



May 09, 2007

JOINT DENR-NCIP MEMORANDUM CIRCULAR

No. 2007 – 01

SUBJECT : MANAGEMENT OF OVERLAPPING PROTECTED AREAS AND/OR THEIR BUFFER ZONES AND ANCESTRAL DOMAINS/ LANDS

Pursuant to Section 13 of RA No. 7586, otherwise known as the National Integrated Protected Areas System (NIPAS) Act of 1992, Section 58 of RA No. 8371 or the Indigenous People's Rights Act (IPRA) of 1997, and Section 6 of the Joint DENR-NCIP Memorandum Circular No. 2003-01 on the Harmonization of the Implementation of the Indigenous Peoples' Rights Act (IPRA) and Environment and Natural Resources (ENR) Laws and Policies, the following guidelines is hereby promulgated:

Section 1. Basic Policy. It is the policy of the State to protect and advance the rights of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature as well as to protect the rights of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) to their ancestral domains/lands to ensure their economic, social and cultural well-being. State policy also recognizes that exploration, development and utilization of all natural resources shall be under its full control and supervision, and that ICCs/IPs have priority rights in the harvesting, extraction, or development of any natural resource within their ancestral domains/lands.

Section 2. Scope and Coverage. This Joint Memorandum Circular shall only cover the overlapping protected areas established pursuant to the NIPAS Act and ancestral domains/lands as defined under the IPRA.

Section 3. Objectives. This Joint Memorandum Circular aims to clarify the management, authority and responsibilities of the NCIP and DENR in the management of overlapping protected areas and/or their buffer zones and ancestral domains/lands.

Section 4. Definition of Terms. For the purposes of this Joint Memorandum Circular, the following terms shall be defined as follows:

b. Ancestral Domains - refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously up to present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they

traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators.

c. Ancestral Lands – refer to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously up to present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.

d. Buffer zones – refer to identified areas outside the boundary of and immediately adjacent to designated protected areas that need special development control in order to avoid or minimize harm to the protected area.

e. Free and Prior Informed Consent – As used in the IPRA, shall mean the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of an activity, in a language and process understandable to the community.

f. Indigenous Knowledge Systems and Practices - refer to systems, institutions, mechanisms, and technologies comprising a unique body of knowledge evolved through time that embody patterns of relationships between and among peoples and between peoples, their lands and resource environment, including such spheres of relationships which may include social, political, cultural, economic, religious spheres, and which are the direct outcome of the indigenous peoples, responses to certain needs consisting of adaptive mechanisms which have allowed indigenous peoples to survive and thrive within their given socio-cultural and biophysical conditions.

g. Initial Components – refer to all areas or islands in the Philippines proclaimed, designated, or set aside, pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape as well as identified virgin forests before the effectivity of the NIPAS Act.

h. Protected Area – refers to identified portions of the land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.

Section 5. Identification of overlapped areas The DENR Regional Office, through the Protected Area Wildlife Coastal Zone Management Sector or its equivalent, with the NCIP Regional Office, within six (6) months from the effectivity of this Joint Circular, shall identify existence of ancestral domains/lands or claims in all protected areas and/or their buffer zones within its administrative jurisdiction and shall identify possible overlap in consultation with the concerned local government unit (LGU).

For those areas without technical descriptions, the DENR Field Office and concerned IP shall use the validated list of ancestral domain areas prepared by NCIP and indicative maps submitted by concerned IPs/ICCs as initial bases in determining the extent of overlap.

Section 6. Boundary Delineation

The boundaries of the protected areas and/or their buffer zones which overlap with the ancestral domains/lands or vice versa shall be delineated on the ground and mapped to determine exact location by the DENR and NCIP in close coordination and consultation with the ICCs/IPs. Markers or signages shall be installed on the ground to identify the boundaries of the protected areas and/or their buffer zones and/or ancestral domains/lands as may be necessary or appropriate.

Section 7. Resources Assessment/Inventory. A detailed resources assessment or inventory shall be jointly undertaken by the DENR and NCIP with the ICCs/IPs following the relevant harmonized guidelines. Information generated from such resources assessment shall be used, among others, as inputs in the preparation of the management plan and for monitoring of the biological resources of the protected area. No management plan shall be prepared without undertaking the resources assessment.

Section 8. Preparation of Harmonized Management Plan. Based on the resources assessment and/or existing plans, the management plan of the protected area shall be prepared jointly by the Technical Working Group (TWG) to be created at the regional level of the DENR and NCIP with the participation of the concerned ICCs/IPs. The management plan shall include among others, the objectives, strategies, zoning and allowable resource utilization and committed activities of the stakeholders.

In cases where both the Ancestral Domain Sustainable Development Protection Plan (ADSDPP) and Protected Area Management Plan (PAMP) on the same land/coverage area are existing, the same shall be reviewed by the TWG concerned to facilitate harmonization of the plans.

Where only the ADSDPP exists, it will be enhanced to ensure the protection and conservation of biological diversity, however, in the absence thereof, the community shall formulate a management plan, taking into consideration any existing PAMP, with the assistance of the DENR and NCIP.

The harmonized plan shall adhere to existing policies on:

- a. The use of natural resources like wildlife species based on existing policies, legislations, rules and regulations.
- b. Access to natural resources for family use and sustenance based on established customs and traditional practices as reflected in their ADSDPP or Ancestral Domain Management Plan (ADMP)
- c. The construction of infrastructure in accordance with the Environmental Impact Assessment (EIA) system
- d. Management arrangements and commitments of stakeholders
- e. Monitoring and Evaluation
- f. Recognition of existing property rights regime

Section 9. Creation of Technical Working Groups. To ensure that integration and/or harmonization of plans within overlapped areas, there shall be Technical Working Groups on the regional and provincial levels to be organized within thirty (30) working days after the effectivity of this Memorandum Circular.

9.1 Provincial Technical Working Group (PTWG) Composition and Functions. The PTWG co-chaired by the DENR Provincial Environment and Natural Resources Officer (PENRO) and NCIP Provincial Officer (NCIP-PO) shall have the following members:

- a) Protected Area Management Board (PAMB) – concerned Committee Chair
- b) PAMB – Provincial Planning and Development Coordinator (PPDC) and/or Municipal Planning and Development Coordinator (MPDC)
- c) PAMB member of concerned barangay/s
- d) PAMB member of concerned NGO representative
- e) PAMB member of concerned PO represented
- f) Protected Area Superintendent
- g) Concerned NCIP Community Development Officer/s
- h) Provincial Consultative Body Chairperson
- i) Concerned NCIP Tribal Affairs Assistant/s
- j) NCIP Provincial Legal Officer
- k) authorized ICC/IP elders/leaders from each AD overlapped.

The PTWG shall be supported and assisted by the following as Secretariat:

- a) DENR Protected Area Office/ Community Environment and Natural Resources Office staff
- b) NCIP Community Development Officer

The PTWG shall have the following functions and responsibilities:

- a) Review existing ADSDPP/ADMP and PAMP;
- b) Draft harmonized plan;
- c) Conduct iterative consultations;
- d) Furnish Regional TWG copies of the draft harmonized plan; and
- e) Assist in resolving any conflict that affects the harmonization of plans.

9.2. Regional Technical Working Group (RTWG) Composition and Functions. The RTWG shall be co-chaired by the DENR Regional Executive Director and the NCIP Regional Director and shall have the following members:

- a) DENR Regional Technical Director for PAWCZMS, its equivalent, or his representative
- b) DENR Regional Legal Officer

- c) Regional Development Council representative
- d) NCIP Regional Technical Management Services Division Chief
- e) NCIP Regional Legal Officer
- f) Ethnographic Regional Consultative Body (ERCB) Chairperson

The RTWG shall be supported and assisted by the following as Secretariat:

- a) DENR Protected Areas and Wildlife Division staff
- b) NCIP Regional Administrative Officer

The RTWG shall have the following functions and responsibilities:

- a) Review consistency of the harmonized plans with existing laws, rules and regulations;
- b) Facilitate the consolidation/integration of plans by the concerned PTWGs where the overlap areas are located in more than one province;
- c) Prior to affirmation, validate harmonized plan with the PAMB and the IP community concerned; and
- d) Recommend amendments to existing related, or adoption of new, policies.

The PTWG and RTWG may invite the assistance of other units of both agencies or other resource persons to effectively facilitate the accomplishment of the responsibilities of both Working Groups.

Section 10. Management Authority. Overlapped areas shall be managed in accordance with the harmonized plan. The ICCs/IPs concerned shall have primary responsibility to maintain, develop, protect and conserve such overlapped areas with the assistance from the DENR and other concerned government agencies. Should the ICCs/IPs decide to transfer the responsibility over the areas to the concerned government agencies, the decision must be made in writing. Provided, that the transfer shall be temporary and will ultimately revert to the ICCs/IPs in accordance with the program for technology transfer.

The PAMB shall manage portion of the protected area and/or its buffer zone which are outside the ancestral domain/land.

Section 11. Monitoring and Evaluation. Monitoring and Evaluation System (MES) shall be developed and conducted by the DENR PAWCZMS or its equivalent, PAMB and NCIP field offices to assess management effectiveness and to ensure the protection and conservation of biological diversity within such overlapped areas.

Section 12. Conflict Resolution. Should any conflict or dispute affect the harmonization of plans, it shall be assessed and resolved at the community level by way of conciliation or mediation with the assistance of the PTWG.

Section 13. Funding. The DENR and NCIP shall jointly fund the implementation of this Joint Memorandum Circular.

Section 14. Separability Clause. If any part or section of this Joint Memorandum Circular is held invalid, all other provisions, parts or sections not affected thereby shall remain in force.

Section 15. Repealing Clause. This Joint Memorandum Circular shall supersede all other issuances or instructions inconsistent herewith.

Section 16. Effectivity. This Joint Memorandum Circular shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgement by the Office of the National Administrative Register (ONAR).


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DEPARTMENT OF ENVIRONMENT
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