

**Sustainable Forest and Land Management in the Dry Dipterocarp
Forest Ecosystems of Southern Lao PDR
(SAFE Ecosystems Project)**

**Output 3
Laws, Rules and Procedures for Establishing New
Protected Areas in Lao PDR**

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Acronyms and Abbreviations

DAFO	District Agriculture and Forestry Office
DOF	Department of Forestry
Lao PDR	Lao People's Democratic Republic
MAF	Ministry of Agriculture and Forestry
MONRE	Ministry of Natural Resources and Environment
NBCA	National Biodiversity Conservation Area
PAFO	Provincial Agriculture and Forestry Office
SAFE Ecosystems Project	Sustainable Forest and Land Management in the Dry Dipterocarp Forest Ecosystems of Southern Lao PDR

1. Introduction

1. The Sustainable Forest and Land Management in the Dry Dipterocarp Forest Ecosystems of Southern Lao PDR (SAFE Ecosystems Project) supports activities led by the Department of Forestry (DOF) of the Ministry of Agriculture and Forestry (MAF) and its provincial and district offices to identify and address gaps in the existing policy and legal framework to help remove barriers to sustainable forest and land management in Savannakhet Province and overall in the Lao People's Democratic Republic (Lao PDR). A project priority is to strengthen policies and regulations related to protected area management.
2. This analysis of rules and procedures for establishing new protected areas in Lao PDR is Output 3 of the Policy/Regulation Review and Revision component of the Sustainable Forest and Land Management in the Dry Dipterocarp Forest Ecosystems of Southern Lao PDR (SAFE Ecosystems Project).
3. The power to establish protected areas does not appear to have ever been delegated by law. That power was initially exercised by decree and subsequently specified by regulation. A procedure for designating protected areas was first specified in a MAF regulation and subsequently in a Government decree.

2. Background

4. In 1993, a Prime Minister's decree¹ established 18 national forest reserves. This may have been the first step taken by the government of Lao PDR to create a national system of protected areas. The 1993 Decree does not cite a law as a basis. It specifies that it was issued pursuant to the 5th, 6th, and 7th Plenary Meeting of the Party Central Committee and IVth and Vth legislature of the Lao People's Revolutionary Party and based on a proposal from MAF.
5. The National Assembly, in 1996, enacted a Forestry Law² which stipulated 'reserved forests' as one of five types of forests (Article 16) and assigned to MAF the responsibility for coordinating with local authorities and other parties to categorize forest areas and determine areas for forest preservation (Article 60). The 1996 law specified that reserved forests were for the purpose of preserving nature and the environment generally and species of flora and fauna in particular, cultural heritage, and for education and experimental scientific research (Article 18). It also provided that reserved forests could be developed as national parks but did not define national parks or enable their creation (Article 42). The 1996 law did not explicitly delegate the authority to designate reserved forests and did not specify a procedure.
6. MAF issued a regulation in 2003³ which stipulated a procedure for establishing National Biodiversity Conservation Areas (NBCAs) and specified the Prime Minister as the approving authority. The 2003 regulation indicated that it was based on the 1996 Forestry Law.

¹ Decree on the Establishment of National Forest Reserves No. 164/PM dated 29/10/1993.

² Forestry Law No. 01/96 dated 11/10/96. The 1996 law superseded Decree on the Administration of Forests and Forest Land No. 169/PM dated 6 November 1993 and Decree on the Division of Land and Forests for Tree Planting and Forest Preservation No. 186/PM dated 12 October 1994. Neither of these decrees specified the authority that had the power to designate national forest reserves or reserved forests. The fact that the 1996 law superseded Prime Minister's decrees but not a prior law indicates that it was the country's first law on forestry. The 1996 Forestry Law was amended by Forestry Law No. 13/ NA dated 9 November 2005, which in turn was replaced by Forestry Law No. 6/NA dated 24 December 2007.

³ Regulation on the Management of National Biodiversity Conservation Areas (NBCAs), Wildlife and Aquatic Animals No. 0360/MAF.2003 dated 8 December 2003. This regulation replaced a prior regulation on the management of NBCAs, No. 0524/MAF dated 07/06/2001.

7. The 2003 regulation listed 20 NBCAs – the 18 national forest reserves established in 1993 plus two additional areas. The 2003 regulation It appears to be the last time the term ‘NBCA’ was used in the Lao PDR national regulatory framework.
8. According to the procedure in the 2003 regulation for creating NBCAs, MAF was responsible for submitting a proposal – prepared by DOF in coordination with local authorities – to the Cabinet of the Prime Minister’s Office for consideration and approval (Article 5). The regulation specified in detail the rights and duties of DOF and provincial, municipal, and special zone forestry authorities with respect to NBCAs (Articles 24 and 25).
9. The 2003 regulation also created a classification of four types of ‘forest resource conservation areas’ (Article 9), which were apparently separate from NBCAs. The four categories were: protection forest; national park; nature conservation forest; and conservation forest. The regulation described these categories but did not specify the power to designate them or a procedure for doing so and did not assign responsibility for managing them.
10. In 2005, the National Assembly amended the 1996 Forestry Law. The amended law did not use the terms ‘reserved forests’ or ‘national forest reserves’. It introduced the term that was translated into English as ‘conservation forests’ as one of five types of forests (Article 16) and defined them as the 1996 law had defined reserved forests (Article 18). The 2005 amendment replaced ‘reserved forests’ with ‘conservation forests’ in Article 42 and provided that they could be developed as national parks but not define national parks or enable their creation. The amended law retained Article 60, which assigned to MAF the responsibility for coordinating with local authorities and other parties to categorize forest areas and determine areas for forest preservation. Like the 1996 law, the 2005 amendment did not explicitly delegate the authority to designate reserved forests and did not specify a procedure.
11. In the Lao language, the term that is transliterated as “*paa sa-ngoeun*” can be translated to mean ‘conservation forest’ or ‘protected area’. There is no difference between ‘conservation area’ and ‘protected area’ from the Lao language standpoint; both English terms are translated as “*paa sa-ngoeun*” in Lao. It appears that the English term ‘conservation forest’ was used beginning with the 2005 amendment to the 1996 Forestry Law and that at some point prior to 2015 the term ‘protected area’, as opposed to ‘conservation forest’, came into more common use.
12. The Forestry Law⁴ in force as of August 2019 was enacted in 2007. The law stipulates that conservation forests/protected areas are one of three types of forests (Article 9), defines conservation forests/protected areas as they were defined in the 2005 amendment to the 1996 law, and specifies that conservation forests/protected areas can be designated at the national, provincial, district, and village levels (Article 11). The Forestry Law specifies that conservation forests/protected areas can be developed as national parks (Article 24) but, like the 1996 law and 2005 amendment, does not define national parks or enable their creation. The law does not use the term NBCA. It authorizes MAF to define forest types in collaboration with other sectors and submit them to the government for consideration and approval (Article 57) but does not explicitly stipulate, as the 2003 regulation did, that the Prime Minister has approval power.

⁴ Forestry Law No. 6/NA dated 24 December 2007. In April 2019, the National Assembly had adopted a new Forestry Law, subject to revisions which it requested MAF to make. The text of the new law was not available as of August 2019. The law is likely to be completed and promulgated by the President in 2019 or 2020.

3. Current regulatory framework

13. In 2015, the Government issued a Decree ⁵ the English translation of which uses the term 'protected areas'. This decree is the only legal instrument in force as of August 2019 that stipulates the power and procedure for establishing protected areas. The 2015 Government Decree does not use the term NBCA; it supersedes the provisions of the 2003 regulation that specify the procedure for designating a NBCA and the power to approve one.
14. The 2015 Decree establishes four levels of protected areas: national; provincial; district and municipal; and village (Article 5). It creates five categories of protected areas: national park; natural heritage; historical and cultural; conservation zone for wild plants and animals; and resource use (Article (7)).
15. The Decree specifies a four-step procedure for designating a protected area (Article 9):
 - (1) Survey the area proposed as a protected area and compile data on its biodiversity and the socio-economic conditions of the people living there;
 - (2) Produce a map showing the proposed boundaries;
 - (3) Submit the proposal to the appropriate authority; and
 - (4) Register the protected area.The regulation has no further detail on what the survey should include.
16. The power to establish protected areas is distributed among national and sub-national authorities according to the scale of the proposed protected area (Article 12):
 - (a) For a national protected area that includes territory in two or more provinces, the national government makes the proposal and the National Assembly must approve;
 - (b) For a national protected area situated entirely in once province and for a provincial protected that includes territory in two or more districts, a provincial governor makes the proposal to DOF which submits it to the Government and the Government must approve;
 - (c) For a provincial protected area situated entirely in one district and for a district protected area that includes territory in two or more districts, a District Governor submits the proposal prepared by the Capital City or Provincial Agriculture and Forestry Office (PAFO) and the Governor of the province or the Capital City must approve;
 - (d) For a district protected area situated entirely in one district and for a village protected area that includes territory of two or more villages, a Village Head submits the proposal prepared by the District Agriculture and Forestry Office (DAFO) and the District Governor must approve;
 - (e) For a village protected area that is entirely situated in one village, the Village Forest Unit submits the proposal which the Village Head must approve.
17. Once the appropriate authority has approved a protected area, the Ministry of Natural Resources and Environment (MONRE) issues a protected area land title (Article 13). The decree provides no detail on the procedure for applying for the title.
18. The authority to make a change to a legally-established protected area is similar to the authority to approve one (Article 14):
 - (a) The Government must propose any change to a national or provincial protected area and the Standing Committee of the National Assembly must approve;

⁵ Decree of Protected Areas No. 134/G dated 13/5/2015. The Decree was issued when the Ministry of Natural Resources and Environment (MONRE) was responsible for protected areas and has not been amended to reflect the fact that responsibility for protected areas was transferred to DOF in August 2016.

- (b) MAF must propose any change to a district or municipal protected area and the Government must approve; and
- (c) The PAFO must propose any change to a village protected area and the District Governor must approve.

19. The procedure set out in the 2015 Decree has not been used to create a national protected area because all of the 24 national protected areas were established before the 2015 Decree was issued. Most provincial protected areas were also created before 2015. As far as could be determined, one extension of an existing protected area had been approved since 2015.
20. A draft decree on national parks was under discussion as of August 2019. This draft decree defines 'national park' slightly differently from the definition in the 2015 Decree and specifies the same procedure for establishing a national park that is specified in the 2015 Decree.

Annex 1 Legal Provisions in Force that are Related to Establishing Protected Areas

No.	Legal Instrument
Law	
1	Forestry Law No. 6/NA dated 24 December 2007
	<p>Article 9. Forest categories Forests in Lao PDR are classified into three categories for the purpose of preservation and development as follows:</p> <ol style="list-style-type: none"> 1. Protection Forests 2. Conservation Forests/Protected Areas 3. Production Forests
	<p>Article 11. Conservation Forests/Protected Areas Conservation forests/Protected areas are forests classified for the purposes of conserving nature, protecting plant and wildlife species, forest ecosystems and other sites valuable for their natural, historical, cultural, tourism, environmental characteristics, as well as for educational and scientific research. Conservation forests/Protected areas consist of National protected areas and protected areas at the Provincial, District and Village levels which are described in specific regulations.</p>
	<p>Article 24. Protection of Conservation Forests/Protected Areas Protection of Conservation Forests/Protected Areas is to maintain abundance in the forest as well as the preservation of plants and wildlife species, biodiversity, ecosystems of natural, historical and cultural values for existence and development together with preservation of beautiful scenery or landscapes for development of national park which are suitable for tourism as well as areas for scientific research.</p>
	<p>Article 57. Management of forestland The Ministry of Agriculture and Forestry is authorized to manage forestland and to define forestland types in collaboration with other sectors concerned to study and making regulations in the management, preservation, development and utilization of these types of land including preservation of environment and then submit them to the government for consideration and approval.</p>
Decree	
2	Decree of Protected Areas No. 134/G dated 13/5/2015
	<p>Article 5: Levels of Protected Areas Protected Areas in the Lao People's Democratic Republic are classified into four levels as below:</p> <ol style="list-style-type: none"> 1. National Protected Areas; 2. Provincial and Capital City Protected Areas; 3. District and Municipality Protected Areas; Village Protected Areas.
	<p>Article 7: Categories of Protected Areas Protected Areas in Lao People's Democratic Republic are categorized as below:</p> <ol style="list-style-type: none"> 1. National Park Protected Area is a Protected Area where has a particular characteristic with a variety of eco-system that is outstanding and has value for a science research, tourism, environmental conservation and culture; 2. Natural Heritage Protected Area is a Protected Area with a particular outstanding characteristic in terms of nature in the national, regional and global levels; 3. Historical and Cultural Protected Area is a protected area where there is prominently a long national history and culture; 4. Protected Area where is a zone for conservation of plants, aquatic and wildlife conservation and aquatic & wildlife breed is a Protected Area where there are still some species of plants aquatic and wild fauna that get rare and nearly extinct;

No.	Legal Instrument
	Protected Area for managing the utilization of resources is a Protected Areas where there is a plenty of nature. It is a zone for the management, protection, development and use of natural resources in a sustainable manner;
	<p>Article 9: The determination of Protected Areas</p> <p>The determination of a particular forest and forest land to be a Protected Area shall follow the procedure as below:</p> <ol style="list-style-type: none"> 1. Survey and collect information concerning the condition of area, biological diversity and socio-economic condition of villages inside and surrounding the area where will be determined to be a Protected Area; 2. Produce a map showing the boundary of the location and forest condition; 3. Propose to the authority that has a mandate as determined in article 12 of this decree to consider and approve; 4. Register the Protected Areas.
	<p>Article 12: The approval of Protected Areas</p> <p>The approval of Protected Areas shall follow as below:</p> <ol style="list-style-type: none"> 1. For the National Protected Area where covers the areas of many Provinces, the National Assembly will be the body to approve such area in response to the proposal from government; 2. For the National Protected Area where does not cover the areas of many Provinces and for the Provincial Protected Area where covers the areas of many Districts, the government will be authority to approve such area in response to the proposal from MONRE based on the agreement from the Provincial Governor; 3. For the Provincial Protected Area where does not cover the areas of many Districts and for the District Protected Area where cover the areas of many Districts, the governor of Province or Capital City will be the person in charge of approval of such area in response to the proposal from Provincial or Capital City Office of Natural Resources and Environment based on the agreement from District Governor; 4. For the District Protected Area where does not cover the areas of many Districts and for the Village Protected Area where cover the areas of many Villages, the District Governor will be the person in charge of approval of such area in response to the proposal from DONRE based on the agreement from the Head of village; 5. For the Village Protected Area where does not cover the areas of many Villages, the head of Village will be the person who approve such area in response to the proposal from Village Forest Unit.
	<p>Article 13: The registration of Protected Area</p> <p>The registration of Protected Area is the listing and legally issuing the Protected Area Land Title to the Protected Area Management Authority so that it can facilitate the management and protection of every Protected Area being approved as determined in article 12 of this decree. The natural resource and environmental sector shall register and issue the Protected Area Land Title.</p>
	<p>Article 14: The conversion of Protected Area</p> <p>In the case when it is necessary to have a conversion of Protected Area or some parts of Protected Area in order to fulfil other aims where it is seen as having higher benefit, it shall follow as below:</p> <ol style="list-style-type: none"> 1. The conversion of National and Provincial Protected Area shall be approved by the Standing Committee of National Assembly in response to the proposal from the government; 2. The conversion of District and Urban Protected Area shall be approved by the government in response to the proposal from MONRE based on the agreement of the Provincial Governor;

No.	Legal Instrument
	3. The conversion of Village Protected Area shall be approved by the Provincial or Capital City Authority in response to the proposal from PONRE based on the agreement of the District Governor.