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DENR ADMINISTRATIVE ORDER
NO. 2020 - 09

SUBJECT : GUIDELINES ON THE MANAGEMENT OF CANCELLED OR TERMINATED, EXPIRING, AND EXPIRED TENURIAL INSTRUMENTS

Pursuant to the provisions of Executive Order (EO) No. 192 dated June 10, 1987 or the Reorganization Act of the DENR, Commonwealth Act (CA) No. 141 or the Public Land Act, Act No. 3038 pertaining to the disposition of patrimonial properties, Presidential Decree (PD) No. 705 or the Revised Forestry Code, as amended, Republic Act (RA) No. 7586 or the National Integrated Protected Areas System (NIPAS) Act, as amended by RA 11038 or the Expanded NIPAS Act of 2018, and RA 7942 or the Philippine Mining Act, the following guidelines on the management of cancelled or terminated, expiring, and expired tenurial instruments are hereby issued for the guidance and compliance of all concerned.

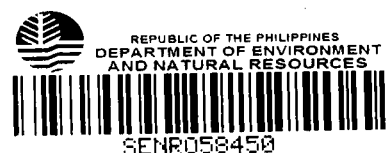
CHAPTER I - COMMON PROVISIONS

SECTION 1. Declaration of Policy. It is the policy of the State to ensure the sustainable use, development, management, renewal and conservation of the country's forest, mineral, land, off-shore areas and other natural resources. In line with this, the Government shall promulgate rules, regulations and guidelines on the issuance of co-production, joint venture or production sharing agreements, licenses, permits, concessions, leases and such other privileges and arrangements concerning the development, exploration and utilization of the country's natural resources and shall continue to oversee, supervise and police our natural resources; to cancel or cause to cancel such privileges and arrangements upon failure, non-compliance or violations of any regulations, orders, and for all other causes which are in furtherance of the conservation of natural resources and supportive of the national interest.

SECTION 2. Objective. These guidelines aim to prescribe and ensure rational procedures and requirements for the management of all cancelled or terminated, expiring, and expired tenurial instruments, to optimize the uses and enhance the contribution of natural resources in achieving economic and social development.

SECTION 3. Scope and Coverage. These guidelines shall cover the following tenurial instruments that have been cancelled or terminated, expiring, and have expired:

- 3.1 Forest Land Use Agreement (FLAg)
- 3.2 Forest Land Use Agreement for Tourism Purposes (FLAgT)
- 3.3 Forest Land Grazing Management Agreement (FLGMA)
- 3.4 Integrated Forest Management Agreement (IFMA)
- 3.5 Socialized Industrial Forest Management Agreement (SIFMA)
- 3.6 Special Use Agreement in Protected Areas (SAPA)
- 3.7 Foreshore Lease Agreement (FLA)
- 3.8 Miscellaneous Lease Agreement (MLA)
- 3.9 Mineral Agreement (MA)
- 3.10 Financial or Technical Assistance Agreement (FTAA)



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This shall also apply to cancelled or terminated, expiring, and expired leases over patrimonial properties, except those managed by the Land Management Bureau (LMB) which are governed by special laws. For mining tenements, the procedures under the Mining Act shall apply. However, the process prescribed herein shall be observed for mined out areas within public lands, the control of which was turned over to the DENR.

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

- 4.1 Asset Management – the management of fixed or non-current assets such as land, land improvements, equipment or machinery and infrastructure/building within a tenured area.
- 4.2 Cancelled or terminated tenurial instruments – those that were cancelled / terminated for cause such as gross violation of the terms and conditions, violation of laws, rules and regulations, and voluntary withdrawal of rights and obligations, among others, whose Order of Cancellation has become final and executory.
- 4.3 CENRO – Community Environment and Natural Resources Office/r
- 4.4 Expired tenurial instruments – those whose terms have ended after twenty-five (25) years and no application for renewal has been filed by the holder within the prescribed period, and those that have expired after fifty (50) years wherein no further renewal is allowed under existing laws, rules and regulations.
- 4.5 Expiring tenurial instruments – those that are still in operation within a year of the end of the validity of the term or duration.
- 4.6 Financial or Technical Assistance Agreement – an agreement involving financial or technical assistance for large-scale exploration, development and utilization of mineral resources.
- 4.7 Foreshore Lease Agreement – an agreement executed by and between the 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.
- 4.8 Forest Land Use Agreement – an agreement 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 of DAO No. 2004-59, 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.
- 4.9 Forest Land Use Agreement for Tourism Purposes – 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.
- 4.10 Forest Land Grazing Management Agreement – a production sharing agreement between a qualified person, association and/or corporation and the Government to develop, manage and utilize grazing lands.

- 4.11 Forfeiture – a loss of property to penalize a failure to act in accordance with a legal requirement.
- 4.12 Implementing PENRO – a Provincial Environment and Natural Resources Office without a CENRO, and which performs the roles and functions of the latter.
- 4.13 Implementing unit/office – the DENR unit/office mandated to undertake procedures for cancelled or terminated, expiring, and expired tenurial instruments. For lands and forestry tenures, responsibility is with the Regulation and Permitting Section (RPS) of the CENRO, Implementing PENRO and the PENRO, and the Licenses, Patents and Deeds Division (LPDD) of DENR-NCR. In the case of protected areas (PAs) under the NIPAS, the function rests with the Conservation and Development Section (CDS) of the PENRO, in coordination with the Protected Area Management Board (PAMB) through the Protected Area Management Office (PAMO). Meanwhile, the Mines and Geosciences Bureau (MGB) Regional Office shall be responsible for mining tenures.
- 4.14 Improvement – 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 permanent or temporary improvement.
- 4.14.a 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.
- 4.14.b Temporary improvement – those which can be removed without causing any damage to the land under contract/agreement and to which the same has been attached.
- 4.15 Integrated Forest Management Agreement – a production sharing agreement entered into by and between the DENR and a qualified applicant wherein the DENR grants to the latter the exclusive right to develop, manage, protect and utilize a specified area of forestland and forest resource therein for a period of twenty-five (25) years and may be renewed for another 25-year period.
- 4.16 Mineral Agreement – an agreement between the Government and a Contractor, involving Mineral Production Sharing Agreement, Co-Production Agreement or Joint Venture Agreement.
- 4.17 Miscellaneous Lease Agreement – an agreement issued in case the improvements over a foreshore area applied for falls within a dry land (part of the shore) or permanently underwater land.
- 4.18 Patrimonial properties – properties owned by the State in its private or proprietary capacity.
- 4.19 PENRO – Provincial Environment and Natural Resource Office/r
- 4.20 Physical takeover – the act of possessing or taking control of the tenured area by the DENR.
- 4.21 Special Use Agreement in Protected Areas – 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 NIPAS Act, as amended.

- 4.22 Socialized Industrial Forest Management Agreement – an agreement entered into by and between a natural or juridical person and the DENR wherein the latter grants to the former the right to develop, utilize and manage a small tract of forest land, consistent with the principles of sustainable development.
- 4.23 Tenurial instruments – are leases, permits, agreements, joint venture or production sharing agreements, and licenses concerning the development, exploration and utilization of the country's natural resources.

SECTION 5. Creation of an Asset Management Team (AMT). An Asset Management Team shall be created at each PENRO/Implementing PENRO, DENR-National Capital Region (NCR), and at the MGB Regional Offices to ensure proper management and monitoring of assets on the ground. It shall be headed by the PENRO in the case PENR Offices, by an Assistant Regional Director in the case of DENR-NCR, and by the Regional Director in the case of MGB Regional Offices, with the members coming from the concerned Technical Sections/Divisions. The AMT, which shall be formed through the issuance of a Special Order by the Regional Executive Director (RED), shall have the following functions:

- 5.1 Inventory and appraisal of all the improvements and possible damages within the area.
- 5.2 Initiate take-over of the area/s and improvements covered by cancelled or terminated, and expired tenurial instruments by putting up signage/s stating that it is a DENR property, and conducting related activities with the end in view of securing the area.
- 5.3 Conduct of comprehensive assessment to determine the best land use of the area covered by expiring tenurial instruments that will no longer be renewed.
- 5.4 Preparation and implementation of a protection and management plan while the area is not yet covered by a tenurial instrument.
- 5.5 Submission of report and recommendation regarding the best land use of the area and the improvements therein. In case of protected areas, the AMT shall ensure that prior coordination and consultation is undertaken with the concerned PAMB relative to the appropriate land use and improvements therein.

As an approach to project management, the AMT has the option to hire the services of personnel who have the expertise/skills on asset management. The funding for the hiring shall be sourced from the regular funds of the office concerned.

SECTION 6. Inventory of All Cancelled/Terminated, Expiring, and Expired Tenurial Instruments. The implementing unit/office shall come up with an annual inventory/list of all cancelled/terminated, expiring, and expired tenurial instruments within their areas of jurisdiction, and submit the list, together with a status report to the PENRO/Regional Office. The PENRO shall consolidate all the information/data and submit the list and status report to the Regional Office concerned. In the same manner, the Regional Office shall collate all the information/status of tenurial instruments and forward the same to the Bureaus concerned, and to the Knowledge and Information Systems Service (KISS) at the Central Office for integration in its database. In the case of DENR-NCR, a similar inventory shall be conducted by the Licenses, Patents and Deeds Division, with the data submitted to the Bureaus concerned and to the KISS.

A Provincial, Regional and National Database of tenurial instruments shall be developed where annual reports of cancelled/terminated, expiring, and expired tenurial instruments will be generated. The Provincial Database shall be created by the Regulation and Permitting Section of the PENRO/Implementing PENRO, while the establishment of the Regional Database shall be initiated by the Licenses, Patents and Deeds Division. In the case of mining permits/agreements, provisions under DAO No. 2010-21 shall apply. Meanwhile, the National Database shall be developed by the KISS. The Provincial, Regional and National Databases shall be developed one (1) month after approval of this Order. The KISS shall ensure linkage of its database with the

databases of Biodiversity Management Bureau (BMB), Forest Management Bureau (FMB), Land Management Bureau (LMB), and the Mines and Geosciences Bureau (MGB).

SECTION 7. Procedures for the Management of Areas Covered with Cancelled/Terminated, Expiring, and Expired Tenurial Instruments.

7.1 Expiring Tenurial Instruments. For at least one (1) year prior to the expiration, the office concerned shall inform the tenurial instrument holder of the expiration of the tenurial instrument. Consequently, the holder shall file their intention to terminate or renew their tenurial instrument with the DENR within the same period.

The expiring tenurial instruments shall be categorized according to those that are for renewal and for non-renewal. For tenurial instruments that are for renewal, a performance evaluation shall be conducted by the office concerned at least six (6) months prior to expiration, which shall be used as basis of further action. On the other hand, a notice shall be issued to the tenurial instrument holder to vacate the area upon expiration. An inventory of all the improvements introduced or possible damages shall be conducted by the AMT three (3) months prior to expiration. In cases where no further renewal of the tenurial instrument is allowed in view of Constitutional limitations, only new applications and entities shall be considered.

7.2 Cancelled or Terminated Tenurial Instruments. Upon determination of cause for cancellation or termination and application of due process, a notice shall be issued by the office concerned to the tenurial instrument holder to vacate the area within seven (7) days from the finality of the Order of Cancellation. An inventory of all the improvements introduced or possible damages, and the forfeiture procedures shall be conducted by the AMT. It shall also conduct comprehensive assessment to determine the best land use of the area. The AMT may consult stakeholders such as the LGUs, NGOs, other government offices, academe, private sector, and the like in the development of the area. In case of rehabilitation of SAPA areas, the Protected Area Management Board (PAMB) shall attest the satisfactory rehabilitation of the area according to the zones objectives of the management plan. In cases where the tenurial instrument holder has unsettled accounts, all assets equivalent to the amount due, including performance bond, if any, or plantations established shall be forfeited in favour of the Government.

7.3 Expired Tenurial Instruments. Upon identification by the implementing unit/office of expired tenurial instruments, the AMT shall secure the area covered, prepare and implement a protection and management plan, and conduct a comprehensive assessment to determine the best land use thereof. Only the immovable/permanent properties will be subjected to take-over by the Government. The AMT may consult stakeholders such as the LGUs, NGOs, other government offices, academe, private sector, and the like in the development of the area.

In case of rehabilitation of SAPA areas, the PAMB shall attest the satisfactory rehabilitation of the area according to the zones objectives of the management plan. For forestry tenured areas, the tenurial instrument holder shall be required to submit a plan for the utilization of planted trees and similar products reaching harvestable age, and no further activities other than harvesting shall be allowed.

CHAPTER II – SPECIAL PROVISIONS

SECTION 8. Expropriation of Properties covered with Tenurial Instruments. When, on account of public interest, safety or public order, and not due to the fault or negligence of the tenurial instrument holder, the DENR is obliged to pre-terminate the tenurial instrument, the former shall be entitled to compensation on all improvements made in the tenured area, minus all charges and obligations, if any, accruing to the Government. Moreover, affected tenurial instrument holders shall have the right to harvest trees, in the case of forestry tenures, or remove

improvements as can reasonably be removed consistent with applicable policies, the value of which shall be deducted from the final compensation.

SECTION 9. Tenured Areas Issued with Certificates of Ancestral Domain Title. No inventory/further assessment shall be conducted by the AMT for expiring tenurial instruments that are no longer for renewal, involving areas issued with Certificates of Ancestral Domain Title (CADT) duly registered with the Register of Deeds (RoD).

CHAPTER III - FINAL PROVISIONS

SECTION 10. Capacity-Building. For the effective management of tenured areas and improvements, the members of the AMT shall regularly undergo capacity-building.

SECTION 11. Asset Management Manual. The DENR shall develop an Asset Management Manual that shall be used as reference by the field offices in the administration of the Department's properties within their respective areas of jurisdiction.

SECTION 12. Monitoring. All authorized DENR officials and/or personnel shall be allowed to enter and inspect the area covered with cancelled or terminated, expiring, and expired tenurial instruments, for purposes of monitoring and evaluating the activities therein.

12.1 Standard Project Performance Rating

The activities pertaining to management of cancelled or terminated, expiring, and expired tenurial instruments shall form part of the Office Performance and Commitment Review (OPCR) of the implementing unit/office.

12.2 Standard Reporting System

The management of cancelled or terminated, expiring and expired tenurial instruments shall form part of the regular reporting activities of the Regional and Field Offices.

SECTION 13. Enforcement. The DENR shall seek the assistance of law enforcement agencies, the local government units and other agencies in cases of violations of laws, rules and regulations concerning tenured areas.

SECTION 14. Repealing Clause. All existing Orders, Memoranda and Circular or portions thereof which are inconsistent herewith are hereby revoked or amended accordingly.

SECTION 15. 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 16. Effectivity. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgment of receipt of a copy hereof by the Office of the National Administrative Register (ONAR) and the UP Law Center.


ROY A. CIMATU



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