in order to qualify for the availment of the relief granted.

- 9.2.1.2. Upon receipt of the documents by the RO, the application shall be subjected for final review of the concerned division. If in order, the same shall be endorsed to the Regional Executive Director (RED) for approval of the Order: Deferment of Payment. This processing stage shall have a maximum period of five (5) working days.

The approved Order: Deferment of Payment shall be notarized and shall form part of the agreement/contract. It shall be transmitted to the applicant, copy furnished the CENRO/Implementing PENRO/PENRO and the Planning and Management Division (PMD).

The process flow is attached as Annex B.

9.2.2. MOA and SAPA

- 9.2.2.1. Upon receipt of the applicant's LOI and supporting documents, the PAMO/PASu shall evaluate the qualification of the applicant to avail of the relief granted under this Order and the sufficiency of the requirements, assess the demandable fees and charges/billing for the period covered, and prepare the evaluation report. Any application with incomplete documents shall not be accepted.

If the applicant is qualified to avail of the relief granted, the PAMO/PASu shall prepare the Order: Deferment of Payment duly concurred by the applicant, and endorse the same together with all the documents to the PAMB concerned for review and issuance of a resolution allowing or disallowing the deferment of such payment and waiving of penalties/charges. This processing stage shall have a maximum period of fifteen (15) working days, excluding the period for the issuance of the PAMB Resolution and concurrence of the applicant.

In case of non-qualification of the tenurial instrument holder to avail of the relief granted under this Order, the PAMO/PASu shall inform the applicant in writing within one (1) working day. The tenurial instrument holder shall also be informed to comply with the prerequisites in order to qualify for the availment of the relief granted.

- 9.2.2.2. Upon issuance of the PAMB Resolution allowing the deferment of payment and waiving of penalties/charges, the PAMO/PASu shall endorse the same together with the Order: Deferment of Payment and all the documents to the Regional Executive Director, through proper channels for approval. This processing stage shall have a maximum period of five (5) working days.

The approved Order: Deferment of Payment shall be notarized and shall form part of the agreement/contract. It shall be

transmitted to the applicant, copy furnished the PAMO/PASu/
PAMB/CENRO/PENR/Implementing PENRO and the PMD.

The process flow is attached as Annex C.

SECTION 10. Payment Scheme. In line with Section 5 of this Order, a staggered payment scheme shall be implemented for FLA, FLAgT, MOA and SAPA, wherein affected tenorial instrument holders shall pay appropriate fees due and demandable against them in a maximum period of five (5) years to be included in their annual rental, which shall commence in CY 2023.

Failure to pay the said amount on time will result in corresponding surcharges of 8.33% per month.

The re-appraised values approved between March 16, 2020 to September 12, 2022 shall not be used in computing the rentals for CY 2020 to 2022. The rental amount to be paid shall be computed using the previously approved appraisal. Tenorial instrument holders who have already paid the annual rental for CY 2020 to CY 2022 using the approved reappraised values are entitled to a rebate in the form of rent credits for CY 2023.

SECTION 11. Reporting. The RO shall prepare a semi-annual report on the Order: Deferment of Payment issued, and submit the same to the Policy and Planning Service – Program Monitoring and Evaluation Division, copy furnished the BMB/FMB/LMB. The deadline for the submission of the report to the PPS shall be on the fifth (5th) day of the month after the semester. The information generated from the reports may be used by the DENR-Central Office in determining the losses incurred by the Department due to the Covid-19 pandemic. The template for the report is attached as Annex D.

SECTION 12. Notification Requirement. Upon the effectivity of this Order, the CENRO/Implementing PENRO/PAMO/PASu shall inform the tenorial instrument holders concerned of their privilege to avail of the provisions of this Order.

SECTION 13. Separability Clause. If any provision of this Order shall be held invalid or unconstitutional, the other portions or provisions hereof which are not affected shall continue in full force and effect.

SECTION 14. Repealing Clause. All Orders and other similar issuances inconsistent herewith are hereby repealed, amended or modified accordingly.

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

JIM O. SAMPULNA
Acting Secretary