

## POLICY BRIEF

# BRAZIL'S NEW FOREST CODE PART II: PATHS AND CHALLENGES TO COMPLIANCE

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## INTRODUCTION: THE NEW FOREST CODE A CRITICAL MOMENT FOR BRAZIL

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The approval of Brazil's new Forest Code in 2012 delivered the nation to a critical moment: in order to achieve its climate targets, Brazil must now implement and enforce the environmental protections outlined in its forestry laws, which will be a difficult task. Though it has promise as an effective tool against climate change and to promote efficient land use, the new Forest Code relies heavily on the Brazilian states and individual landowners to ensure its compliance and its success.

The Brazilian states must enact further legislation for the code's implementation, and the Forest Code's complicated system of regulations must be integrated at state and local levels. In addition, individual rural landholders are expected to understand the law and comply with its requirements by initiating the process of environmental compliance themselves.

To address these challenges, INPUT researchers at Climate Policy Initiative in Brazil have created a series of in-depth policy overviews designed to clarify the new Forest Code and encourage its compliance. The first brief, Brazil's New Forest Code Part I: How to Navigate the Complexity, provides an overview of the code, outlining its key instruments and obligations.

This brief describes the process of how rural properties can be brought into compliance with the Forest Code, and it outlines the steps that rural landholders need to follow. The brief also highlights the key challenges landholders face at each stage of the compliance process. Examples throughout the brief illustrate how the environmental compliance process may differ at the state level from the process described in the Forest Code, another challenge for implementation and compliance.

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## KEY COMPLIANCE CHALLENGES THE IMPACT ON LANDHOLDERS

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- Landholders need to know the historical occupation of their land, i.e., when deforestation took place. If the property was deforested by a previous owner, this information may be unknown or unavailable.
- If different parts of the property were deforested at different times (e.g., before and after July 2008), then landholders will need to follow different procedures for compliance on the different parts of the land.
- The code does not detail compliance procedures for areas deforested after July 2008.
- If landholders own properties in different states, they will need to follow different compliance procedures for each state.
- The code requires but lacks clear parameters for good practices in soil and water conservation that landholders should follow.
- Some of the instruments outlined in the new Forest Code lack sufficient guidance or regulation to be fully implemented, i.e., Environmental Reserve Quotas (CRA) and the program to support and stimulate environmental recovery and preservation.
- To benefit from the flexible restoration requirements granted by the law, properties under the special regime must be registered in the CAR and enrolled in the Environmental Regularization Program (PRA). Since most states have not yet enacted their PRA legislation, landholders cannot initiate the compliance process in order to benefit from the Forest Code's special rules.
- Landholders will need to initiate the process of environmental compliance themselves. They also need to support the costs related to these activities, including the costs of land restoration and hiring a technical expert to register in the CAR and develop the environmental recovery plans.
- Legal actions have been filed, and are still pending, alleging the unconstitutionality of the new Forest Code, which adds uncertainty and delays to the compliance process.

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# STEP-BY-STEP: HOW TO COMPLY WITH THE NEW FOREST CODE

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## Structure of this Brief

This policy brief aims to explain the Forest Code in detail, to highlight the steps for compliance, and to identify the key challenges to successful implementation and enforcement.

First, it provides an overview of what the code is and its main instruments. Specifically, this section explains the tools of preservation outlined in the new law and how properties are categorized according to the law. The history of occupation on the property and its size dictate, in part, how the law is enforced. This section also builds on the first brief in this series, Brazil's New Forest Code Part I: How to Navigate the Complexity.<sup>1</sup>

Second, the brief summarizes the compliance process for large properties (more than four fiscal modules).<sup>2</sup> It breaks down the steps that need to be followed by all property owners, including registering the property within the Rural Environmental Registry (CAR) database. This step lets landowners know whether or not their property is in compliance with the code. The section then outlines the steps the landowners whose properties are not in compliance need to take to meet the requirements of the new Forest Code.

Third, a brief section summarizes the special conditions allowed for small properties (less than or equal to four fiscal modules) under the code.

Finally, the brief presents flowcharts, highlights, and call-out boxes to help explain the Forest Code. The step-by-step flowcharts (Figures 1 to 8) show how to navigate the code and identify where potential problems may arise. Highlights throughout the brief summarize the key challenges for landholders according to the characteristics of their property. Call-out boxes illustrate specific examples of how some states have interpreted and implemented the compliance process.

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<sup>1</sup> <http://www.inputbrasil.org/projetos/codigo-florestal-desafios-para-regularizacao-ambiental/?lang=en>

<sup>2</sup> A fiscal module (*módulo fiscal*) is a unit of land measure, expressed in hectares, created for tax purposes. The fiscal modules range from five to 110 hectares, according to the municipality.

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## BRAZIL'S NEW FOREST CODE THE BASICS

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The new Forest Code, enacted in 2012, establishes the regulatory framework for environmental conservation on private lands by imposing limitations on how the land is used. The law relies on two types of protection instruments for conservation on private lands: the **Permanent Preservation Areas** (Áreas de Preservação Permanente - **APP**) and the **Legal Forest Reserve** (Reserva Legal) regulations. Although these limitations were in place before the enactment of the new Forest Code in 2012, the lack of enforcement of the law led to a critical situation: An enormous environmental loss was caused by illegal deforestation on private lands.

All rural landowners must now comply with the APP and Legal Forest Reserve requirements. However, in order to create an affordable way for some landholders to comply with the forestry law and recover (at least partially) the environmental “debt” on their properties, the new code creates a special regime. This special regime applies solely to rural properties where native vegetation was illegally clear-cut in APP and Legal Forest Reserve areas for agriculture or livestock breeding purposes prior to July 22, 2008.<sup>3</sup> The environmental compliance process allows more lenient restoration requirements in these areas, which are called **Consolidated Rural Areas** in the law. Consolidated Rural Areas are categorized into two groups: larger or smaller than four fiscal modules. The restoration requirements for smaller properties in these areas are more lenient than for the larger ones.

In sum, the environmental compliance of rural properties depends on two key factors: (1) whether the property was deforested before or after July 22, 2008 (**Consolidated Rural Area rule**), and (2) the size of the land (**the four fiscal module rule**).

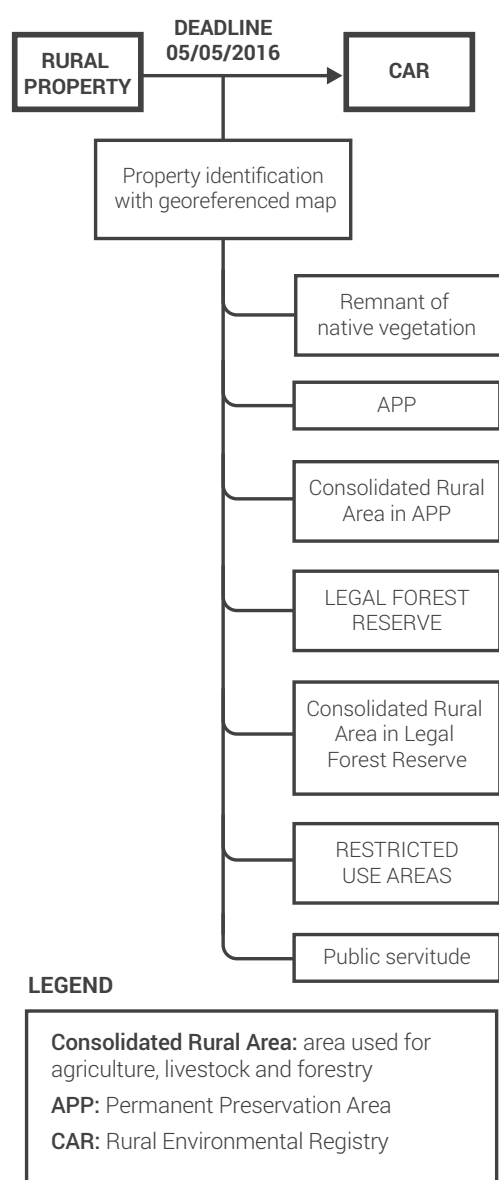
This document describes the compliance process for rural properties according to the main obligations established by the Forest Code. However, it is important to mention that there are other environmental requirements, imposed by the forestry laws, that landholders must observe in order to be in full compliance; only the Forest Code is addressed in this brief.

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<sup>3</sup> July 22, 2008 is the date of enactment of the Federal Decree No. 6,514 that established penalties and administrative offences for illegal activities against the environment. It also serves as pivotal date for applying special regime considerations under the new Forest Code.

# COMPLIANCE PROCESS FOR PROPERTIES LARGER THAN FOUR FISCAL MODULES (LARGE PROPERTIES)

**FIGURE 1:** Steps Landowners Must Take to Register in the CAR



## STEPS TO FOLLOW FOR ALL PROPERTIES: REGISTER IN THE CAR AND DETERMINE THE PROPERTY'S COMPLIANCE STATUS

According to the Forest Code, the first step toward Forest Code compliance, for all rural landholders, is to register the property in the **Rural Environmental Registry** (Cadastro Ambiental Rural - **CAR**).<sup>4</sup>

Landholders must register their properties before May 5, 2016 and present a georeferenced map identifying the following features of the property: (i) perimeter; (ii) remnants of native vegetation; (iii) Permanent Preservation Areas (APP); (iv) Legal Forest Reserve areas; (v) Restricted Use Areas;<sup>5</sup> (vi) Consolidated Rural Areas in APP and Legal Forest Reserve; and (vii) public servitudes (Figure 1).

The registration of the rural property in the CAR should be undertaken by municipal or state environmental agencies. It is important to note that states can create their own rules and procedures when implementing the Forest Code. Some states have created a more complex CAR database system, requesting landholders to provide more information than those required by the Forest Code itself (see Box 1 which describes the State of Bahia CAR requirements). Subsequently, all the data provided at state level will be consolidated in a single national system.

From the analyses of the data and the georeferenced map submitted to the CAR, it will be possible to identify whether or not the rural property is in accordance with the Forest Code rules.

<sup>4</sup> CAR is a national, online public registry, which serves as a tool to monitor and control deforestation in private landholdings and to integrate the environmental information of the rural properties. This will enable more effective management and planning in rural areas. CAR was introduced as part of the new Forest Code.

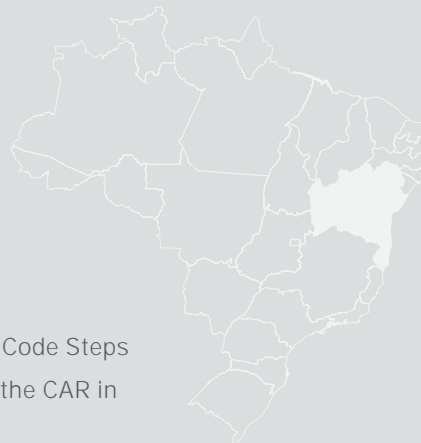
<sup>5</sup> Areas of Restricted Use include both: (i) areas in slope with declivity between 25 and 45 degrees; and (ii) Pantanal plains and wetland plains.

## BOX 1. CAR REQUIREMENTS IN THE STATE OF BAHIA

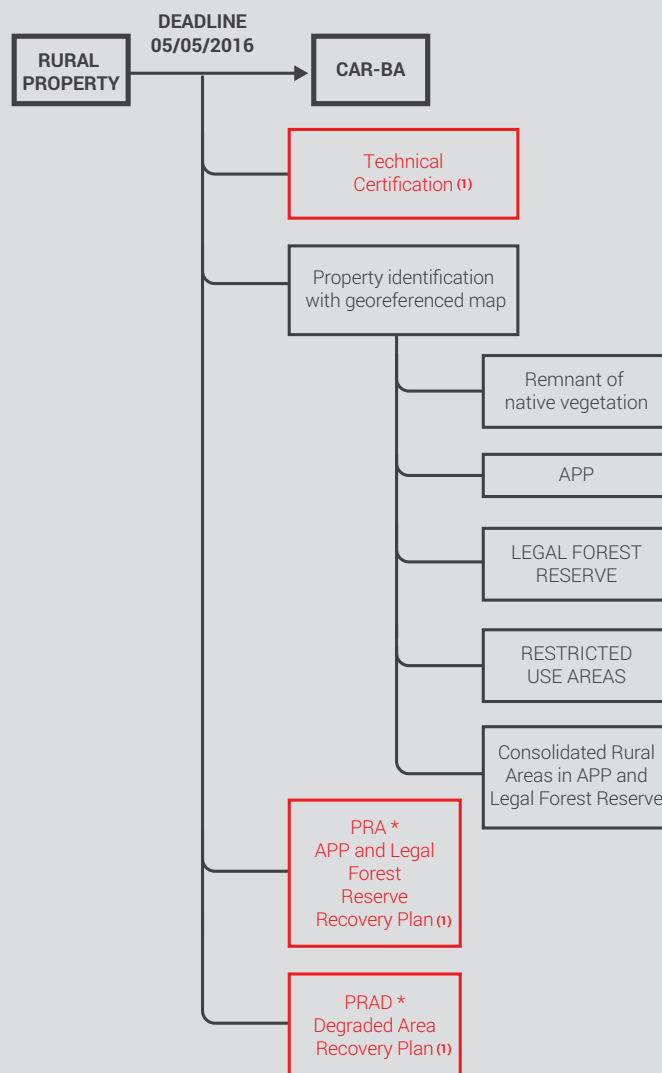
The State of Bahia requires that landholders present a georeferenced map with the property's environmental characteristics and recovery plans in case of illegal deforestation in APP and Legal Forest Reserve or due to any other environmental liability caused by agroforestry activities (Figure 2).

For example, if the APP and/or the Legal Forest Reserve were illegally cleared, the landowner must present an APP and Legal Forest Reserve Recovery Plan, detailing the vegetation recovery process, the techniques to be used, and the implementation timeline.

Moreover, Bahia legislation requires landholders to hire a specialist who will be responsible for the collection of all the information, the design of the property's map, and the development of the environmental recovery plans.



**FIGURE 2:** Forest Code Steps for Registering in the CAR in the State of Bahia



**LEGEND**

**Consolidated Rural Area:** area used for agriculture, livestock and forestry  
**APP:** Permanent Preservation Area  
**CAR:** Rural Environmental Registry  
 ● (1) Specific rules from the State of Bahia  
 (\*) The State of Bahia recovery plans differ from the Forest Code's recovery plans

## KEY COMPLIANCE CHALLENGES: REGISTERING IN THE CAR

To register a property in the CAR, landholders face several challenges. These include the identification of all environmental features, according to the Forest Code's designations and requirements, and the completion of a map that uses a coordinate reference system. Although the Forest Code does not require participation by a Geographic Information System (GIS) specialist, most landholders will probably need some technical assistance to accomplish the CAR registration step.

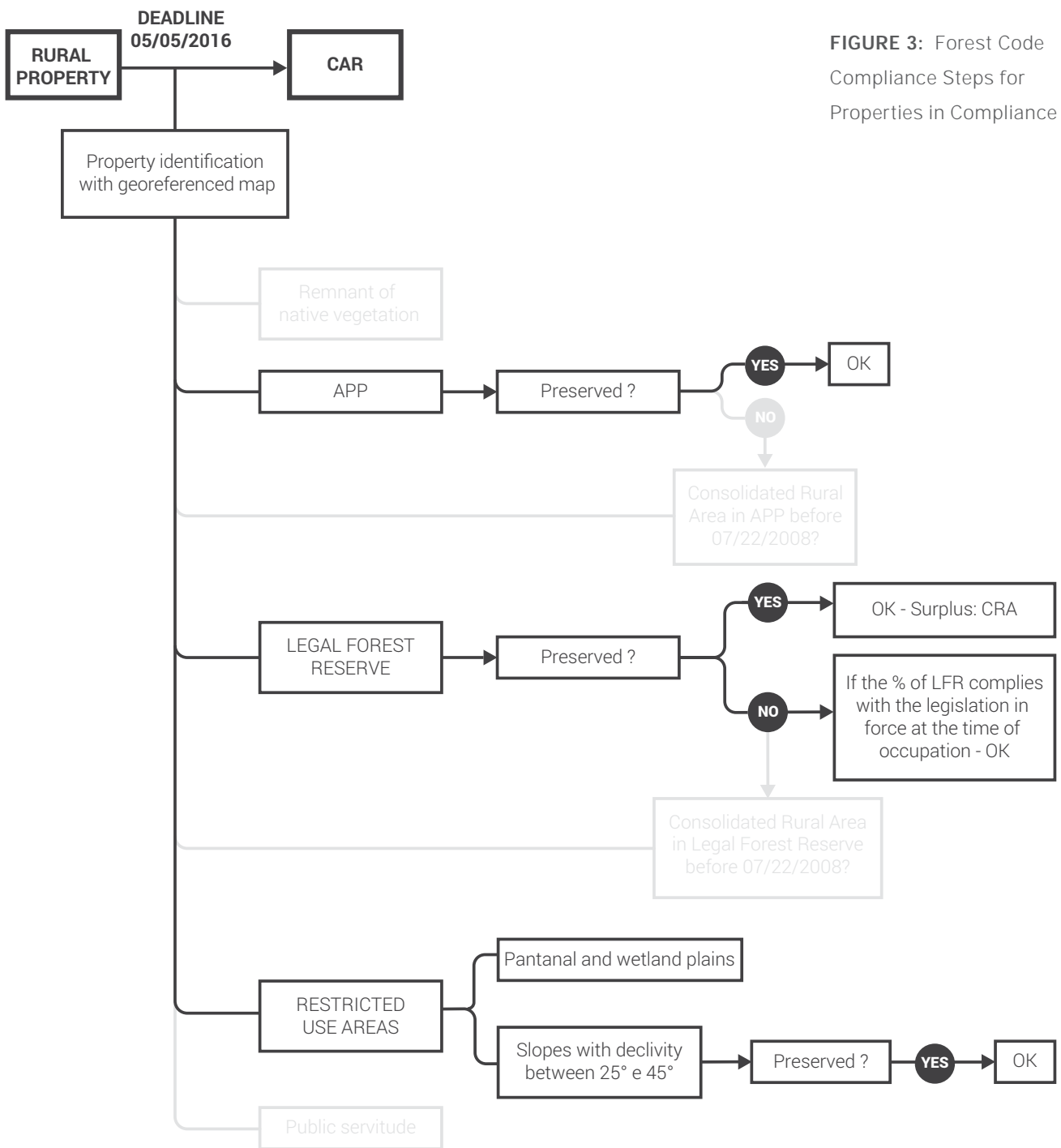
- Landholders need to identify the property's APP, Legal Forest Reserve, and Restricted Use Areas.
- Landholders need to support the cost of hiring a technical expert to accomplish the CAR registration step.
- Landholders need to know the historical occupation of their land, i.e., when deforestation took place. If the property was deforested by a previous owner, this information may be unknown or unavailable.

## STEPS TO FOLLOW FOR PROPERTIES IN COMPLIANCE WITH THE APP, LEGAL FOREST RESERVE, AND RESTRICTED USE AREAS REQUIREMENTS

If the property's APP, Legal Forest Reserve and Restricted Use Areas meet Forest Code requirements, then the property can be considered in compliance with these Forest Code obligations (Figure 3).

It is possible for an area of land to be in compliance even if the Legal Forest Reserve does not meet the new Forest Code percentage requirements. If the deforestation occurred in accordance with the forestry law in force at that time, the new Forest Code exempts landholders from restoring the land or compensating for the Legal Forest Reserve deficit.

For landholders that maintained native vegetation in excess of the minimum Legal Forest Reserve requirements, the Forest Code provides the opportunity to issue **Environmental Reserve Quotas** (Cota de Reserva Ambiental - **CRA**). CRA is a title that represents one hectare of preserved native vegetation. The title can be traded with landholders who deforested prior to July 2008 and do not meet the law's area-based conservation requirements. These landowners with Legal Forest Reserve deficits are allowed to compensate by purchasing CRA.



**FIGURE 3:** Forest Code Compliance Steps for Properties in Compliance

**LEGEND**

**Consolidated Rural Area:** area used for agriculture, livestock and forestry  
**APP:** Permanent Preservation Area  
**CAR:** Rural Environmental Registry  
**CRA:** Environmental Reserve Quota  
**LFR:** Legal Forest Reserve



## KEY COMPLIANCE CHALLENGES: PROPERTIES IN COMPLIANCE

- Landholders need to prove that their property's APP, Legal Forest Reserve, and Restricted Use Areas have been preserved according to Forest Code requirements in order to be in compliance with the Forest Code. Otherwise, they must be able to prove that deforestation occurred in accordance with the law in force at that time.
- The lack of regulation at the federal level regarding the CRA is a barrier to the full implementation and the operation of the CRA market. Its success depends on CRA issuers and buyers having secure land tenure, strict monitoring and enforcement of areas in the CRA market, and the usability of the CRA system.
- In the absence of federal regulation, some states have established their own CRA rules which may contradict future federal regulation and raise further legal uncertainty.

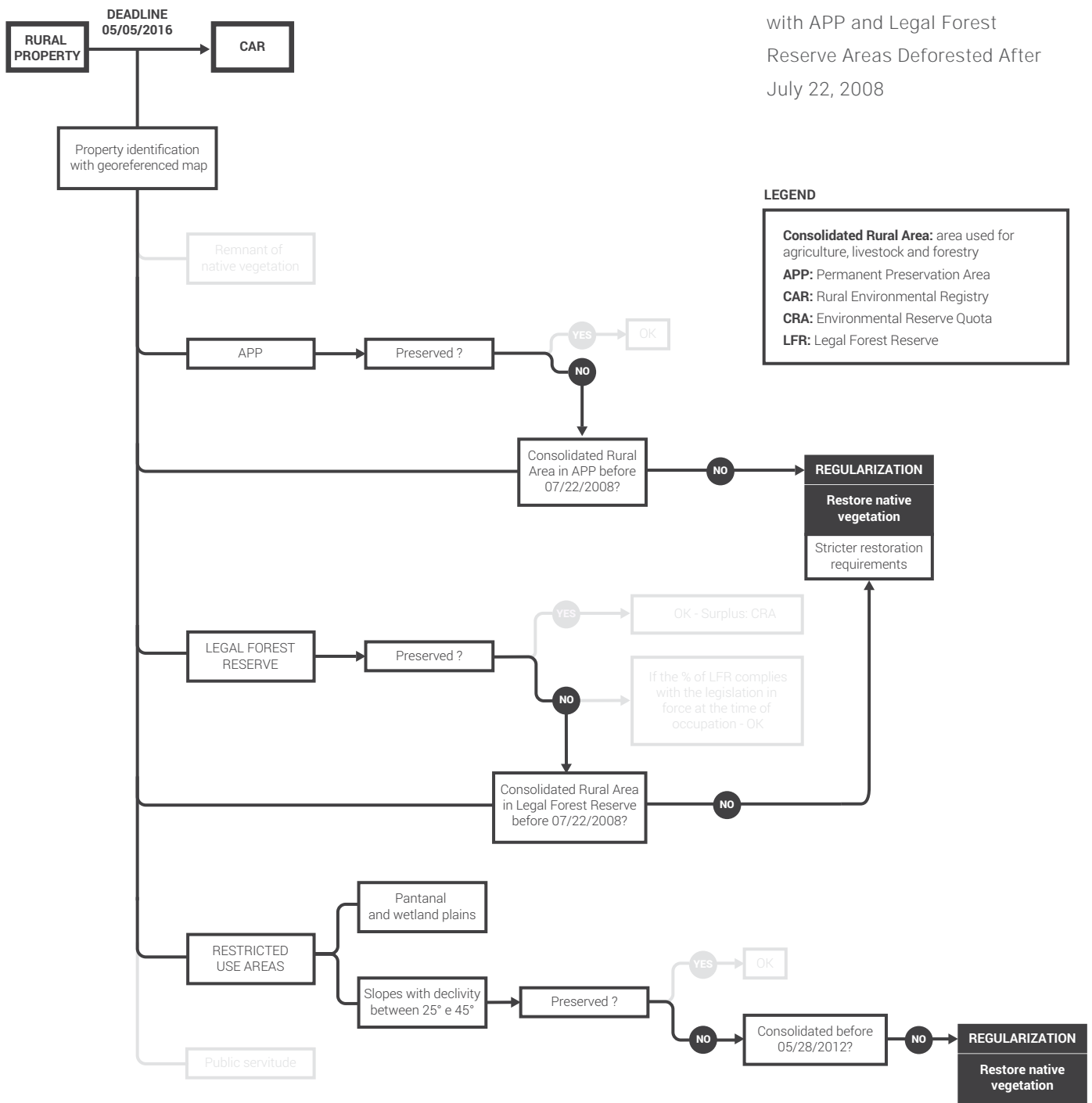
## STEPS TO FOLLOW FOR NON-COMPLIANT PROPERTIES WITH APP AND LEGAL FOREST RESERVE AREAS DEFORESTED AFTER JULY 22, 2008

If the CAR determines that the rural property is not in compliance with the Forest Code, then the regularization process depends on the Consolidated Rural Area rule – which refers to whether or not areas in the APP and the Legal Forest Reserve were cleared before July 22, 2008.

According to the new Forest Code, if native vegetation in APP and Legal Forest Reserve were illegally clear-cut after July 22, 2008, the law mandates the following actions: The landowner must immediately suspend agroforestry<sup>6</sup> activities undertaken in these areas and recover the whole area according to the Forest Code's stricter requirements. The landowner cannot benefit from the special regime's rules for areas cleared after July 2008 (Figure 4).

For areas on slopes between 25 and 45 degrees, classified as Restricted Use Areas, the Forest Code only prohibits the conversion of new areas, which means no deforestation is allowed after May 28, 2012, the date when the new Forest Code went into effect. Therefore, if native vegetation in these areas was illegally cleared after that date, the landowner must immediately recover the entire deforested area.

<sup>6</sup> Agroforestry activities include farming, livestock, aquaculture, and forestry activities occurring either jointly or separately.



**FIGURE 4: Forest Code**  
Compliance Steps for Properties with APP and Legal Forest Reserve Areas Deforested After July 22, 2008

**LEGEND**

**Consolidated Rural Area:** area used for agriculture, livestock and forestry  
**APP:** Permanent Preservation Area  
**CAR:** Rural Environmental Registry  
**CRA:** Environmental Reserve Quota  
**LFR:** Legal Forest Reserve

## KEY COMPLIANCE CHALLENGES: APP AND LEGAL FOREST RESERVE AREAS DEFORESTED *AFTER* JULY 22, 2008

The new Forest Code does not detail the compliance procedures for areas deforested after July 22, 2008. The code only establishes that the Legal Forest Reserve must be recovered within twenty years. However, important issues remain unanswered, including the following:

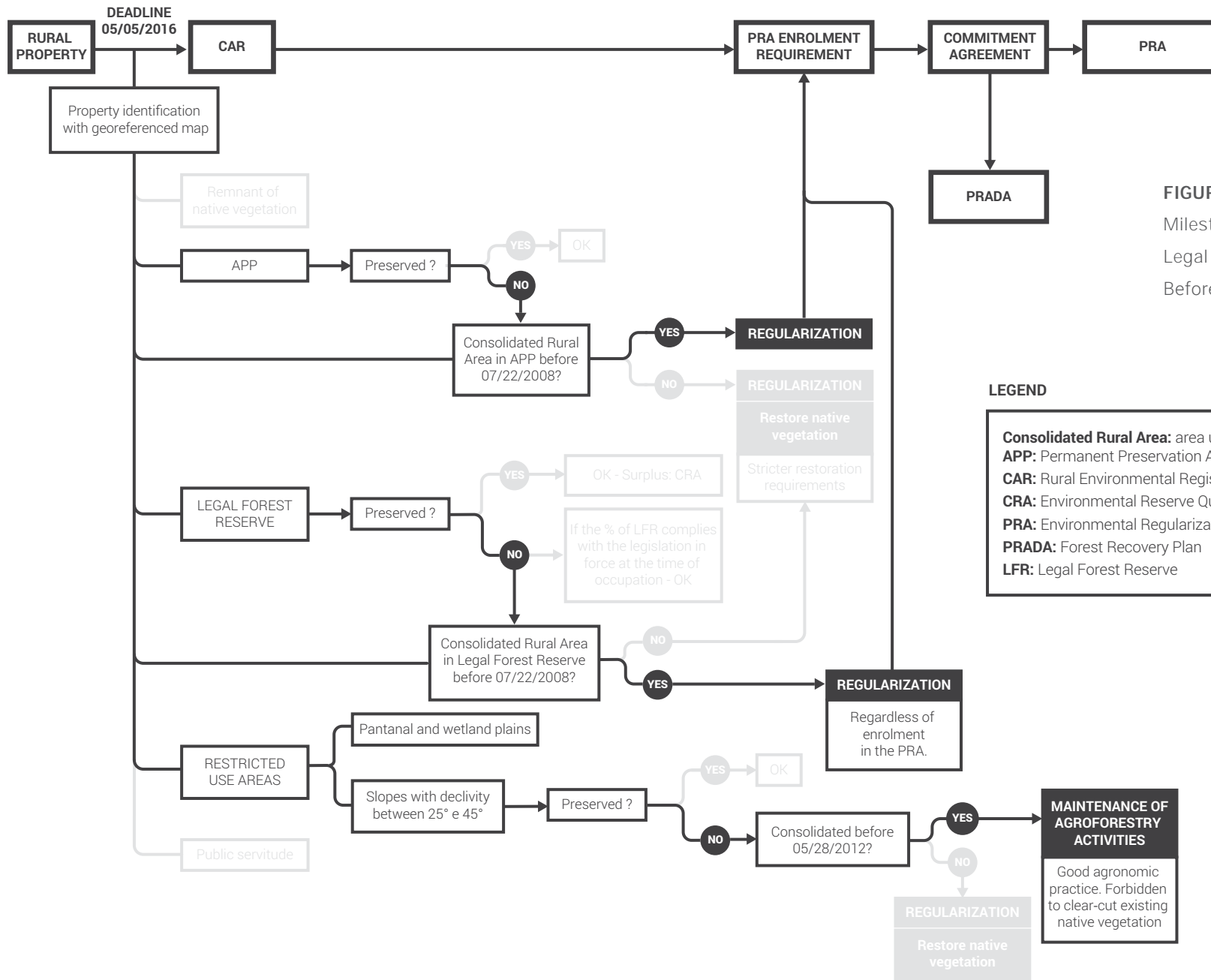
- Should landholders present recovery plans to the state environmental agency for approval?
- Should states establish specific recovery rules, e.g., number of species that must be used, techniques for restoration, etc.?
- Is there a set deadline for the completion of APP recovery?

## STEPS TO FOLLOW FOR NON-COMPLIANT PROPERTIES WITH APP AND LEGAL FOREST RESERVE DEFORESTED *BEFORE* JULY 22, 2008

### Compliance Milestones

Landholders, who illegally clear-cut Permanent Preservation Areas and Legal Forest Reserve prior to July 2008, must still comply with the Forest Code but are also entitled to benefits from the special regime's rules by enrolling in the **Environmental Regularization Program** (Programa de Regularização Ambiental - **PRA**) and signing a **Commitment Agreement** (Figure 5).

Along with signing the Commitment Agreement, landholders must submit a **Forest Recovery Plan** (*Projeto de Recuperação das Áreas Degradadas e Alteradas* – **PRADA**), that details how the area will be restored, specifying a deadline and setting a schedule for compliance.



**FIGURE 5:** Forest Code Compliance Milestones for Properties with APP and Legal Forest Reserve Areas Deforested Before July 22, 2008

**LEGEND**


**Consolidated Rural Area:** area used for agriculture, livestock and forestry  
**APP:** Permanent Preservation Area  
**CAR:** Rural Environmental Registry  
**CRA:** Environmental Reserve Quota  
**PRA:** Environmental Regularization Program  
**PRADA:** Forest Recovery Plan  
**LFR:** Legal Forest Reserve

The commitment to restore APP and Legal Forest Reserve vegetation within PRA's scope grants these landholders the following advantages: immunity from prosecution for all clear-cutting before July 2008; suspension of sanctions (fines and embargoes) resulting from irregular deforestation in APP, Legal Forest Reserve, and Restricted Use Areas prior to July 2008; forgiveness of environmental fines for deforestation before July 2008; new APP restoration requirements; and the possibility to offset the Legal Forest Reserve by purchasing credits from landholders who have kept more forest than required by law.

To comply with Legal Forest Reserve requirements, landholders with Consolidated Rural Areas do not have to enroll in the PRA or sign the Commitment Agreement. However, without doing so, they cannot benefit from the suspension and forgiveness of fines and embargoes, as mentioned above.

It is important to mention that the benefits from signing the Commitment Agreement (suspension of fines and embargoes) will be effective at different times throughout the compliance process depending on each state's legislation (see Box 2 for an example of the process for the State of São Paulo).

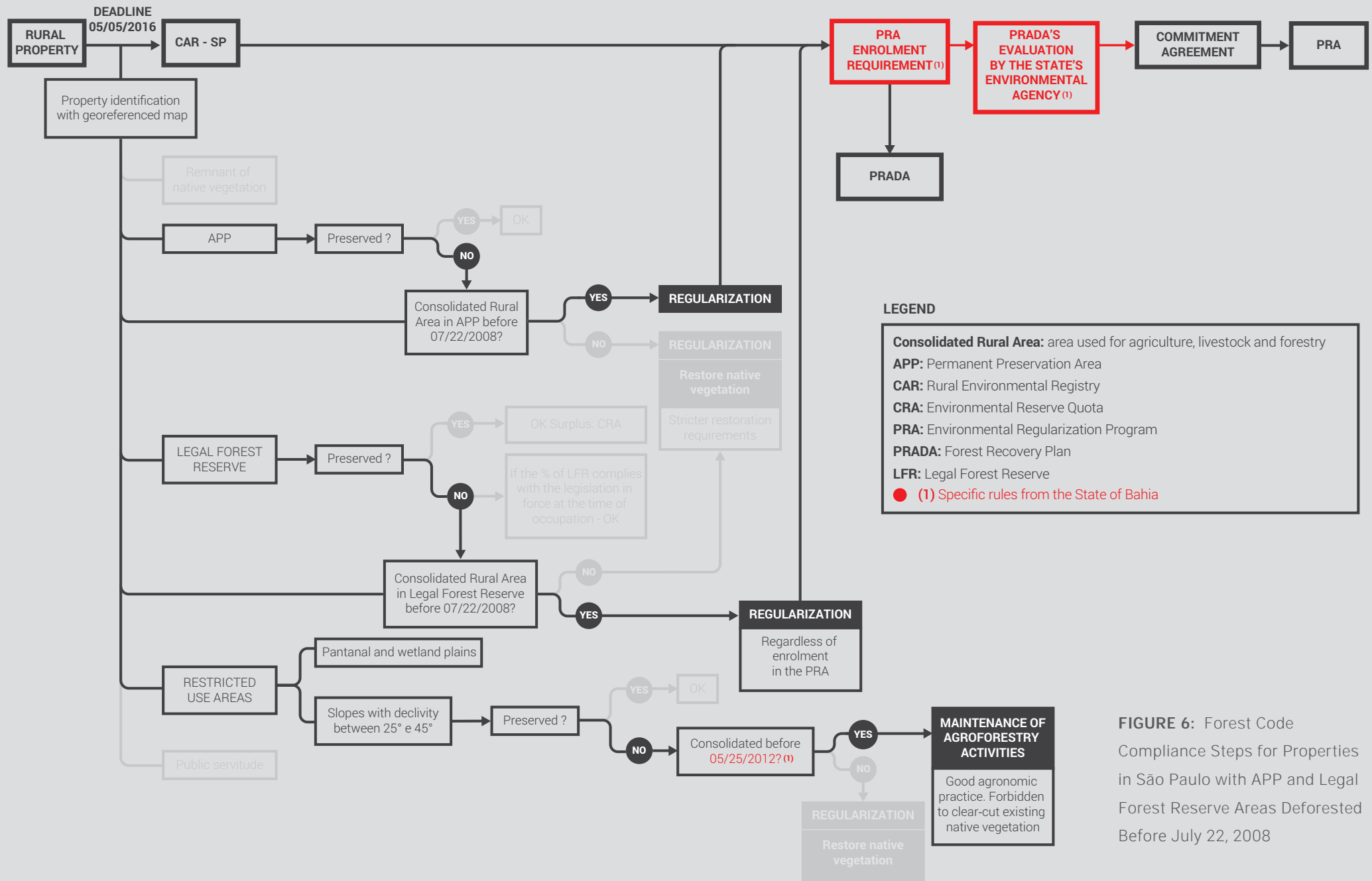
Enrolment in the PRA allows landholders to maintain agroforestry activities in Consolidated Rural Areas provided that they adopt good practices in soil and water conservation. To enjoy this benefit, landholders cannot clear-cut new areas for alternative use of the land.



## **BOX 2. ENVIRONMENTAL REGULARIZATION IN THE STATE OF SÃO PAULO**

The State of São Paulo established a different compliance process. Before enrolling in the PRA, landholders must submit a detailed recovery plan for Consolidated Rural Areas in the APP and Legal Forest Reserve to the environmental agency. The agency has up to twelve months to evaluate and approve the plan. Only after the plan's approval can landowners enroll in the PRA and sign the Commitment Agreement (Figure 6).

It is important to mention that, in the State of São Paulo, the benefits of the Commitment Agreement's signature (suspension of fines and embargoes) will take place only after the evaluation and approval of the recovery plan.



**FIGURE 6:** Forest Code Compliance Steps for Properties in São Paulo with APP and Legal Forest Reserve Areas Deforested Before July 22, 2008

## KEY COMPLIANCE CHALLENGES: CONSOLIDATED MILESTONES FOR APP AND LEGAL FOREST RESERVE AREAS DEFORESTED BEFORE JULY 22, 2008

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- Landholders are expected to understand the law and initiate the process of environmental compliance themselves, without governmental assistance.
- Depending on how long it takes the environmental agency to validate the CAR and approve the Forest Recovery Plan (PRADA), the compliance process may be delayed.
- To benefit from the flexible restoration requirements, larger properties under the special regime must be registered in the CAR and enrolled in the PRA. Since most states have not yet enacted PRA legislation, landholders cannot benefit from the Forest Code's special rules.

### APP Compliance Requirements

Under the special regime, the Forest Code allows the continuation of logging activities, livestock breeding, and the cultivation of woody, perennial, or long cycle species on hilltops, slopes greater than 45 degrees, and in areas of altitude higher than 1.800 meters. In these situations, landholders are exempt from recovering the APP vegetation.

However, around watercourses, springs, and lakes, landowners must restore part of the Consolidated Rural Areas in APP, according to special requirements. APP vegetation can be recovered by (i) natural regeneration, (ii) planting seeds and seedlings of native species, or (iii) combining both methods.

The Forest Code does not set a deadline for recovering APP nor does it establish whether the total area must be recovered all at once or in phases.

## Legal Forest Reserve Compliance Requirements

Landholders under the special regime have the option to recover the Legal Forest Reserve within their property or to compensate for it with off-site conservation. Recovery requirements include (i) natural regeneration and (ii) planting seeds and seedlings of native and exotic (non-native) species in the agroforestry system. The exotic species cannot exceed 50% of the recovery area.

Legal Forest Reserve requirements can also be met by purchasing credits from landholders who have maintained more native vegetation than legally required. The Forest Code establishes four paths to compensate the Legal Forest Reserve off-site: (i) purchase an Environmental Reserve Quota (CRA); (ii) establish a conservation easement agreement; (iii) donate an area located in a public Protected Area that is pending regularization to the government; and (iv) designate surplus areas in a different property of the same owner, as Legal Forest Reserve.

The Forest Code imposes four conditions for allowing Legal Forest Reserve compensation: (i) both the “deficit” property and the “surplus” property must be registered in the CAR; (ii) the areas used for compensation should be equivalent in size to the area of the Legal Forest Reserve to be compensated; (iii) the areas used for compensation must be in the same biome as the Legal Forest Reserve area to be compensated; and (iv) if the compensation will take place outside the state, the areas to be used for compensation shall be located in areas identified as priorities by the Union or states.

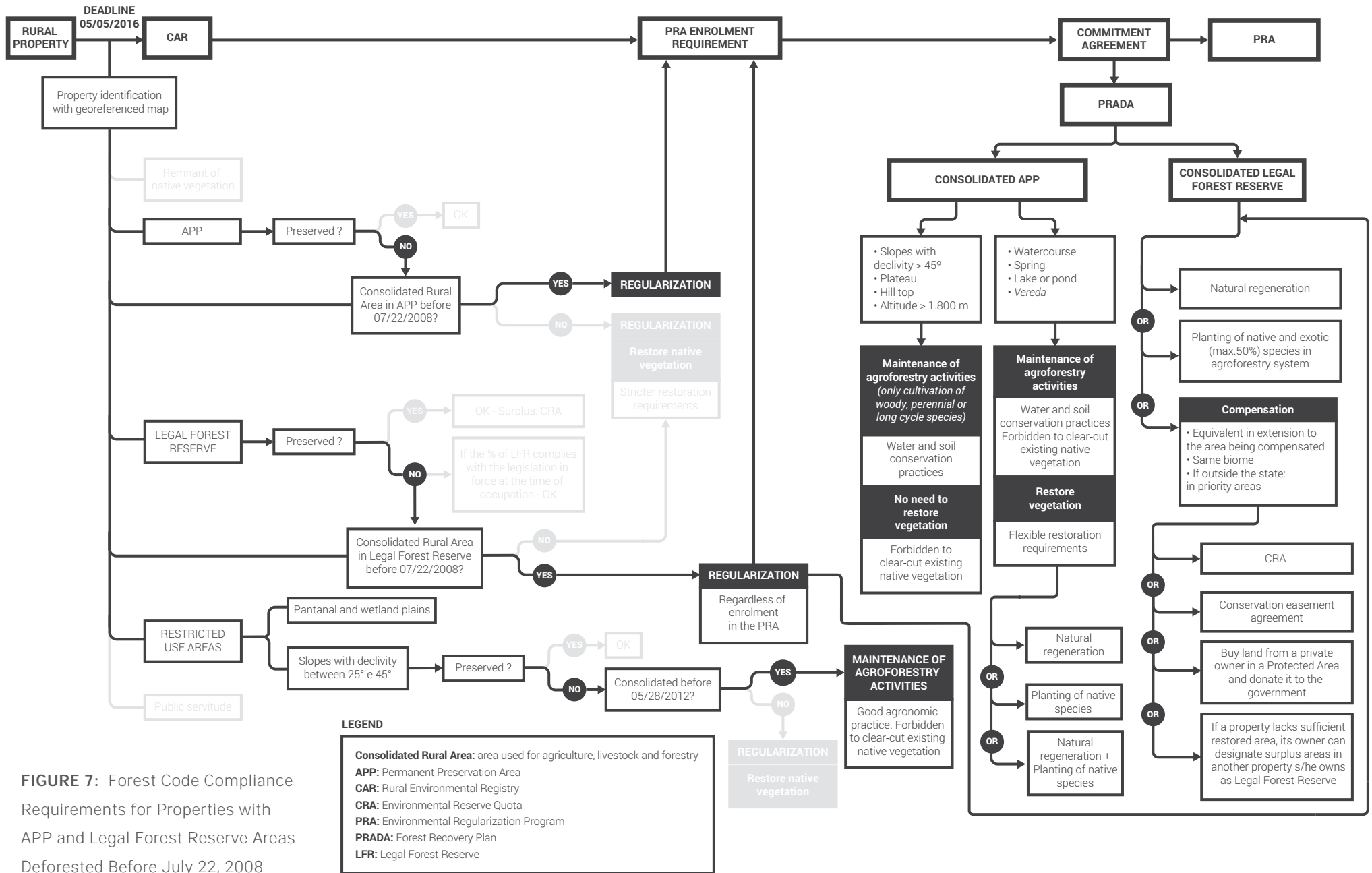
In the absence of federal regulation, some states have established their own CRA rules which may contradict future federal regulation, raising further legal uncertainty (see Box 3 for an example of how the CRA has been implemented in the state of Mato Grosso do Sul).

The Legal Forest Reserve must be recovered within twenty years; one-tenth of the total area must be restored every two years. During the recovery process, landholders can freely manage the land that remains unrecovered (Figure 7).

### BOX 3. THE ENVIRONMENTAL RESERVE QUOTA (CRA) IN THE STATE OF MATO GROSSO DO SUL

The State of Mato Grosso do Sul established the basis for creating a State CRA system that will work within the state’s boundaries. Only properties located in Mato Grosso do Sul will be allowed to issue a State CRA, and a State CRA may be used only to compensate Legal Forest Reserve deficits in properties located in Mato Grosso do Sul.





**FIGURE 7:** Forest Code Compliance Requirements for Properties with APP and Legal Forest Reserve Areas Deforested Before July 22, 2008

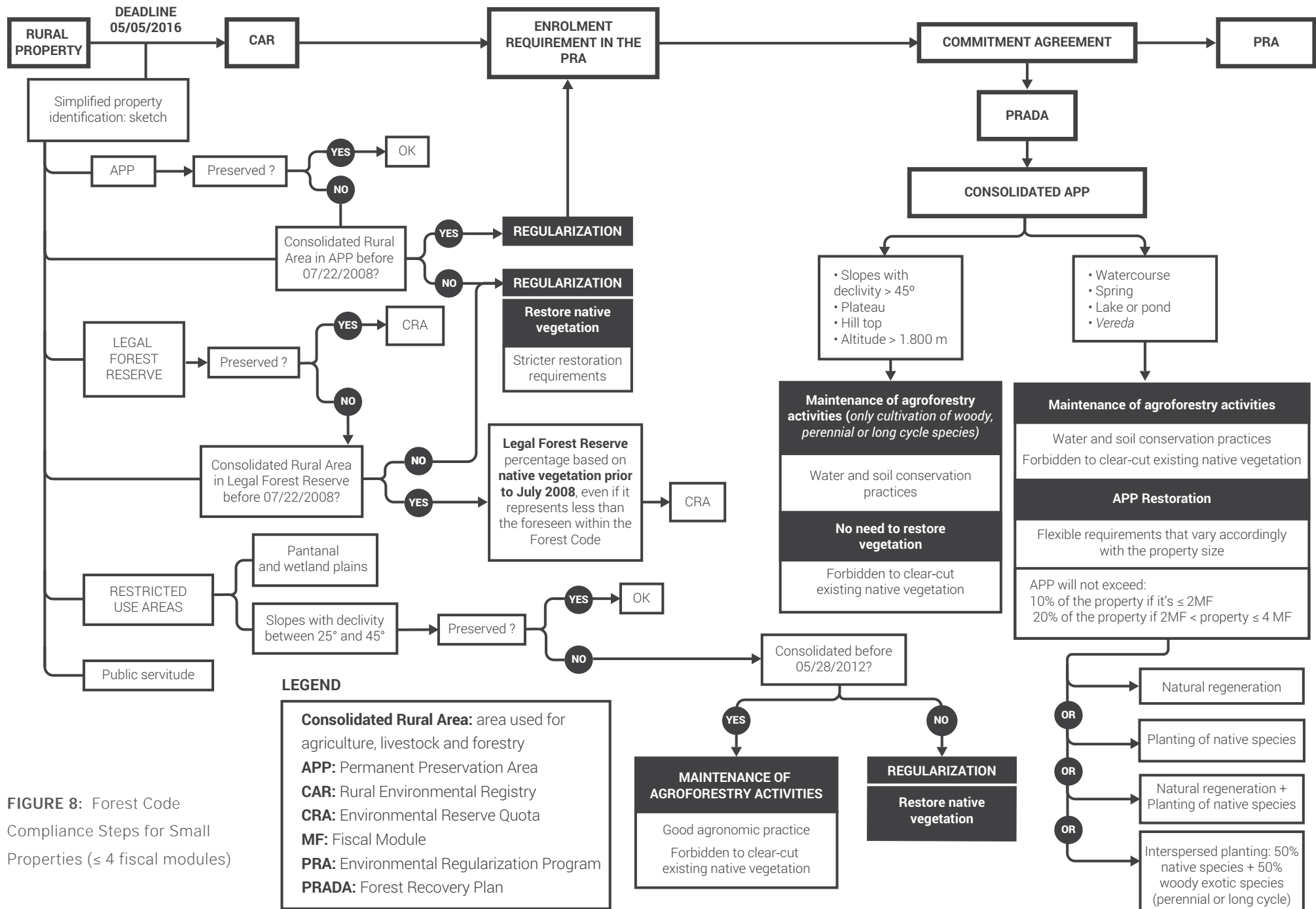
## KEY COMPLIANCE CHALLENGES: REQUIREMENTS FOR APP AND LEGAL FOREST RESERVE AREAS DEFORESTED BEFORE JULY 22, 2008

- The Forest Code does not establish parameters for good practices in soil and water conservation and does not provide sanctions for those that maintain agroforestry activities in Consolidated Rural Areas in APP without these practices.
- Landholders often lack knowledge about forest management practices, adding to the land restoration costs.
- The lack of recovery plan guidelines with restoration methods, techniques, good practices, etc. poses a risk for further delays in the regularization process.
- Some of the instruments outlined in the new Forest Code lack sufficient guidance, or regulation, to be fully implemented, i.e., CRA and the program to support and stimulate environmental recovery and preservation.
- Legal actions have been filed, and are still pending, alleging the unconstitutionality of the special regime established by the new Forest Code, adding further uncertainty to the process.

## COMPLIANCE PROCESS FOR PROPERTIES OF UP TO FOUR FISCAL MODULES (SMALL PROPERTIES)

The compliance process for small properties follows the same steps as those outlined for large properties above, but compliance requirements are more lenient for those with Consolidated Rural Areas.

While larger properties need to submit a georeferenced map when registering in the CAR, smaller properties only need to submit a sketch indicating the perimeter of the property, APP, Legal Forest Reserve, Restricted Use Areas and Consolidated Rural Areas (Figure 8).



**FIGURE 8:** Forest Code Compliance Steps for Small Properties (≤ 4 fiscal modules)

## **STEPS TO FOLLOW FOR NON-COMPLIANT SMALL PROPERTIES WITH APP AND LEGAL FOREST RESERVE AREAS DEFORESTED AFTER JULY 22, 2008**

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The regularization process does not offer any advantages for small properties with APP and Legal Forest Reserve that were deforested after July 22, 2008. These properties are required to follow the Forest Code as described in the previous section for large properties in the same situation.

## **STEPS TO FOLLOW FOR NON-COMPLIANT SMALL PROPERTIES WITH APP AND LEGAL FOREST RESERVE AREAS DEFORESTED BEFORE JULY 22, 2008**

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The regularization process for small properties with Consolidated Rural Areas in APP and Legal Forest Reserve includes: enrolment in the PRA, signature of the Commitment Agreement, and submission of the PRADA.

### **APP Compliance Requirements**

The Forest Code allows small landholders to recover Consolidated Rural Areas in the APP according to much more lenient restoration requirements.

For instance, the general rule of the Forest Code is that the size of the APP should be relative to the size of the water body contained within it (larger water bodies require larger riparian zones). Thus, for a watercourse with a width of 10 meters, the riparian zone should be 30 meters; for a watercourse between 50 and 200 meters, the riparian zone should be 100 meters. However, if in these areas there was consolidated rural activity before July 22, 2008, the restoration of the vegetation range is determined solely by the size of the property, regardless of the size of the water body.<sup>7</sup>

The Forest Code also requires that the sum of all recovering APP not exceed the following limits: (i) 10% of the total area of the property for properties of up to two fiscal modules; and (ii) 20% of the total area of the property for properties between two and four fiscal modules.

Smaller properties also have the option to recover their APP through (i) natural regeneration, (ii) planting seeds and seedlings of native species, and (iii) planting native species with woody, perennial, or long cycle exotic species. In this latter case, exotic species may not exceed 50% of the recovery area. Note that for larger properties recovery methods require the regeneration or planting of native species.

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<sup>7</sup> See Brazil's New Forest Code Part I: How to Navigate the Complexity at <http://inputbrasil.org/projetos/codigo-florestal-desafios-para-regularizacao-ambiental//brazils-new-forest-code-part-i-how-to-navigate-the-complexity.pdf> for more details.

## Legal Forest Reserve Compliance Requirements

The greatest advantage granted by the Forest Code to small properties under the special regime is the exception from restoring or compensating the Legal Forest Reserve deficits. For small properties, the Legal Forest Reserve requirement will be designated based on the native vegetation existing on the property prior to July 2008 rather than on the overall property size. As a result, the Legal Forest Reserve could be much lower than the 20% required for larger properties, possibly even falling to zero. Moreover, landholders of small properties may issue a CRA based on the native vegetation that composes the Legal Forest Reserve, while for larger properties, the CRA may only be issued based on native vegetation that exceeds the Legal Forest Reserve.

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### KEY COMPLIANCE CHALLENGES: SMALL PROPERTIES

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- Small landholders depend on governmental technical assistance to register their properties or possessions in the CAR.
- There are divergent interpretations of the Forest Code regarding whether or not landowners can issue CRA, since they can be exempted from the Legal Forest Reserve obligation. This adds uncertainty to the process.
- To benefit from the flexible restoration requirements, small properties must be registered in the CAR and small landholders must enroll in the PRA. Since most states have not enacted state level PRA legislation, small landholders cannot benefit from the Forest Code's special rules.
- Small landholders often lack knowledge about forest management practices and are required to support the costs of land restoration.
- To participate in the CRA market, small landholders must hold regularized property rights, which for many is impossible because only a limited percentage of Brazilian small landowners actually have formal land titles.

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## CONCLUSION

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The new Forest Code's effective implementation is critical for Brazil as it strives to make significant progress against the threat of climate change, increase its agricultural productivity, and heighten the protection of its vast natural resources for generations to come.

This policy brief and the flowcharts illustrate the complexities and obstacles facing the implementation of the new Forest Code. By outlining these complexities and challenges, INPUT aims to accelerate the implementation of the Forest Code by providing landholders with greater clarity on how they can comply and assisting policymakers in facilitating those paths for compliance.

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*Detailed flowcharts for the Forest Code's national legislation and selected states can be found online at <http://inputbrasil.org/projetos/codigo-florestal-desafios-para-regularizacao-ambiental/?lang=en>*

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