

5. DENR RULES AND REGULATIONS GOVERNING TIMBER AND TIMBER PRODUCTS PLANTED ON PRIVATE LAND

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The Philippine government has a policy of encouraging landholders to plant trees, and where practicable to relax all impediments to the harvest and transport of trees. A clearly defined set of regulations applies nationally to the harvest and disposition of trees planted in private land. This policy involves a balance between encouraging reforestation and preventing loss of natural forests. Some differences in regulations exist between premium species and benguet pine as against other species including those commonly grown in plantations. While there is no policy of levying charges for tree registration, in some cases a contribution is required for the unfunded costs of the DENR officer who inspects, maps and certifies the plantation. Depending on volume of timber transported, approval may be given by the CENRO or may be required from the Secretary. Forest policy continues to evolve, and greater facilitation of plantation forestry is a policy objective.

INTRODUCTION

After the martial law years (1972-1986), the new government under President Cory Aquino launched the National Forestation Program. This program is aimed at reforesting open and denuded forest lands as well as promoting tree plantations in vast idle Alienable or Disposable (A&D) lands and giving incentives to tree farmers to serve as future source of wood for construction and other uses. This is particularly significant in Region 8 owing to the fact that a Logging Moratorium was declared in Samar Island in February 1989, and is still in effect, and therefore the legitimate source of lumber is limited to Private Land Timber Permits (PLTP), Special Private Land Timber Permits (SPLTP) for premium species, and salvaging of dead, uprooted and typhoon damaged trees through Recovery Permits. Commercial logging on Leyte Island has long been stopped, even during the martial law years. Region 8 is left with no recourse but to develop, encourage and promote tree plantation initiatives of smallholders on private land rather than depend on lumber importation from Cebu or Mindanao. It is in this light that proper and accurate information on government rules and regulations on tree plantations is to be imparted to these smallholders to serve as guide and not disincentive to pursue tree cropping.

In line with the National Forestation Program and in order to promote the planting of trees by owners of private land and give incentives to the tree farmers, the DENR lifted the restriction on the harvesting, transporting and sale of firewood, pulpwood or timber produced from ipil ipil (*Leucaena spp.*) and falcata (*Albizzia falcataria*) planted on private lands under Ministry Administrative Order No. 4, 1987 (MAO # 4, s.'87). At the time, the government was promoting the growing of ipil ipil, while falcata was the common planting material of concession areas, for holders of timber license agreements. This deregulation was further expanded by including other tree species planted on private lands except premium hardwood species listed under Department Administrative Order No. 78, s. 1987 (DAO # 86, s.'88). This list of exempt premium species was subsequently expanded to include benguet pine (*Pinus insularis*) (DAO # 79,s.'90).

How is private land defined? According to the department administrative orders laid down by government, Private Lands include:

- i. Titled lands administrative and/or judicial titles (*DAO # 86, s.'88*);
- ii. Tax declared A & D lands with accepted patent application (*DAO #86,s.'88*); and
- iii. A & D lands covered by CLOA (*Sec.1.6, DAO #2000-21*).

It is to be noted that not all tax declared A & D lands, where much of the potential for forestry is to be found, are automatically considered privately-owned. The reason is that government does not recognize tax declarations as a proof of ownership, although filed and obtained from the Municipal Assessor. Rather, the ownership has to be proven by an application appropriately filed with the DENR for titling purposes.¹

TREE REGISTRATION

For landowners to be given approval for their timber harvesting, it is necessary that their private tree plantations be first registered with the DENR. Department Memorandum Circular No. 97-09 has as its purpose, the documentation of tree plantations on private land. Specifically, this instrument (*Sec.1, DMC # 97-09*) is designed: to determine the extent of tree planting on private land; to facilitate the processing of documentation requirements for future harvests; and to set a means to recognize the participation of private landowners in the tree plantation development program of the government.

In terms of coverage, *Sec.1.b, DMO # 99-20* provides flexibility in timing of registration. The landowner can register any time – if it is a newly established plantation, if the plantation has been established for some years, or even if the trees are approaching maturity and ready to harvest.

The registration procedure consists of a number of steps (*Sec.2.1, DMC # 97-09*):

- i. The landowner visits the CENRO office, fills out the registration form, and submits this to the person in charge in the CENRO office, with an authenticated copy of land title or proof of land ownership.
- ii. The inspector travels to the site, fills out the Tree Plantation Record Form, surveys the site, prepares a sketch map showing the extent of the plantation, and *certifies the plantation record* (copies of the certification being held by the DENR).
- iii. A Certificate of Tree Plantation Ownership (*Sec. 1.d, DMO # 99-20*) is issued by the CENRO, after the planting is verified by the by the CENRO inspector (*Sec.2.2, DMC #97-09*).

Mangaoang (these proceedings) has reported that in some CENROs there are fees collected for tree registration. It should be noted that there is no regulation in the DENR that requires fees to be charged for tree registration, but tree registration is not a 'regular activity' of the CENRO office.² Currently, the interested tree planter is requested to shoulder the cost for the transportation and the field time of the inspector who goes to his area and prepares the sketch map. That is the only expense that the tree owner has to shoulder, other than perhaps a small certification fee of 30 pesos. There are no other fees that should be collected by the CENRO.

¹ An obstacle to proceeding with tenure is that the occupant would be required to pay any back taxes owing, including those of previous occupants.

² Tree registration could be made a regular activity and funded by the DENR; this is a policy issue.

Concerning recording and reporting, the CENRO should always keep a record of all registered tree farms (Sec.3, DMC # 97-09 & Sec. 1.c, DMO # 99-20), and maintain a database of the Tree Plantation Record, and submit it to the regional office and the Forest Management Bureau (FMB), which maintains a database of tree plantation in the entire country. Periodic reports of activities undertaken within private tree plantations have to be submitted in order to update the DENR database on the development status of the said plantations.

DISPOSITION OF TREES PLANTED IN PRIVATE LANDS

With the updated record on the development status of registered private tree plantations, harvesting and disposition of the trees planted therein can now be hastened with great facility under the following rules.

Harvesting Regulations

In relation to harvesting, there is no cutting permit required for *ordinary species* (DMC# 97-23 & DMC# 99-20. Sec. 2). Ordinary species are species which are not *premium* hardwoods or benguet pine. When transporting premium hardwoods or benguet pine it is necessary to obtain a Special Private Land Timber Permit (Sec. 2, DAO # 2000-21). If the timber volume to be transported is 10 m³ or less then the Regional Executive Director (RED) can issue the approval, but for a greater volume approval from the Secretary of the DENR is required. In Region 8, the quantities transported are usually small, because there are no Timber Licenses in this region, unlike in Mindinao or Luzon, and particularly Quezon and Aurora.

One restriction on harvesting is that private tree plantations owners are obliged to comply with the DENR policy regarding prevention of soil erosion by planting trees and maintaining the same within a 20 m along rivers,³ creeks and roadsides.(DAO # 86,s.'90; Sec. 12.1, DAO # 2000-21). In the Philippines, land within 20 m of rivers and creeks (the creek banks) cannot be owned by anybody – it is State (public) property. In land titling arrangement, there is an easement of 20 m around streams. People with titled properties along rivers are encouraged to plant trees. Also, trees along roadsides (highways though not minor roads, sometimes planted for beautification) do not fall in private property. If there are reasons for cutting – e.g. the trees constitute hazards to pedestrians or to vehicles – then a landholder or the LGU concerned may ask for permission to cut the trees.

Transport Requirements

Concerning the documents required for harvesting and transport, for ordinary species (Sec.3.c, DMC # 99-20), the Original Copy of the duly accomplished Self Monitoring Form (SMF) from the CENRO manifesting the timber or forest products to be transported is needed. This must be duly verified, attesting the legitimacy of source of the timber products to be transported through a Certificate of Verification issued by the CENRO. A certified photocopy of the Certificate of Tree Plantation Registration is acceptable. In the case where the person transporting the timber is not the owner himself, the transporter must have a special power of attorney to transport the product. For premium hardwood species and benguet pine (Sec. 11, DAO # 2000-21), in addition to the foregoing requirements, it is necessary to have a Certificate of Timber/Lumber Origin, Tally Sheet, and Auxiliary Invoice (gratis). These are the only *three* documents that are needed.

Before the end of last year, before then Secretary Gozun departed, DAO 2004-04 was issued, further reducing the rules and simplifying transport requirements. All it takes the tree

³ This requirement is similar to the British tradition of government control over the 'Royal Chain' along rivers, a chain being a distance of 22 yards (approximately 20 m).

planter to transport, is a registered forester that certifies that the product that is to be transported is sourced from his tree plantation and that it is registered by the CENRO. However, the present Secretary suspended its implementation for further study.

Timber Marketing Requirement

Except that planted trees shall be supplied to legitimate buyers, no other restriction applies and no other documents are required for timber transport (Sec. 5, DMO # 99-20). A monitoring procedure is in place (Sec. 5, DMO # 99-20) in which:

- i. the CENRO origin is required to notify CENRO destination of the timber/lumber shipment;
- ii. the CENRO destination must accomplish the Arrival Confirmation Report (ACR) and furnish to the CENRO origin; and
- iii. disposition of processed products shall accompany the usual documents adopted with the approved ACR.

SOME FURTHER CONSIDERATIONS

DENR regulations are evolving over time. Also, sometimes temporary and transition measures are introduced. An important example is that immediately after the typhoon and loss of life disaster in Aurora and Quezon in Luzon at the beginning of 2005, the President cancelled all timber licenses in these provinces and suspended timber license operations in all other provinces in the Philippines. Currently, whenever anyone wants to transport timber from naturally growing trees that are cut in the forest (including timber license areas), it is necessary to seek clearance from the Secretary. A number of requests have been received in Manila to transport timber on the grounds that the timber was cut prior to the suspension. It is necessary but difficult to check that the claimed time of cutting is valid.

Should researchers in the ACIAR Tree Farm Project wish to transport timber, and the volume is over 10 m, then provided the source is plantation forestry this should present no problems. In the case of timber from natural forest (probably not relevant to the ACIAR project), the situation is less clear. It is to be noted that a CENRO in Southern Leyte is relieved from duty, for approving the transport of 8 m³ of timber from natural forest, although this approval was granted in November 2004, prior to the typhoon disaster in Aurora and Quezon and within his level of authority.

DENR policy is to remove impediments to timber production, harvest and transport, and it is envisaged that in the future further simplifications to the approval processes will take place. At the same time, stringent controls will need to be retained over the felling of trees from natural forests, as implemented through harvest and transport regulations on premium hardwoods and benguet pine.

One future scenario is that the tree planter can automatically harvest his tree plantation, provided it is registered, and then transport logs without even going to the DENR office. The tree planter would hire the services of registered forester (perhaps one from the College of Forestry of Leyte State University), or even a forester in government (provided they are not connected with the forest management services in the region), who would be able to certify the timber as to the source, volume and all the information contained in the certificate form.

DISCUSSION

The DENR is required to manage the complex task of encouraging timber plantation development and protecting the remaining natural forests. A comprehensive but clear set of regulations applies to tree registration and timber harvest and transport in the Philippines,

the legal basis of which is summarized in Table 1. From the smallholders' viewpoint, some costs can occur where unfunded DENR inspection is undertaken, and a small registration fee is charged, and time and travel cost may be required visiting the CENRO office. The tree registration process is flexible in terms of timing – possible at plantation establishment through to harvest time – and provides harvest security. A large number of farmers have registered their plantations, some with areas as small as less than one hectare.

Table 1. Legal basis for tree registration, harvest and transport regulation

a	MNR Administrative Order # 4, s.'87
b	DENR Administrative Order #86, s.'88
c	DAO # 26, s.'90
d	DENR Administrative Order #79, s.'90
e	DMC # 97-09 & DMC # 97-23
f	DENR Memorandum Order #99-20
g	DAO # 2004-04
h	Memo dated Nov. 05, 2004

REFERENCE

Mangaoang, E.O., Harrison, S.R., Herbohn, J.L. and Cedamon, E.D. (2005), 'Overcoming problems with tree registration and log transport permits for smallholder tree farmers in Leyte', in J. Suh, Harrison, S.R., Herbohn, J.L., Mangaoang, E.O., and Vanclay, J. (eds.) *Improving Financial Returns to Smallholder Tree Farmers in the Philippines*, Proceedings from the ACIAR Project Planning Workshop held in Ormoc City, The Philippines, 15-17 February 2005, pp. 27-33.