

Forestry Development Authority

Ten Core Regulations



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Forestry Development Authority
Regulation No. 101-07
Regulation on Public Participation in Promulgation of
Regulations, Codes, and Manuals

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, meaningful public participation in forest sector decision-making is essential to the long-term success of forestry reform in the Republic; and

WHEREAS, an informed and engaged public can play a critical role in the forest sector by helping to ensure transparency and Government accountability, and also by educating the staff of the Forestry Development Authority about local priorities, concerns, and practices that are relevant to sustainable forest management; and

WHEREAS, broad public access to information concerning the forest sector is critical to the ability of the public to review and comment on the proposed actions of the Forestry Development Authority; and

WHEREAS, clear procedures are necessary to guarantee a high level of fully informed public participation in the forest sector; and

WHEREAS, the National Forestry Reform Law of 2006 provides for broad public access to information (Section 18.5) and authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), specifically including regulations that establish procedures for the public vetting of regulations (Section 19.2(b)); and regulations that pertain to any matter concerning documents or information under the law (Section 19.1(b));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

**PART ONE: DEFINITIONS; PURPOSE; FORESET MANAGEMENT
STAKEHOLDER LIST**

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

- (a) Authority: Forestry Development Authority.
- (b) Board: Board of Directors of the Forestry Development Authority.
- (c) Code: Any Code of practices promulgated by the Forestry Development Authority.
- (d) Committee: Forestry Management Advisory Committee.

- (e) Managing Director: The Managing Director of the Forestry Development Authority.
- (f) Manual: Any procedural Manual promulgated by the Forestry Development Authority.
- (g) Regulation: Any regulation promulgated by the Forestry Development Authority.
- (h) Supporting Documents and Information: All plans, strategies, public comments, reports, inventories, databases, contracts, and other documents and information, in whatever format maintained, upon which the Authority has relied in adopting or amending Regulations, Codes, or Manuals.

Other terms used in this Regulation have the meaning provided in the National Forestry Reform Law of 2006, as amended.

Section 2. Purpose

This Regulation—

- (a) Establishes transparent, participatory procedures that the Authority shall follow in adopting or amending Regulations, Codes, and Manuals; and
- (b) Establishes procedures that the Authority shall follow to ensure broad public access to Regulations, Codes, and Manuals and to all Supporting Documents and Information, to the greatest extent permitted by law.

Section 3. Forest Management Stakeholder List

- (a) The Authority shall maintain a list of persons known to the Authority to be interested in forest management in the Republic, including businesses in the forest sector, community leaders, government officials, civil society organizations, international donors, persons who have expressed interest to the Authority about forest policy, and other concerned individuals.
- (b) For each person on the list, the list must indicate a physical address, electronic address, or other reliable way to send written notice to the person.
- (c) The Authority shall make a reasonable effort to keep names and addresses on the list current and shall add or remove a person from the list at the person's request.
- (d) This Section is intended to facilitate prompt and efficient communication between the Authority and stakeholders; accordingly, this Section may not be interpreted to limit public access to information or participation in Forestry decision-making processes.

Sections 4 to 20. Reserved

PART TWO: REGULATIONS—GENERALLY; EFFECT; ADOPTION; AMENDMENT

Section 21. Generally

(a) The Authority shall adopt, and as necessary amend, Regulations to ensure the sustainable management of the Republic's forests and to implement the requirements and policies of the National Forestry Reform Law of 2006, as amended.

(b) The Authority may adopt or amend Regulations jointly with another Ministry or Agency, so long as the Authority does so in accordance with the procedures established by this Part.

(c) If a court strikes down any provision of a Regulation as contrary to law, the remaining provisions of the Regulation remain in effect.

Section 22. Effect

The Authority and all persons shall be bound by the requirements of a properly promulgated Regulation with respect to the subject matter addressed by the Regulation.

Section 23. Procedure for Adopting New Regulations

(a) The Authority shall initially prepare each new Regulation as a proposed Regulation.

(b) The Authority shall submit each proposed Regulation for a public review and comment period of no fewer than 60 days, subject to the requirements of this Subsection.

(1) The Authority shall prepare a newspaper advertisement and a radio announcement containing—

(A) A brief summary of the proposed Regulation;

(B) The beginning and end dates of the public review and comment period;

(C) The dates, times, and locations of regional public meetings to be convened by the Authority to receive public comment on the proposed Regulation;

(D) The address or location of any Authority office where the public may review a copy of the proposed Regulation, free of charge, during regular business hours; and

(E) An invitation to the public to submit written or oral comments on the proposed Regulation, at any Authority office, during regular business hours, or at a regional public meeting convened by the Authority for this purpose.

(2) The Authority shall run the advertisement required by Paragraph (b)(1) of this Subsection in a newspaper of general circulation in Monrovia, and the radio announcement required by Paragraph (b)(1) of this Subsection on a radio station with national coverage and on local community radio stations. The Authority shall run

both the advertisement and the announcement for at least two days per week, for no fewer than two consecutive weeks.

(3) The Authority shall make available, upon request by any person, paper or electronic copies of the proposed Regulation, according to Section 41 of this Regulation.

(4) The Authority shall provide written notice of the proposed Regulation to all persons on any forest management stakeholder list that the Authority maintains pursuant to Section 3 of this Regulation.

(5) The Authority shall convene no fewer than three regional public meetings on the subject of the proposed Regulation.

(A) At each regional public meeting, the Authority shall—

(i) Describe to meeting participants the proposed Regulation and its purpose;

(ii) Allow each participant an opportunity to comment—orally, in writing, or both—on the proposed Regulation; and

(iii) Record all public comments so that the Authority may consider and respond to them.

The Authority shall conduct each regional public meeting in English and at least one local vernacular.

(B) The Authority shall open each regional public meeting to all members of the public, including, but not limited to, community members, industry representatives, government officials, members of civil society organizations, and the press.

(C) The Authority shall use its best efforts to involve women, youth, and other historically excluded groups in each regional public meeting.

(D) The Authority shall select the location for each regional public meeting so as to ensure maximum public participation. Factors that the Authority may consider include—

(i) Proximity to Forest Lands and communities likely to be most affected by the proposed Regulation;

(ii) Ease of access by community members; and

(iii) Whether the venue is sufficiently large to accommodate all participants who are likely to attend.

(E) The Authority shall advertise the purpose, date, time, and location of each regional public meeting at least 15 days in advance.

(6) The Authority shall advertise each regional public meeting as follows:

(A) By notifying local government officials and community leaders, including District Commissioners, Corps of Officers, Township Commissioners, City Mayors, Paramount Chiefs, Clan Chiefs, Landlords, General Town Chiefs, Town Chiefs, Quarter Chiefs, all members of Community Forestry Development Committees, and village heads;

(B) By running radio advertisements in the area of the regional public meeting;

(C) By posting signs in English and at least one local vernacular at the nearest Authority regional office; and

(D) By any other method that the Authority may devise to ensure maximum public participation, tailored to the specific locality and community needs.

(c) At the close of the public review and comment period for a proposed Regulation, the Authority shall—

(1) Prepare a document summarizing the substance of all public comments; and

(2) Revise the proposed Regulation, as necessary, in response to the public comments received.

(d) Not later than 14 days prior to the effective date of the proposed Regulation, the Authority shall present the comment summary document and the revised proposed Regulation to—

(1) The Board; and

(2) The Forestry Management Advisory Committee.

The Board and the Committee shall review the comment summary document and the revised proposed Regulation and provide to the Authority their respective comments, if any, in writing.

(e) Taking into account the comments received during the public review and comment period from the Board, the Committee, and all other sources, the Authority shall—

(1) Prepare a final Regulation; and

(2) Prepare an accompanying justification document that—

(A) Explains how the Regulation was changed, if at all, in response to public comments; and

(B) For each public comment that resulted in no change to the Regulation, explains why the Authority reached this decision.

(f) Following signature by the Managing Director, the Regulation takes effect on the date established by the Regulation.

(g) Not later than ten days after the effective date, the Authority shall provide paper copies of the Regulation, the comment summary document, and the justification document to each local government official and community leader contacted by the Authority for purposes of organizing and convening regional public meetings during the public review and comment period.

Section 24. Amendments to Regulations

(a) The Authority shall initially prepare each amendment to a Regulation as a proposed amended Regulation.

(b) Subject to the conditions established by Paragraphs (1) and (2) of this Subsection, if the Authority believes that a proposed amended Regulation would materially alter the rights or responsibilities of any person under any law of the Republic, or under any Regulation, Code, or Manual, the Authority shall amend the Regulation by following the procedure established by Section 23 of this Regulation.

(1) The proposed repeal of any Regulation, in its entirety, is deemed to result in a material alteration of rights and responsibilities.

(2) Notwithstanding whether material rights or responsibilities would be altered by the proposed amended Regulation, the Authority may choose to follow the procedure established by Section 23 of this Regulation.

(c) If the Authority believes that a proposed amended Regulation would not materially alter the rights or responsibilities of any person under any law of the Republic, or under any Regulation, Code, or Manual, the amendment is deemed minor and the Authority may amend the Regulation by following the procedure established by Section 25 of this Regulation.

Section 25. Procedure for Minor Amendments to Regulations

(a) The Authority shall submit each proposed amended Regulation for a public review and comment period of no fewer than 60 days, subject to the requirements of this Subsection.

(b) The Authority shall prepare a newspaper advertisement and radio announcement containing—

(1) A summary of the proposed amended Regulation;

(2) A statement that the Authority believes the proposed amendment to be minor;

(3) The beginning and end dates of the public review and comment period for the proposed amended Regulation;

(4) The address or location of any Authority office where the public may review a copy of the proposed amended Regulation, free of charge, during regular business hours; and

(5) An invitation to the public to submit written or oral comments on the proposed amended Regulation, at any Authority office, during regular business hours.

(c) The Authority shall run the advertisement required by Subsection (b) of this Section in a newspaper of general circulation in Monrovia, and the radio announcement required by Subsection (b) of this Section on a radio station with national coverage and on local community radio stations. The Authority shall run both the advertisement and the announcement for at least two days per week, for no fewer than two consecutive weeks.

(d) The Authority shall make available, upon request by any person, a paper or electronic copy of the proposed amended Regulation, according to Section 41 of this Regulation.

(e) The Authority shall provide written notice of the proposed amended Regulation to all persons on any forest management stakeholder list that the Authority maintains pursuant to Section 3 of this Regulation.

(f) At the close of the public review and comment period, the Authority shall—

(1) Prepare a document summarizing the substance of all public comments; and

(2) Revise the proposed amended Regulation, as necessary, in response to the public comments received.

(g) Not later than 14 days prior to the effective date of the proposed amended Regulation, the Authority shall present the comment summary document and the revised proposed amended Regulation to the Board, and the Authority *may* submit the comment summary document and the revised proposed amended Regulation to the Forestry Management Advisory Committee. The Board (and the Committee, if the Authority chooses to consult with the Committee) shall review the comment summary document and the revised proposed amended Regulation and provide to the Authority their respective comments, if any, in writing.

(h) Taking into account the comments received during the public review and comment period from the Board (and, if consulted, the Committee) and all other sources, the Authority shall—

(1) Prepare a final Regulation; and

(2) Prepare an accompanying justification document that—

(A) Explains how the Regulation was changed, if at all, in response to public comments; and

(B) For each public comment that resulted in no change to the Regulation, explains why the Authority reached this decision.

(i) Following signature by the Managing Director, the Regulation takes effect on the date established by the Regulation.

Sections 26 to 30. Reserved

PART THREE: CODES AND MANUALS—GENERALLY; EFFECT; CONFLICTS; ADOPTION; AMENDMENT

Section 31. Generally

- (a) The Authority shall adopt, and as necessary amend, Codes that regulate and give guidance to all persons engaged in forest-sector activities, and Manuals that regulate and provide detailed guidance to Authority staff.
- (b) The Authority shall adopt, and as necessary amend, Codes and Manuals in accordance with the procedure established by this Part.
- (c) The Authority may adopt or amend Codes or Manuals jointly with another Ministry or Agency, so long as the Authority does so otherwise in accordance with the procedure established by this Part.
- (d) If a court strikes down any provision of a Code or Manual as contrary to law, the remaining provisions of the Code or Manual remain in effect.

Section 32. Effect

- (a) The Authority and all persons are bound by the requirements of a properly promulgated Code with respect to the subject matter addressed by the Code.
- (b) The Authority is bound by the requirements of a properly promulgated Manual with respect to the subject matter addressed by the Manual.

Section 33. Conflicts

- (a) The Authority shall resolve any conflict between a Regulation and either a Code or a Manual in favor of the Regulation.
- (b) The Authority shall resolve any conflict between a Code and a Manual in favor of the Code.

Section 34. Procedure for Adopting Codes

- (a) The Authority shall initially prepare each new Code in the form of a proposed Code.
- (b) The Authority shall submit each proposed Code for a public review and comment period of no fewer than 60 days, subject to the requirements of this Subsection.
 - (1) The Authority shall prepare a newspaper advertisement and a radio announcement containing—
 - (A) A brief description of the purpose and contents of the proposed Code;
 - (B) The beginning and end dates of the public review and comment period;

(C) The address or location of any Authority office where the public may review a copy of the proposed Code, free of charge, during regular business hours; and

(D) An invitation to the public to submit written or oral comments on the proposed Code, at any Authority office, during regular business hours.

(2) The Authority shall run the advertisement required by Paragraph (b)(1) of this Subsection in a newspaper of general circulation in Monrovia, and the radio announcement required by Paragraph (b)(1) of this Subsection on a radio station with national coverage and on local community radio stations. The Authority shall run both the advertisement and the announcement for at least two days per week, for no fewer than two consecutive weeks.

(3) The Authority shall make available, upon request by any person, a paper or electronic copy of the proposed Code, according to Section 41 of this Regulation.

(4) The Authority shall provide written notice of the proposed Code to all persons on any forest management stakeholder list that the Authority maintains pursuant to Section 3 of this Regulation.

(c) At the close of the public review and comment period for a proposed Code, the Authority shall—

(1) Prepare a document summarizing the substance of all public comments; and

(2) Revise the proposed Code as necessary in light of the public comments received.

(d) Not later than 14 days prior to the effective date of the proposed Code, the Authority shall present the comment summary document and the revised proposed Code to—

(1) The Board; and

(2) The Forestry Management Advisory Committee.

The Board and the Committee shall review the comment summary document and the revised proposed Code and provide to the Authority their respective comments, if any, in writing.

(e) Taking into account the comments received during the public review and comment period from all sources, and from the Board and the Committee, the Authority shall—

(1) Prepare a final Code; and

(2) Prepare an accompanying justification document that—

(A) Explains how the Code was changed, if at all, in response to public comments; and

(B) For each public comment that resulted in no change to the Code, explains why the Authority reached this decision.

(f) Following signature by the Managing Director, the Code takes effect on the date established by the Code.

Section 35. Amendments to Codes

(a) The Authority shall initially prepare each amendment to a Code as a proposed amendment to a Code. This document shall contain—

- (1) The name of the Code to be amended;
- (2) Any language (or a summary of the language) proposed to be added to the existing Code;
- (3) Any language (or a summary of the language) proposed to be stricken from the existing Code; and
- (4) A brief description of the purpose of the proposed amendment.

(b) Subject to the conditions established in this Subsection, if the Authority believes that a proposed amendment to a Code would materially alter the rights or responsibilities of any person under any law of the Republic, or under any Regulation, Code, or Manual, the Authority shall amend the Code by following the procedure established by Section 34 of this Regulation.

- (1) The proposed repeal of a Code, in its entirety, is deemed to result in a material alteration of rights and responsibilities.
- (2) Notwithstanding whether material rights or responsibilities would be altered by the proposed amendment to a Code, the Authority may choose to follow the procedure established by Section 34 of this Regulation.

(c) If the Authority believes that a proposed amendment to a Code would not materially alter the rights or responsibilities of any person under any law of the Republic, or under any Regulation, Code, or Manual, the Authority may amend the Code by following the procedure established by Section 36 of this Regulation.

Section 36. Procedure for Minor Amendments to Codes

(a) The Authority shall submit each proposed amendment to a Code for a public review and comment period of no fewer than 60 days, subject to the requirements of this Subsection.

(b) The Authority shall prepare a newspaper advertisement and a radio announcement containing—

- (1) A summary of the proposed amendment, as described in Subsection 35(a) of this Regulation;
- (2) A statement that the Authority believes the proposed amendment to be minor;

- (3) The beginning and end dates of the public review and comment period;
- (4) The address or location of any Authority office where the public may review a copy of the proposed amendment, free of charge, during regular business hours; and
- (5) An invitation to the public to submit written or oral comments on the proposed amendment, at any Authority office, during regular business hours.

(c) The Authority shall run the advertisement required by Subsection (b) this Section in a newspaper of general circulation in Monrovia, and the radio announcement required by Subsection (b) of this Section on a radio station with national coverage and on local community radio stations. The Authority shall run both the advertisement and the announcement at least one time.

(d) The Authority shall make available, upon request by any person, a paper or electronic copy of the proposed amendment, according to Section 41 of this Regulation.

(e) At the close of the public review and comment period, the Authority shall—

- (1) Prepare a document summarizing the substance of all public comments; and
- (2) Revise the proposed amendment as necessary in light of the public comments received.

(f) Not later than 14 days prior to the effective date of the proposed amendment, the Authority shall present the comment summary document and the revised proposed amendment to the Board, and the Authority *may* submit the comment summary document and the revised proposed amendment to the Forestry Management Advisory Committee. The Board (and the Committee, if the Authority chooses to consult with the Committee) shall review the comment summary document and the revised proposed amendment and provide to the Authority their respective comments, if any, in writing.

(g) Taking into account the comments received during the public review and comment period from the Board (and, if consulted, the Committee) and all other sources, the Authority shall—

- (1) Prepare a final Code; and
- (2) Prepare an accompanying justification document that—
 - (A) Explains how the Code was changed, if at all, in response to public comments; and
 - (B) For each public comment that resulted in no change to the Code, explains why the Authority reached this decision.

(h) Following signature by the Managing Director, the Code, as amended, takes effect on the date established by the Code.

Section 37. Adoption and Amendment of Manuals

(a) The Authority shall initially prepare each Manual or Manual amendment as a proposed Manual or Manual amendment.

(b) The Authority shall make a determination whether the proposed Manual or Manual amendment involves a high degree of public interest or controversy, based on the following factors:

- (1) The degree of interest already expressed in the subject by stakeholders, the press, or the public.
- (2) The degree of interest or controversy attached to similar proposals in the past.
- (3) The magnitude of change the proposal represents compared to present policy.
- (4) The likelihood that the proposal will have a significant impact, good or bad, on stakeholders, the public, or the environment.

(c) If the Authority determines that the Manual or Manual amendment involves a high degree of public interest or controversy, the Authority shall allow a period of public comment on the proposal as follows:

- (1) The Authority shall send a brief description of the proposal, along with an invitation to view the full proposal and comment on it, to all persons on any forest management stakeholder list that the Authority maintains pursuant to Section 3 of this Regulation.
- (2) The Authority shall make copies of the proposal available to all interested persons, in both electronic and printed form, according to Section 41 of this Regulation.
- (3) The Authority shall accept written comment on the proposal for a period of at least 30 days.

(d) The Authority may substitute an alternative process that provides at least as much opportunity for notice and comment, such as combining public review of a Manual with public review of a Code or Regulation, or public review of an environmental impact assessment or land management plan of national interest.

(e) If the Authority receives comments on a proposal, the Authority shall analyze the comments and employ them in the revision of the proposed Manual or Manual amendment.

(f) The Authority shall submit the proposed Manual or Manual amendment to the Board together with a written statement explaining—

- (1) Whether the proposal involves a high degree of public interest or controversy;
- (2) The general nature and content of comments that the Authority received on the proposal, if any; and

(3) Any changes that the Authority has made to the proposal in response to comments.

(g) The Manual or Manual amendment becomes effective upon approval by the Board, unless the Board in its approval sets a later date.

Sections 38 to 40. Reserved

PART FOUR: PUBLIC ACCESS TO REGULATIONS, CODES, MANUALS, AND SUPPORTING DOCUMENTS AND INFORMATION

Section 41. Public Access—Generally

(a) The Authority shall maintain at all of its offices complete and accurate paper copies of the National Forestry Reform Law of 2006, as amended, and all Regulations, Codes, and Manuals, as amended, and all publicly released drafts of proposals for, or proposed amendments to, Regulations, Codes, and Manuals.

(1) The Authority shall maintain a public area in all its offices where these materials are available for inspection by any person during normal business hours, without prior request.

(2) The Authority shall, upon request, offer paper copies of these materials for sale to the requesting person at a cost not exceeding one United States dollar (US \$1) for every 20 pages of copies.

(b) The Authority shall maintain at its headquarters in Monrovia complete and accurate electronic copies of the National Forestry Reform Law of 2006, as amended; and all Regulations, Codes, and Manuals, as amended; and all publicly released drafts of proposed amendments or additions to Regulations, Codes, and Manuals.

(1) The Authority shall make these materials freely available on the Internet.

(2) The Authority shall make these materials freely available by electronic mail (email), upon request by any person.

Section 42. Public Access to Supporting Documents and Information

(a) The Authority shall retain, for at least five years, all Supporting Documents and Information upon which the Authority has relied in adopting or amending any Regulation, Code, or Manual.

(b) The Authority shall, upon written request, make available for inspection by any person, at no cost, any Supporting Documents and Information upon which the Authority has relied in adopting or amending any Regulation, Code, or Manual, subject to the conditions set forth in this Subsection.

(1) Within 30 days of receiving a written or oral request, the Authority shall make Supporting Documents and Information available for inspection.

(2) The Authority shall permit inspection during normal business hours at its headquarters offices in Monrovia or at the Authority regional office nearest the residence or principal place of business of the requesting person.

(3) The Authority shall make Supporting Documents and Information available for inspection in whatever format (paper or electronic) they have been maintained in the ordinary course of business, unless the requesting person indicates a preference for paper or electronic copy—in which case the Authority shall accommodate this preference.

(4) The Authority shall, upon request, offer paper copies of Supporting Documents and Information for sale to the requesting person at a cost not exceeding one United States dollar (US \$1) for every 20 pages of copies.

(5) The Authority shall not make available for public inspection documents and supporting information exempted from public release under Section 18.15 of the National Forestry Reform Law of 2006, as amended.

Sections 43 to 50. Reserved

PART FIVE: REPEALS AND EFFECTIVE DATE

Section 51. Repeals

This Regulation repeals no existing regulations.

Section 52. Effective Date

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

Forestry Development Authority
Regulation No. 102-07
Regulation on Forest Land Use Planning

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, a sound approach to forest land use planning is needed to maximize the benefits of forest land allocation to Liberian society as a whole; and

WHEREAS, forest land use planning must be consistent with national land use priorities in all sectors; and

WHEREAS, proposed uses for forest lands must be validated locally to ensure the accuracy and legitimacy of the planning process, and the results reached; and

WHEREAS, the National Forestry Reform Law of 2006 requires the Forestry Development Authority to adopt a National Forest Policy (Section 4.3); and to prepare and validate a National Forest Management Strategy (Sections 4.4 and 4.5); and further authorizes the Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: DEFINITIONS

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

- (a) Affected Community: a community comprising less than a statutory district (including chiefdoms, clans, townships, towns, villages, and all human settlements) whose interests are likely to be affected by Operations carried out under a Forest Resources License. “Interests” for purposes of this definition may be of an economic, environmental, health, livelihood, aesthetic, cultural, spiritual, or religious nature.
- (b) Authority: Forestry Development Authority.
- (c) Board: Board of Directors of the Forestry Development Authority.
- (d) Commission: National Land Use Commission.
- (e) Committee: Forestry Management Advisory Committee.
- (f) End States: The ecological, economic, and social attributes characterizing desired outcomes from land management practices.

(g) Forest Land Suitability Maps: Color-coded maps that define the land uses for which Forest Land is most suitable.

(h) Forest Land Use Action: Activity recommended by the Authority to implement the National Forest Management Strategy with respect to a particular area of Forest Land.

(i) Forest Land Use Category: Classification of Forest Land as primarily suitable for conservation, commercial, or community use, or for a combination of uses.

(j) National Development Plan: A national-level land use plan addressing all natural resource management issues in the Republic.

(k) Strategy: National Forest Management Strategy.

Other terms used in this Regulation have the meaning provided in the National Forestry Reform Law of 2006, as amended.

Sections 2 to 20. Reserved

PART TWO: FOREST LAND USE PLANNING—PURPOSE AND POLICY; DUTIES OF FORESTRY DEVELOPMENT AUTHORITY

Section 21. Purpose; Policy

(a) The purpose of forest land use planning is to establish the suitability of Forest Lands for sustainable land use allocations through a participatory process, based on local validation, that optimizes the benefits of forest land allocation to Liberian society as a whole.

(b) The Authority shall conduct forest land use planning activities in a manner that advances and balances each of the following national priorities to the greatest possible extent: economic development; benefit to forest-dependent communities; and protection of the Republic's Environment and natural resources.

Section 22. Duties of the Forestry Development Authority

(a) The Authority shall develop a National Forest Management Strategy consistent with the requirements of this Regulation.

(b) The Authority shall implement the Strategy by proposing and validating Forest Land Use Actions following the procedure established by this Regulation.

(c) Subject to the conditions established by Paragraphs (1) and (2) of this Subsection, the Authority shall report to the National Land Use Commission its progress in developing a National Forest Management Strategy and validating Forest Land Use Actions to implement the Strategy.

(1) The Authority shall make progress reports to the Commission at least once every three months.

(2) This Subsection applies only if the Commission has been duly constituted under law.

(d) The Authority shall collect and maintain in a forest land use database all available socio-economic, biological, and physical data pertaining to Forest Land in the Republic, subject to the conditions established by Paragraphs (1), (2), and (3) of this Subsection.

(1) The Authority shall, when possible, collect and maintain data that is geographically quantifiable.

(2) The Authority may collect and maintain any form of data for scientific and economic planning purposes.

(3) The Authority shall collaborate with the Liberia Institute for Statistics and Geo-information Services (LISGIS) and may rely on data provided by LISGIS.

(e) The Authority shall respect customary and statutory land tenure rights in connection with all forest land use planning activities undertaken or sanctioned by the Authority. The Authority shall seek guidance on matters of land tenure, as necessary, from the Forestry Management Advisory Committee and any governmental entity that may be established to address land tenure issues in Liberia.

Sections 23 to 30. Reserved

PART THREE: PROHIBITIONS; ACTIVITIES TO BE CONSISTENT WITH NATIONAL FOREST MANAGEMENT STRATEGY

Section 31. Prohibitions

The Authority shall neither advertise nor award any Forest Resources License until the Authority has—

(a) Adopted a National Forest Management Strategy pursuant to the requirements of this Regulation; and

(b) Validated the Forest Land Use Action under which the Forest Resources License would be advertised or awarded.

Section 32. Activities to Be Consistent with Strategy; Exceptions

(a) The Authority shall ensure that all activities it undertakes or approves are consistent with the National Forest Management Strategy, subject to the exceptions established by Subsections (b) and (c) of this Section.

(b) The Authority may undertake or approve an activity that is inconsistent with the Strategy when the activity is allowed under a final Forest Land Use Action approved by the Board pursuant to this Regulation.

(c) The Authority may take emergency action inconsistent with the terms of the National Forest Management Strategy subject to the conditions established by Paragraphs (1) and (2) of this Subsection.

(1) The Authority may take emergency action inconsistent with the terms of the Strategy only to the extent that the emergency action is necessary to protect life, health, or property from an imminent and substantial threat.

(2) After taking emergency action under this Subsection, the Authority shall, within ninety days, review the Strategy to determine whether amendment of the Strategy has become necessary.

Sections 33 to 40. Reserved

PART FOUR: DEVELOPMENT OF NATIONAL FOREST MANAGEMENT STRATEGY DOCUMENT; CONTENTS; CONSULTATIONS AND ADOPTION; AMENDMENT

Section 41. Development of Strategy

(a) The Authority shall develop a National Forest Management Strategy.

(b) The Authority shall consult with the Forestry Management Advisory Committee throughout the process of developing the Strategy.

Section 42. Contents of Strategy

(a) The Authority shall ensure that the National Forest Management Strategy—

(1) Classifies all Forest Land in the Republic into one or more Forest Land Use Categories; and

(2) Includes one or more Forest Land Suitability Maps depicting the classification made pursuant to this Subsection.

(b) The Authority shall base the classifications required by Subsection (a) of this Section on its consideration of—

(1) The desired End States for particular Forest Land;

(2) Any relevant data, including data maintained in the forest land use database, data maintained by the Liberia Institute for Statistics and Geo-information Services (LISGIS), and data from any other source, provided that the Authority reasonably believes that the data is sound and has been obtained from a credible source; and

(3) All public comments received during the national-level and regional-level consultations required by this Part.

Section 43. National and Regional Consultations

- (a) Prior to adopting a National Forest Management Strategy, the Authority shall undertake national-level and regional-level consultations pursuant to this Section.
- (b) The Authority shall conduct a national-level consultation by convening a public meeting to present and solicit comment on the proposed Strategy.
- (c) Following the national-level consultation, the Authority shall conduct regional-level consultations by convening at least one public meeting for each relevant geographic region to present and solicit comment on the proposed Strategy as it pertains to that region. The Authority shall delineate geographic regions for purposes of this Subsection based on political boundaries, geographic boundaries, or as it may otherwise deem appropriate.
- (d) After the national-level and regional-level consultations required by Subsections (b) and (c) of this Section are completed, the Authority shall convene a final national-level public meeting to report on all public comments received to date on the proposed Strategy and to accept any additional public comments.
- (e) For each public meeting that it convenes under this Section, the Authority shall—
- (1) Prepare a newspaper advertisement and a radio announcement containing—
 - (A) A brief description of the proposed Strategy;
 - (B) The date, time, and location of the public meeting to be convened by the Authority to receive public comment on the proposed Strategy;
 - (C) The address or location of any Authority office where the public may review a copy of the proposed Strategy, free of charge, during regular business hours; and
 - (D) An invitation to the public to submit written or oral comments on the proposed Strategy, at any Authority office, during regular business hours, or at a public meeting convened by the Authority for this purpose.
 - (2) Provide written notice of the public meeting to all persons on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation.
 - (3) Run the advertisement required by Paragraph (e)(1) of this Subsection in a newspaper of general circulation in Monrovia, and the radio announcement required by Paragraph (e)(1) of this Subsection on a radio station with national coverage and on local community radio stations. The Authority shall run both the advertisement and the announcement for at least two days per week, for no fewer than two consecutive weeks.
 - (4) Make available, upon request by any person, paper or electronic copies of the Strategy, and the Authority also shall make the Strategy freely available according to Section 41 of Authority Regulation No. 101-07, concerning public participation.

(5) During the public meeting:

(A) Describe to meeting participants the proposed Strategy and its purpose;

(B) Allow each participant an opportunity to comment—orally, in writing, or both—on the proposed Strategy; and

(C) Record all public comments so that the Authority may consider and respond to them.

The Authority shall conduct each public meeting in English and at least one local vernacular.

(6) Open the public meeting to all members of the public, including, but not limited to, community members, industry representatives, government officials, members of civil society organizations, and the press.

(7) Use its best efforts to involve women, youth, and other historically excluded groups in the public meeting.

(8) Advertise the purpose, date, time, and location of each public meeting at least 15 days in advance.

(9) Advertise the public meeting as follows:

(A) By notifying local government officials and community leaders, including District Commissioners, Corps of Officers, Township Commissioners, City Mayors, Paramount Chiefs, Clan Chiefs, Landlords, General Town Chiefs, Town Chiefs, Quarter Chiefs, all members of Community Forestry Development Committees, and village heads;

(B) By running radio advertisements in the area of the public meeting;

(C) By posting signs in English and at least one local vernacular at the nearest Authority regional office; and

(D) By any other method that the Authority may devise to ensure maximum public participation, tailored to the specific locality and community needs.

Section 44. Adoption of Strategy

The National Forest Management Strategy shall not take effect until the Authority has—

(a) Completed all consultations required by Section 43 of this Regulation and revised the Strategy as necessary in response to comments received during the consultations;

(b) Presented the Strategy to the Forestry Management Advisory Committee for review and comment and revised the Strategy as necessary in response to comments received from the Committee; and

(c) Obtained written approval from the Board.

Section 45. Amendment of Strategy

(a) The Authority may amend the National Forest Management Strategy if—

- (1) New data has become available, substantially altering one or more of the assumptions on which the Strategy is based;
- (2) The Strategy no longer reflects national land use priorities;
- (3) A provision of the Strategy is inconsistent with the National Forestry Policy; or
- (4) A provision of the Strategy is inconsistent with a National Development Plan.

(b) At least once every five years, the Authority shall vet the Strategy at the regional level, subject to the requirements of Section 43 of this Regulation, to determine whether the Strategy should be amended pursuant to Subsection (a) of this Section.

(c) The Strategy, as amended, shall not take effect until the Authority has—

(1) For an amendment that is likely to result in an irretrievable commitment of Forest Lands or Forest Resources to a Commercial Use—

- (A) Satisfied the national-level consultation requirements established by Section 43 of this Regulation;
- (B) Satisfied the regional-level consultation requirements established by Section 43 of this Regulation for any region that will be directly affected by the amendment; and
- (C) Revised the Strategy as necessary in response to comments received during the consultations.

(2) For all amendments—

- (A) Presented the Strategy to the Forestry Management Advisory Committee for review and comment and revised the Strategy as necessary in response to any comments received from the Committee; and
- (B) Obtained written approval from the Board.

Sections 46 to 50. Reserved

PART FIVE: NATIONAL FOREST MANAGEMENT STRATEGY TO BE CONSISTENT WITH NATIONAL FORESTRY POLICY, NATIONAL DEVELOPMENT PLAN

Section 51. National Forestry Policy

- (a) The Authority may adopt or amend a National Forest Management Strategy only when a National Forestry Policy is in force.
- (b) The Authority shall ensure that the Strategy is consistent with the National Forestry Policy in effect at the time of the Strategy's adoption or amendment.

Section 52. National Development Plan

- (a) The Authority may adopt or amend a National Forest Management Strategy in the absence of a National Development Plan.
- (b) The Authority shall ensure that the Strategy is consistent with the National Development Plan, if any, in effect at the time of the Strategy's adoption or amendment.

Sections 53 to 60. Reserved

PART SIX: LOCAL VALIDATION

Section 61. Proposed Forest Land Use Actions

- (a) The Authority shall implement the National Forest Management Strategy with respect to a specific area of Forest Land through a Forest Land Use Action.
- (b) Each Forest Land Use Action proposed by the Authority shall—
 - (1) Be based on the suitability determinations made in the National Forest Management Strategy and on any relevant Forestry, ecological, socio-economic, and other data available to the Authority;
 - (2) Commit an area of Forest Land to a commercial, community, or conservation use, or to a combination of uses;
 - (3) Recommend one or more management tools for the area (for example, issuance of a Forest Resources License, creation of a Protected Area, creation of a Community Forest); and
 - (4) Include approximate metes and bounds for the area.
- (c) The Authority shall not propose a Forest Land Use Action that would allow Commercial Use unless each of the following conditions is satisfied:

(1) The area to be committed to Commercial Use does not include any part of a Protected Area or Proposed Protected Area, deeded or tribal land, or an area known to contain mineral deposits of substantial commercial value.

(2) The area to be committed to Commercial Use contains sufficient Timber volume to support the Commercial Use to be permitted.

(3) If the area to be committed to Commercial Use includes customarily held Forest Land, a Community Forestry Development Committee has granted prior, informed consent to the Commercial Use, in writing, on behalf of Affected Communities.

(d) The Authority shall validate each proposed Forest Land Use Action through the local validation procedure established by this Part before implementing the Forest Land Use Action.

Section 62. Procedure for Validating Proposed Forest Land Use Actions

(a) For each proposed Forest Land Use Action, the Authority shall convene one or more local public meetings for communities located within and immediately adjacent to the Forest Land that would be affected by the Forest Land Use Action, to assess potential local impacts and to evaluate alternatives.

(b) The Authority shall select the location for each local public meeting so as to ensure maximum community participation. Factors that the Authority may consider include, without limitation—

(1) Proximity to Forest Lands and communities likely to be most affected by the proposed Forest Land Use Action;

(2) Ease of access by community members; and

(3) Whether the venue is sufficiently large to accommodate all participants who are likely to attend.

(c) The Authority shall advertise the purpose, date, time, and location of each local public meeting at least 15 days in advance, using the following methods:

(1) Notification of local government officials and community leaders, including District Commissioners, Corps of Officers, Township Commissioners, City Mayors, Paramount Chiefs, Clan Chiefs, Landlords, General Town Chiefs, Town Chiefs, Quarter Chiefs, all members of Community Forestry Development Committees, and village heads;

(2) Running a radio announcement that satisfies the requirements of Subsections (d) and (e) of this Section;

(3) Posting signs in English and all relevant local vernaculars at any Authority regional office located within or immediately adjacent to the Forest Land that would be affected by the Forest Land Use Action;

(4) Providing written notice to all persons on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation; and

(5) Any other method that the Authority may devise to ensure maximum local participation, tailored to the specific locality and community needs.

(d) For each local public meeting, the Authority shall prepare a radio announcement containing—

(1) A brief summary of the proposed Forest Land Use Action to be discussed at the meeting;

(2) The date, time, and location of the meeting; and

(3) An invitation to the public to submit written or oral comments on the proposed Forest Land Use Action, at any Authority office, during regular business hours, or at the meeting.

(e) The Authority shall run the radio announcement required by Subsection (d) of this Section on one or more radio stations (national radio stations, community radio stations, or both), as needed, to ensure full coverage of the affected communities. The Authority shall run the announcement at least two days per week, for no fewer than two consecutive weeks.

(f) At each local public meeting, the Authority shall—

(1) Describe to participants the proposed Forest Land Use Action;

(2) Allow each participant an opportunity to comment—orally, in writing, or both—on the proposed Forest Land Use Action; and

(3) Record all public comments so that they may be fully considered by the Authority.

(g) The Authority shall conduct each local public meeting in English and at least one local vernacular.

(h) The Authority shall open each local public meeting to the public, including community members, industry representatives, government officials, members of civil society organizations, and the press.

(i) The Authority shall use its best efforts to involve women, youth, and other historically excluded groups in each local public meeting.

(j) Following the local public meeting or meetings convened to validate a proposed Forest Land Use Action, the Authority shall—

(1) Collect any additional Forestry, ecological, socio-economic, and other relevant data required to validate the proposed Forest Land Use Action.

(2) Prepare a document summarizing the substance of all public comments; and

(3) Prepare a Justification Document for the proposed Forest Land Use Action that responds to the public comments received. The Authority shall ensure that the Justification Document—

(A) Includes boundaries for the area subject to proposed Forest Land Use Action that are, to the extent feasible, easily identifiable on the ground.

(B) Addresses all ecological, economic, cultural, and social issues that have been identified by any person with respect to the area.

(k) The Authority shall validate the Justification Document as follows:

(1) Pursuant to the requirements of Subsections (a) through (j) of this Section, the Authority shall present the Justification Document for comment at one or more additional local public meetings, and;

(2) The Authority shall present the Justification Document to the Forestry Management Advisory Committee for review and comment.

(l) Taking into account the comments received from the public, the Committee, and all other sources, the Authority shall prepare a final Justification Document setting forth the Forest Land Use Action for the area and submit it to the Board for approval.

(m) The Board may approve the final Forest Land Use Action, modify it, or require the Authority to undertake further validation activities under this Part.

Section 63. Environmental Impacts; Coordination with Environmental Protection Agency

(a) The Authority shall use its best efforts to identify adverse environmental impacts that could result from a suitability determination under the National Forest Management Strategy or from implementation of any proposed Forest Land Use Action.

(b) The Authority shall work with stakeholders in connection with all activities required by this Regulation to identify means of minimizing or mitigating adverse environmental impacts identified under Subsection (a) of this Section.

(c) To the extent feasible, the Authority shall coordinate its activities under this Regulation with the Environmental Protection Agency.

Section 64. Requirement of Continued Stakeholder Involvement in Planning

The Authority shall adopt a formal procedure for ensuring continued stakeholder involvement in the land use planning processes established by this Regulation. Specifically, the Authority shall ensure a defined community role in—

(a) Identifying further potential uses for Forest Lands; and

(b) Monitoring and evaluating the implementation of each approved Forest Land Use Action.

Sections 65 to 70. Reserved

PART SEVEN: REPEALS AND EFFECTIVE DATE

Section 71. Repeals

This Regulation repeals no existing regulations.

Section 72. Effective Date

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

Forestry Development Authority
Regulation No. 103-07
Regulation on Bidder Qualifications

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, past failures to control forest use under the rule of law led to destruction of forests, diversion of public income into private accounts, and an international ban on trade in Liberian Forest Products; and

WHEREAS, to achieve sustainable commercial development of the forest the nation must ensure that forest users possess integrity of character and respect for law, as well as financial and technical capacity; and

WHEREAS, screening and prequalification of bidders on Forest Resources Licenses will serve commercial development and help ensure that the National Forest Policy and the laws of the Republic are honored and fairly implemented; and

WHEREAS, the Public Procurement and Concessions Commission has approved the use of prequalification in the award of Forest Resources Licenses; and

WHEREAS, the Public Procurement and Concessions Act allows the use of two-envelope bidding; and

WHEREAS, establishing and maintaining publicly available lists of Persons debarred and suspended from bidding is necessary to ensure the integrity of the management of the nation's forests; and

WHEREAS, the National Forestry Reform Law of 2006 authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), specifically including regulations that govern contracting and permitting (Section 19.1(c)); and regulations that establish standard qualifications for commercial forest operations (Section 5.2(a)(i)-(iii));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: GENERAL PROVISIONS

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

- (a) Authority: Forestry Development Authority.
- (b) Board: Board of Directors of the Forestry Development Authority.

- (c) Categories: The categories of concessions listed in Section 2 of this Regulation.
- (d) Concession Bid Documents: The documents called for under Sections 104 and 105 of the Public Procurement and Concessions Act as enacted in 2005 or, if the Act is amended or superseded, similar official materials describing the proposed concession.
- (e) FMC: Forest Management Contract, a long-term license from the Government under Section 5.3 of the National Forestry Reform Law of 2006, allowing a Person to manage a tract of Forest Land and harvest or use Forest Products.
- (f) Government: The Government of the Republic of Liberia and all its branches, subdivisions, instrumentalities, authorities, and agencies.
- (g) Major FUP: A Forest Use Permit that Section 5.5(d)(i) of the National Forestry Reform Law of 2006 requires the Authority to offer through a concessions process because the permit allows use of more than US \$10,000 worth of Forest Resources, and “use” in this context means harvest, consumption, or destruction of Forest Resources, but does not include observation or study of Forest Resources or non-exclusive occupation of land.
- (h) Panel: The Prequalification Review Panel described in Part Four of this Regulation.
- (i) Person: An individual, partnership, joint venture, association, corporation, trust, estate, unincorporated entity, community, government or state, and any branch, division, political subdivision, instrumentality, authority, or agency thereof.
- (j) Significant Individual: Of a corporation means—
- (1) All members of the board of the corporation.
 - (2) All holders of offices created in the corporate bylaws.
 - (3) All individuals who have effective control over at least ten percent of the voting stock of the corporation, either through direct ownership or through direct or indirect control of the voting of other stockholders.
 - (4) All individuals authorized to withdraw funds or sign checks on the corporate bank accounts.
 - (5) All individuals authorized to transfer ownership of corporate assets worth more than US \$10,000, including individuals authorized to pledge those assets as security.
 - (6) All individuals presently entitled to receive, directly or indirectly, more than US \$10,000 per year from the corporation in interest payments, and all individuals to which the corporation owes, directly or indirectly, more than US \$100,000 in principal.
 - (7) All individuals who have received in the last two years, or can reasonably be expected to receive in the coming two years, more than US \$25,000 from the corporation from sources other than current employment or sale of goods or services at fair market value.

(k) TSC: Timber Sale Contract, a license from the Government under Section 5.4 of the National Forestry Reform Law of 2006, allowing a Person to harvest timber from a specified tract of Forest Land.

Other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

Section 2. Categories of Concessions

For purposes of this Regulation, concessions fall into the following four Categories of Forest Resources Licenses:

(a) Major FUPs.

(b) TSCs.

(c) Ordinary FMCs, which are FMCs involving less than 250,000 hectares of land.

(d) Large FMCs, which are FMCs involving 250,000 hectares or more of land.

Sections 3 to 20. Reserved

PART TWO: DEBARMENT AND SUSPENSION

Section 21. Lists

In addition to the Government-wide debarment list kept by the Public Procurement and Concessions Commission under Section 44 of the Public Procurement and Concessions Act, as amended, the Authority shall keep a list of debarred Persons and a list of suspended Persons.

Section 22. Effect of Listing

(a) If a Person is on the list of debarred Persons or the list of suspended Persons, the Person is ineligible to bid on a Forest Resources License offered through a concessions process.

(b) If the Person is a corporate entity, all of the following are also ineligible to bid on a Forest Resources License offered through a concessions process:

(1) Any corporation that owns a portion of the listed corporate entity.

(2) Any corporation that is owned in part or in full by the listed corporate entity.

(3) Any corporation that shares board members with the listed corporate entity.

(c) If the Person is a natural person, any corporation for which the Person is a Significant Individual is also ineligible to bid on a Forest Resources License offered through a concessions process.

Section 23. Standards for Listing

- (a) The Authority shall place on the list of debarred Persons all Persons involved in any way with the use, management, or harvesting of Forest Resources who have aided or abetted civil disturbances involving the use of weapons.
- (b) The Authority shall place on the list of suspended Persons those who have defaulted on their financial obligations related to forest use.
- (c) The standard of proof for listing is clear and convincing evidence.

Section 24. Procedure for Listing

- (a) Any Person, including the Authority, may petition the Authority to add Persons to the list of debarred Persons or the list of suspended Persons.
- (b) The Authority shall make a prompt and thorough investigation of the allegations in the petition.
- (c) The Authority shall notify the Persons being investigated either directly or, if the Authority cannot locate the Persons, through an advertisement in a newspaper of general circulation.
- (d) The Authority shall allow the Persons being investigated fair opportunity to present evidence in the investigation.
- (e) The Authority shall publish a draft summary of its findings from the investigation in an advertisement in a newspaper of general circulation.
- (f) In that advertisement, the Authority shall invite the public to submit additional evidence bearing on the listing.
- (g) No sooner than 60 days after publishing its draft summary, the Authority shall publish in a newspaper of general circulation a final summary, a decision on listing, and a statement of reasons.
- (h) Upon publishing its decision on listing, the Authority shall make any necessary additions to the list of debarred Persons or the list of suspended Persons.
- (i) The Authority shall inform the Public Procurement and Concessions Commission of any change that the Authority makes to the list of debarred Persons or the list of suspended Persons.

Section 25. Removal from the Lists

- (a) The following are the only routes for removal from the suspension or debarment lists:
 - (1) The Authority shall remove a Person from the debarment list if three years or more have passed since the date of listing.

(2) The Authority shall remove a Person from the suspension list if the cause of the suspension has been remedied.

(3) The Authority shall remove a Person from either list if a court of competent jurisdiction of the Republic orders the Authority to remove the Person from the list.

(b) Upon petition of any listed Person, the Authority shall consider whether the Person is entitled to removal under Subsection (a) of this Section.

(c) Upon reaching a decision on removal with respect to any Person, the Authority shall make any necessary changes to the list of debarred Persons or the list of suspended Persons.

(d) Persons removed from the suspension or debarment lists remain subject to the prequalification requirements contained in Part Three of this Regulation.

Section 26. Appeal and Petition to the Board

(a) Any Person may appeal a decision of the Authority under Sections 24 or 25 of this Regulation to the Board.

(b) If the Board finds that the Authority's decision is inconsistent with its statement of reasons, is procedurally flawed, or is otherwise contrary to law, the Board may reverse the action of the Authority.

(c) Any Person may petition the Board to direct the Authority to act without further delay on a listing or removal decision.

(d) If the Board finds that the Authority has unreasonably delayed action on a listing or removal petition, the Board may direct the Authority to expedite action on the petition.

(e) Within ten days of receipt of notice of a final, written decision of the Board under this Section, the Person may file a notice of appeal in a court of the Republic with competent jurisdiction. The person shall also file a copy of the notice of appeal with the Board.

Sections 27 to 30. Reserved

PART THREE: QUALIFICATION PROCESSES

Section 31. Prequalification Requirement for All Bidders

(a) Only Persons with a valid prequalification certificate issued under Part Four of this Regulation may submit bids for Forest Resources Licenses offered as concessions.

(b) All bids must include a notarized and unaltered copy of the bidder's valid prequalification certificate.

Section 32. Additional Use of Two-Envelope Bidding in Some Tenders

(a) Before preparing Concession Bid Documents for a Forest Resources License offered as a concession, the Authority shall determine whether the concession involves special technical or financial demands beyond the normal technical and financial demands for managing a forested areas.

(b) If the concession involves special technical or financial demands, the Authority shall offer the concession using a two-envelope bidding system, as described in Part Five of this Regulation.

Sections 33 to 40. Reserved.

PART FOUR: PREQUALIFICATION

Section 41. Applications for Prequalification

(a) Persons wishing to prequalify must submit an application on an official form provided by the Authority; the Authority shall create a standard form for applications and provide it to Persons for the fee prescribed under Authority Regulation 107-07.

(b) Applications must include or indicate the following:

(1) The applicant's name and contact information.

(2) The Category of Forest Resources License for which the applicant wishes to prequalify.

(3) If the applicant is facing an impending bidding deadline, the date of the deadline.

(4) The answers to the questions in Schedule I of this Regulation.

(5) A copy of a business plan demonstrating technical and financial capacity to hold a Forest Resources License in the desired Category.

(6) If the applicant is seeking to prequalify for an Ordinary FMC or a Large FMC, a demonstration of capacity and strategy for increasing value-added industries in the Republic.

(7) If the applicant is seeking to prequalify for a Large FMC, a demonstration of expertise or experience in forest management as required under Section 45(c) of this Regulation.

(8) A statement by the applicant swearing or affirming, under penalty of perjury, that the information in the application is correct to the best of the applicant's knowledge.

(c) A Person may apply to the Authority for prequalification at any time.

(d) The Authority shall promptly forward applications to the Prequalification Review Panel described in Section 42 of this Regulation for review.

Section 42. Prequalification Review Panel

(a) The Authority shall appoint a standing Panel to judge applications for prequalification.

(b) The Authority shall keep seven members on the Panel, as follows:

(1) One representative of the National Investment Commission, appointed with the approval of the Executive Director of the Commission.

(2) One representative of the Ministry of Justice, appointed with the approval of the Minister of Justice.

(3) One representative from the Ministry of Finance, appointed with the approval of the Minister of Finance.

(4) One representative from civil society, chosen after consultation with civil society groups on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation.

(5) One expert on forest management or commercial logging from the Authority's staff.

(6) One expert on forest management or commercial logging not from the Authority's staff.

(7) The head of the Authority's Procurement Unit.

(c) The Authority shall designate one member of the Panel to serve as chair and one to serve as vice chair.

(d) The Head of the Authority's Procurement Unit shall serve as secretary of the Panel.

(e) Members shall serve a term of one year, subject to reappointment.

(f) If a member leaves before the end of a term, the Authority shall appoint a similarly qualified individual to serve the remainder of the term.

Section 43. Meetings and Records of the Panel

(a) The Panel shall meet at the following times:

(1) At the call of the Authority, at the Authority's discretion.

(2) At the call of the Authority, as the Authority is required in response to a petition under Subsection (b) of this Section.

(3) At times determined by the Panel itself, under Subsection (c) of this Section.

(b) *The Authority shall call the Panel in response to a petition as follows:*

(1) During the first two weeks after the Authority invites bids for a particular concession, any Person lacking a valid prequalification certificate for that Category of concession may submit with its application for prequalification a petition to the Authority to call the Panel to review prequalification applications.

(2) In response to a petition received under this Subsection, the Authority shall call the Panel to meet at least ten days before bids for that concession are due.

(3) The Authority may arrange a single meeting of the Panel to satisfy multiple petitions.

(c) The Panel may set additional meeting times and may recess a meeting in progress until the next business day.

(d) Except in the case of meetings continuing after a recess, the Authority shall give at least 48 hours' notice of any meeting to the Panel members and to Persons whose applications may come before the Panel.

(e) The Panel may open or close its meetings to applicants, the press, and the public; however, all records, documents, and other information produced by the Panel belong to the Authority and are subject to Section 18.15 of the National Forestry Reform Law of 2006, regarding public access to information.

(f) Five members of the Panel constitute a quorum to do business, and the Panel shall make its decisions by majority vote of the members present.

(g) The Panel shall keep records of which members are present at meetings and how they vote.

(h) Members shall recuse themselves on matters in which they have a personal financial stake, and the chair shall consider recused members to be absent for the purpose of determining the presence of a quorum or the outcome of a vote.

Section 44. Powers and Duties of the Panel

(a) The Panel shall review applications for prequalification to bid on concessions of Forest Resources Licenses and shall approve or reject them by applying the standards in Section 45 of this Regulation.

(b) The Panel shall give priority to reviewing applications from Persons seeking prequalification for concessions with approaching bid submission deadlines.

(c) The Panel shall not unreasonably delay approval or rejection of any application.

(d) After the Panel approves or rejects an application, it shall promptly give the applicant notice of its decision.

(1) Notices of approval must include a prequalification certificate indicating the Category for which the applicant is prequalified and the date of approval.

(2) Notices of rejection must include a short statement of reasons why the application was rejected.

Section 45. Standards for Prequalification

(a) The Panel shall apply the following standards when reviewing applications for prequalification certificates:

(1) The objective, yes-or-no criteria set out in Schedule I of this Regulation; and

(2) An evaluation of the bidder's business plan to determine whether the applicant has the general capability to carry out Operations under that Category of Forest Resources License.

(b) For concessions in the Ordinary FMC and Large FMC Categories identified in Section 2 of this Regulation, the Panel shall reject applicants unless they demonstrate capacity and strategy for increasing value-added industries in the Republic.

(c) In addition, for concessions in the Large FMC Category identified in Section 2 of this Regulation, the Panel shall reject applicants unless they either:

(1) Demonstrate experience in successfully implementing sustainable forest management by presenting a certificate of "Certification of Sustainable Forest Management," issued by an internationally recognized certification system, and demonstrate that the company will employ expertise in long-term sustainable management of tropical forests in Liberia; or

(2) Present evidence of retaining employees, consultants, or subcontractors with experience and expertise in sustainable forest management.

Section 46. Prequalification Certificates

(a) Prequalification certificates (issued to successful applicants under Section 44(d)(1) of this Regulation) are specific to the applicant and are non-transferable.

(b) For a prequalification certificate to be valid with respect to bidding on any particular concession for a Forest Resources License, the following must be true:

(1) The prequalification certificate was issued for the same Category of Forest Resources License for which it is being presented;

(2) The prequalification certificate was issued within three years of the deadline for the bid;

(3) The standards for prequalification, set forth in this Regulation, have not changed since the Panel issued the prequalification certificate; and

(4) The facts that the bidder stated in the prequalification application have not materially changed.

Sections 47. The List of Prequalified Persons

(a) In January and July of each year, the Authority shall publish in two newspapers of national circulation a list of all Persons issued prequalification certificates during the previous three years.

(b) The Authority shall keep at its headquarters a list of Persons issued prequalification certificates in the last three years and shall allow the public to examine the list, without charge, during normal business hours.

(c) Being named on a list under this Section is not evidence of prequalification for purposes of bidding; a bidder must possess a valid prequalification certificate under Section 46(b) of this Regulation.

Section 48 to 50. Reserved.

PART FIVE: TWO-ENVELOPE BIDDING

Section 51. Process and Standards for Two-Envelope Bidding

(a) When the Authority offers a concession under a two-envelope bidding system, the Authority shall disclose in the Concession Bid Documents the standards that will be used to evaluate the contents of the first envelope, subject to the requirements of this Section.

(b) These standards must consist of the following:

(1) Whether the bidder demonstrates the ability to carry out Operations under the specific Forest Resources License being offered, including the capability to satisfy the special technical or financial demands that led the Authority to call for two-envelope bidding;

(2) For concessions in the Ordinary FMC Category or the Large FMC Category identified in Section 2 of this Regulation, whether the bidder demonstrates the ability and presents a practical strategy for increasing value-added industries in the Republic under this concession;

(3) For concessions in the Large FMC Category identified in Section 2 of this Regulation, whether the bidder demonstrates the ability to manage the concession sustainably, in the light of the special circumstances of the concession; and

(4) Whether the bidder has a valid prequalification certificate under Section 46(b) of this Regulation.

(c) To establish its ability to meet the standards, the bidder shall submit the following in the first envelope:

(1) A copy of a business plan and other supporting documents demonstrating technical and financial ability to carry out Operations under the Forest Resources License, including, for concessions in the Ordinary FMC Category or the Large FMC

Category identified in Section 2 of this Regulation, demonstration of the ability and presentation of a practical strategy for increasing value-added industries in the Republic under this concession;

(2) For concessions in the Large FMC Category identified in Section 2 of this Regulation, evidence of management capacity as described in Section 45(c) of this Regulation plus evidence of ability to address any special challenges of sustainable management identified in the Concession Bid Documents;

(3) A notarized and unaltered copy of the bidder's valid prequalification certificate under Section 46(b) of this Regulation; and

(4) A statement by the bidder swearing or affirming, under penalty of perjury, that the information in the bid is correct to the best of the bidder's knowledge.

(d) In the second envelope, the bidder shall submit the amount that it proposes to pay for the concession.

(e) The Authority shall specify in the Concession Bid Documents the procedure for opening and reviewing the contents of the two envelopes.

Sections 52 to 60. Reserved

PART SIX: REPEALS AND EFFECTIVE DATE

Section 61. Repeals

This Regulation repeals no existing regulations.

Section 62. Effective Date

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

SCHEDULE I: YES-OR-NO PREQUALIFICATION CRITERIA

1. Is the Applicant a corporation registered to do business in Liberia, and NOT a partnership, sole proprietorship, natural person, not-for-profit entity or non-governmental organization, or unincorporated association? (See Public Procurement and Concessions Act, as amended, Section 86) [An answer of “Yes” is required for prequalification.]
2. If the Applicant seeks to produce cut wood or logs, does the Applicant have a main office in Monrovia? (See National Forestry Reform Law of 2006, Section 13.3) [An answer of “Yes” is required for prequalification.]
3. Is any officer or director of the Applicant or any Person with more than a one percent equity stake in the Applicant restricted from participating in the forest trade in Liberia? (For a list of people restricted from participating in the forest trade, see National Forestry Reform Law of 2006, Section 5.2(b)(v)-(vii).) [An answer of “No” is required for prequalification.]
4. Has any officer or director of the Applicant or any Person with more than a one percent equity stake in the Applicant been convicted of or pleaded no contest to a felony in the past five years? [An answer of “No” is required for prequalification.]
5. Is the Applicant in good standing in its payments of corporate taxes and social security in Liberia? [An answer of “Yes” is required for prequalification.]
6. Is the Applicant in good standing in its payments of forest-related fees, including stumpage, land rental, and forest product fees in Liberia? [An answer of “Yes” is required for prequalification.]
7. Is the Applicant in good standing in its payments of trade-related fees in Liberia? [An answer of “Yes” is required for prequalification.]
8. Has the Applicant or any affiliate of the Applicant been convicted or penalized for violation of any forest-related law in the last five years in Liberia? (As used in this Schedule, “affiliate” includes any parent or subsidiary of the Applicant, and any other entity or individual that shares directors, officers, or managers with the Applicant.) [An answer of “No” is required for prequalification.]
9. Has the Applicant or any affiliate of the Applicant been convicted or penalized for any violations of commercial law in the last five years in Liberia? [An answer of “No” is required for prequalification.]
10. Is the Applicant or any affiliate of the Applicant debarred from Government contracting in Liberia under the Public Procurement and Concessions Act, as amended? [An answer of “No” is required for prequalification.]
11. Has the Applicant or any officer, director, or affiliate of the Applicant been convicted or penalized for any violation of law in the last five years that reflects on honesty or moral character, such as theft, embezzlement, bribery, tax evasion, false swearing, or forgery? [An answer of “No” is required for prequalification.]

12. Has the Applicant or any affiliate of the Applicant been convicted or penalized for interference with fair and open competition in contracting? [An answer of “No” is required for prequalification.]

13. Has the Applicant been adjudged insolvent or bankrupt during the past five years? (Persons who have sought bankruptcy protection but are in compliance with a court-approved plan of reorganization permitted under the laws of Liberia may answer “no”.) [An answer of “No” is required for prequalification.]

14. For the purposes of this criterion, “Significant Individuals involved in the ownership or management” of a corporation means:

- (1) All members of the board of the corporation.
- (2) All holders of offices created in the corporate bylaws.
- (3) All individuals who have effective control over at least ten percent of the voting stock of the corporation, either through direct ownership or through direct or indirect control of the voting of other stockholders.
- (4) All individuals authorized to withdraw funds or sign checks on the corporate bank accounts.
- (5) All individuals authorized to transfer ownership of corporate assets worth more than US \$10,000, including individuals authorized to pledge those assets as security.
- (6) All individuals presently entitled to receive, directly or indirectly, more than US \$10,000 per year from the corporation in interest payments, and all individuals to which the corporation owes, directly or indirectly, more than US \$100,000 in principal.
- (7) All individuals who have received in the last two years, or can reasonably be expected to receive in the coming two years, more than US \$25,000 from the corporation from sources other than current employment or sale of goods or services at fair market value.

Has the Applicant supplied the Authority a complete list of Significant Individuals involved in the management or ownership of the Applicant, and have all the named Significant Individuals supplied the Authority with a sworn affidavit attesting that either:

- (a) The Significant Individual had no involvement in Liberia with forest harvest or the timber trade before January 1, 2006; or
- (b) The Significant Individual had involvement in Liberia with forest harvest or the timber trade before January 1, 2006 and has done all the following:
 - (1) The Significant Individual has filed with the Truth and Reconciliation Commission a sworn statement describing the individual’s involvement in Liberia in forest harvest and the timber trade, honestly and fully disclosing all illegal activities in which the individual was involved;

(2) The Significant Individual has cooperated upon request with Government-approved efforts to recoup funds lost due to illegal activity; and

(3) The Significant Individual has filed with the Authority a pledge to cooperate upon request in all future Government-approved efforts to recoup funds lost due to illegal activity, understanding that if the individual fails to keep the pledge, the Authority may cancel any license granted on the strength of the pledge? [An answer of “Yes” is required for prequalification.]

Forestry Development Authority
Regulation No. 104-07
Regulation on Tender, Award, and Administration of
Forest Management Contracts, Timber Sale Contracts, and
Major Forest Use Permits

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, a prerequisite for meeting these goals is a clear process for tendering, awarding, and administering Forest Resources Licenses that is administered professionally, transparently, and in a non-discriminatory manner, without personal interest or aim of self-enrichment; and

WHEREAS, the Public Procurement and Concessions Act provides a fair and transparent framework under which contracts for significant Forest Resources Licenses must be tendered to the public; and

WHEREAS, the National Forestry Reform Law of 2006 authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), including regulations that govern contracting and permitting (Section 19.1(c)), and regulations that establish bonding requirements (Section 5.1(e));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: GENERAL PROVISIONS

Section 1. Policy

When allocating commercial access to Forest Resources, the Authority and its staff aim to:

- (a) Act as trustee of a national asset, in a professional, transparent, and non-discriminatory manner, without personal interest or aim of self-enrichment.
- (b) Provide social and economic benefits for forest-dependent communities and the nation as a whole.
- (c) Assure sustainable development and conservation of the forests.

Section 2. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

- (a) Affected Community: A community comprising less than a statutory district (including chiefdoms, clans, townships, towns, villages, and all human settlements) whose interests are likely to be affected by Operations carried out under a Forest Resources License. “Interests”

for purposes of this definition may be of an economic, environmental, health, livelihood, aesthetic, cultural, spiritual, or religious nature.

(b) Authority: Forestry Development Authority.

(c) Board: Board of Directors of the Forestry Development Authority.

(d) FMC: Forest Management Contract, a long-term license issued by the Government under Section 5.3 of the National Forestry Reform Law of 2006, allowing a Person to manage a tract of Forest Land and to harvest or use Forest Products.

(e) Forest Resources: Anything of practical, commercial, social, religious, spiritual, recreational, educational, scientific, subsistence, or other potential use to humans that exists in the forest environment, not limited to flora, fauna, or micro-organisms.

(f) Government: The Government of the Republic of Liberia and all its branches, subdivisions, instrumentalities, authorities, and agencies.

(g) Managing Director: The Managing Director of the Forestry Development Authority.

(h) Major FUP: A Forest Use Permit that Section 5.5(d)(i) of the National Forestry Reform Law of 2006 requires the Authority to offer through a concessions process because the permit allows use of more than US \$10,000 worth of Forest Resources. "Use" in this context means the harvest or consumption of Forest Resources, but does not include observation or study of Forest Resources, or non-exclusive occupation of land.

(i) Person: An individual, partnership, joint venture, association, corporation, trust, estate, unincorporated entity, community, government or state, and any branch, division, political subdivision, instrumentality, authority, or agency thereof.

(j) Proposed Protected Area: An area that the Authority has identified as suitable for designation as a Protected Area in an approved National Forest Management Strategy under Chapter 4 of the National Forestry Reform Law of 2006.

(k) Protected Areas Ordinarily Closed to Commercial Use: Nature Reserves, National Parks, Strict Nature Reserves, and other special areas set aside for non-extractive uses under Chapter 9 of the National Forestry Reform Law of 2006.

(l) TSC: Timber Sale Contract, a license from the Government under Section 5.4 of the National Forestry Reform Law of 2006 allowing a Person to harvest Timber from a specified tract of Forest Land.

Other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

Section 3. General Guidelines

In offering and administering FMCs, TSCs, and Major FUPs, the Authority shall follow the standards and procedures found in the Public Procurement and Concessions Act, as amended;

the National Forestry Reform Law of 2006, as amended; the regulations, codes, manuals, and guidelines of the Authority; and any other applicable law.

Section 4. Debarment

If the Authority receives credible information that a Person should be debarred from public contracting under Section 44 of the Public Procurement and Concessions Act, as amended, the Managing Director shall ask the Public Procurement and Concessions Commission to debar the Person.

Sections 5 to 20. Reserved

PART TWO: PRELIMINARY MATTERS

Section 21. Selection of Areas to Offer for FMCs and TSCs

(a) Procedural prerequisites. The Authority shall only seek to offer FMCs or TSCs on areas that meet all three of the following criteria:

- (1) The area has been identified in the National Forest Management Strategy as suitable for Commercial Use, under Section 4.4(d)(i) of the National Forestry Reform Law of 2006 and any applicable regulations;
- (2) The Authority has validated the area locally, under Section 4.5 of the National Forestry Reform Law of 2006 and any applicable regulations; and
- (3) The Authority has found the area suitable for offering in a pre-feasibility assessment, under Section 103 of the Public Procurement and Concessions Act, involving forest inventories, biological studies, and socio-economic assessment of the area.

(b) Substantive prerequisites. In addition to the requirements found in the National Forestry Reform Law of 2006, the Authority shall only seek to offer FMCs and TSCs on areas that have all of the following characteristics:

- (1) The area is reasonably contiguous.
- (2) The area is large enough to sustain the commercial purposes of the contract.
- (3) The area is small enough to be practically managed by a single contract Holder.
- (4) The area excludes lands in Protected Areas Ordinarily Closed to Commercial Use or Proposed Protected Areas, unless the Authority makes a written finding explaining why the Commercial Use would be compatible with the lands' protected status.
- (5) The area excludes lands where the Authority does not have the power to grant permission to harvest Forest Resources.

(6) As far as practical, the area excludes lands that are unsuited to the commercial purposes of the contract.

(c) Additional Standard for TSCs.

(1) The Authority shall only offer TSCs on Forest Lands whose prior use, present condition, or planned future use makes them unsuitable for management under FMCs.

(2) The Authority shall not offer TSCs covering more than 5,000 hectares.

Section 22. Identification of Affected Communities; Pre-Implementation Community Consultations

(a) Before seeking a Certificate for Concession with respect to an area, the Authority shall conduct preliminary consultations with Affected Communities pursuant to this Section.

(b) The Authority shall give notice of its intent to conduct consultations with representatives of Affected Communities by:

(1) Publication of a notice in a newspaper of general circulation in the area, if one exists; publication of a notice in a newspaper of general circulation in Monrovia; and announcement on national radio stations and community radio stations with coverage in the area; and

(2) Sending written notice to Persons on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation.

(c) The Authority shall identify as an Affected Community each community—

(1) Located within the geographic area that will be subject to the Forest Resources License;

(2) Located adjacent to the geographic area that will be subject to the Forest Resources License;

(3) Whose members use Natural Resources located in the geographic area that will be subject to the Forest Resources License;

(4) Determined to be affected through the local validation process established by Part Six of Authority Regulation No. 102-07, concerning forest land use planning; or

(5) That, for any other reason, the Authority reasonably believes will be affected by activities conducted under the Forest Resources License.

(d) The Authority shall maintain a list of Affected Communities for each area subject to an FMC, a TSC, or a Major FUP.

(e) Any individual who believes that the Authority should have identified the individual's community may ask the Board to review the decision of the Authority not to include the community.

(1) Following receipt of a request under this Subsection, the Board shall determine whether the community satisfies the definition of an Affected Community set forth in Section 1(a) of this Regulation.

(2) The Board shall issue any determination made under this Subsection in writing.

(f) For purposes of conducting preliminary consultations with Affected Communities under this Section, the Authority shall consult with Community Forestry Development Committees that satisfy the requirements of Part Six of Authority Regulation No. 105-07, concerning major pre-felling operations, or with an interim representative selected under Subsection (g)(2) of this Section.

(g) If the Authority determines that one or more Affected Communities is not represented by a Community Forestry Development Committee, the Authority shall use its best efforts to ensure that the unrepresented Affected Communities are brought under the representation of existing or new Community Forestry Development Committees.

(1) The Authority may take steps to facilitate the prompt establishment of a new Community Forestry Development Committee to represent an unrepresented Affected Community.

(2) The Authority may, in coordination with civil society organizations, facilitate a process of participatory selection of an interim representative for an unrepresented Affected Community, until that Affected Community can be represented by a Community Forestry Development Committee.

(h) The Authority shall maintain a list of Community Forestry Development Committees representing Affected Communities subject to each potential FMC, TSC, or Major FUP.

(i) The Authority shall consult with Community Forestry Development Committees representing the Affected Communities, concerning the Forest Resources License proposed for the area. The Authority shall use its best efforts to understand the priorities and concerns of all Affected Communities with respect to the proposed Forest Resources License.

(j) Social Agreements—

(1) The Authority shall not proceed with offering a proposed FMC or TSC unless the Authority has obtained free prior informed consent, in writing, from Community Forestry Development Committees representing all Affected Communities identified under this Section, to negotiate in good faith a social agreement with the winning bidder and subject themselves to independent arbitration should those negotiations not reach a satisfactory conclusion.

(2) If the Authority fails to obtain agreement under Paragraph (1) of this Subsection from Community Forestry Development Committees representing all Affected Communities, the Authority may reconsider the terms of the proposed FMC or TSC.

(k) Community Forestry Development Committees may seek the assistance of experts, legal counsel, civil society organizations, or any other Person to help them effectively represent the interests of Affected Communities in consultations under this Section.

Sections 23 to 30. Reserved

PART THREE: OFFERING OF CONCESSIONS

Section 31. Certificate of Concession

In compliance with Section 87(3) of the Public Procurement and Concessions Act, as amended, prior to commencing any activity for the purpose of offering a specific concession, the Managing Director shall request the Minister responsible for Economic Affairs to issue a Certificate of Concession.

Section 32. Concession Procurement Plan

The Authority shall prepare the Concession Procurement Plan required under Sections 77 and 79 of the Public Procurement and Concessions Act, as amended, and submit the Plan to the Public Procurement and Concessions Commission.

Section 33. Bidder Qualifications (Prequalification and Two-Envelope Bidding)

Consistent with the requirements of Authority Regulation No. 103-07, the Authority shall assess bidder qualifications through a prequalification process and, in special cases, a two-envelope bidding system.

Section 34. Standard Contracts

(a) In consultation with the Ministry of Justice, the Authority shall develop a standard contract for Timber-based FMCs and a standard contract for TSCs.

(b) In the concession bid documents required under Section 104 of the Public Procurement and Concessions Act, as amended, the Authority shall include all the additional specific provisions or conditions the Authority expects to include in the final contract, including provisions identifying the lands subject to the concession; requirements for the installation of wood processing facilities, if any; and requirements for forest certification, if any.

(c) As early as is practical in each bidding process, the Authority shall submit the appropriate contract, with the intended specific conditions, to the Inter-Ministerial Concessions Committee for endorsement under Section 117 of the Public Procurement and Concessions Act, as amended.

Section 35. Documents Related to Offering Concessions

(a) The Authority shall prepare the concession bid documents required under Sections 104 and 105 of the Public Procurement and Concessions Act, as amended, which documents shall also include a concession prospectus outlining the forest quality and general expectations for the management of the area, and identifying known social issues.

(b) In addition to selling copies of these documents for fees set out in Authority Regulation No. 107-07, concerning certain forest fees, the Authority shall allow Persons to review copies of these documents without charge at the Authority's headquarters, Regional offices, and other places where the Authority elects to make public copies available for review.

Section 36. Notification

In addition to the means of notification required under Sections 106 and 107 of the Public Procurement and Concessions Act, as amended, the Authority shall also provide General Notices of Investment Opportunity, Expressions of Interest, and Requests for Proposals to Persons on the forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation.

Sections 37 to 40. Reserved

PART FOUR: INTERESTED PARTIES AND BIDDING

Section 41. Investigation of Area by Interested Parties

- (a) The Authority shall, without charge, allow any Person to enter and inspect the area that the Authority proposes to offer under an FMC or TSC.
- (b) As part of the invitation for bids for an FMC or TSC, the Authority may state reasonable inspection conditions to protect Forest Resources and the interests of communities in the area.
- (c) Compliance with inspection conditions is a criterion for award of the concession, and the Government shall not award a concession to a Person who violates the inspection conditions.

Section 42. Liberian Ownership and National and International Competitive Bidding

- (a) For FMCs covering less than 100,000 hectares, and for all TSCs:
 - (1) The Authority shall apply the Liberian ownership requirements found in Sections 5.3(g) and 5.4(g) of the National Forestry Reform Law of 2006; and
 - (2) The Authority may award the contracts through national competitive bidding, unless Section 97 of the Public Procurement and Concessions Act, as amended, requires international competitive bidding.
- (b) The Authority shall offer FMCs covering more than 100,000 hectares through international competitive bidding.
- (c) If the Public Procurement and Concessions Commission has established criteria under Section 99 of the Public Procurement and Concessions Act to allow for a Margin of Preference for Domestic and Liberian Businesses, the Authority shall include a Margin of Preference in the criteria for examination or evaluation of bids.

(d) If Liberian ownership requirements, national competitive bidding, or a Margin of Preference for Domestic and Liberian Businesses apply to a concession:

(1) The Authority shall indicate that in the concession bid documents.

(2) Each bidder shall include with its bid a declaration, sworn or affirmed under penalty of perjury, stating whether the bidder qualifies under the applicable business ownership criteria.

Section 43. Bidder's Bond

(a) A Person submitting a bid for an FMC or TSC shall include with the bid a bidder's bond, valid for at least 12 months, in the amount specified in Subsection (b) and of the kind specified in Subsection (c) of this Section.

(b) The amount of the bidder's bond for a particular contract is one sixth the annual area fee expected to be imposed under Section 33 of Authority Regulation No. 107-07, concerning certain forest fees, rounded up to the nearest thousand United States dollars.

(c) The following are acceptable as bonds:

(1) A bond, issued by a company authorized to issue sureties in Liberia.

(2) A letter of credit or manager's check from a reputable bank operating in Liberia, payable to the Government.

(d) The bidder shall also submit a name (of the bidder or the bidder's agent) and an address in Monrovia for the Authority to use when returning the bond.

(e) By the end of the second business day after the selection of a winning bidder, the Authority shall return the bonds of the unsuccessful bidders.

(f) Within 30 days after the selection of the winning bidder, the winning bidder may reclaim the original bond by depositing the bond amount in cash with the Central Bank of Liberia or other bank officially designated to hold the Authority's accounts and presenting the proof of deposit to the Authority.

(g) Upon timely presentation of proof of deposit under Subsection (f) of this Section, the Authority shall return the original bond to the winning bidder.

(h) If the winning bidder fails to offer proof of deposit within 30 days after selection, the Authority shall draw on the bond and deposit the funds with the Central Bank of Liberia or other bank officially designated to hold the Authority's accounts.

(i) If the winning bidder and the Government execute an FMC or TSC, the Authority shall arrange to credit the deposited funds towards any amounts the winning bidder owes the Government under the contract.

(j) If the winning bidder is not ready, willing, and able to execute a contract, the funds become the property of the Government as liquidated damages for the expenses incurred due to the failure to execute the contract.

(k) If the winning bidder is ready, willing, and able to execute a contract, but the Government fails to execute the contract, the Authority shall arrange to return the deposited funds to the winning bidder, upon the bidder's request.

Section 44. Fair and Open Competition

(a) No Person shall engage in behavior intended to suppress fair and open competition in bidding on a Forest Resources License, including:

(1) Bid rigging, in which a group of potential bidders arrange in advance who will submit the best bid among them, including:

(A) Bid suppression.

(B) Complementary bidding, where some Persons agree to submit bids that are known to be unacceptable.

(C) Bid rotation, where bidders agree to take turns being the successful bidder.

(2) Market division, where a group of bidders agree among themselves which of them will bid on particular contracts based on geographic area, predominant tree species, time, or other factors, and so reduce competition.

(3) Price fixing, in which a group of bidders attempt to lower, fix, or maintain the bid amount or other aspects of the concessions contract, including agreements to:

(A) Establish and adhere to certain bid amounts.

(B) Hold firm to particular positions in contract negotiations.

(C) Adopt a standard formula for arriving at bids.

(D) Maintain bid differentials reflecting species, resources, sizes, or quantities offered.

(E) Follow a maximum bid schedule.

(b) The Government shall not award an FMC or TSC to any Person who has violated the prohibition in Subsection (a) of this Section in the course of that particular bid, and the Authority shall terminate the existing permits and contracts of any Persons found to have violated the prohibition.

Section 45. Reserve Bid

(a) The Authority shall engage an independent third party to calculate and hold in confidence a reserve bid for each contract put up for public bid.

(b) The independent third party shall calculate the reserve bid according to a formula to be developed by the Authority and the independent third party.

(c) The independent third party shall guard the reserve bid from discovery by bidders, the Authority, and the public and shall first disclose the reserve bid at the place and time slated for bid opening under Section 110 of the Public Procurement and Concessions Act, as amended, after submission of all bids.

(d) Any action intended to disclose the reserve bid before the time specified in Subsection (c) of this Section constitutes the offense of economic sabotage under the Penal Code.

Section 46. Assistance to Bidders

From time to time the Authority shall organize workshops to train potential bidders on how to participate effectively in the tender system.

Sections 47 to 50. Reserved

PART FIVE: BID EVALUATION

Section 51. Bid Evaluation Criteria

The Authority shall propose and the Government shall use only the following criteria for final evaluation of the bids:

(a) Whether the bidder is debarred, disqualified, or suspended from bidding, either under the provisions of the Public Procurement and Concessions Act, as amended, or under the provisions of Authority Regulation No. 103-07, concerning bidder qualifications; and if the bidder is not debarred, disqualified, or suspended—

(b) Whether the bidder is properly qualified pursuant to Authority Regulation No. 103-07 (as demonstrated by the bidder through presentation of a notarized copy of a valid prequalification certificate and, if the Authority is using a two-envelope bidding system for the bid, through the contents of the bidder's first envelope); and if so—

(c) Whether the bidder has met all other substantive and procedural requirements in the bidding competition, including the various requirements in Part Four of this Regulation; and if so—

(d) Whether the bid is equal to or greater than the reserve bid, set under Section 45 of this Regulation; and if so—

(e) The amount of the bid, adjusted using any applicable Margin of Preference for domestic bidders set by the Public Procurement and Concessions Commission.

Sections 52 to 60. Reserved

PART SIX: POST-EVALUATION MATTERS

Section 61. Performance Bond

(a) Successful bidders and Holders of FMCs and TSCs shall post an annual performance bond to assure payment of amounts due the Government, including taxes, fees, damages, and penalties.

(b) Successful bidders for FMCs shall post the initial performance bond within 90 days after successfully concluding negotiations for the bid with the Negotiation Team, and successful bidders for TSCs shall post the initial performance bond within 30 days after successfully concluding negotiations for the bid with the Negotiation Team.

(c) The Authority shall state the amount of the initial performance bond in the concession bid documents.

(d) The Authority shall set the performance bond according to the following formula:

(1) The Authority shall select a minimum level as follows:

(A) 25,000 United States dollars for TSCs;

(B) 150,000 United States dollars for FMCs covering less than 100,000 hectares; and

(C) 250,000 United States dollars for all other FMCs.

(2) The Authority shall estimate the expected annual Government revenue from the concession, not including the land rental fee, for the next full year of contract operation.

(3) The Authority shall multiply the expected annual Government revenue by 50 percent and round the resulting figure up to the nearest thousand.

(4) If the amount calculated under Paragraph (3) of this Subsection is more than 1,000,000 United States dollars, the performance bond is 1,000,000 United States dollars.

(5) If the amount calculated under Paragraph (3) of this Subsection is less than the minimum level selected under Paragraph (1), the performance bond is the minimum level selected under Paragraph (1).

(6) In all other cases, the performance bond is the amount calculated under Paragraph (3) of this Subsection.

(e) The bidder or Holder may post the performance bond in any of the following forms:

(1) A letter of credit or manager's check from a bank licensed to do business in Liberia.

(2) A bond issued by a company licensed to issue sureties in Liberia.

(f) The Government may seek to collect on the performance bond if the bidder or Holder is in arrears in any amount owed to the Government.

(g) If the bidder or Holder fails to post a performance bond, the Government shall not grant the bidder or Holder permission to use or harvest Forest Resources and shall suspend any existing permissions until the bidder or Holder posts the necessary bond.

Section 62. Signing the Contract and Granting Permission to Use or Harvest Forest Resources

(a) The Government shall not sign an FMC or a TSC until the winning bidder is in good standing regarding all taxes, fees, bonds, and other financial obligations to the Government.

(b) The Authority shall not grant the Holder of an FMC permission to harvest Timber until all the following have occurred:

(1) Under Section 5.3(f) of the National Forestry Reform Law of 2006, the President has signed the contract and the Legislature has ratified it.

(2) The Holder has satisfied its obligations under Authority Regulation No. 105-07, concerning major pre-felling requirements.

(3) The Holder has signed the contract.

(4) The Holder has met all requirements for operational planning and environmental assessment.

(c) The Authority shall not grant the Holder of a TSC permission to harvest Timber until all of the following have occurred:

(1) The Holder has satisfied its obligations under Authority Regulation No. 105-07, concerning major pre-felling requirements.

(2) The Holder and the Authority have signed the contract.

(3) The Holder has met all requirements for management or operational planning and environmental assessment.

Sections 63 to 70. Reserved

PART SEVEN: ADMINISTRATION OF THE CONTRACT

Section 71. Standards for Assignment of Contracts

(a) A Person shall not assign or transfer an FMC or TSC or any interest, rights, privileges, or obligations under such a contract without prior written approval from the Authority.

(b) Upon receiving a request for approval of an assignment or transfer, the Authority shall conduct a diligent investigation of the capacity and character of the proposed new Holder and shall direct the proposed new Holder to submit a business plan demonstrating financial and technical capacity to carry out the obligations under the FMC or TSC.

(c) If the proposed new Holder meets all the requirements for prequalification in Authority Regulation No. 103-07 (and if the Authority awarded the contract under a two-envelope bidding process, if the proposed new Holder also meets all the standards for first-envelope bids established by the Authority for the original award under that Regulation), and if the proposed new Holder meets all applicable Liberian ownership requirements, the Authority may approve the assignment or transfer.

(d) After an assignment or transfer, the new Holder is liable for all taxes, fees, debts, and obligations owed to the Government under the contract, including unpaid taxes, fees, debts, and obligations incurred by the previous Holders, and the previous Holders remain secondarily liable for all taxes, fees, debts, and obligations under the contract, including future obligations.

(e) For the purposes of this Section, the term “assign” includes the admission into partnership of any third party in the activities and operation of forest management or harvest under this contract, as well as the mortgaging of any rights, privileges, liabilities, or obligations granted or imposed by this contract.

(f) If the Authority initially awarded the FMC or TSC under a Margin of Preference for Domestic and Liberian Businesses and the new Holder is not eligible to claim the Margin of Preference, the Authority shall increase subsequent concession payments to remove the Margin of Preference.

Section 72. Conformity with Plans and Assessments

(a) Except as provided in Subsections (c) and (d) of this Section, the Holder of an FMC or TSC shall undertake only activities under the contract that are described in forest management plans or annual operational plans approved by the Authority.

(b) Except as provided in Subsection (c) of this Section, the Holder of an FMC or TSC shall not take an action that it knows or reasonably should know carries a risk of significant environmental impact, unless the environmental impact has already been disclosed, discussed, and allowed under an environmental impact assessment approved by the Environmental Protection Agency.

(c) The prohibitions in this Section do not apply to emergency actions taken:

- (1) In response to fire or other significant threats to property;
- (2) To prevent or reduce a significant risk of damage to the environment; or
- (3) To prevent or abate a threat of significant injury or death to people.

(d) The prohibitions in Subsection (a) of this Section do not apply to activities undertaken before the Authority has approved a forest management plan or annual operations plan if both of the following are true:

(1) The activities do not include commercial harvest of Forest Resources.

(2) The Authority has consented to the activities in writing.

Section 73. Responsible Practices

(a) The Holder of an FMC or TSC shall follow internationally recognized, modern safety precautions in all activities, as are used elsewhere by others under comparable conditions, and shall comply with safety instructions that the Government gives in writing.

(b) Unless otherwise agreed to by the Authority or local police in writing, when the Holder of an FMC or TSC conducts Operations adjacent to or on roads and trails open to public travel, the Holder shall maintain temporary traffic controls to assure safety, subject to Paragraphs (1) and (2) of this Subsection.

(1) The Holder shall maintain temporary traffic controls only in coordination with the Liberian National Police.

(2) The Holder shall not employ checkpoints of any kind.

(c) The Holder of an FMC or TSC shall employ internationally recognized, modern measures for the protection of general health and safety of its employees and all other Persons having legal access to the contract area, and shall comply with reasonable public health instructions given in writing by the Government.

(d) The Holder of an FMC or TSC shall give preference to competent and qualified ECOWAS citizens in the selection of employees to conduct its Operations, and shall not import unskilled labor from outside of the ECOWAS nations.

(e) The Holder of an FMC or TSC shall comply with all training and employment obligations required by law or regulation.

Section 74. Sustainable Practices

(a) The Holder of an FMC or TSC shall conduct Timber harvests in accordance with generally accepted silvicultural practices and in accordance with all regulations, codes, and guidelines issued by the Authority.

(b) The Holder of an FMC or TSC shall cooperate with the Authority on technical studies and research to improve forest practices and increase knowledge about forests.

(c) The Holder of an FMC or TSC shall carry out Operations in accordance with the terms and conditions of the contract and in a manner that promotes the sustained development of Forest Resources and environmental protection for the common good of the people of Liberia, as provided for in applicable laws, statutes, rules, and regulations of Liberia.

Section 75. Recordkeeping and Inspections

(a) By signing the contract, the Holder of an FMC or TSC consents to the Government conducting annual audits of operations and other reasonable inspections necessary to determine compliance with the contract conditions and all applicable laws.

(b) The Holder of an FMC or TSC shall retain all records necessary to demonstrate compliance with the contract during the duration of the contract and for five years after the contract terminates.

(1) The Holder shall take reasonable steps to safeguard the records necessary to demonstrate compliance, including, as appropriate, keeping duplicate copies in a separate location to guard against loss.

(2) The Holder shall not invoke an act of God or third parties to excuse a violation of recordkeeping requirements.

(c) The Holder of an FMC or TSC shall keep its business records and any other required records in the English language, with financial information expressed in United States dollars.

(d) This Section does not limit obligations for recordkeeping or inspection under other laws or regulations.

(e) The Holder may identify records containing confidential business information and request that the Government not make public the confidential business information, and the Government shall honor that request if the Authority finds that the information meets the requirements for protection in Section 18.15 of the National Forestry Reform Law of 2006.

Section 76. Restrictions on Use of Information from Internal Audits and Third Party Audits

(a) This Section applies to internal audits and third party audits that a Person arranges to verify the Person's compliance with forest-related contract and legal requirements or with forest certification standards.

(b) If those audits bring to light evidence of unlawful activities, the records of the audits are not admissible in court as evidence supporting imposition of penalties so long as the Person audited and the audit meet all the following conditions:

(1) The audit was a private effort conducted in the ordinary course of business—that is, no arm of the Government initiated or participated in the audit, and the audit was part of an ongoing program to assure quality control, environmental performance, or compliance with legal or certification requirements.

(2) The Person did not institute the program in bad faith to avoid prosecution or to give a false impression of the quality or lawfulness of the Person's actions.

(3) The unlawful activity occurred despite the Person's good-faith effort to comply with the contract or the law.

(4) The Person reported the unlawful activity to the Authority promptly after becoming aware of it.

(5) The Person made the report as a matter of voluntary, good-faith cooperation with the Authority—that is, the report was not otherwise required by law and was not prompted by knowledge of a forthcoming or ongoing inspection, investigation, enforcement action, or lawsuit.

(6) The Person cooperated with the Authority in any investigation carried out subsequent to the report.

(7) The Person took timely steps to halt the unlawful activity, repair or give compensation for any injury done by the unlawful activity, and prevent the unlawful activity from recurring.

(8) The Person does not have a history of engaging in repeated unlawful activity of this type.

Section 77. Changing Circumstances

(a) During the duration of an FMC or TSC, the Holder shall continue to meet the prequalification requirements set out in Schedule I of Authority Regulation No. 103-07, concerning bidder qualifications (and in the case of an FMC or TSC awarded through a two-envelope bidding system, the Holder shall also continue to meet the requirements that the Authority set out for first-envelope bids under that Regulation).

(b) In addition to direct non-compliance with those requirements, and non-compliance caused by a change in circumstance (including a change in management or ownership), if any individual violates a pledge made in support of prequalification or a bid, or if any sworn document in support of prequalification or a bid is inaccurate or incomplete, the Holder is deemed to be out of compliance with those requirements.

(c) If a Holder is out of compliance with those requirements, the Holder shall report the non-compliance to the Authority within five business days after the Holder discovers, or reasonably should have discovered, the non-compliance.

(d) If the Holder is unable to come into compliance within 30 days after the Holder discovers, or reasonably should have discovered, the non-compliance, or if the Holder fails to report the non-compliance in a timely fashion, the Authority may suspend or terminate the license.

Sections 78 to 80. Reserved

PART EIGHT: MAJOR FOREST USE PERMITS

Section 81. Treatment of Major FUPs

(a) The Authority shall award Major FUPs through a concessions process.

(b) In awarding and administering Major FUPs, the Authority shall apply the procedural and substantive requirements in this Regulation that apply to TSCs, except for the following:

(1) The Authority may use forms of contract other than the standard contract for TSCs required under Section 34 of this Regulation.

(2) Bidders for Major FUPs do not need to post bidder's bonds under Section 43 of this Regulation.

(3) Winners of Major FUPs do not need to post performance bonds under Section 61 of this Regulation.

(4) Holders of Major FUPs shall follow health and safety practices identified by the Authority in the permit as practical and within the economic reach of the Holder, instead of the internationally recognized standards required of Holders of TSCs and FMCs under Section 73 of this Regulation.

(5) The area covered under a Major FUP allowing exclusive rights for Timber harvest must be less than 1,000 hectares, instead of the 5,000-hectare limit for TSCs under Section 21(c)(2) of this Regulation.

(c) The Authority shall not offer multiple Forest Use Permits as a substitute for a single Major FUP, a TSC, or an FMC, in an effort to avoid requirements that this Regulation or other regulations or laws place on Major FUPs, TSCs, or FMCs.

Sections 82 to 90. Reserved

PART NINE: REPEALS AND EFFECTIVE DATE

Section 91. Repeals

This Regulation repeals no existing regulations.

Section 92. Effective Date

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

Forestry Development Authority
Regulation No. 105-07
Regulation on Major Pre-Felling Operations under
Forest Resources Licenses

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, community social agreements, environmental assessments, and management plans are critical to the successful implementation of Forest Resources Licenses; and

WHEREAS, it is essential that community social agreements and environmental assessments (and, in the case of Forest Management Contracts, management plans) be developed and in place *before* trees are felled under a Forest Resources License; and

WHEREAS, the National Forestry Reform Law of 2006 authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), specifically including regulations that govern the preparation of plans and environmental assessments (Section 19.1(k)); regulations that serve to institutionalize the participation of communities in forest management through the requirement of a social agreement (Section 5.1(f)(iii)); and regulations that empower communities (Section 10.1);

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: DEFINITIONS AND PURPOSE

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

(a) Affected Community: a community comprising less than a statutory district (including chiefdoms, clans, townships, towns, villages, and all human settlements) whose interests are likely to be affected by Operations carried out under a Forest Resources License. “Interests” for purposes of this definition may be of an economic, environmental, health, livelihood, aesthetic, cultural, spiritual, or religious nature.

(b) Authority: Forestry Development Authority.

(c) Felling Effective Date: The date on which the Authority certifies that the Holder has completed all Pre-Felling Operations.

(d) FMC: Forest Management Contract, a long-term Forest Resources License issued by the Government under Section 5.3 of the National Forestry Reform Law of 2006, allowing a person to manage a tract of Forest Land and harvest or use Forest Products.

(e) Forest Resources License: any legal instrument under which the Authority allows a person, subject to specified conditions, to extract Forest Resources or make other productive and sustainable use of Forest Land. FMCs and TSCs are types of Forest Resources Licenses.

(f) Holder: a person who holds a valid Forest Resources License under which commercial logging activities are authorized.

(g) Major Pre-Felling Operations: preparation of an environmental impact assessment and execution of a social agreement (and, for FMCs, preparation of a forest management plan).

(h) Managing Director: Managing Director of the Forestry Development Authority.

(i) TSC: Timber Sale Contract, a license from the Government under Section 5.4 of the National Forestry Reform Law of 2006, allowing a Person to harvest timber from a specified tract of Forest Land.

Other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

Section 2. Purpose

This Regulation describes certain social, environmental, and forest management planning obligations that a Holder of a Forest Resources License must satisfy prior to felling trees.

Sections 3 to 20. Reserved

PART TWO: REQUIREMENT OF CERTIFICATION BY AUTHORITY; PROCEDURE

Section 21. Prohibition

No person shall fell a tree under any Forest Resources License until the Authority certifies that the Holder has completed all Major Pre-Felling Operations.

Section 22. Additional Pre-Felling Requirements Specific to Holders of FMCs

In addition to satisfying all other Pre-Felling Operations required of Holders of Forest Resources Licenses, the FMC Holder shall prepare a forest management plan, as required by Part Five of this Regulation.

Section 23. One Public Meeting May Help to Satisfy Multiple Requirements

Where appropriate, the Holder may rely on a single public meeting to help satisfy multiple requirements of this Regulation.

Section 24. Certification by Authority

(a) To obtain certification by the Authority of all Major Pre-Felling Operations, the Holder shall submit to the Authority a request for certification, together with complete copies of all of the following:

(1) **Executed social agreement.** A complete copy of one or more executed social agreements, bearing the verifiable signatures of members of Community Forestry Development Committees that represent all Affected Communities with respect to the area to be logged under the Forest Resources License.

(2) **Environmental impact assessment and approval by EPA.**

(A) A complete copy of the environmental impact study for the Forest Resources License, performed by the Holder under Section 14 of the Environmental Protection and Management Law, as amended, and approved by the Environmental Protection Agency; and

(B) The environmental impact assessment approval issued to the Holder by the Environmental Protection Agency.

(3) **Approved forest management plan.** For FMCs, a complete copy of the forest management plan for the area subject to the FMC, approved by the Authority.

(b) The Holder may submit the documents required under Subsection (a) of this Section to the Authority separately, or in a single package; however, the Authority shall not consider a request for certification from the Holder prior to receipt of all required documents.

(c) When the Authority has certified that the Holder has performed all Major Pre-Felling Operations, the Authority shall issue to the Holder a written certification, the date of which becomes the Holder's Felling Effective Date.

Sections 25 to 30. Reserved

PART THREE: SOCIAL AGREEMENT

Section 31. Duty to Negotiate Social Agreement; Duration

(a) The Holder shall negotiate one or more social agreements for the benefit of all Affected Communities with respect to the area to be logged under the Forest Resources License.

(b) A social agreement negotiated and executed under this Regulation has a duration of five years (for FMCs) or three years (for TSCs).

(1) The Holder shall ensure that at all times, for the duration of the Forest Resources License, a social agreement for the benefit of all Affected Communities is in force with respect to the area to be logged.

(2) The Holder may not fell trees unless a social agreement for the benefit of all Affected Communities is in force with respect to the area to be logged.

Section 32. Affected Communities; Representation by Community Forestry Development Committees

(a) The Holder shall give notice of its intent to conduct negotiations with representatives of Affected Communities by:

(1) Publication of a notice in a newspaper of general circulation in the area, if one exists; publication of a notice in a newspaper of general circulation in Monrovia; and announcement on national radio stations and community radio stations with coverage in the area; and

(2) Sending written notice to Persons on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation.

(b) The Holder shall identify as an Affected Community each community—

(1) Maintained on the list of Affected Communities identified by the Authority during the concession allocation process or the local validation process for the Forest Resources License; and

(2) Any other community—

(A) Located within the geographic area that will be logged under the Forest Resources License;

(B) Located adjacent to the geographic area that will be logged under the Forest Resources License;

(C) Whose members use Natural Resources located in the geographic area that will be logged under the Forest Resources License;

(D) Determined to be affected through the local validation process established by Part Six of Authority Regulation No. 102-07, concerning forest land use planning, with respect to the area that will be logged under the Forest Resources License; or

(E) That, for any other reason, is likely to be affected by the Operations of the Holder.

(c) The Holder shall maintain a list of Affected Communities for its Forest Resources License.

(d) Any individual who believes that the Holder should have identified the individual's community may ask the Authority to review the decision of the Holder not to include the community.

(1) Following receipt of a request under this Subsection, the Authority shall determine whether the community satisfies the definition of an Affected Community set forth in Section 1(a) of this Regulation.

(2) The Authority shall issue any determination made under this Subsection in writing and notify the Holder and the requesting individual of its determination.

(e) For purposes of this Regulation, the Holder may negotiate and enter into social agreements for the benefit of Affected Communities only with a Community Forestry Development Committee that satisfies the requirements of Part Six of this Regulation, or with an interim representative selected under Subsection (f)(2) of this Regulation.

(f) If the Holder determines that one or more Affected Communities is not represented by a Community Forestry Development Committee, the Holder shall report this determination to the Authority, which shall use its best efforts to ensure that all Affected Communities are brought under the representation of existing or new Community Forestry Development Committees.

(1) The Authority may take steps to facilitate the prompt establishment of a new Community Forestry Development Committee to represent an unrepresented Affected Community.

(2) The Authority may, in coordination with civil society organizations, facilitate a process of participatory selection of an interim representative for an unrepresented Affected Community, until that Affected Community can be represented by a Community Forestry Development Committee.

(g) The Holder shall maintain a list of Community Forestry Development Committees representing Affected Communities for its Forest Resources License.

(h) The Holder shall negotiate one or more social agreements with Community Forestry Development Committees representing the Affected Communities for the Holder's Forest Resources License.

(i) Community Forestry Development Committees may seek the assistance of experts, legal counsel, civil society organizations, or any other person to help them effectively represent Affected Communities in negotiating or administering a social agreement with the Holder.

Section 33. Contents of Social Agreement

(a) A social agreement negotiated between a Holder and one or more Community Forestry Development Committees must contain all of the following elements:

(1) A code of conduct that governs:

(A) The rights (including access rights) and responsibilities of members of the Affected Communities; and

(B) The rights and responsibilities of the Holder and the Holder's employees, contractors, and other associates.

The Authority shall make model codes of conduct freely available on the Internet and shall, upon request, provide paper or electronic copies of model codes of conduct to Holders, Community Forestry Development Committees, and Affected Communities.

(2) A description of the financial benefit that the Affected Communities will receive from the Holder, subject to the minimum requirement established by Section 34 of this Regulation.

(3) A requirement that the Holder pay the amount of the negotiated financial benefit on a quarterly basis into an interest-bearing escrow account that the Holder shall maintain in trust on behalf of all Affected Communities.

(4) A requirement that the Holder release funds from the escrow account for the benefit of an Affected Community only upon written request by a Community Forestry Development Committee, and only if—

(A) The request satisfies the requirements of Part Six of this Regulation; and

(B) The Authority consents to the request.

(5) A practical mechanism for resolving disputes that may arise between the Holder and members of Affected Communities.

(b) Subject to the requirements and limitations of this Section, the Holder and Community Forestry Development Committees may agree to terms that are tailored to the local context.

Section 34. Minimum Financial Benefit under Social Agreements

The total annual financial benefit provided by the Holder for the benefit of all Affected Communities with respect to logging under the Forest Resources License, under one or more social agreements, must equal or exceed US \$1 per cubic meter of Logs harvested annually under the Forest Resources License, based on verifiable information recorded in the chain of custody system.

Section 35. Public Meetings with Affected Communities and Execution of Social Agreement

(a) In negotiating a social agreement with Community Forestry Development Committees, the Holder shall afford each Community Forestry Development Committee and the Affected Communities that it represents the opportunity to participate in at least one public meeting, facilitated and attended by the Authority, to ask questions about and express views on community rights and benefits under the Forest Resources License.

(1) At each public meeting, the Holder shall—

(A) Describe to participants the Forest Resources License and its likely effects on the community;

(B) Respond to participant questions about the Forest Resources License; and

(C) Allow each participant an opportunity to comment—orally, in writing, or both—on the Forest Resources License.

(2) The Holder shall conduct each public meeting in English and any local vernacular necessary to ensure community understanding.

(3) The Holder shall open each public meeting to all members of the public, including, but not limited to, community members, industry representatives, government officials, members of civil society organizations, and the media.

(4) The Holder shall use best efforts to involve women, youth, and other historically excluded groups in each public meeting.

(5) The Holder shall select the location for each public meeting so as to ensure maximum participation by Affected Communities. Factors that the Holder may consider include—

(A) Proximity to Forest Lands and communities likely to be most directly affected by the Forest Resources License;

(B) Ease of access by community members; and

(C) Whether the venue is sufficiently large to accommodate all participants who are likely to attend.

(6) The Holder shall advertise the purpose, date, time, and location of each public meeting at least 15 days in advance.

(7) The Holder shall advertise each public meeting as follows:

(A) By notifying local government officials and community leaders, including District Commissioners, Corps of Officers, Township Commissioners, City Mayors, Paramount Chiefs, Clan Chiefs, Landlords, General Town Chiefs, Town Chiefs, Quarter Chiefs, all members of Community Forestry Development Committees, and village heads;

(B) By running radio advertisements in the area of the public meeting;

(C) By posting signs in English and any necessary local vernacular at the nearest Authority regional office; and

(D) By any other method that the Holder may devise to ensure maximum participation by Affected Communities, tailored to the specific locality and community needs.

(b) The Holder shall ensure that the social agreement is signed in duplicate originals, with the Holder retaining one original version and the Community Forestry Development Committee representative retaining the other original.

Section 36. Oversight and Attestation by the Authority

- (a) The Holder shall submit its executed social agreement to the Authority for attestation.
- (b) Upon receipt of an executed social agreement, the Authority shall review it for completeness, accuracy, and conformity with the requirements of the National Forestry Reform Law of 2006, this Regulation, the Forest Management Guidelines, the Code of Forest Harvesting Practices, and the terms of the Holder's Forest Resources License.
- (c) If the Authority requires additional information to determine whether the executed social agreement is complete, accurate, and in conformity with law, or whether the agreement represents the will of the Affected Communities, the Authority may request further information from the Holder, from Community Forestry Development Committees, or from any other source.
- (d) If the Authority determines that the social agreement is incomplete, inaccurate, or otherwise not in conformity with law, the Authority shall reject the agreement and provide to the Holder and the Community Forestry Development Committee a written explanation of the reason for its decision.
- (1) The Authority shall decline to attest to a social agreement on reasonable suspicion of inadequate public consultation, including either of the following:
- (A) Negotiations between the Holder and Community Forestry Development Committees omitted the interests of one or more Affected Communities.
 - (B) The signature made on behalf of a Community Forestry Development Committee was not knowingly and voluntarily given.
- (2) The Holder may seek to remedy any insufficiencies in the social agreement identified by the Authority and, after further negotiations with the Community Forestry Development Committees and execution of a new agreement, submit a revised social agreement to the Authority for review.
- (e) If the Authority determines that the social agreement is complete, accurate, and in conformity with law, the Authority shall attest to the agreement.
- (f) The Authority shall promptly conduct any review required by Subsection (b) of this Section and shall not withhold attestation to a social agreement that substantially satisfies the requirements of this Part.

Section 37. Dispute Resolution

- (a) In the event that the Holder and a Community Forestry Development Committee cannot in good faith agree to the terms of a social agreement under this Part, the Authority shall use best efforts to resolve outstanding differences between the Holder and the Community Forestry Development Committee.

(b) If the Holder and the Community Forestry Development Committee cannot, with the assistance of the Authority, resolve their differences, either may request non-binding, third-party mediation, the expense of which shall be borne by the Holder.

(c) If the Holder or the Community Forestry Development Committee is dissatisfied with the results of the mediation, either may request binding arbitration, the expense of which shall be borne by the Holder.

(d) Either the Holder or the Community Forestry Development Committee may appeal the result of the binding arbitration to a court of competent jurisdiction in the Republic.

Sections 38 to 40. Reserved

PART FOUR: ENVIRONMENTAL IMPACT ASSESSMENT

Section 41. Duties of the Holder

(a) The Holder shall comply with the requirements of the 2003 Environment Protection and Management Law, as amended, including the requirements of—

(1) Completing an environmental impact statement under Section 14 of that Law; and

(2) Obtaining an environmental impact assessment license from the Environmental Protection Agency.

(b) Because Forest Lands covered by Forest Resources Licenses must have previously been deemed suitable for Commercial Use, the Holder shall focus its environmental analysis on mitigating the potential adverse environmental effects of its Operations on Natural Resources and the health of residents in Affected Communities.

Section 42. Duties of the Authority

(a) Although the Holder alone bears the responsibility of satisfying the requirements of the Environment Protection and Management Law, as amended, with respect to the impacts of the Holder's Forest Resources License, the Authority shall use best efforts to ensure that, through coordination with the Environmental Protection Agency and a broad process of community consultation during the local validation process, the Environmental Protection Agency has deemed any area to be offered by the Government for a Forest Resources License suitable for Commercial Use.

(b) To further clarify the relationship between the Authority and the Environmental Protection Agency, and thereby more effectively implement this Part, the Authority may seek to enter into a Memorandum of Understanding with the Agency pertaining to environmental impact assessment.

Sections 43 to 50. Reserved

PART FIVE: FOREST MANAGEMENT PLANNING (FMC HOLDERS)

Section 51. Preparation of a Forest Management Plan

(a) The FMC Holder shall prepare a forest management plan covering the entire area subject to the contract.

(b) In developing the plan required by this Part, the Holder shall ensure that the plan conforms to the requirements, including the requirements for public consultation, of the following:

(1) The Forest Management Guidelines issued by the Authority; and

(2) The Code of Forest Harvesting Practices issued by the Authority.

(c) In developing the plan required by this Part, the FMC Holder may seek input and guidance from the Authority to ensure that the plan incorporates sound forestry principles and addresses any concerns that the Authority may have.

(d) The FMC Holder shall submit its completed forest management plan, together with any supporting documents or other information, to the Authority for approval.

Section 52. Approval by the Authority

(a) Upon receipt of a forest management plan, the Authority shall review it for completeness, accuracy, and conformity with the requirements of the National Forestry Reform Law of 2006, this Regulation, the Forest Management Guidelines, the Code of Forest Harvesting Practices, and the terms of the Holder's FMC.

(b) If the Authority requires additional information to determine whether the forest management plan is complete, accurate, and in conformity with law, the Authority may request the information from the Holder or any other source.

(c) If the Authority determines that the plan is incomplete, inaccurate, or otherwise not in conformity with law, the Authority shall reject the plan and provide to the Holder a written explanation of the reason for its decision.

(1) The Authority may reject the plan for inadequate public consultation under the Forest Management Guidelines.

(2) The Holder may seek to remedy any insufficiencies in the plan identified by the Authority and resubmit the plan.

(d) If the Authority determines that the forest management plan is complete, accurate, and in conformity with law, the Authority shall provide the Holder with a written approval of the Plan.

(e) The Authority shall promptly conduct any review required by Subsection (a) of this Section and shall not withhold approval of a forest management plan that substantially satisfies the requirements of this Part.

Sections 53 to 60. Reserved

**PART SIX: COMMUNITY FORESTRY DEVELOPMENT COMMITTEES;
REQUESTS FOR DISBURSEMENT OF FUNDS**

Section 61. Requests for Disbursement

Only a Community Forestry Development Committee established under this Part may make a request for disbursement of funds under a social agreement.

Section 62. Community Forestry Development Committees

(a) A Community Forestry Development Committee must consist of at least five members who are residents of the community or communities that the Committee represents.

(b) All members of a Community Forestry Development Committee must be freely and fairly elected by residents of the community or communities represented by the Committee.

(1) The Authority shall work with civil society organizations and the public to develop uniform standards by which membership elections are to take place.

(2) The Authority and civil society organizations, upon request by community members, may help to facilitate membership elections.

(c) A Community Forestry Development Committee must provide a means for all residents that it represents, including women and youth, to have their views heard and considered.

(d) A Community Forestry Development Committee must be incorporated under the laws of the Republic.

(e) The Authority shall maintain a list of Community Forestry Development Committees.

(f) The Authority may, in consultation with civil society organizations and the public, issue additional guidelines governing the development and structure of Community Forestry Development Committees.

Section 63. Consensus among Affected Communities; Consent of Authority

(a) Prior to making a request for disbursement of funds under a social agreement, a Community Forestry Development Committee shall provide written notice to the Authority and the Holder of its intent to make the request.

(b) The Authority shall consent to a request for disbursement of funds under a social agreement unless one or more Affected Communities with respect to the area to be logged under the Forest Resources License, as represented by their respective Community Forestry Development Committees, object to the request.

Sections 64 to 70. Reserved

PART SEVEN: REPEALS AND EFFECTIVE DATE

Section 71. Repeals

This Regulation repeals no existing regulations.

Section 72. Effective Date

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

Forestry Development Authority
Regulation No. 106-07
Regulation on Benefit Sharing

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, allocating to Counties and local communities a percentage of land rental fees collected from commercial forestry operations contributes to the sustainable management of the Republic's forest estate and helps to ensure that the people most affected by timber extraction also share in its benefits; and

WHEREAS, procedures for allocating and distributing financial benefits to Counties and local communities must be fully transparent and accountable; and

WHEREAS, the National Forestry Reform Law of 2006 authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), including regulations that concern the fees and payments under control of the Authority (Section 19.1(d)); and, specifically, regulations that establish a fair and transparent procedure for allocating land rental fees to communities and Counties (Section 14.2(e), (f));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: GENERAL PROVISIONS

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

(a) Affected Community: a community comprising less than a statutory district (including chiefdoms, clans, townships, towns, villages, and all human settlements) whose interests are likely to be affected by Operations carried out under a Forest Resources License. "Interests" for purposes of this definition may be of an economic, environmental, health, livelihood, aesthetic, cultural, spiritual, or religious nature.

(b) Authority: Forestry Development Authority.

(c) Board: Board of Directors of the Forestry Development Authority.

(d) Managing Director: Managing Director of the Forestry Development Authority.

Other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

Section 2. Purpose

This Regulation implements the requirement of the National Forestry Reform Law of 2006 that the Authority establish a fair and transparent procedure for allocating a designated percentage of land rental fees to Counties and to communities entitled to benefit sharing under Forest Resources Licenses.

Section 3. Coordination with Ministry of Finance

The Authority shall coordinate all of its activities under this Regulation with the Central Bank and the Ministry of Finance.

Sections 4 to 20. Reserved

PART TWO: BENEFIT SHARING WITH COUNTIES

Section 21. Value of Benefit

In coordination with the Central Bank and the Ministry of Finance, the Authority shall ensure that a sum equal to 30 percent of all land rental fees collected is distributed for the benefit of all of the Republic's Counties.

Section 22. Allocation among Counties

In coordination with the Central Bank and the Ministry of Finance, the Authority shall allocate the amount set forth in Section 21 of this Regulation in equal proportion among all 15 Counties in the Republic.

Section 23. Deposit to County Forestry Development Funds

(a) Each County wishing to receive an allocation of funds under Section 14.2(e)(ii) of the National Forestry Reform Law of 2006 shall maintain a County Forestry Development Fund, consistent the requirements of Section 24 of this Regulation.

(b) Annually, the Authority, in coordination with the Ministry of Finance, shall arrange for one-fifteenth of the amount established in Section 21 of this Regulation to be deposited in each County Forestry Development Fund. The Authority shall notify the public of the fact and amount of all deposits made under this Subsection, as follows:

(1) The Authority shall run an advertisement in a newspaper of general circulation in Monrovia, and a radio announcement on a radio station with national coverage and on local community radio stations. The Authority shall run both the advertisement and the announcement for at least two days per week, for no fewer than two consecutive weeks.

(2) The Authority shall provide written notice to all persons on any forest management stakeholder list maintained pursuant to Authority Regulation No. 101-07, concerning public participation.

(3) The Authority shall provide written notice to all signatories to each County Forestry Development Fund.

(c) Deposit of funds to a County Forestry Development Fund under this Section is the sole means by which the Government shall transfer funds to a County under the benefit-sharing mechanism of the National Forestry Reform Law of 2006.

Section 24. Use of Amounts Allocated to Counties

The Authority shall make no disbursement to a County Forestry Development Fund under this Part unless the County meets all of the following requirements:

(a) The County expends the funds contained in its County Forestry Development Fund only in support of services or activities in the public interest that benefit the residents of the County, subject to the requirements of Subsections (b), (c), and (d) of this Section.

(b) The County matches any expenditure from the County Forestry Development Fund with a contribution of cash, in-kind services (such as labor), or property that is equal in value to the expenditure.

(c) The County manages and accounts for payments into, and disbursements from, the County Forestry Development Fund as part of the ordinary and established budgetary process for the County.

(d) Annually, the County provides a detailed accounting to the Authority on its Fund, listing all receivables and disbursements. The Authority shall report to the public all information received from the Counties under this Subsection, as follows:

(1) The Authority shall run an advertisement in a newspaper of general circulation in Monrovia, and a radio announcement on a radio station with national coverage and on local community radio stations. The Authority shall run both the advertisement and the announcement for at least two days per week, for no fewer than two consecutive weeks.

(2) The Authority shall provide written notice to all persons on any forest management stakeholder list maintained pursuant to Authority Regulation No. 101-07, concerning public participation.

(3) The Authority shall provide written notice to all signatories to each County Forestry Development Fund.

Section 25. Duties of the Authority

(a) A regional manager of the Authority shall advise the County on the operations of the County Forestry Development Fund.

(b) The Authority, in coordination with the Central Bank and the Ministry of Finance, shall from time to time conduct audits of the County Forestry Development Funds to ensure their effective, fair, and transparent operation.

(c) Upon request by a County, the Authority shall provide other technical assistance in carrying out the requirements of this Part.

(d) The Authority shall, as necessary, seek the assistance of experts, legal counsel, civil society organizations, or any other person to assist the Authority in effectively carrying out its duties under this Section.

Sections 26 to 30. Reserved

PART THREE: BENEFIT SHARING WITH COMMUNITIES

Section 31. Value of Benefit

In coordination with the Central Bank and the Ministry of Finance, the Authority shall ensure that a sum equal to 30 percent of all land rental fees collected is distributed to Affected Communities through the National Community Benefit Sharing Trust mechanism established by this Part.

Section 32. Distribution to National Community Benefit Sharing Trust

In coordination with the Central Bank and the Ministry of Finance, the Authority shall distribute the amount established by Section 31 of this Regulation to the National Community Benefit Sharing Trust, on a quarterly basis.

Section 33. National Community Benefit Sharing Trust

(a) The purpose of the National Community Benefit Sharing Trust is to:

- (1) Hold in trust and manage all funds received for the sole benefit of Affected Communities.
- (2) Receive and review applications for funds submitted by Community Forestry Development Committees on behalf of Affected Communities.
- (3) Disburse funds to Community Forestry Development Committees to undertake projects on behalf of the Affected Communities they represent.

(b) The Trust Board is composed as follows:

- (1) One representative of a civil society organization.
- (2) One local Paramount Chief selected by his peers from a forest-dependent community;
- (3) One representative from the Government of Liberia;
- (4) One logging industry representative;
- (5) One representative of an international non-governmental organization; and

- (6) One representative of an international donor organization.
- (c) No member of the Trust Board shall receive remuneration or any other form of compensation for serving on the Board.
- (d) Subject to broad public participation and comment, the Trust shall, in consultation with the Authority, relevant government agencies, local community representatives from Affected Communities, and civil society organizations, draft and adopt bylaws and guidelines for the operation and management of the Trust.
- (e) The Trust shall obtain an independent audit of its accounts at least annually.
- (f) Subject to broad public participation and comment, the Trust shall, in consultation with the Authority, relevant government agencies, local community representatives from Affected Communities, and civil society organizations, develop a manual of procedures and guidelines governing how it will allocate funds to and among Affected Communities, including how it will evaluate requests for funds submitted by Community Forestry Development Committees, and how it will ensure the fair allocation of limited funds among Community Forestry Development Committees.
- (g) The Trust may hire staff to conduct its day-to-day operations, including District-level staff to assist the Trust in evaluating local requests for disbursement of funds submitted by Community Forestry Development Committees on behalf of Affected Communities.
- (h) None of the following individuals shall directly benefit from funds distributed by the Trust while in the service of the Republic:
- (1) The President.
 - (2) Senators.
 - (3) Representatives.
 - (4) Ministers, heads of public agencies and public corporations, and their deputies, assistants, and all directors.
 - (5) Security and military personnel.
 - (6) Judicial officers, including Justices of the Supreme Court and all lower court judges.
 - (7) Local government officials and community leaders, including District Commissioners, Corps of Officers, Township Commissioners, City Mayors, Paramount Chiefs, Clan Chiefs, Landlords, General Town Chiefs, Town Chiefs, Quarter Chiefs, all members of Community Forestry Development Committees, and village heads.
- (i) Civil society organizations, members of Affected Communities, and international organizations may provide independent monitoring of the creation and operation of the Trust.

(j) The Authority shall solicit national and international technical and financial assistance through bilateral or multilateral means to provide support for—

- (1) The creation and operation of the Trust; and
- (2) The independent monitoring activities identified in Subsection (i) of this Section.

Section 34. Requests by Community Forestry Development Committees

(a) Only a Community Forestry Development Committee may request from the National Community Benefit Sharing Trust disbursement of funds for projects to be undertaken on behalf of one or more Affected Communities.

(b) A Community Forestry Development Committee may request disbursement of funds only if the Committee satisfies the requirements of Section 62 of Authority Regulation No. 105-07, concerning social agreements.

(c) A Community Forestry Development Committee requesting disbursement of funds must present a written project proposal to the National Community Benefit Sharing Trust that includes all of the following:

- (1) A detailed description of the need for the project, including who will benefit.
- (2) A detailed description of how the project will be carried out.
- (3) A budget including the total amount requested and a breakdown of that amount into categories (for example, labor and materials).

Sections 35 to 40. Reserved

PART FOUR: TRANSPARENCY

Section 41. Reporting

(a) Within 60 days after the end of each fiscal year, the Authority shall compile in writing, and make available for public inspection, a report containing the following information for the preceding year:

- (1) The amount of money disbursed by the Government to each of the 15 Community Forestry Development Funds under this Regulation, and the date of each disbursement.
- (2) The amount of money disbursed to the National Community Benefit Sharing Trust under this Regulation, and the date of each disbursement.
- (3) The total amount of money disbursed by the Trust to Community Forestry Development Committees, and a breakdown of those disbursements by project, date, and Affected Community.

(4) A list of all complaints received from the public in connection with Community Forestry Development Funds, the National Community Benefit Sharing Trust, or any Community Forestry Development Committee.

(b) If any person makes a reasonable claim to the Authority that the report contains an error, the Authority shall promptly investigate the claim and make necessary corrections to the report and any copies of the report in its possession.

(c) The Authority shall make copies of the report available subject to the requirements of Section 41 of Authority Regulation No. 101-07, concerning public participation.

Section 42 to 50. Reserved.

PART FIVE: REPEALS AND EFFECTIVE DATE

Section 51. Repeals

This Regulation repeals no existing regulations.

Section 52. Effective Date

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

Forestry Development Authority
Regulation No. 107-07
Regulation on Certain Forest Fees

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, establishing, assessing, and collecting appropriate fees for forest sector activities will directly benefit local communities and governments, and also help to fund the Nation's conservation goals; and

WHEREAS, forest sector fees are necessary to support the efficient operation of the Forestry Development Authority and contribute to sustainable management of the Republic's forest resources; and

WHEREAS, the assessment and collection of fees must take place with full disclosure, through a transparent process that is subject to monitoring by civil society and the broader public; and

WHEREAS, the National Forestry Reform Law of 2006 authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), specifically with respect to fees, payments, and taxes under control of the Authority, and further authorizes the Authority to establish stumpage fees, land rental fees, and Forest Product fees (Section 14.2(b));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: FEES GENERALLY

Section 1. General Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

- (a) Authority: Forestry Development Authority.
- (b) Board: Board of Directors of the Forestry Development Authority.
- (c) FOB: Free on board, meaning loaded for shipping without additional charge to the buyer.
- (d) Log: A portion of a tree, with or without side limbs and bark removed, otherwise substantially intact and intended for further processing.
- (e) Managing Director: Managing Director of the Forestry Development Authority.
- (f) Wood Product: A processed item made substantially of wood, including poles, sawn lumber, plywood, veneer, particleboard, pulp, wood chips, paper, firewood, or charcoal.

Other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

Section 2. Definition of Fee Classes

(a) In conformance with Section 2108 of Phase One of the Reform Tax Code of Liberia, as amended, and Section 14.2 of the National Forestry Reform Law of 2006, as amended, the Authority's fixed fees fall into the following three classes:

(1) Stumpage fees.

(2) Land rental fees.

(3) Forest product fees.

(b) "Stumpage fees" are fees associated with the harvest of Forest Resources, including fees based on the type and amount of Forest Resources harvested.

(c) "Land rental fees" are fees associated with the use of Forest Land and include administrative fees and area-based fees assessed under a Forest Resources License.

(d) "Forest product fees" are fees associated with the production, processing, registration, transport, transfer of ownership, or export of Forest Products.

Section 3. Estimation of FOB Market Prices

(a) The Authority shall develop a list of estimated market prices of Forest Products derived from the tree species listed in Schedule I of this Regulation, as various kinds and grades of Logs and Wood Products, FOB Monrovia. The Authority shall revise the list at the start of each logging season and may revise the list more frequently in response to changing markets.

(b) The Authority shall base the estimates on the actual market prices in Liberia, other African countries, and international markets.

(c) In developing the list, the Authority shall consult with the Forest Management Advisory Committee established under the National Forestry Reform Law of 2006, as amended.

(d) The Authority shall submit the list to the Board for approval.

(e) Upon approval by the Board, the list becomes the standard for calculation of stumpage fees and establishes the minimum price guidelines for the assessment of forest product fees under this Regulation. The list remains in force until the Board approves a replacement list following the procedure required by this Section.

(f) The Authority shall make copies of the list in force available to the public in the same manner that it makes regulations, codes, and manuals available to the public under Section 41 of Authority Regulation No. 101-07, concerning public participation.

Section 4. Grading Standards for Use in Price Estimates

In assigning estimated prices, the Authority shall apply timber grades in use under the Authority's chain of custody system.

Section 5. Other Fees

(a) This Regulation is not intended to contain an exhaustive list of fees that the Authority may impose.

(b) The Authority reserves the right to impose other fees by regulation.

Sections 6 to 20. Reserved

PART TWO: STUMPAGE FEES

Section 21. Classification of Timber Trees by Species

For the purposes of Section 22 of this Regulation:

(a) The tree species listed in Schedule I of this Regulation are each classed into the category (A, B, or C) indicated in the column labeled "Class (stumpage fee)" of Schedule I.

(b) Tree species not listed in Schedule I are classed into category C.

Section 22. Log Stumpage Fee

(a) For purposes of this Section, when a tree is felled under a Forest Resources License, the Holder of the license is deemed the person felling the tree.

(b) Any person felling a tree shall pay to the Government a log stumpage fee, based on the merchantable volume harvested, according to the following formulas:

(1) For category A species, 10 percent of the market price of the harvested logs, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(2) For category B species, 5 percent of the market price of the harvested logs, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(3) For category C species, 2.5 percent of the market price of the harvested logs, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(c) On private lands where the trees have been artificially regenerated, the fees in Subsection (b) of this Section are reduced by half.

(d) The person felling the tree shall pay the log stumpage fee no later than 30 days after the tree is cut, or sooner if required by a Forest Management Contract or Timber Sale Contract, and in any case before any part of the tree is exported.

(e) The fee under this Section does not apply to trees cut solely to produce poles or fuelwood.

Sections 23 to 30. Reserved.

PART THREE: LAND RENTAL FEES

Section 31. Bid Document Fees

The Authority shall charge the following fees to provide and process forms and documents related to the competitive bidding process for Forest Management Contracts and Timber Sale Contracts:

(a) For a prequalification application, ten United States dollars (US \$10).

(b) For a prospectus, ten United States dollars (US \$10).

Section 32. Contract Administration Fee

(a) For each Forest Management Contract and Timber Sale Contract, the Holder shall pay to the Government an annual administrative fee of one thousand United States dollars (US \$1000).

(b) The fees under this Section are due upon signing the contract and on the anniversary date of signing for each year the contract is in effect.

(c) If, on its anniversary date, the contract has less than a year to remain in effect, the Holder shall pay a prorated fee as follows:

(1) For a contract with fewer than 120 days remaining, no fee.

(2) For a contract with at least 120 days but fewer than 240 days remaining, five hundred United States dollars (US \$500).

(3) For a contract with 240 or more days remaining, one thousand United States dollars (US \$1000).

(d) The Government shall withhold signing of a Forest Management Contract or Timber Sale Contract until presented proof by the Holder that the initial contract administration fee has been paid.

Section 33. Area Fee

(a) Each Holder of a Forest Management Contract shall pay the Government an annual area fee equal to two dollars and fifty cents United States dollars (US \$2.50) for every hectare of land subject to the contract.

(b) Each Holder of a Timber Sale Contract shall pay the Government an annual area fee equal to one dollar and twenty-five cents on the United States dollar (US \$1.25) for every hectare of land subject to the contract.

(c) The fees under this Section are due upon signing the contract and on the anniversary date of signing for each year the contract is in effect.

(d) If, on its anniversary date, a contract has less than a year to remain in effect, the Holder shall pay a prorated fee as follows:

(1) For a contract with fewer than 120 days remaining, no fee.

(2) For a contract with at least 120 days but fewer than 240 days remaining, one half the fee specified in Subsection (a) or (b) of this Section.

(3) For a contract with 240 or more days remaining, the full fee specified in Subsection (a) or (b) of this Section.

(e) The fees under this Section are separate from, and in addition to, the land rental bids offered as part of the competitive bidding process for awarding contracts.

(f) The Government shall withhold signing of a Forest Management Contract or Timber Sale Contract until presented proof by the Holder that the initial annual area fee has been paid.

Section 34. Annual Coupe Inspection Fee

(a) The Holder of a Forest Management Contract or Timber Sale Contract shall pay the Government an annual coupe inspection fee of fifty United States dollars (US \$50) per square-kilometer block of area subject to harvest operations under the annual coupe plan.

(b) Payments under this Section are due when the Holder submits an annual coupe plan for approval.

(c) The Authority shall not approve the annual coupe plan before the Holder has paid the inspection fee, and shall withhold approval if the Holder has any other amounts past due under this Regulation or under the Holder's contract.

Sections 35 to 40. Reserved

PART FOUR: FOREST PRODUCT FEES

Section 41. Waybill Fee

Persons seeking waybills for transportation of Forest Products within the Authority's chain of custody system shall pay the Government one hundred and fifty United States dollars (US \$150) for each book of ten waybills.

Section 42. Timber Export License Fee and License

(a) No person shall export Forest Products from Liberia without a timber export license.

(b) The Authority may prescribe application forms for timber export licenses.

(c) Persons wishing to obtain a timber export license shall pay the Government a fee of one hundred United States dollars (US \$100) for each license.

(d) Upon receipt of a completed and signed application, proof of payment of the timber export license fee, and proof of payment of any other export-related fees imposed under this Part of this Regulation, the Authority shall determine through the chain of custody system whether all other Authority-administered fees related to the Forest Products have been paid.

(e) If the chain of custody system database verifies payment of these other fees, the Authority shall issue the applicant a timber export license.

(f) Each timber export license is valid for one shipment of Forest Products, of the amounts, types, and chain of custody system identifiers described on the application form, confined to a single vehicle, vessel, or aircraft.

Section 43. Timber Export Classifications

For the purposes of Sections 44 and 45 of this Regulation:

(a) The tree species listed in Schedule I of this Regulation are each classed into the category (A, B, or C) indicated in the column labeled “Class (forest product fees)” of Schedule I.

(b) Tree species not listed in Schedule I are classed into category C.

Section 44. Log Export Fee

(a) Any person exporting one or more Logs shall pay to the Government a log export fee according to the following formulas:

(1) For Logs from category A species, 10 percent of the market price of the Log, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(2) For Logs from category B species, 5 percent of the market price of the Log, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(3) For Logs from category C species, 2.5 percent of the market price of the Log, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(b) No person shall export a Log without proof of payment of the log export fee.

Section 45. Wood Product Export Fee

(a) Any person exporting Wood Products covered in the list approved under Section 3 of this Regulation shall pay to the Government a wood product export fee according to the following formulas:

(1) For Wood Products from category A species, 5 percent of the contract price of the Wood Products, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(2) For Wood Products from category B species, 2.5 percent of the contract price of the Wood Products, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(3) For Wood Products from category C species, 1.5 percent of the contract price of the Wood Products, FOB Monrovia, as determined in the list approved under Section 3 of this Regulation.

(b) If the Wood Products include material from more than one species mixed in a way that makes it difficult to determine the amount from each species, the Government shall calculate the Wood Products export fee at the highest rate that applies to any species in the mix.

(c) No person shall export Wood Products without proof of payment of the Wood Products export fee.

Section 46. Sawmill Permits

(a) In this Section, “sawmill” means any mechanized facility processing wood in any manner (except for a facility producing only charcoal), and includes facilities producing sawn lumber; partially sawn, barked, or shaped logs or cants; veneer; plywood, particleboard, or related bonded wood products; wood chips; sawdust; pulp; cardboard; or paper.

(b) No person shall operate a sawmill without the permit required under this Section.

(c) Operators of sawmills processing 1500 cubic meters or more of wood per year shall obtain a Class A annual operator’s permit from the Authority and pay to the Government an annual fee of two thousand five hundred United States dollars (US \$2500).

(d) Operators of sawmills processing at least 750 but less than 1500 cubic meters of wood per year shall obtain a Class B annual operator’s permit from the Authority and pay to the Government an annual fee of one thousand United States dollars (US \$1000).

(e) Operators of sawmills processing less than 750 cubic meters of wood per year shall obtain a Class C annual operator’s permit from the Authority and pay to the Government an annual fee of seven hundred and fifty United States dollars (US \$750).

(f) Fees under this Section are due on the date that the sawmill begins operation and on each anniversary of that date (or for sawmills already in operation on the effective date of this Regulation, fees are due on that effective date and its anniversary). The Authority shall require proof of payment of the fee before issuing or renewing a permit under this Section.

Sections 47 to 50. Reserved

PART FIVE: TRANSPARENCY

Section 51. Disclosure

(a) Every six months, the Authority shall compile in writing, and make available for public inspection, a disclosure document containing the following:

(1) The names of persons assessed fees during the previous six months under this Regulation, along with the amounts and dates of the fees assessed for each person named and the basis for those fees, including identification of the species and volumes of Forest Resources or Forest Products involved and the Forest Resources License under which the Forest Resources were harvested;

(2) The names of persons assessed bid payments to the Government under Forest Management Contracts or Timber Sale Contracts during the previous six months, and the amounts and dates of the assessments for each person named; and

(3) The amounts of such fees and payments owed but unpaid since the effective date of this Regulation, together with the name of each person owing fees or payments and that person's amount in arrears.

(b) If any person makes a reasonable claim to the Authority that the disclosure document contains an error, the Authority shall promptly investigate the claim and make necessary corrections to the disclosure document and any copies of the document in its possession.

(c) The Authority shall make copies of the disclosure document, offer them for public review at the Authority's headquarters and electronically through the Internet, and offer paper copies for sale to the public at a cost not exceeding one United States dollar (US \$1) for every twenty pages of the document.

Section 52 to 60. Reserved.

PART SIX: LATE PAYMENTS

Section 61. Definitions

(a) In this Part, "amounts" means fees due under this Regulation and money due to the Government under Forest Management Contracts or Timber Sale Contracts.

(b) In this Part, in the case of a permit that is obtained late or not obtained at all, the amount is due on the date the person should have obtained the permit.

(c) In this Part, the "standard interest rate" is the market rate published by the Central Bank as used for delinquent taxes under Section 11 of Phase One of the Reform Tax Code of Liberia, as amended.

Section 62. Grace Period

Persons owing amounts past due for 30 days or fewer may pay the amounts in full without interest or penalty.

Section 63. Penalties and Interest

(a) On amounts past due more than 30 days, the Authority shall assess and the Government shall collect a penalty of five percent.

(b) On amounts past due more than 60 days, the Authority shall assess and the Government shall collect interest at the standard interest rate, compounded monthly, on all amounts and penalties past due, with interest accruing on both the amounts past due and the penalty, from the date that the amounts were due.

(c) To facilitate collection of debt, the Authority may waive penalties under this Section if the person in arrears pays all amounts due, with interest, within one year of the amounts coming due.

(d) Subsection (c) of this Section does not apply if anyone has filed a lawsuit to collect the amounts.

Section 64. Prohibitions on Felling, Processing, Trade, and Export

(a) If a person owes amounts past due for log stumpage fees, that person shall not fell trees, process Forest Products, trade in Forest Products, or export Forest Products until the person has paid all amounts, penalties, and interest due.

(b) If a person owes amounts past due for export-related fees due under Part Four of this Regulation, that person shall not trade in Forest Products or export Forest Products until the person has paid all amounts, penalties, and interest due.

(c) The Authority shall issue administrative orders to enforce the prohibitions in this Section, and the courts may enforce those orders or enforce the prohibitions directly under the courts' inherent powers.

(d) If wood or Wood Products harvested under a Forest Resources License are exported without paying the required log stumpage or export fees, the Authority may terminate the Forest Resources License or suspend the Forest Resources License until the fees are paid.

Sections 65 to 70. Reserved

PART SEVEN: PAYMENTS

Section 71. Central Bank

Persons owing money under this Regulation shall pay the amount owed by deposit to a bank account designated for this purpose by the Authority, in conjunction with the Central Bank and the Ministry of Finance.

Section 72. Special Funds and Community Payments

The Authority shall inform the Central Bank, or other bank managing the accounts of the Authority, if by law the Bank must hold any of the funds in special accounts, including trust funds for the benefit of conservation or local communities.

Sections 73 to 80. Reserved

PART EIGHT: REPEALS AND EFFECTIVE DATE

Section 81. Repeals

The following provisions are repealed:

- (a) Regulation 23, Section IV(a), concerning administrative fees for concessionaires.
- (b) Regulation 21, Section V, concerning fees for replacement of canceled hammers.
- (c) Regulation 21, Section IV, concerning fees for annual coupe inspections.
- (d) Regulation 21, Section III, concerning fees for timber export permits.
- (e) Regulation 23, Section IV(b), concerning Forest Survey permits.
- (f) Regulation 23, Section IV(E), concerning sawmill operator's permits.
- (g) Regulation 23, Section IV(F), concerning lumber dealers.
- (h) Regulation 23, Section IV(G) concerning furniture producers.
- (i) Regulation 24, Sections I through IV, concerning minor forest products permits.

Section 82. Effective Date

- (a) This Regulation is effective on _____, 2007.
- (b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

SCHEDULE I: CLASSIFICATION OF TREE SPECIES

Abbreviation	Botanical name	LOCAL/TRADE NAMES LIBERIA	Class (stumpage fee)	Class (forest product fees)
HAL	<i>Hallea ciliata</i>	Abura (Bahia)	A	A
CAN	<i>Canarium schweinfurthii</i>	Aiele	A	A
GUI	<i>Guibourtia ehie</i>	Amazakoue (Bubinga)	A	A
ANI	<i>Anigeria robusta</i>	Aningre (Annegre)	A	A
GUA	<i>Guarea cedrata</i>	Bosse	A	A
CEI	<i>Ceiba pentandra</i>	Ceiba (Fromager)	A	A
PIP	<i>Piptadeniastrum africanum</i>	Dahoma	A	A
AFZ	<i>Afzelia</i> spp (bella, africana)	Doussie (Afzelia, Apa)	A	A
LOP	<i>Lophira alata</i>	Ekki (Azobe)	A	A
TES	<i>Terminalia superba</i>	Frake (Limba, Afara)	A	A
TEI	<i>Terminalia ivorensis</i>	Framire (Baji, Emire)	A	A
CHL	<i>Chlorophora</i> spp (regia, excelsa)	Iroko (Odum, Kambala)	A	A
KHA	<i>Khaya anthotheca</i>	Khaya (Acajou blanc)	A	A
KHI	<i>Khaya ivorensis</i>	Khaya (Acajou d'Afrique)	A	A
ENTC	<i>Entandrophragma candollei</i>	Kosipo (Abourd, Kro)	A	A
NAU	<i>Nauclea diderrichii</i>	Kusia (Bilinga, Opepe)	A	A
GIL	<i>Gilbertiodendron preussii</i>	Limbali	A	A
LOV	<i>Lovoa trichilioides</i>	Lovoa (Dibetou)	A	A
TIE	<i>Tieghemella heckelii</i>	Makore (Baku, Douka)	A	A
DIS	<i>Distemonanthus benthamianus</i>	Movingui	A	A
BRA	<i>Brachystegia leonensis</i>	Naga	A	A
TAR	<i>Heritiera utilis</i>	Niangon (Whismore)	A	A
TRI	<i>Triplochiton scleroxylon</i>	Obeche (Samba, Wawa)	A	A
ENTCY	<i>Entandrophragma cylindricum</i>	Sapele (Sapelle, Aboudikro)	A	A
ENTU	<i>Entandrophragma utile</i>	Sipo (Utile)	A	A
TET	<i>Tetraberlinia tubmaniana</i>	Tetra (Sikon)	A	A
ENTA	<i>Entandrophragma angolense</i>	Tiama (Edinam)	A	A
PER	<i>Pericopsis elata</i>	Afromosia	B	B
CHR	<i>Chrysophyllum</i> spp	Akatio (Longui)	B	B
ANT	<i>Antiaris africana</i>	Ako	B	B
RHO	<i>Rhodoguaphalon brevicuape</i>	Alone (Kondrotti)	B	B
CYN	<i>Cynometra ananta</i>	Apome	B	B
TUR	<i>Turraeanthus africanus</i>	Avodire	B	B
HAP	<i>Haplormosia macrophylla</i>	Black gum (Idewa)	B	B
BOM	<i>Bombax buonopozense</i>	Bombax	B	B
DID	<i>Didelotia idea</i>	Bondu	B	B
NES	<i>Nesogordonia papaverifera</i>	Danta (Kotibe)	B	B
DAN	<i>Daniella thurifera</i>	Faro	B	B
PYC	<i>Pycnanthus africanus</i>	Ilomba	B	B
ANO	<i>Anopyxis klaineana</i>	Kokoti	B	B
PTE	<i>Pterygota macrocarpa</i>	Koto (Ake)	B	B
MAM	<i>Mammea africana</i>	Mammea (Oboto)	B	B
MAN	<i>Mansonia altissima</i>	Mansonia (Bete)	B	B
OLD	<i>Oldfieldia africana</i>	Oldfieldia (Dantoue)	B	B
SAC	<i>Sacoglottis gabonensis</i>	Ozouga	B	B
ERY	<i>Erythrophleum ivorensis</i>	Tali (Sassawood)	B	B
COM	<i>Combretodendron macrocarpum</i>	Abale	C	C

ONG	Ongokea gore	Angueuk (Kuwi)	C	C
ANH	Anthonotha fragrans	Anthonotha (Kibokoko)	C	C
ARA	Araliopsis tabouensis	Araliopsis (Grenian)	C	C
CAL	Calpocalyz aubrevillei	Badio (Calpocalz)	C	C
CEL	Celtis spp (aldolfi-friederiei)	Celtis (Lokenfi)	C	C
DIA	Dialium spp	Dialium (Eyoum)	C	C
ALS	Alstonia boonei	Emien	C	C
COP	Copaifera salikounda	Etimoe	C	C
FAG	Fagara macrophylla	Fagara (Olondu)	C	C
FUN	Funtumia elastica	Funtumia (Mutundu)	C	C
HAN	Hannoa klaineana	Hannoa (Effeu)	C	C
BEI	Beilschmiedia mannii	Kanda	C	C
KLA	Klainedoxa gabonensis	Klainodoxa (Eveuss)	C	C
AMP	Amphimas pterocarpoides	Lati (Bokanga)	C	C
PAR	Parinari excelsa	Parinari (Songue)	C	C
PAK	Parkia bicolor	Parkia (Lo)	C	C
BER	Berlinia confusa	Pocouli (Ebiara)	C	C
UAP	Uapaca guinensis	Uapaca (Rikio)	C	C

Forestry Development Authority
Regulation No. 108-07
Regulation on Establishing a Chain of Custody System

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, past failures to control forest use under the rule of law led to destruction of forests, diversion of public income into private accounts, and an international ban on trade in Liberian Forest Products; and

WHEREAS, the tracking and monitoring of Timber and Forest Resources from their source of origin in the forest to eventual end user, through processing and transport (and possible export), is a prerequisite for all of the following: ensuring that Holders of Forest Resources Licenses comply with all legal requirements; facilitating the accurate assessment and remittance of forest charges; and keeping illegal logs out of domestic and international markets; and

WHEREAS, a mandatory, nationwide Chain of Custody System must operate with full disclosure, through a transparent process that is subject to monitoring by civil society and the public; and

WHEREAS, the National Forestry Reform Law of 2006 requires the Forestry Development Authority to provide, by regulation, for the operation of a Chain of Custody System (Section 13.5(d)); and further authorizes the Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: DEFINITIONS; PURPOSE

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

(a) Abandoned Logs: Logs, in good condition, not marked with a Chain of Custody identification number and located outside of an area where lawful harvest activities are under way.

(b) Authority: Forestry Development Authority.

(c) Chain of Custody: The path of custodianship followed by Logs, Timber, and Wood Products through harvesting, transport, interim storage, processing, distribution, and export, from source of origin in the forest to end use. Chain of Custody encompasses changes of state—for example, changes resulting from cutting, processing, splitting, or sorting.

(d) Chain of Custody System: The set of procedures and mechanisms used to track and monitor Chain of Custody.

(e) Diameter: Measurement of a Log taken from inside the bark to inside the bark; the average of four measurements: the smallest and largest distances measured through the center at one end of the Log, and the smallest and largest distances measured through the center at the other end of the Log.

(f) Log: a portion of a tree, with or without side limbs and bark removed, otherwise substantially intact and intended for further processing.

(g) Timber: sawn wood or Logs.

(h) Wood Product: a processed item made substantially of wood, including pit sawn and chain sawn lumber, plywood, veneer, particleboard, and pulp.

Other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

Section 2. Purpose

This Regulation provides for the establishment and operation of a transparent, nationwide Chain of Custody System under the supervision of the Authority. This system will—

(a) Ensure that illegal Logs, Timber, and Wood Products are identified and that they do not enter the Chain of Custody;

(b) Ensure that all Holders of Forest Resources Licenses are in compliance with laws and regulations governing block maps, annual yield limits, and Chain of Custody requirements;

(c) Ensure that all forest fees are accurately assessed and timely remitted to the appropriate authorities;

(d) Facilitate the certification of legal origin for all Logs and Timber originating in the Republic;

(e) Generate reliable information on national Timber flows that can be used both to inform sound management and oversight of the forest sector and to provide a basis on which to issue reliable Timber legality verification statements and permits (for purposes of export); and

(f) Promote good governance and law enforcement by strengthening Authority staff capacity and encouraging adherence to the rule of law by all Persons working in, and affected by, the forest sector.

Sections 3 to 20. Reserved

PART TWO: ESTABLISHMENT; ADMINISTRATION; GENERAL PROHIBITIONS; RESPONSIBILITIES OF AUTHORITY AND SYSTEM USERS

Section 21. Establishment, Scope, and Administration

(a) The Authority shall establish and operate a Chain of Custody System to track Logs, Timber, and Wood Products from forest to processing to domestic market or export.

(b) The Authority shall establish and maintain an electronic Chain of Custody database containing—

(1) Information on all Logs, Timber, and Wood Products tracked under the Chain of Custody System; and

(2) Information on forest-sector fees assessed and paid on all Logs, Timber, and Wood Products, and in connection with any associated Forest Lands.

(c) The Authority may delegate, in whole or in part, day-to-day operation of the Chain of Custody System and maintenance of the Chain of Custody database to a private contractor, subject to oversight and auditing by the Authority.

(d) The Chain of Custody System established by this Regulation shall begin operation on September 30, 2007.

Section 22. Logging Activities Outside of Chain of Custody System Prohibited

(a) No person shall harvest Timber for Commercial Use without—

(1) Being in full compliance with the terms of the Forest Resources License under which the harvesting activity is to occur;

(2) Entering the Timber in the Chain of Custody System using forms and means established under this Part; and

(3) Marking the Timber and the stump with the identification assigned by the Authority through the Chain of Custody System.

(b) No person shall process Logs, Timber, or Wood Products into a substantially different form without satisfying all of the following requirements:

(1) Being in full compliance with any regulation governing processing requirements, as well as with the terms of any required licenses and permits;

(2) Ensuring that the processed Logs, Timber, or Wood Products are—

(A) Properly marked with identification as required by Section 24 of this Regulation; and

(B) Accompanied by a waybill as required by Part Three of this Regulation; and

(3) Entering the processed Logs, Timber, or Wood Products in the Chain of Custody System using forms and means established under this Part and any other Authority regulation.

(c) No person shall transport or possess the following unless it has been entered into the Chain of Custody System, using forms and means established under this Part, and bears identification prescribed by the Authority through the Chain of Custody System:

(1) Unprocessed Logs.

(2) More than three cubic meters of Wood Products, except for recently processed Wood Products at the site of processing.

(d) No person shall attach false or misleading identification to Logs, Timber, or other Wood Products.

Section 23. Forms

(a) The Authority shall publish, and from time to time revise, standard forms and instructions for the entry of information into the Chain of Custody database.

(b) The information collected for initial entry into the database must be sufficient to identify, for each tracked item, the place of harvest (including the stump), the person authorized to harvest, the Forest Resources License under which the harvest was made, the stem number on the stem map, the tree species, the volume of the item, and its unique identification mark.

(c) The Authority may provide for entry of data through paper forms or electronic forms.

(d) If the data entered into forms or reported to an authorized agent affects or reflects the amount of forest fees owed to the Government, the Authority shall require the person providing the data to swear to or affirm the accuracy of the data, under penalty of perjury.

(e) In consultation with the Forestry Management Advisory Committee and persons identified on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation, the Authority may from time to time issue or revise standard forms to implement any aspect of the Chain of Custody System.

Section 24. Identification—Assignment and Marking

(a) The Authority shall establish, and from time to time revise, standard methods for assigning identification to Logs, Timber, and Wood Products, and for properly marking the Logs, Timber, and Wood Products with this identification.

(b) The Authority shall publish a document listing the current standard methods for assigning identification and for marking Logs, Timber, and Wood Products with this identification.

(c) For Logs, the Chain of Custody System must assign a unique identification to each Log, and the stump must be marked with the assigned tree number.

(d) For Timber and Wood Products other than Logs, the Chain of Custody System must assign unique identification either to each individual item, or to a group of items physically packed, joined, or otherwise bundled together for sale or transport. Where a single identification is assigned to a group of items, the Chain of Custody System must include safeguards allowing persons to determine easily whether any items have been added to or removed from the group.

Section 25. Toward Forest Certification

The Authority shall cooperate with forest certifiers in seeking to make the Republic's Chain of Custody System supportive of, or acceptable as, a wood tracking system for use in forest certification.

Section 26. Scaling Standards

In measuring the volume of Logs and Timber for purposes of assessing forest fees, or for entering the Logs or Timber into the Chain of Custody System, all persons shall use the prevailing version of the Association Technique Internationale des Bois Tropicaux (ATIBT) Rules of Mensuration for gross or solid volume.

Section 27. Grading Standards

The prevailing version of the Association Technique Internationale des Bois Tropicaux (ATIBT) "Grading rules for tropical logs and sawntimber" governs grading within the Republic.

Section 28. Information on Forest Fees and Cooperation with Fiscal Authorities

(a) The Government shall mark each receipt for payment of forest fees assessed by the Authority with a unique identification number to facilitate tracking of the receipts in the Chain of Custody database.

(b) The Authority shall design the Chain of Custody database so that the identification number for a particular Log or group of Wood Products links to all of the following information:

(1) The place where the Log or group of Wood Products was harvested, and whether land rental fees have been paid for the year of harvest;

(2) Whether stumpage fees have been paid; and

(3) Whether forest products fees (including export fees) have been paid for processed wood bundles, and whether the standing tree positions of the logs feeding into these wood bundles can be sourced.

(c) Any person in possession of proof of payment of any of the fees listed in Subsection (b) of this Section may present the proof to the Authority or its agent, and, upon being satisfied that the proof is genuine, the Authority or its agent shall enter the payment information in the Chain of Custody database.

(d) The Authority shall include in the Chain of Custody System safeguards to ensure that persons cannot mistakenly or fraudulently rely upon a proof of payment to cover Logs, Timber, or Wood Products not legitimately covered by the payment.

Section 29. Reconciliation of Reported Volumes

Every six months, the Authority shall use the Chain of Custody database to reconcile reported volumes of Logs, Timber, and Wood Products moving through the Chain of Custody System, as follows:

- (a) By comparing volumes harvested (by species) with initial volumes of standing timber available for harvest in the annual coupe;
- (b) By comparing volumes transported and stored (by species) with volumes harvested;
- (c) By comparing volumes processed (by species) with volumes transported; and
- (d) By comparing volumes sold and exported (by species) with volumes harvested, transported, and processed.

Section 30. Reserved

PART THREE: TRANSPORT

Section 31. Transport or Acceptance of Logs, Timber, or Wood Products Without Waybills Prohibited

- (a) No person shall consign Logs, Timber, or Wood Products for transport upon public roads; send Logs, Timber, or Wood Products to a facility for processing; or send Logs, Timber, or Wood Products to a port for trans-shipment or export, unless the person has completed a waybill for the load of Logs, Timber, or Wood Products.
- (b) No person shall transport a load of Logs, Timber, or Wood Products upon the public roads; transport Logs, Timber, or Wood Products to a facility for processing; or transport Logs, Timber, or Wood Products to a port for trans-shipment or export, unless the person—
 - (1) Is in possession of a valid transporter registration issued by the Authority and renewed annually; and
 - (2) Is in possession of a completed waybill for that specific load of Logs, Timber, or Wood Products.
- (c) No person shall accept delivery of a load of Logs, Timber, or Wood Products unless the load is accompanied by a completed waybill.

Section 32. Content of Waybills

A waybill is deemed completed only if it includes all of the following information:

- (a) The place of harvest of the Logs, Timber, or Wood Products.
- (b) The Chain of Custody identification numbers of the Logs, Timber, or Wood Products.
- (c) The total volume of all Logs, Timber, or Wood Products (specifying individual standard dimensions), by species.
- (d) The day, month, and year that the Logs, Timber, or Wood Products were loaded, and the day, month, and year that they are scheduled to arrive.
- (e) The place where the Logs, Timber, or Wood Products were loaded.
- (f) The planned route of transport from loading to destination.
- (g) The destination of the shipment.
- (h) The printed name and signature of—
 - (1) The person (or the person’s authorized agent) who harvested the Logs, Timber, or Wood Products;
 - (2) Upon acceptance of the load, the person accepting the Logs, Timber, or Wood Products for transport (the truck driver); and
 - (3) Upon delivery of the load, the person delivering the Logs, Timber, or Wood Products (the truck driver).
- (i) Above each of these signature lines, the waybill must include the following declaration:

“By signing this waybill, I swear or affirm, under penalty of perjury, that I have made a reasonable effort to ensure the accuracy of the information entered here and that the contents are accurate to the best of my knowledge.”
- (j) The printed names of the business or individuals authorized to transport or accompany the Logs, Timber, or Wood Products, and the license plate number of the transporting vehicle.

Section 33. Copies

- (a) Each waybill form must consist of one original and four copies, to be distributed as follows:
 - (1) The person consigning the shipment shall retain one copy and give the original to the Authority.
 - (2) The person transporting the shipment shall keep one copy and give two copies to the recipient of the shipment, and the recipient shall later give the second copy to the Authority following delivery of the shipment.
- (b) The Authority shall make books of blank, numbered waybills available upon payment of the fee specified in Authority Regulation No. 107-07, concerning certain forest fees.

Section 34. Logs, Timber, or Wood Products in Chain of Custody System But Without Completed Waybill

If the Government discovers Logs, Timber, or Wood Products in transport without a proper waybill, but the Logs, Timber, or Wood Products bear Chain of Custody identification, the Government shall arrange to return the Logs, Timber, or Wood Products to the place of harvest and bill the harvester for the reasonable costs of the return.

Section 35. Transport by Night

(a) No person shall transport Logs, Timber, or Wood Products on public roads during the night, from fifteen minutes after sunset until fifteen minutes before sunrise, unless the shipment is accompanied by written permission from the Authority, specifically permitting that particular shipment to be transported by night.

(b) If the Government discovers Logs, Timber, or Wood Products being transported in violation of this Section, they are deemed abandoned, even if registered in the Chain of Custody System, and the Government shall seize the Logs, Timber, or Wood Products and transfer custody to the Authority, which shall arrange for their sale or disposal, as if they had been abandoned, pursuant to Subsections (e) through (h) of Section 51 of this Regulation.

Sections 36 to 40. Reserved

PART FOUR: EXPORT AND IMPORT

Section 41. Export—Generally

Before exporting Logs, Timber, or Wood Products, a person shall register with the Authority as an exporter and renew the registration annually.

Section 42. Cooperation of Port and Customs Officials in Export

(a) Government officials in charge of ports and customs shall not allow bulk shipments of Logs, Timber, or Wood Products to be loaded on vehicles, vessels, or aircraft for export unless the officials verify all of the following:

(1) The Logs, Timber, or Wood Products are entered into the Chain of Custody System.

(2) The Chain of Custody database indicates that all stumpage fees, land rental fees, and forest product fees (including export fees) have been paid.

(3) The Chain of Custody database indicates that the Logs, Timber, or Wood Products have not already been exported.

(b) Government officials shall promptly and fully inform the Authority of the export of all Logs, Timber, and Wood Products covered under the Chain of Custody System.

(c) Government officials shall promptly notify the Authority of any irregularities in shipment that may suggest illegal activity or a problem with the Chain of Custody System or database.

(d) The Authority may issue standard forms to facilitate reporting under this Section.

(e) The requirements of this Section apply to all ports of entry in the Republic, including all border crossings (with Ivory Coast, Sierra Leone, and Guinea), seaports, and airports.

Section 43. Under-Pricing

(a) No person shall under-price a load of Logs, Timber, or Wood Products.

(b) The Authority may decline to issue an export permit or, at any time, revoke an existing export permit covering a load of Logs, Timber, or Wood Products, where the Authority has determined, based on current market information or declared prices contained in export contracts, that the load of Logs, Timber, or Wood Products is under-priced.

Section 44. Import

A person importing Logs, Timber, or Wood Products shall abide by the following conditions:

(a) Before importing Logs, Timber, or Wood Products, the person must register with the Authority as an importer and renew the registration annually.

(b) The person must arrange for the Authority to scale each shipment at the entry port, assign each item or group of items an identification number, and enter the Logs, Timber, or Wood Products into the Chain of Custody System.

(c) For Logs, the person must follow the requirements for waybills set forth in Part Three of this Regulation, indicating the port and date of entry, along with all other required information, to the extent known.

(d) The person must possess credible information about the source of all Logs, Timber, or Wood Products, to be assured of their legal origin.

Sections 45 to 50. Reserved

PART FIVE: ABANDONED LOGS, TIMBER, AND WOOD PRODUCTS

Section 51. Abandoned Logs, Timber, and Wood Products

(a) If the Government discovers abandoned Logs, Timber, or Wood Products, it shall promptly notify the Authority.

(b) If the Authority discovers abandoned Logs, Timber, or Wood Products within the area covered by a valid Forest Resources License—

(1) The Authority shall notify the contract Holder, and the Holder may claim the Logs, Timber, or Wood Products only by meeting both of the following requirements within seven business days:

(A) Demonstrating to the satisfaction of the Authority that the Logs, Timber, or Wood Products originated within the area covered by the Holder's Forest Resources License and can be traced to specific, marked stumps; and

(B) Registering the Logs, Timber, or Wood Products in the Chain of Custody System.

(2) If the Holder fails to meet the requirements of this Subsection, the Authority shall seize the Logs, Timber, or Wood Products.

(c) If the Authority discovers abandoned Logs, Timber, or Wood Products in a Communal Forest, a Community Forest, or on deeded lands outside of any area covered by a valid Forest Resources License—

(1) The Authority shall notify the community or deed holder, and the notified person may claim the Logs, Timber, or Wood Products by registering them in the Chain of Custody System within seven business days.

(2) If the notified person does not register the Logs, Timber, or Wood Products within seven business days, the Authority shall seize them.

(d) If the Authority discovers abandoned Logs, Timber, or Wood Products on land not covered by Subsections (b) or (c) of this Section, the Authority shall seize them.

(e) The Authority shall transport all seized Logs, Timber, or Wood Products to a safe location and, within 5 business days, petition a court sitting in the county where the Logs, Timber, or Wood Products were seized to verify that they are abandoned and oversee their disposal by public auction.

(f) The winner of the public auction may take possession of the Logs, Timber, or Wood Products after presenting to the court proof of payment to the Central Bank of Liberia of the auction price and, in the case of Logs or Timber, the stumpage fee.

(g) Payment of sums required under Subsection (f) of this Section extinguishes all claims of other persons to the Logs, Timber, or Wood Products.

(h) Upon request of the winner of the public auction, the Authority shall enter the Logs, Timber, or Wood Products in the Chain of Custody System, with an appropriate notation indicating that they were deemed abandoned and sold at auction.

(i) If no one bids for abandoned Logs, Timber, or Wood Products, the court shall arrange to have the Authority give them to a local community or civil society organization for non-commercial use.

Sections 52 to 60. Reserved

PART SIX: ACCESS AND ACCURACY

Section 61. Public Access

All information contained in the Chain of Custody database is a matter of public record, and the Authority shall allow members of the public convenient means to search and review the information at Authority offices during normal business hours.

Section 62. Corrections

(a) Any person wishing to correct or contest information contained in the Chain of Custody database may present evidence to the Authority and request a change in the database.

(b) The Authority shall, in writing, approve or deny the request, giving reasons for the decision, within ten business days of receiving the request.

(c) If the Authority approves the request, the Authority shall make the requested change in the database within 24 hours of granting approval.

(d) If the Authority denies the request or fails to act within the time limits established by this Section, the person making the request may ask a court to consider evidence from the person, the Government, or any other interested party, and, if appropriate, the court may order the Authority to correct the database.

Sections 63 to 70. Reserved

PART SEVEN: FOREST MONITORING

Section 71. Monitoring by Civil Society, Communities, and Independent Third Parties

(a) The Authority, in coordination with civil society organizations and other persons on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation, shall develop guidelines on the monitoring of areas subject to Forest Resources Licenses and areas used for wood processing activities.

(b) Except as otherwise allowed by law, no person shall interfere with representatives of civil society organizations, forest-dependent communities and other communities affected by Operations, or independent third parties seeking to—

(1) Obtain information with respect to any aspect of the Chain of Custody System;

(2) Verify the accuracy of information provided by the Authority, the Holder of a Forest Resources License, or any other person, with respect to any aspect of the Chain of Custody System; or

(3) Personally inspect any forest area, forestry facility, or shipment of Logs, Timber, or Wood Products that is the subject of a Forest Resources License.

(c) Authority staff and Holders of Forest Resources Licenses shall, upon request, use best efforts to assist representatives of civil society organizations, forest-dependent communities and other communities affected by Operations, and independent third parties seeking to perform any of the activities described in Subsection (b) of this Section.

Section 72. Independent Forest Monitoring

It shall be the policy of the Authority to move over time toward a formal system of Independent Forest Monitoring.

Sections 73 to 80. Reserved

PART EIGHT: REPEALS AND EFFECTIVE DATE

Section 81. Repeals

The following regulations are repealed, in their entirety:

- (a) Regulation 1, concerning waste of forest resources, including abandonment of Logs.
- (b) Regulation 3, concerning waybills.

Section 82. Effective Date

- (a) This Regulation is effective on September 11, 2007.
- (b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

Forestry Development Authority
Regulation No. 109-07
Regulation on Penalties

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, the imposition of prompt, fair, and proportionate punishment for violations of the law is necessary to ensure widespread compliance with legal requirements, deter wrongdoing in the forest sector that has in the past directly harmed the Republic, and instill broad public confidence in the process of forest sector reform; and

WHEREAS, a system that allows the Authority to impose administrative penalties for certain forestry violations will help to ensure efficient administration and enforcement of the law, as well as wise use of the resources of the Republic; and

WHEREAS, the National Forestry Reform Law of 2006 authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), specifically including regulations to establish forestry-related offenses and penalties not expressly provided for under the National Forestry Reform Law of 2006 (Section 20.9(a)); to address the resolution of disputes and levying of penalties for offenses (Section 19.1(l)); and to establish procedures for dispute resolution with respect to the management of Forest Resources (Section 17.1);

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: DEFINITIONS; PURPOSE AND EFFECT; ANNUAL ENFORCEMENT REPORT

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

- (a) Authority: Forestry Development Authority.
- (b) Board: Board of Directors of the Forestry Development Authority.
- (c) Dollars: United States dollars, or the equivalent in Liberian dollars as of the date of the violation.
- (d) Managing Director: Managing Director of the Forestry Development Authority.
- (e) Penalty: May include a term of imprisonment; imposition of a monetary fine; imposition of an administrative penalty; or forfeiture of property. This term does *not* include additional remedies that may also be available to the Authority under law, such as, without limitation, termination of a contract, modification of the terms of a permit, and injunctive relief.

Other terms used in this Regulation have the meaning provided in the National Forestry Reform Law of 2006, as amended.

Section 2. Purpose and Effect

(a) This Regulation implements Chapter 20 of the National Forestry Reform Law of 2006.

(b) Except as expressly provided, this Regulation does not limit the right of the Authority or any court to enforce any provision of any law, regulation, related agreement, permit, license, or order, and to pursue all remedies available under law, including, without limitation, injunctive relief and modification of the terms of agreements, permits, and licenses.

Section 3. Annual Enforcement Report

(a) Annually, the Authority shall publish the enforcement report required by Section 20.11 of the National Forestry Reform Law of 2006.

(b) The Authority shall make the report freely available on the Internet and, upon request by any person, the Authority shall provide paper or electronic copies of the report at no charge.

Sections 4 to 20. Reserved

PART TWO: INFORMATION AND EVIDENCE; REFERRALS

Section 21. Gathering and Protection of Evidence to Support Penalties

When a person has committed a violation, the Authority shall use best efforts to gather and protect information and evidence tending to prove the violation, especially where the information or evidence tends to show any of the following:

(a) That the violation was committed knowingly or with gross negligence, under Section 20.7(b) of the National Forestry Reform Law of 2006.

(b) That the violation resulted in damage to Forest Resources or the Environment, under Section 20.7(c) of the National Forestry Reform Law of 2006.

(c) That the violation was a continuing offense, under Section 20.8(a) of the National Forestry Reform Law of 2006.

(d) That the violator is a repeat offender, under Section 20.8(b) of the National Forestry Reform Law of 2006.

Section 22. Referral to Ministry of Justice

(a) Except as provided in Subsection (b) of this Section, the Authority shall promptly refer violations of the National Forestry Reform Law of 2006 and its regulations to the Ministry of Justice for enforcement. The Authority shall use best efforts to provide such assistance as the Ministry of Justice may reasonably require to investigate and prosecute referred matters.

(b) In lieu of making a referral, the Authority may resolve the violation through the assessment of an administrative penalty under Part Four of this Regulation.

Sections 23 to 30. Reserved

PART THREE: REPORTING AND INVESTIGATION OF VIOLATIONS

Section 31. Violations of Forestry Laws and Regulations

(a) Authority staff shall promptly notify the Managing Director of:

(1) Any offense committed under Section 20.1(b) of the National Forestry Reform Law of 2006.

(2) Any violation of the regulations, codes, guidelines, or manuals issued by the Authority.

(3) Any other violation of the laws of the Government of Liberia as they relate to the forest sector.

(b) The Managing Director shall promptly investigate any offense or violation brought to his attention by Authority staff under Subsection (a) of this Section, or by any other person, and notify other Government agencies or ministries as necessary.

(c) The Managing Director shall promptly report all allegations of violations resulting in physical injury or significant economic harm to employees of contract Holders to the Ministry of Justice and the Ministry of Labor.

Section 32. Other Penalties and Offenses

The Authority may from time to time establish new Forestry-related offenses and penalties.

Sections 33 to 40. Reserved

PART FOUR: ASSESSMENT OF ADMINISTRATIVE PENALTIES

Section 41. Generally

The Authority may impose an administrative penalty for an offense, rather than referring the offense to the Ministry of Justice, if all of the following conditions are satisfied:

(a) The offense did not result in physical injury to any person;

(b) The offense did not significantly harm the interests of a local community;

(c) The offense did not result in damage to Forest Resources or the Environment exceeding 10,000 United States dollars in value;

- (d) The violator consents to imposition of the administrative penalty; and
- (e) The conduct giving rise to the offense does not support a felony criminal charge.

Section 42. Amount of Penalty

The total amount of the administrative penalty may not exceed the amount prescribed by Section 20.9(b) of the National Forestry Reform Law of 2006.

Section 43. Issuance of Notice of Penalty Assessment

(a) To assess an administrative penalty, the Managing Director shall provide for personal service of a written notice of penalty assessment on the violator.

(b) A notice of penalty assessment shall, for each violation—

- (1) Describe the nature of the violation with reasonable particularity;
- (2) Indicate the total amount of the penalty for the violation;
- (3) Explain that each day of a continuing violation constitutes a separate violation;
- (4) Indicate when the penalty payment is due;
- (5) State that the violator may, within thirty days of receipt of the notice of penalty assessment, make a written request to the Managing Director for an administrative hearing; and
- (6) Advise the violator of his or her right to an appeal.

Section 44. Payment; Request for Hearing

(a) Within 30 days of receiving the notice of penalty assessment, the violator shall—

- (1) Tender payment to the Authority;
- (2) Submit a written request for an administrative hearing; or
- (3) Tender payment together with a written request for a hearing, in which case payment will be accepted as conditional upon a final decision.

(b) The Managing Director shall promptly acknowledge to the violator and the Board, in writing, all payments received.

(c) When the violator requests a hearing, the penalty assessment is deemed stayed as of the date of the request, pending service on the violator of a final, written decision or other settlement of the matter.

(d) A violator waives the right to a hearing when—

- (1) The violator provides a written waiver of hearing to the Managing Director;
- (2) The violator fails to request a hearing within 30 days of receiving a notice of penalty assessment; or
- (3) The violator fails to attend a scheduled administrative hearing of which the violator had written notice.

Section 45. Appeal

Within ten days of receipt of notice of a final, written decision of the Managing Director, the violator may file a notice of appeal in a court of the Republic with competent jurisdiction. The violator shall also file a copy of the notice of appeal with the Managing Director.

Section 46. Referral

If the violator fails to pay an administrative penalty within 60 days of receipt of a notice of penalty assessment (where no hearing was requested), or within 60 days after receipt of a final, written decision (where a hearing was requested), and has not filed a notice of appeal, the Managing Director shall request that the Ministry of Justice begin an action to recover the amount of the assessment, together with interest and any additional fine that may be lawfully assessed for non-compliance.

Sections 47 to 50. Reserved

PART FIVE: REPEALS AND EFFECTIVE DATE

Section 51. Repeals

The following provisions are repealed:

- (a) Regulation No. 1, Section 7, concerning penalties for waste of forest resources.
- (b) Regulation No. 3, Section 24, concerning penalties for waybill and scaling violations.
- (c) Regulation No. 4, Section 7, concerning penalties for unpermitted forestry operations.
- (d) Regulation No. 14, Section V, concerning penalties for non-compliance with export rules.
- (e) Regulation No. 17, Section III, concerning penalties with respect to Niangon logs.
- (f) Regulation No. 18, Section III(2), concerning penalties for export of logs from banned tree species.
- (g) Regulation No. 19, Section IV(b), concerning penalties with respect to charcoal production and export.
- (h) Regulation No. 25, Section VI, concerning penalties for disturbing wildlife, protected species, and protected areas.

(i) Regulation No. 26, Section VIII(a), (d), concerning penalties for pit sawing.

Section 52. Effective Date

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**

Forestry Development Authority
Regulation No. 110-07
Regulation on Rights of Private Land Owners

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, Operators under a Forest Resources License have a duty to prevent harm to the property of Private Land Owners resulting from forestry Operations, and, when such harm does occur, a duty to compensate Land Owners for the harm; and

WHEREAS, Operators from time to time have a legitimate need to seek rights-of-way from Private Land Owners in order to conduct forestry Operations in an efficient and lawful manner; and

WHEREAS, a streamlined administrative process can be used to fairly and efficiently resolve disputes involving alleged harm to Private land and efforts to secure rights-of-way, while also safeguarding the rights of Operators and Private Land Owners; and

WHEREAS, the National Forestry Reform Law of 2006 authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), including regulations that establish procedures for dispute resolution with respect to the management of Forest Resources (Section 17.1); and, specifically, regulations that establish appropriate procedures for the hearing and determination of petitions to intervene when a Land Owner has refused to grant permission to the Holder of a Forest Resources License to conduct Operations (Section 11.4(b));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: DEFINITIONS; PURPOSE; EFFECT

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

- (a) Authority: Forestry Development Authority.
- (b) Managing Director: Managing Director of the Forestry Development Authority.
- (c) Operation: Any activity or process carried out pursuant to a Forest Resources License.
- (d) Operator: A Person harvesting or making Commercial Use of Forest Resources under a Forest Resources License, including a Person working as an employee, contractor, or other agent for a Holder.
- (e) Private: Includes any Land Owner that is not a government entity.

Other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

Section 2. Purpose

This Regulation establishes the responsibilities of the Operator with respect to the rights of Private Land Owners and provides for a right of compensation to Land Owners harmed as a result of Operations.

Section 3. Effect

(a) This Regulation does not limit the Government's authority to bring suit against, or otherwise seek redress from, an Operator—

- (1) For violation of any law or regulation; or
- (2) Under the law of tort or contract.

(b) This Regulation does not limit the liability of an Operator in any legal action instituted by a Private party, subject to the conditions set forth in Paragraphs (1) and (2) of this Subsection.

- (1) A Private Land Owner's recovery of compensation from an Operator under this Regulation for harm caused to the Land Owner by Operations bars the Land Owner from instituting any legal action based on the same harm.
- (2) A Private Land Owner may obtain no more than one recovery for each harm caused to the Land Owner by any Operations.

(c) Nothing in this Regulation may be construed to allow the Operator to interfere with any tribe, town, person, or group of persons, or with the legal or customary rights of any tribe, town, person, or group of persons to use or access Timber or Forest Products.

Section 4. Alternatives to Written Notice

(a) Where this Regulation requires the Authority to provide written notice, the Authority shall ensure that the notice is fully understood by each party to whom the notice is directed. As necessary, the Authority may employ alternative means of notice suitable to the local or community context.

(b) Where this Regulation requires a party to provide the Authority or another party with written notice, the Authority shall, upon request, assist the party in preparing the notice.

(c) The Authority shall not reject any claims, petitions, attempts to provide written notice, or other submissions made pursuant to this Regulation solely on the ground that the writing is insufficient.

Sections 5 to 20. Reserved

PART TWO: DUTY OF THE OPERATOR TO PREVENT HARM; COMPENSATION REQUIRED; PROCEDURES

Section 21. Generally—Preventing Harm to Private Property

(a) The Operator shall take all measures necessary to prevent harm to the property of Private Land Owners resulting from Operations, without limitation.

(b) If Operations cause harm to the real property of a Private Land Owner, or to personal property located on that real property, the Operator shall promptly and fully compensate the Private Land Owner for the damage, injury, or loss.

(1) The Operator is liable for harm caused to the Private Land Owner by the acts or omissions of any contractor, employee, or other agent of the Operator.

(2) The Operator is liable for harm caused to the Private Land Owner, regardless of the degree of care exercised by the Operator or the Operator's agent.

Section 22. Compensation—Informal Negotiation

(a) The Operator shall, within 48 hours of when the Operator realizes, or reasonably should have realized, that Operations have caused harm to the Private Land Owner's property—

(1) Notify the Land Owner in writing of the incident; and

(2) Offer to enter into informal negotiations with the Private Land Owner, with the aim of achieving full, fair, and prompt monetary compensation for the harm caused.

(b) If agreement cannot be reached between the Operator and the Private Land Owner, the Land Owner may invoke the procedure established by Section 23 of this Regulation.

Section 23. Compensation—Dispute Resolution by the Authority

(a) The Private Land Owner may, within 30 days of when the Land Owner realizes, or reasonably should have realized, that Operations have caused harm to the Land Owner's property, submit a written notice of claim to the nearest office of the Authority.

(b) The notice of claim must contain the following information—

(1) A brief description of the property;

(2) A brief description of the alleged damage to the property;

(3) The name of the owner of the property;

(4) A monetary estimate of the damage caused; and

(5) The name of the Operator.

The Private Land Owner may attach supporting documents, or provide additional information, if any, tending to support the claim.

(c) The Authority shall, within three business days of receiving the claim, conduct an inspection of the property to assess the nature and extent of the alleged damage.

(d) The Authority shall, within ten business days of receiving the claim, issue a written notice to the Operator and the Private Land Owner to appear on a date, and at a time and location, specified in the notice.

(1) The Authority shall attach to each notice a copy of the notice of claim and supporting documents, if any, submitted by the Private Land Owner.

(2) The specified date shall be at least 30 days, but no more than 60 days, from the date the notice issued.

(3) The specified location may be the nearest office of the Authority or the nearest office of a local government official or community leader, but in no event may the location be farther than five miles from the property.

(e) On the specified day, the Managing Director or his representative shall hear the Private Land Owner and the Operator, or their respective representatives, and after considering any facts and argument presented by each, determine—

(1) Whether the Operations of the Operator caused the harm and damage alleged; and,

(2) If so, in what amount.

(f) Upon making this finding, the Managing Director or his representative shall assess the amount that the Operator shall pay to the Private Land Owner and record all findings in a written order. The Operator shall pay the assessed amount to the Land Owner within ten days of the date of the written order.

(g) If the Managing Director or his representative is unable to resolve a dispute as to the nature or extent of the interest in, or ownership of, the land, or the extent or valuation of the damage caused by the Operator, or if the decision of the Managing Director or his representative is unacceptable to the Operator or the Land Owner, then either may bring suit in a court of competent jurisdiction in Liberia.

(h) The Private Land Owner is not required to seek compensation under the procedure established by this Part and may instead pursue other legal remedies.

Sections 24 to 30. Reserved

PART THREE: DUTY OF THE OPERATOR TO NEGOTIATE FOR RIGHTS-OF-WAY; COMPENSATION REQUIRED; PROCEDURES

Section 31. Seeking Rights-of-Way

(a) The Operator, in carrying out lawful, Forestry-related activities, may enter into negotiations with a Private Land Owner to secure a lease, easement, or other form of right-of-way required for the activities.

(b) If the Operator is unable to reach a satisfactory agreement with a Private Land Owner over the terms of such right-of-way, the Operator may file a petition with the Authority.

(c) The petition must contain the following information—

(1) A description of the property required for the right-of-way;

(2) The name of the owner of the property, or an indication that this information cannot be obtained;

(3) The type of right-of-way requested by the Operator; and

(4) A description of the negotiations, if any, undertaken to date.

The Operator may attach supporting documents or provide additional information, if any, tending to support the petition.

(d) The Authority shall, within ten business days of receiving the petition, issue a notice, in writing, to the Private Land Owner and the Operator to appear on a date, and at a time and location, specified in the notice.

(1) The Authority shall attach to each notice a copy of the petition and supporting documents, if any, submitted by the Operator.

(2) The specified date shall be at least 30 days, but no more than 60 days, from the date the notice issued.

(3) The specified location may be the nearest office of the Authority or the nearest office of a local government official or community leader, but in no event may the location be farther than five miles from the property.

(e) On the specified day, the Managing Director or his representative shall hear the Operator and the Private Land Owner, or their respective representatives, and after considering any facts and argument presented by each, shall determine—

(1) Whether granting a right-of-way is necessary and appropriate; and,

(2) Upon so finding, the amount that the Operator shall pay to the Private Land Owner for—

(A) Any loss of the right to use the property for the duration of the grant of right of-way; and

(B) Any damages arising out of the loss or destruction of property resulting from granting the right-of-way to the Operator.

(f) If the Managing Director or his representative is unable to resolve a dispute as to the nature or extent of the interest in or ownership of the property, or the amount of compensation payable by the Operator, or if the decision of the Managing Director or his representative is unacceptable to the Operator or the Land Owner, either may bring suit in a court of competent jurisdiction in Liberia.

(g) If the Managing Director is unable to resolve a dispute as to the nature or extent of the interest in, or ownership of, the land, or the amount of compensation payable by the Operator, or if the decision of the Managing Director is unacceptable to the Operator, the Operator may file an indemnity bond, in an amount designated by the Managing Director or his representative, and may then enter upon the property and undertake Forestry-related activities immediately, subject to later determination by a court of competent jurisdiction of the amount of compensation due the property owner.

Section 32. Limitations

(a) The Authority shall not grant any lease, easement, or other form of right-of-way, if doing so would substantially interfere with Operations under a previously-issued Forest Resources License held by another Operator.

(b) The Operator shall enter upon Private property pursuant to this Part only to the extent necessary to conduct Operations.

Sections 33 to 40. Reserved

PART FOUR: REPEALS AND EFFECTIVE DATE

Section 41. Repeals

This Regulation repeals no existing regulations.

Section 42. Effective Date

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**