



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
KAGAWARAN NG KAPALIGIRAN AT LIKAS YAMAN

MEMORANDUM

TO : The Regional Executive Directors
Regions 1-12, CARAGA, CAR and NCR

FROM : The Undersecretary for Policy, Planning and International Affairs

SUBJECT : **ACTIVITIES ALLOWED AND PROHIBITED WITHIN
PROTECTED AREAS**

DATE : OCT 04 2023

Pursuant to our mandate to protect our natural resources, this Office hereby reiterates the attached guidance on the activities allowed such as Special Uses, Settlements, Livelihood Activities, Research Activities, Bioprospecting and consideration on construction of any development projects (hydroelectric facilities, buildings and other infrastructures), as well as the prohibited activities within Protected Areas.

For information and guidance.


ATTY. JONAS R. LEONES

MEMO NO. 2023 - 870

BRIEFER
ACTIVITIES ALLOWED AND PROHIBITED WITHIN PROTECTED AREAS

References:

1. National Integrated Protected Areas System Act of 1992 as amended by Republic Act No. 11038 or the Expanded National Integrated Protected Areas System Act of 2018.
2. DENR Administrative Order No. 2019-05 or the Implementing Rules of RA No. 7586, as amended by RA No. 11038
3. RA No. 9147 or the Wildlife Resources Conservation and Protection Act
4. DAO 2004-55 or the DENR Streamlining/Procedural Guidelines Pursuant to Joint DENR-DA-PCSD Implementing Rules and Regulations of RA No. 9147 Otherwise Known as Wildlife Resources Conservation Act
5. Joint DENR-DA-PCSD-NCIP Administrative Order No. 1, Series of 2005, or the Guidelines on Bioprospecting Activities in the Philippines

A. Consideration on construction of any development projects within Protected Areas

- Under Section 12 of the NIPAS Act, as amended, considering that protected areas are environmentally critical areas, the proponent of development projects and activities with potentially significant adverse impacts as determined by the Environmental Management Bureau (EMB), whether or not these projects or activities are included in the management plan, shall secure an Environmental Compliance Certificate (ECC) in accordance with the Philippine Environment Impact System (EIS): Provided, that for development projects and activities that are not environmentally critical, an Initial Environmental Examination (IEE) shall be undertaken by any project proponent without prior clearance from the PAMB. The DENR shall require the submission of the PAMB clearance, among others, before issuing an ECC to a project proponent.
- No actual implementation of such activities shall be allowed without the required ECC under the Philippine EIA System. Violations of environmental laws, rules and regulations including those under the EIA System, shall be penalized accordingly (Section 12, NIPAS Act, as amended).

B. On construction of hydroelectric facilities within Protected Areas

- Under Section 14 of the NIPAS Act, as amended, renewable energy projects may be allowed within the protected area by the PAMB with the concurrence of the DENR Secretary; Provided, that renewable energy projects which shall be located outside the strict protection zones shall undergo the EIA as provided by law and shall adopt reduced impact technologies so as to not be detrimental to ecosystem functions, biodiversity, cultural practices and traditions: Provided that sufficient bond shall be remitted by the proponent to the DENR. The amount of which will be based on damage estimation upon decommissioning and projected cost of rehabilitation. It shall be released to the depositor upon the satisfactory decommissioning of all equipment, structures and improvements and the rehabilitation of site according to the zones and objectives of the management plan as attested to by the PAMB.

- Further, rule 14.3 of the IRR of the NIPAS Act, as amended, states that--renewable energy projects may be allowed within the protected area under the following conditions, without prejudice to such other requirements as may be determined by the DENR:
 - a) The project is located outside SPZ;
 - b) A PAMB clearance is obtained in accordance with Section 12 of the NIPAS Act, as amended, and Rules 12.1 to 12.2 hereof;
 - c) The conduct of an EIA, as provided by laws, rules and regulations;
 - d) A resolution approved by majority vote of the members of the PAMB, attesting to its acceptance of the project, and endorsing it for concurrence by the Secretary;
 - e) The concurrence of the DENR Secretary; and
 - f) The remittance of a sufficient bond to ensure the availability of funds for the timely compensation of damages and progressive and sustainable rehabilitation of affected areas.
- Rule 14.7 also states that for energy projects of national significance, PAMB Clearance shall be issued within 30 days upon receipt of complete documentary requirements by the PAMB. Other projects shall be approved in accordance with the PAMB Manual of Operations.
- Lastly Rule 14.8 states that any exploration, survey, or energy project in a protected area that shares common areas with ancestral territories covered by CADT/CALT, shall require the FPIC of affected ICCs/IPs and a Certification of Precondition issued by the NCIP.
- Development of renewable energy resources within protected areas shall be subject to the provisions of Section 25 of the NIPAS Act, as amended, on Special Uses in Protected Areas.

C. Other Special Uses in Protected Areas

- Special uses refers to activities and/or development interventions that may be allowed in designated portions of protected areas subject to the payment of user fee. This may include but not be limited to: hotels, resorts and other tourism facilities, communication facilities and transmission lines, large scale power generation projects, and large scale agriculture and aquaculture projects. Excluded from the coverage are activities and development interventions in titled properties, areas already covered by foreshore and miscellaneous leases as well as Forest Land Use Agreements/Forest Land Use Agreements for Tourism issued by the DENR, and other regular uses of protected areas as indicated in the protected area management plan (Rule 4.1(k), DAO 2019-05).
- Under Section 25 of the NIPAS Act, as amended, special uses may be allowed within protected areas except in strict protection zones and strict nature reserves. The PAMB may recommend the issuance of tenurial instrument subject to compliance to ECC and payment of corresponding user fee equivalent to five percent (5%) of the zonal value of commercial land within the nearest barangay or municipality where the project is located multiplied by the area of development plus one percent (1%) value of improvement as premium, Provided, that the activity shall not be detrimental to ecosystem functions and biodiversity and biodiversity and cultural practices and traditions.

- Existing facilities and structures which are found to be consistent with the management objectives of the protected area based on the assessment under Section 24 of the NIPAS Act, as amended, shall require the execution of a special use agreement in protected areas. Provided, that MOAs issued by the DENR within protected areas prior to the effectivity of R.A. 7586 as amended by R.A. 11038 shall be converted into SAPA upon satisfactory compliance with the requirements (Rule 25.4, para 1, DAO 2019-05).
- In case of tenured agreements such as Foreshore Lease Agreement, Forest Land Use Agreement, Forest Land Use Agreement for Tourism, miscellaneous lease agreements, the same shall only be converted to SAPA upon expiration of the term and satisfactory compliance with the requirements (Rule 25.4, para 2, DAO 2019-05).

D. Settlements within Protected Areas

- All property and private rights within the protected area and its buffer zones already existing and/or vested upon the effectivity of the NIPAS Act, as amended, shall be protected and respected in accordance with existing laws: Provided, that the exercise of such property and private rights shall be harmonized, as far as practicable, with the provisions of the NIPAS Act, as amended (Section 22, NIPAS Act, as amended).
- Those rights over alienable and disposable land affected by the NIPAS Act as amended shall be deemed vested in favor of a party who has complied as of 1 August 2018, with all the applicable requirements, terms and conditions for the issuance of a title, under existing laws and regulations (Rule 22.2, DAO 2019-05).
- The right over land sharing common areas with an initial component of the NIPAS should have accrued prior to the effectivity of the NIPAS Act on 5 August 1992. Provided however, the right over land sharing common areas with an additional protected area should have accrued prior to the issuance of the Presidential Proclamation or effectivity of the Congressional legislation, whichever is earlier (Rule 22.2, DAO 2019-05).
- The occupation of LGUs and communities within the protected area shall be respected (Section 22, para 3, NIPAS Act, as amended).
- Municipalities and cities with existing townships and town centers within the protected area shall continue to occupy such townships and town centers: Provided, That in the development of their CLUPs and barangay development plans, due consideration shall be given to the intended use for conservation and biodiversity as well as the objectives for protected areas to keep human habitation and environmental conservation in harmony (Section 22, para 3, NIPAS Act, as amended).
- Should areas occupied by tenured migrants be designated as zones in which no occupation or other activities are allowed pursuant to the attainment of sustainable development, the provision for the transfer of the tenured migrants to multiple-use zones or buffer zones shall be accomplished through just and humane means: Provided, That protected area occupants who are not qualified as tenured migrants shall be resettled outside the protected area (Section 23, para 2, NIPAS Act, as amended).
- The Secretary of the DENR, within the limits allowed by existing laws, rules, and regulations, ensures that settlement areas inside the protected area shall not be expanded and that coverage shall only be limited to the original area/s

occupied by tenured migrants and indigenous communities (Section 9, NIPAS Act, as amended)

E. Livelihood Activities in Protected Areas

- Livelihood activities may be allowed in the multiple use zone of protected areas to the extent prescribed by the management plan (Section 4(t), NIPAS Act, as amended).
- Tenured migrants shall be eligible to become stewards of portions of lands within multiple-use zones (Section 23, NIPAS Act, as amended).
- The DENR shall organize individual tenured migrants into communities. Within one (1) year from the issuance of the (Protected Area Community-Based Resource Management Agreement) PACBRMA, tenure holders shall be required to prepare a Community-based Resource Management Plan (CBRMP), on the basis of the following processes: community mapping, plan preparation, map integration, final validation, PAMB endorsement, and affirmation by the DENR Regional Executive Director. Failure to implement the CBRMP shall be the basis for the cancellation of the PACBRMA (Rule 23.5, DAO 2019-05).

F. Research Activities in Protected Areas

- Researches involving collection of wildlife, their by-products and derivatives, shall be guided by the provisions of RA 9147 or the Wildlife Resources Conservation Act, Joint DENR-DA-PCSD Administrative Order No. 01, s. 2004 or the IRR of RA 9147, DAO 2004-55 (DENR Streamlining/Procedural Guidelines Pursuant to Joint DENR-DA-PCSD Implementing Rules and Regulations of Republic Act No. 9147 Otherwise Known as Wildlife Resources Conservation Act).
- Results of socio-economic and scientific researches should be used as reference in establishing buffer zones (Section 8, NIPAS Act, as amended), identification of management zones, and the development and/or updating of the Protected Area Management plan (Section 9, NIPAS Act, as amended; Rule 9, DAO 2019-05).

G. Bioprospecting in Protected Areas

- Section 25 of the NIPAS Act, as amended, prohibits "conducting bioprospecting within the protected area without prior PAMB clearance in accordance with existing guidelines." The Law further provides, "That in addition to the penalty provided herein, any commercial use of any substance derived from non-permitted bioprospecting within a protected area will not be allowed and all revenue earned from illegal commercialization thereof shall be forfeited and deposited as part of the IPAF".
- Section 4(b) of the NIPAS Act, as amended, as "research, collection, and utilization of biological and genetic resources for purposes of applying the knowledge derived therefrom solely for commercial purposes".
- Bioprospecting activities, when allowed, shall be governed by the Joint DENR-DA-PCSD-NCIP Administrative Order No. 1, Series of 2005, or the Guidelines on Bioprospecting Activities in the Philippines, which provides the (1) institutional arrangements, (2) procedures and requirements, (3) collection quota and fees, (4) securing prior informed consent, (5) benefit-sharing arrangements, and (6) sanctions and remedies, among others. This also

applies in bioprospecting in protected areas sharing common boundaries with ancestral domains covered by CADT/CALT (Rule 13.5, DAO 2019-05).

H. Prohibited Activities in Protected Areas

- Under Section 20 of the NIPAS Act, as amended, except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:
 - a) Poaching, killing, destroying, disturbing of any wildlife including in private lands within the protected area;
 - b) Hunting, taking, collecting, or possessing of any wildlife or by products derived therefrom, including in private lands within the protected area without the necessary permit authorization or exemption; Provided, that the PASU as authorized by the PAMB shall issue a permit, authorization or exemption only for culling of scientific research, the exceptions provided under Section 27 (a) of Republic Act no. 9147 (Wildlife Resources, Conservation and Protection Act) or harvests of non-protected species in multiple-use zones by tenured migrants and IPS;
 - c) Cutting, gathering, removing or collecting timber within the protected area including private lands therein, without the necessary permit, authorization, certification of land trees or exemption such as for culling exotic species; except, however, when such acts are done in accordance with the duly recognized practices of the IPs/ICCs for subsistence purposes;
 - d) Possessing or transporting outside the protected area any timber, forest products, wildlife, or by-products, derived therefrom which are ascertained to have been taken from the protected area other than exotic species, the culling of which has been authorized under an appropriate permit;
 - e) Using any fishing or harvesting gear and practices or any of their variations that destroy coral reefs, seagrass beds or other marine life and their associated habitats or terrestrial habitat as may be determined by the DA or the DENR; Provided that a mere possession of such gears within the protected areas shall be prima facie evidence of their use;
 - f) Dumping, throwing, using or causing to be dumped into or placed in the protected area of any toxic chemical, noxious or poisonous substance or nonbiodegradable material, untreated sewage or animal waste products or products whether in liquid, solid or gas state, including pesticides and other hazardous substances as defined under Republic Act no. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990" detrimental to the protected area or to the plants and animals or inhabitants therein;
 - g) Operating any motorized conveyance within the protected area without permit from the PAMB, except when the use of such motorized conveyance is the only practical means of transportation of IPs/ICCs in accessing their ancestral domain land;
 - h) Altering, removing destroying or defacing boundary marks or signs;
 - i) Engaging in "kaingin" or, in any manner, causing forest fires inside the protected area;

- j) Mutilating, defacing, destroying, excavating, vandalizing or, in any manner, damaging any natural formation, religious, spiritual, historical sites, artifacts and other objects of natural beauty, scenic value or objects of interests to IPs/ICCs;
 - k) Damaging and leaving roads and trails in damaged condition;
 - l) Littering or depositing refuse or debris on the ground or in bodies of water;
 - m) Possessing or using blasting caps or explosives anywhere within the protected area;
 - n) Occupying or dwelling in any public land within the protected area without clearance from the PAMB;
 - o) Constructing, erecting or maintaining any kind of structure, fence or enclosures, conducting any business enterprise within the protected area without prior clearance from the PAMB and permit from the DERN, or conducting these activities in a manner that is inconsistent with the management plan duly approved by the PAMB;
 - p) Undertaking mineral exploration or extraction within the protected area;
 - q) Engaging in commercial or large-scale quarrying within the protected area;
 - r) Establishing or introducing exotic species including GMOs or invasive alien species within the protected area;
 - s) Conducting bioprospecting within the protected area without prior PAMB clearance in accordance with existing guidelines; Provided, that in addition to the penalty provided herein, any commercial use of any substance derived from non permitted bioprospecting within a protected area will not be allowed and all revenue earned from illegal commercialization thereof shall be forfeited and deposited as part of the IPAF;
 - t) Prospecting, hunting or otherwise locating hidden treasures within the protected area;
 - u) Purchasing or selling, mortgaging or leasing lands or other portions of the protected area which are covered by any tenurial instrument;
 - v) Constructing any permanent structure within the forty (40)-meter easement from the high water mark of any natural body of water or issuing a permit for such construction pursuant to Article 51 of Presidential decree No. 1067; Provided that construction for common usage wharves and shoreline protection shall be permitted by the PAMV only after thorough EIA.
- Further, Rule 20.4 states that any activity that in matter will mutilate, deface, destroy, excavate, fill-in, vandalize or damage any natural formation, religious, spiritual, historical sites, artifacts and other objects of natural beauty, scenic value or objects of interest to IPs/ICCs will not be allowed except those that are consistent with the PAMP and approved by the PAMB.

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G. Bioprospecting in Protected Areas

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 - c) Cutting, gathering, removing or collecting timber within the protected area including private lands therein, without the necessary permit, authorization, certification of land trees or exemption such as for culling exotic species; except, however, when such acts are done in accordance with the duly recognized practices of the IPs/ICCs for subsistence purposes;
 - d) Possessing or transporting outside the protected area any timber, forest products, wildlife, or by-products, derived therefrom which are ascertained to have been taken from the protected area other than exotic species, the culling of which has been authorized under an appropriate permit;
 - e) Using any fishing or harvesting gear and practices or any of their variations that destroy coral reefs, seagrass beds or other marine life and their associated habitats or terrestrial habitat as may be determined by the DA or the DENR; Provided that a mere possession of such gears within the protected areas shall be prima facie evidence of their use;
 - f) Dumping, throwing, using or causing to be dumped into or placed in the protected area of any toxic chemical, noxious or poisonous substance or nonbiodegradable material, untreated sewage or animal waste products or products whether in liquid, solid or gas state, including pesticides and other hazardous substances as defined under Republic Act no. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990" detrimental to the protected area or to the plants and animals or inhabitants therein;
 - g) Operating any motorized conveyance within the protected area without permit from the PAMB, except when the use of such motorized conveyance is the only practical means of transportation of IPs/ICCs in accessing their ancestral domain land;
 - h) Altering, removing destroying or defacing boundary marks or signs;
 - i) Engaging in "kaingin" or, in any manner, causing forest fires inside the protected area;

- j) Mutilating, defacing, destroying, excavating, vandalizing or, in any manner, damaging any natural formation, religious, spiritual, historical sites, artifacts and other objects of natural beauty, scenic value or objects of interests to IPs/ICCs;
 - k) Damaging and leaving roads and trails in damaged condition;
 - l) Littering or depositing refuse or debris on the ground or in bodies of water;
 - m) Possessing or using blasting caps or explosives anywhere within the protected area;
 - n) Occupying or dwelling in any public land within the protected area without clearance from the PAMB;
 - o) Constructing, erecting or maintaining any kind of structure, fence or enclosures, conducting any business enterprise within the protected area without prior clearance from the PAMB and permit from the DERN, or conducting these activities in a manner that is inconsistent with the management plan duly approved by the PAMB;
 - p) Undertaking mineral exploration or extraction within the protected area;
 - q) Engaging in commercial or large-scale quarrying within the protected area;
 - r) Establishing or introducing exotic species including GMOs or invasive alien species within the protected area;
 - s) Conducting bioprospecting within the protected area without prior PAMB clearance in accordance with existing guidelines; Provided, that in addition to the penalty provided herein, any commercial use of any substance derived from non permitted bioprospecting within a protected area will not be allowed and all revenue earned from illegal commercialization thereof shall be forfeited and deposited as part of the IPAF;
 - t) Prospecting, hunting or otherwise locating hidden treasures within the protected area;
 - u) Purchasing or selling, mortgaging or leasing lands or other portions of the protected area which are covered by any tenurial instrument;
 - v) Constructing any permanent structure within the forty (40)-meter easement from the high water mark of any natural body of water or issuing a permit for such construction pursuant to Article 51 of Presidential decree No. 1067; Provided that construction for common usage wharves and shoreline protection shall be permitted by the PAMV only after thorough EIA.
- Further, Rule 20.4 states that any activity that in matter will mutilate, deface, destroy, excavate, fill-in, vandalize or damage any natural formation, religious, spiritual, historical sites, artifacts and other objects of natural beauty, scenic value or objects of interest to IPs/ICCs will not be allowed except those that are consistent with the PAMP and approved by the PAMB.

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