

Terminal Report

Simplified and Harmonized Forestry Regulatory Procedures

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ANNEX A

Forest Land Use Management Agreements

FORESTRY DEVELOPMENT CENTER

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ANALYSIS OF THE REGULATORY PROCEDURES ON INTEGRATED FOREST MANAGEMENT AGREEMENT

1.0 OVERVIEW

IFMA evolved out of the need to address the country's increasing demand for wood and forest products through the establishment of industrial forest plantations in lieu of the fast dwindling naturally grown forests. Timber and processed forest products from natural forests used to be a major source of national income through export earnings but this has become decreasingly evident through the years as our natural forests were rapidly depleted. Thus, the establishment of industrial forest plantations and the expected revenues from them after 10 to 15 years, was foreseen as a way to revive the floundering national economy while addressing the growing demand for wood and other forest products.

The establishment and development of industrial forest plantations on a wide scale, however, requires the infusion of large investments that Government definitely does not have. Hence, private investors were invited to participate by providing the necessary funds and resources while Government provides the land in the development of industrial forest plantations. The IFM Program attracted private investors through incentive packages and a minimal government share in the future proceeds from the forest plantation. The terms for this arrangement between Government and private investors are contained in an agreement called IFMA.

The "Integrated Forest Management Agreement (IFMA) is a production-sharing contract entered into by and between the DENR and a qualified applicant wherein the DENR grants to the latter the exclusive right to develop, manage, protect and utilize a specified area of forestland and forest resource therein for a period of 25 years and may be renewed for another 25-year period, consistent with the principle of sustainable development and in accordance with an approved comprehensive development and management plan (CDMP), and under which both parties share in its produce" (Section 3.u, DAO 99-53).

The IFMA is an instrument intended to replace the Industrial Tree Plantation Lease Agreement (ITPLA) and the Timber License Agreement (TLA) in line with Constitutional changes in the mode of disposition and utilization of forestlands and forest resources from the licensing system to co-production, joint venture and production sharing systems. Thus, new ITPLAs and TLAs were no longer issued after DAO 91-42 was promulgated and ITPLAs and TLAs existing prior to 1991 were encouraged to convert to IFMA.

The IFMA is awarded to qualified entities primarily for the establishment, development and utilization of industrial forest plantations in degraded forestlands and secondarily, for the management of natural forests existing within the IFMA areas. Previous policy issuances (DAO 91-42 and DAO 93-60) initially classified two types of IFMA areas. Type I IFMA was issued for purely plantation establishment while Type II was for plantation development and management of natural forest combined. Existing policies, however, no longer distinguish between the two types of IFMA.

From the issuance of the first DAO (91-42) on IFMA to its repeal by three succeeding DAOs (93-60, 97-04, and 99-53), the IFMA guidelines and regulations have since undergone major changes brought about mainly by political changes in administration and their responses to public interest. More than a decade of IFMA implementation has generated issues and problems that have to be addressed by policy makers. This exercise in analyzing the IFMA policies is aimed at coming up with proposed simplification and harmonization of procedures to better achieve the objectives of the program.

1.1 Enabling Policy

The enabling policy for IFMA is DENR Administrative Order (DAO) No. 99-53, which is entitled "Regulations on the Integrated Forest Management Program". DAO 99-53 was issued by then DENR Secretary Antonio H. Cerilles, and it repeals three previous Orders on IFMA: DAO 91-42, DAO 93-60, and DAO 97-04.

DENR is mandated by Law, through the Revised Forestry Code of the Philippines (PD 705 as amended by PD 1559), the 1987 Philippine Constitution, and EO 192 of 1987, as the primary agency responsible for the conservation, management, development and proper use of the country's environment and natural resources. EO 278 of 1987 further authorizes DENR to negotiate and enter into contract with any Filipino citizen or entity for the disposition and utilization of forestlands and/or forest resources.

1.2 Brief History of IFMA Policies

The IFMA evolved from the issuance of Executive Order (EO) Nos. 725 and 728 issued in 1981 and 1987, respectively. EO 725 mandates the establishment of industrial tree plantations (ITPs) in open, denuded, brushland and inadequately stocked areas. Implementing rules and regulations for ITP establishment and development through ITP Lease were provided in DAO 01, Series of 1989, issued by then Secretary Fulgencio S. Factoran, Jr.

EO 728 basically replaced the licensing system (as mandated in PD 705) with the constitutionally (1987 Philippine Constitution) mandated modes of joint venture, co-production, or production sharing agreements for the development or utilization of forestlands and/or resources. This Order authorized the DENR to negotiate and enter into such agreements with Filipino qualified entities for a period of 25 years renewable for another 25.

DAO 91-42 (issued by Sec. Factoran) empowered EO 728 through the revised regulations and guidelines governing the establishment and development of Industrial Forest Plantations (IFPs). Potential IFMA areas were to be identified, validated on the ground, demarcated or delineated on the map, and classified as part of the Permanent Forest Estate, before applications or bid offers for IFMA can be accepted. This DAO classifies Type I IFMA areas as purely for plantation establishment while Type II IFMA areas are for plantation development and management of natural forest combined. Applications for Type I IFMA were accepted on a first-come-first-served basis while Type II areas and existing TLAs willing to convert to IFMA are open to competitive bidding for adequately stocked areas.

In 1993, then DENR Secretary Alcala promulgated DAO 93-60, revising the regulations and guidelines governing the establishment and management of Industrial Forest Plantations and management of Residual Natural Forests for production purposes. By this time, Government banned the cutting of trees in old growth forests and utilization has been shifted to the residual natural forests. Among its salient differences from previous policies, this DAO retains the 2 types of IFMA and instead of bidding for TLA areas converting to IFMA, direct negotiation of the value of the performance bond covering the residual production forest within the TLA was allowed. The DAO also includes transitory provisions for conversion of Industrial Tree Plantation Lease Agreements (ITPLA) to IFMA.

DAO 93-68 and DAO 94-06, respectively waived and temporarily suspended the waiver, for guarantee bond as basis in awarding of IFMA. DAO 94-15 restored the performance guarantee bond and revoked the performance bond as basis in awarding of IFMA. DAO 95-11 issued the guidelines for performance evaluation of IFMA holders.

The year 1995 saw a major shift in Government policy regarding our forest resources through EO 263 by then Pres. Ramos, promulgating Community-Based Forest Management (CBFM) as the national strategy for the sustainable development of the country's forestlands and forest resources. Thus, DAO 97-04 (issued by Sec. Victor O. Ramos) in repealing DAO 93-60, gave priority to CBFM projects, CADC/T, IPAS, and SIFMA over IFMA. This DAO also explicitly required the submission of Initial Environmental Examination (IEE) and Environmental Clearance Certificates (ECC) by IFMA applicants and holders, respectively as basis of awarding IFMA and approval of CDMP. DAO 98-66 further amended and clarified the requirements relating to IEE and ECC.

However, previous DAOs (91-42, 93-60, and 97-04) were repealed by DAO 99-53 issued by then Secretary Cerilles on the regulations governing the Integrated Forest Management Program (IFMP). The new DAO allows for automatic conversion of existing TLAs into IFMA that spurred the controversy over PICOP's conversion to IFMA and awarding of the Shannalynne's IFMA. The same DAO also removed the competitive bidding process and retained the first qualified applicant as basis in awarding of IFMAs. Profit sharing between IFMA holder and government is negotiated under this DAO.

DAO 2003-21 was recently issued by Secretary Gozun to amend provisions of DAO 99-53 specifically on the conversion of TLA into IFMA which is no longer automatic but the TLA holders are made to undergo the same procedures as new IFMA applicants.

Another set of rules and regulations on the processing and evaluation of applications for the development and utilization of forestlands and its resources is being discussed within the DENR. The draft DAO focuses on the three modes of disposition of public forestlands and forest resources as contained in the 1987 Philippine Constitution. These are the co-production, joint venture, and production-sharing agreements. The proposed DAO also returns the bidding process in awarding of such agreements, along with the determination of government share in each of these modes.

In relation to the devolution of functions to local government units (LGUs) through the Local Government Code (RA 7160), Joint DENR-DILG Memorandum Circular No. 98-01 was issued in 1993. Details on joint undertaking of various activities are reiterated in Joint DENR-DILG MC 2003-01.

Appendix Table 1 presents the chronology and salient provisions of relevant policy issuances related to IFMA regulatory procedures discussed above.

2.0 EXISTING AND POTENTIAL IFMA

As of 2001, the Philippine Forestry Statistics reports a total of 173 IFMAs were awarded and spread over 12 regions with a total area of 570,002 hectares. Of this, 120 are Type I IFMA covering 272,256 hectares while the 53 Type II IFMA have an aggregate area of 302,746 hectares. Figure 1 shows that while IFMA I holders comprise 69.36 %, the total area covers only 46.89 % and IFMA II holders (Figure 2) though only 30.64 % have an aggregate area of 53.11 % of the total IFMAs awarded.

The highest number of IFMA I awarded (26) is in Region 11 while that of IFMA II (17) are in Region 9. The largest aggregate area for IFMA I (75,804 ha) is in Region 4 while that of IFMA II (154,972 ha) is in Region 13.

More recent (2002) statistics from the Forest Land Use Division (FLUD) of the Forest Management Bureau (FMB) show that a total of 200 IFMAs have been issued in all 14 regions with an aggregate area of 807,532 hectares. The highest number (31) of IFMA awarded are in Regions 9 and 11 while largest aggregate area awarded (330,313 ha) is still in Region 13 (Figure 3).

In terms of area classes, Table 1 and Figure 4 show that the highest number of IFMA awarded is 87 (43.5 % of total) in area class >500-1,000 ha. In terms of aggregate area, the largest is area class >10,000 ha that comprise 72 % of total area covered by IFMA.

Based on statistics (PFS, 2001) of existing (that are about to expire in the next few years), suspended and cancelled TLAs and existing ITPLAs, the aggregate area is about 1.7 million ha (Table 2). Add to this the existing open, denuded, and brushlands with an area of about 2.2 million ha that can be developed into productive state (PFS 2001). These data show that there is still a substantial area that can be made available as potential IFMA areas in the coming years.

With the increasing population and continued local and international demand for forest products in the coming years, the existing recourse is for government to pursue sustainable forest development and management, IFMP being one of the major strategies. However, there is urgent need to polish existing policies particularly IFMA and other tenurial instruments under the three modes of disposition and utilization of public forestlands: co-production, joint venture and production sharing.

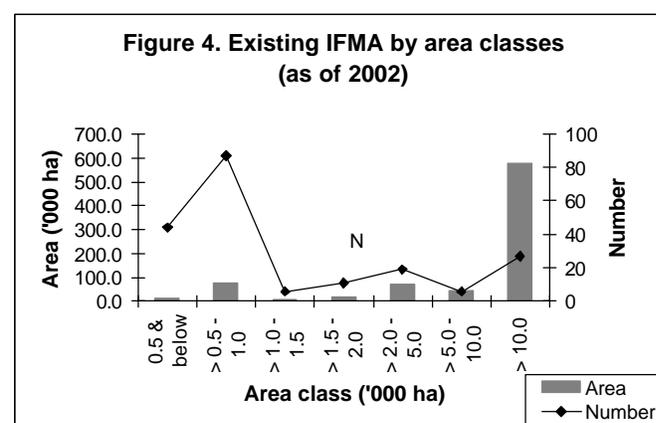
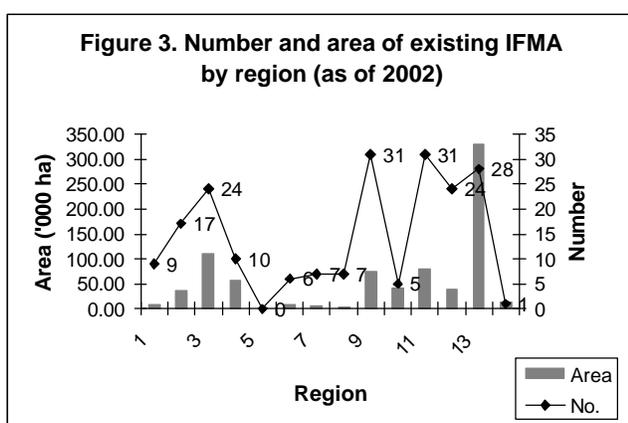
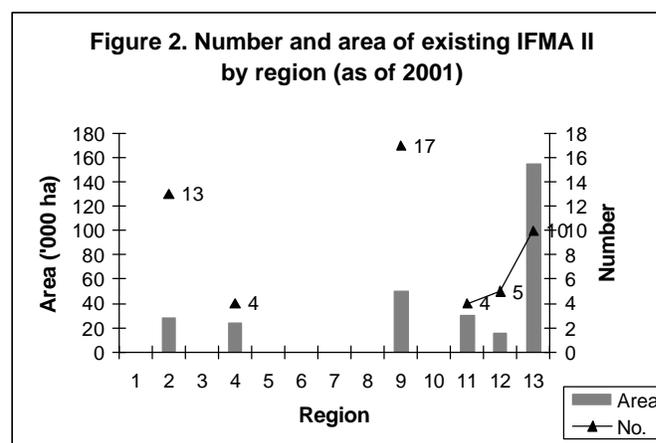
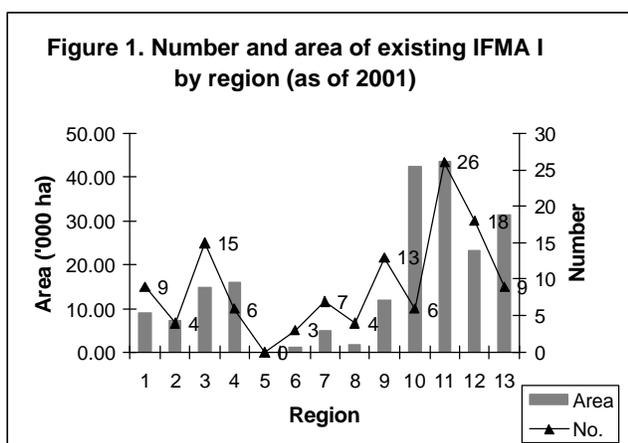


Table 1. IFMAs awarded by number, percent, and size of area (hectares) as of 2002*

Area Class	Number	Percent	Area	Percent
500 & below	44	22.00	10,870	1.35
> 500 - 1,000	87	43.50	75,418	9.34
>1,000 - 1,500	6	3.00	6,837	0.84
> 1,500 - 2,000	11	5.50	20,453	2.53
> 2,000 - 5,000	19	9.50	70,477	8.73
> 5,000 - 10,000	6	3.00	43,458	5.38
> 10,000	27	13.50	580,017	71.83
Total	200	100.00	807,532	100.00

* Source: Forest Land Use Division, DENR-FMB, (as of 2002)

Table 2. Existing, suspended, and cancelled TLAs and ITPLAs as potential areas for IFMA (as of 2001)

REGION	Timber License Agreements						ITPLA for conversion to IFMA	
	Existing		Suspended		Cancelled			
	No.	Area (ha)	No.	Area (ha)	No.	Area (ha)	No.	Area (ha)
CAR	1	74,500	1	75,000				
2	3	85,466	2	42,300	3	61,480	1	1,106
4	2	72,800	2	86,285	3	147,250	5	6,372
5			1	34,480				
6							1	348
8			2	77,915	2	46,600	3	2,275
9	2	67,705			1	23,790		
10	2	96,055	1	32,290				
11			1	65,080				
12	1	60,420	1	19,608	2	75,465		
13	7	410,143					3	34,605
ARMM	2	42,915						
Total	20	910,004	11	432,958	11	354,585	13	44,706
TLAs + ITPLA							55	1,742,253

Source: 2001 Philippine Forestry Statistics (DENR-FMB)

3.0 ANALYSIS OF IFMA REGULATORY PROCEDURES

Inherent in analyzing policy is a review of its objectives and strategies in the light of ecogovernance principles such as transparency, accountability and participation.

DAO 99-53 is geared towards the pursuance of basic State policies of ensuring a balanced and healthful ecology; social equity or equitable access to natural resources use; and increased employment opportunities accompanying industrialization. These policies are explicitly stated in Section 2:

- "(a) The protection and advancement of the right of the people to a balanced and healthful environment;
- (b) The equitable distribution of opportunities, income and wealth, sustained increase in the amount of goods and services produced by the nation and for the benefit of the people, and an expanding productivity from natural resources as keys to uplift the quality of life; and
- (c) The promotion of industrialization and creation of employment opportunities based on sound resource development through industries that make full and efficient use of human and natural resources."

To achieve the above State policies, the IFMA regulations have the following objectives:

- "(a) To attain a balanced, productive, and efficiently functioning forest ecosystem through the sustainable management of forests and the rehabilitation of degraded forestlands;
- (b) To ensure a continuous supply of wood and non-wood products for the country by encouraging all sectors to engage in the development of industrial forest plantations; and
- (c) To improve the economic well-being of upland people and communities dependent on forest resources by ensuring equitable opportunities and access to forest resources."

The above basic policies and objectives as well as ecogovernance principles are given due consideration in analyzing the implementing mechanisms and procedures for IFMA and for coming up with simplified and harmonized procedures. Where necessary, significant changes in policy issuances from DAO 91-42, DAO 93-60, DAO 97-04 to DAO 99-53 are likewise discussed.

Relevant issues/problems and proposed revisions, simplification, harmonization and items for further study are discussed in the following subsections. These are based on a review of the major policy issuances on IFMA as well as on the issues and concerns raised by respondents interviewed, dialogues, and regional consultations held with various sectors and stakeholders.

3.1 Identification and approval of potential IFMA areas and preparation of Forest Land Use Plans

The DENR is mandated to identify all potential IFMA areas and existing policy vests on the RED the approval (after consultations with dependent communities and duly endorsed by concerned LGUs) of such areas under his/her jurisdiction. Significant changes in terms of identification and approval of available areas for IFMA in the four DAOs include the following:

DAO 91-42 declared that DENR was responsible for identifying and delimiting potential IFMA areas and classifying such areas as part of the Permanent Forest Estate.

DAO 93-60 designated the REDs to identify potential IFMA areas; evaluate on the ground their suitability and availability (with respect to site and forest conditions, environmental limitations, conflicting land & resources claims, and legal encumbrances); and demarcate them on scaled maps. It also directed the REDs (with LGU assistance) to ensure that dependent communities were notified and enabled to register their objections to IFMAs covering the proposed area. The REDs were then required to carry out resource inventory and prepare resource management plan for such areas.

DAO 97-04 devolved to the CENROs the identification of potential IFMA areas and evaluation on the ground of the availability and suitability of such areas. PENROs were directed to maintain a database of all potential IFMA and to conduct information dissemination on the IFMA program and suitable areas. Validated areas had to be indicated in a scaled map and endorsed by the concerned LGU before the documents were forwarded to the Secretary for approval.

DAO 99-53 devolved the approval of potential IFMA areas to the REDs. The DENR determines the land use and vegetative cover of areas identified for forest plantation development; validates them on the ground including the forest cover types; consults (with LGU assistance) the dependent communities; and delineates these areas on maps of appropriate scale. The delineated areas are duly indorsed by the LGU concerned through Board/Council Resolution and then approved by the RED. A Registry of available IFMA areas is maintained at the FMB, RED, PENRO, and CENRO and this is made accessible to all stakeholders.

In relation to the identification and approval of potential IFMA sites, Joint DENR-DILG MC 98-01 (reiterated in JMC 2003-01) identified forest land use planning as a priority joint activity of DENR and LGUs as specified in the following section:

JMC 98-01, Section 9.1 Forest Land Use Planning. *“DENR and the concerned LGU shall jointly undertake forest land use planning, the output of which shall become an integral part of the concerned LGUs comprehensive land use plan.*

... The following general procedures shall be followed:

- a) DENR Central Office shall issue an order directing the REDs to organize within sixty (60) days from issuance thereof, Forest Land Use Planning (FLUP) teams at the provincial, city and municipal levels in coordination with the concerned local chief executives. Corollarily, the concerned local chief executives shall issue the appropriate orders for their LGUs' participation in the FLUP;*
- b) The FLUP teams shall organize their work and undertake FLUP within twelve (12) months from their organization;*
- c) The FLUPs thus formulated shall be submitted to the LGU's Sanggunian for endorsement/ approval and incorporation of the same to the LGU's comprehensive land use plan.*

The Land Evaluation Parties of the DENR Regional Offices shall provide technical assistance to the FLUP teams.”

JMC 2003-01, Section 5 Instruments and Mechanisms for DENR, DILG, and LGU Partnerships and Collaboration – *“All FLUPs of LGUs shall be approved by their respective City/Municipal Development Councils and need to be enacted as ordinances by their respective Sangguniang Panglungsod / Bayan as part of their comprehensive land use plans. DENR approval of the FLUPs shall follow its enactment as an ordinance and such approval by DENR shall be manifested through a MOA between the DENR and the LGU; the MOA shall provide for the commitments of the two parties toward the full implementation of the FLUP.*

The DENR Regional Executive Director shall sign all MOAs on approved FLUPs on behalf of the DENR, with the DILG Regional Director as witness. ”

Both JMCs clearly vest the responsibility of identifying existing and potential uses of forestlands to both the DENR and DILG through the concerned LGUs.

Following are the issues and problems relating to the identification and approval of potential sites for IFMA and the preparation of forest land use plans.

3.1.1. DENR's insufficient capability for ground validation, site suitability evaluation, and resource inventory in potential IFMA sites; short cutting of procedures

A number of DENR field officials reported that they are unable to fully carry out the above responsibilities due to insufficient budget and resources even if the said activities are included in their key result areas (KRAs) as priority activities. DENR officials admitted that it is easy to identify potential IFMA sites based on existing maps, information and databases. However, ground validation and evaluation of the sites' availability and suitability require substantial time and resources that are allegedly not readily available at the regional level or, if available are not enough.

Instead of a separate activity by DENR to identify, validate on the ground, consult dependent communities, and approve areas open for access through IFMA before any application can be accepted, the procedure is short cut. Existing practice in the fields is that identification of potential sites is done by the DENR through table mapping while the responsibilities of validating on ground as well as securing the consent from IPs or communities and LGU endorsement are passed on to the IFMA applicants.

The applicants usually pay not only for the survey cost but also for the resource inventory and mapping of the area applied for. Others even pay for the community consultations as well as incur transaction costs in getting the LGUs to endorse the area. In allowing this, the DENR's objectivity in deciding in favor of the said applicant is severely eroded by the need to factor in the costs already incurred by the applicant.

3.1.2. Conflicting land uses, claims and tenurial instruments issued due to insufficient, conflicting, outdated, and inaccessible maps, information and database

A common problem in many regions is the discovery by DENR and its clients of overlapping tenurial instruments, conflicting land uses and claims over a certain area, after a certain instrument is already awarded. This is not only true with IFMA but with other instruments as well. This problem is closely related to the previous issue of the DENR being unable to undertake the procedure of identifying and approving areas open for access, which includes updating the Registry of available areas for various instruments.

This is mainly blamed on the lack of reliable maps and information database in many field offices. Couple this with the inadequate coordination among different DENR action officers in the various regional, provincial and community offices, divisions, sections, and even programs resulting in overlapping and conflicting uses over an area. Although DENR is mandated to establish and maintain updated registry and maps of forestland uses and census of people inside public forestlands, these are often outdated and unreliable or sometimes not readily accessible, if there are any.

Another common problem is the conflict arising from ancestral domain claims over areas with existing tenurial instruments already issued. A number of IFMA holders and TLA holders intending to convert to IFMA reported that their instruments were issued long before some indigenous peoples (IPs), or people claiming to be IPs, filed their claims on portions of the IFMAs or TLAs concerned.

3.1.3. Lack of Forest Land Use Plans in the DENR regional offices

In most cases, DENR people do not really know how much area (and where these are located) has already been allotted for different instruments and how much area (and where) is available for open access. This is blamed on the lack of forest land use plans in many regions as JMC 98-01 has not yet been properly implemented yet. JMC 2003-01 was recently issued to reiterate the implementation of said policy issuance.

Both DENR and concerned LGUs reported that the difficulty in implementing JMC 98-01 was primarily because it was not made a priority of the heads of both agencies. It was only in 2003 that heads of both agencies met and came up with JMC 2003-01 reiterating the previous JMC and prioritizing creation of FLUP teams and technical working groups. LGUs also raised the issue of their lack of technical and financial capability to undertake forest land use planning.

Another issue raised was the different agencies (i.e., DA, DAR, DTI, DoT, etc.) having their own plans for portions of forestlands. There is a need to coordinate with the concerned agencies so that their own plans can be integrated in the over-all forest land use plan of each region.

3.1.4. Need to harmonize IFMA policies with LGU and NCIP regulations

Existing procedures on the identification and approval of areas available for IFMA have to be harmonized with those of the LGUs as contained in JMC Nos. 98-01 and 2003-01 and those of NCIP as enacted in the IPRA Law. This will address issues on conflicting land uses and claims as well as ensuring transparency, accountability and participatory decision-making among stakeholders.

Recommendations:

There is urgent need to prioritize the identification, ground validation, site suitability and resource inventory of open access areas available for various uses before any application is accepted. It is important for DENR to determine what areas are suited for different land uses and the extent and area available as basis in formulating appropriate, equitable and acceptable land allocation decisions. However, it is equally important to provide adequate resources in terms of budget, upgrading of facilities and equipment, and retooling of DENR personnel.

Figure 5 shows a simplified procedure for the identification and approval of areas available for use under IFMA and other tenurial instruments. The RENRO gathers the information submitted by the various CENROs and creates a composite team to undertake ground validation, site suitability, and resource inventory in the areas identified as open access by the CENROs. The RENRO, with LGU assistance, undertakes consultations with communities and stakeholders and secures their

consent/endorsement for the use of these areas. Then forest land use planning is done in collaboration with concerned LGUs and other agencies. Updating of the maps, registry and databases is then done at all levels.

In the simplified procedure, DENR is able to take stock of the resources under its jurisdiction and be able to make fair allocation decisions. It will also address the issue of high costs incurred by applicants for pre-awarding activities and encourage more credible investors to enter into IFMA.

Another recommendation to address issues on conflicting land uses as well as claims over certain areas is the activation of technical working groups in the various regions. Representatives of concerned LGUs, NCIP and other stakeholders are invited to form part of the DENR technical working groups in the different regions.

3.1.5. Difficulty in delineating degraded residual natural forests using the basal area criterion leading to misclassification of areas with adequately stocked forests as degraded residual natural forests

IFMA policies allow the conversion of degraded residual natural forests or inadequately stocked logged over forests into forest plantations. Naturally grown trees in such areas are cut down prior to plantation establishment. Cases have been reported from the field where some DENR personnel connived with IFMA applicants by misclassifying portions of adequately stocked forests as degraded residual natural forest areas for inclusion in their IFMA area for conversion. This is due to the difficulties in using the basal area criterion for determining degraded residual natural forests as provided for in DAO 99-53.

DAO 99-53 defines **degraded residual natural forest** as referring *"to a severely disturbed natural forest of whatever cause with a basal area of less than five (5) square meters per hectare of all commercial tree species, with dbh/dab of less than 65 centimeters"*.

DAO 91-42 defines **inadequately stocked logged over areas (ISLO)** as referring *"to forestlands with an existing stand of timber containing an average per hectare of less than 20 trees of dipterocarp and/or premium species with a diameter breast height (dbh) of more than 20 centimeters"*.

Field officers still use the old method of classifying ISLO areas through the number of dipterocarp and premium tree species as defined in DAO 91-42. For them, it is easy to count only the dipterocarp and premium species standing in one hectare (even if there are other commercial trees in the area) and classify the area as degraded residual natural forest based on the old definition of ISLO areas. The method using basal area criterion requires meticulous measurements and computations that are more time consuming than the old method.

The practice of misclassifying such areas leads to a speedier depletion of our natural production forests while the erring public officials and unscrupulous IFMA holders incur short-term gains.

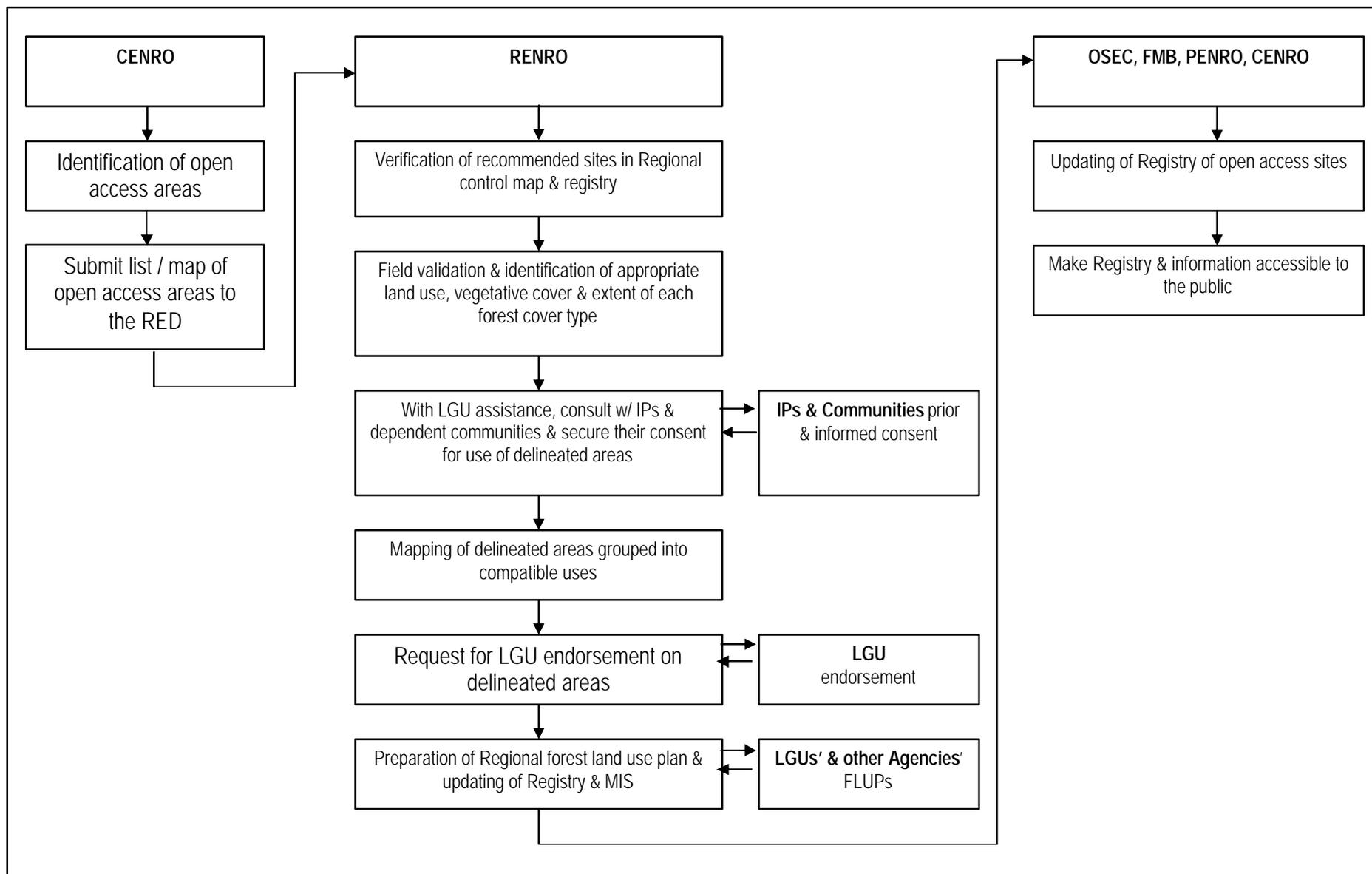


Figure 5. Proposed procedure for identification and approval of open access sites grouped into compatible uses

Recommendation: There is a proposal to redefine degraded residual natural forests based on the previous ISLO definition with modification. The new definition would be: degraded residual natural forests refers *"to forestlands with an existing stand of timber containing an average per hectare of less than 20 trees of **dipterocarp, premium and/or commercial species** with a diameter breast height (dbh) of more than 20 centimeters"*.

Also, DENR has to establish and enforce a strict check and balance system to police its own ranks and rid it of unscrupulous personnel. The experience of involving multisectoral forest protection task forces created in some regions may be used as models in establishing check and balance for the identification, validation, mapping, resource inventory and approval of open access areas for IFMA.

3.2 Qualification requirements

Section 9 of DAO 99-53 states the qualification requirements of applicants as: (1) Filipino citizen of legal age, or (2) partnership, cooperative or corporation whether public or private, duly registered under Philippine laws. This Order removes the additional eligibility requirements contained in DAO 97-04 such as the environmental management and the community relations records of applicants with previous or current experience in natural resource use ventures. These documents were to be reviewed by the REDs, FMB, EMB and other DENR offices.

A controversial section in DAO 99-53 has to do with automatic conversion of TLAs into IFMAs that led to the widely publicized case of PICOP TLA converting to IFMA. The issue on automatic conversion (which many said no such thing exists since TLA holders still have to be evaluated before conversion to IFMA holders) was later on resolved through DAO 2003-21 issued by Secretary Gozun. Specifically, Section 9.2 is amended as follows:

"For a TLA to be converted to an IFMA, the following conditions shall have been satisfied:

- 9.2.1 The TLA holder shall have signified in writing such intention for conversion not later than one (1) year prior to the date of expiration of the TLA to the Secretary; and*
- 9.2.2 The applicant has shown satisfactory performance on the management and operation of the TLA and has complied with the terms and conditions thereof, as evidenced by a comprehensive performance evaluation commissioned or undertaken, by authority of the Secretary."*

3.3 Application requirements

Section 10 of DAO 99-53 lists the documents required from applicants as follows:

- "1. Certified copy of Certificate of registration issued by the Securities and Exchange Commission (SEC) and/or Cooperative Development Authority (CDA) or Articles of Incorporation and By-Laws and list of the current officers and stockholders duly certified by the Board Secretary;*
- 2. Audited financial statements for the last two (2) preceding years, if the applicant was already in existence;*

3. *Proof of financial and technical capability to undertake initial activities in forest plantation establishment and development such as credit lines from financial institutions, collateralable properties, or good past performance or track records in forest development and management as TLA or IFMA holder and other DENR tenurial instruments;*
4. *Application fee in the amount of P0.50 per hectare or fraction thereof and survey fee of P50/ha plus the actual transport cost of the survey team from the official station to the site in consonance with the provisions of DAO 93-18 subject for adjustment upon review by the DENR;*
5. *Board resolution authorizing any of the officers to file the application in behalf of the corporation, cooperative and/or partnership, duly certified by the Board Secretary."*

Most of the issues relating to the application requirements are mainly due to operational concerns within the bureaucracy and the importance of an indicative plan for proper evaluation of the applications.

3.3.1. Lack of an indicative plan as part of the application requirements

While other forestry programs require feasibility studies or business plans as part of the documentary requirements, the IFMA policy does not require applicants to submit any indicative plan. There is need for an indicative plan of how the applicant will develop and manage the IFMA as a basis for deliberations on whether to award the IFMA or not. The indicative plan will help the DENR to determine the technical capability of the applicant along with other proof of the applicant's financial capability to undertake the activities indicated in the plan.

3.3.2. Additional documents required by different levels of hierarchy due to differing interpretations of policy statements in turn leading to delays in processing and approval

Although the DAO clearly states what documents are required from IFMA applicants, the processing of applications is often delayed by the additional documents required by officials of succeeding levels of the DENR hierarchy. One reason for this is the differing interpretations of what documents are needed as proof of technical and financial capability of the applicant (DAO 99-53, Section 10.3).

Another reason claimed by field action officers is that they often do not have copies of the most recent policy issuances and rely on older ones such that the next higher level of office has to point out the lacking documents. Related to these, some IFMA holders also claimed instances of paying off DENR officials in lieu of some requirements just to facilitate processing of their applications. Hence, it is left to the next higher office to determine the completeness of documents submitted. Pay-offs by applicants may also be repeated in the next levels.

Because of the additional requirement under JMCs 98-01 and 2003-01 for applications to be endorsed by LGUs and NCIP, processing is delayed when the concerned LGU and NCIP refuse to give or delay their endorsement of the area applied for.

3.3.3 Insufficient capability of DENR in cross-checking the documents submitted by the applicants

Section 10.1 of DAO 99-53 requires corporate or cooperative applicants to submit certified registration, list of incorporators, stockholders and officers, and by-laws. The first requirement has to do with the maximum area limit awarded to IFMA holders. Cases have been reported of different corporations with similar sets of incorporators/stockholders that have been awarded IFMAs with aggregate areas exceeding that allowed by Law (e.g., 40,000 ha maximum area limit for IFMA that an entity may be issued). Clearly, DENR is liable for having issued such instruments to those holders mainly because of negligence in counter checking the application documents submitted.

Field action officers admit their inability to cross-check the documents submitted by applicants specifically on how to determine whether the corporation has sister companies issued with other IFMA. Thus, the responsibility of checking said documents with the Securities and Exchange Commission is left to the higher levels of DENR who have closer access to the SEC office in Manila.

3.3.4 IFMA applicants pay double for survey fees due to difficulty of DENR field offices in accessing survey fees deposited in National Treasury accounts

DENR field officials reported that survey fees used to be deposited in a trust fund account that can be used for survey purposes. Now, all fees are deposited to the National Treasury accounts and it takes a lot of red tape and a long period before these can be used directly for survey purposes or not at all. Also, Congress has to approve an agency's budget and survey or other fees often get lost in the computation of total annual budget. Hence, the DENR field personnel cannot undertake field survey if this is not included in their budgetary allotment. What happens is that the applicants are forced to shoulder the cost of survey and the team's expenses just so the survey is done or they wait for an indefinite period of time before it is done, thus many of them pay double the cost of actual survey.

Recommendations:

An important basis for determining the technical capability of an IFMA applicant is an indicative plan on how the applicant would undertake the development and management of the area applied for. The indicative plan also reflects the budget needed to undertake the said activities that would further show whether the applicant has enough financial resources to do so.

Thus, application requirements should reflect the documents needed to determine the applicant's credibility as a qualified entity in terms of financial, technical, and previous performance in similar undertakings. The application requirements need to be standardized through checklists made accessible to the public and should be included in the documents submitted to the DENR by any applicant. DENR should impose the requirements at the time the application is filed. If there are new issuances while the application is already being processed, these will not apply retroactively to the applicant.

A system of proper cross checking of corporate registration requirements should be developed and implemented. All records should be made available on-line and accessible to all offices of DENR.

Hence, there is urgent need to upgrade DENR's computer and MIS systems as well as retooling of its action officers once the system is in place.

Due to the difficulties of the new system where fees go to National Treasury accounts, it is proposed that payment of the survey fee to the DENR be deleted as a requirement and instead the applicants directly pay for the actual survey cost. However, standard survey costs should be determined and posted in publicly accessible areas to prevent potential cases for graft and corruption.

3.4 Processing and approval of IFMA

Section 11 of DAO 99-53 outlines the procedures in processing of applications and approval of IFMA. All IFMA applications (including TLAs converting to IFMA) are received and processed at the CENRO (Figure 6). New applications are processed on a first-come-first-served basis. It is also at the CENRO that the area applied for is inspected on the ground; the IFMA is prepared (or documents returned to applicant with comments); and forwarded to the PENRO. The PENRO evaluates the documents and either forwards them to the RED or returns it to the CENRO with comments. The RENRO evaluates the documents and either forwards them to the OSEC through the FMB or returns the documents to the PENRO for comments. The FMB also evaluates the documents and forwards them to the OSEC for approval or returns them to the RENRO for comments. The OSEC approves or denies the IFMA application and sends notices of approval or denial to the applicant via the offices down the line.

3.4.1 Too many hierarchical levels involved in the processing of IFMA applications causing delays and high transaction costs on the part of applicants

There are too many levels in the DENR hierarchy involved in the processing of IFMA applications. An analysis of the existing processing and approval system for IFMA applications reveals that the role of each higher level of the DENR hierarchy is repetitive of that undertaken at the lower levels. For instance, the action officer at the PENRO reviews and comments on the application reviewed, validated and endorsed by the CENRO. Similarly, the action officer at the RENRO also reviews and comments on the application endorsed by the PENRO before the RED approves it or endorses it to the Secretary for approval. Before reaching the OSEC, the IFMA application has to be reviewed by the FMB and USEC for Operations who then endorses it for approval by the Secretary.

Experience of previous applicants shows that it usually takes more than the 120 days (3 months) that DAO 97-04 prescribed for an IFMA application to be processed and approved. Sometimes it takes a whole year to three years before some IFMAs are fully processed. Some respondents said that they spent large amounts in transactions with various levels of the hierarchy for their documents to move from one level to another.

The present system of processing and approval is based on the DENR Manual of Approvals where application documents have to pass through channels of the DENR hierarchy before approval. The system ideally provides for checks and balances. However, it also causes problems of bureaucratic red tape, undue delays and opportunities for graft and corrupt practices.

With the policy of first-come-first-served basis of awarding IFMAs, the issue often arises of determining which application was received first. This has been reported where applications are submitted to different CENROs within a region.

3.4.2 Too centralized approval/issuance of IFMAs

Existing DAO policy vests on the Secretary the approval and issuance of all IFMAs. Previous DAOs decentralized to the RED and USEC for Operations some of the responsibility for approving IFMAs. However, reports of past abuses by some REDs in the issuance of IFMAs led to the centralization of awarding of IFMAs. On the other hand, some IFMAs were also reportedly granted by the OSEC without having undergone the necessary processing and evaluation procedures.

One major problem in the centralized approval of IFMAs is the prolonged delays in the approval due to the number of levels that each application is reviewed and endorsed from the CENRO, PENRO, RENRO, FMB, and USEC before it reaches the Office of the DENR Secretary. The delays also translate to increasing transaction costs for the applicants due to follow-ups at each level of the hierarchy before the instrument is approved or issued.

Recommendations:

Lessen the levels of hierarchy that the IFMA application goes through for processing by defining the roles of each office. Figure 7 shows a simplified procedure for processing and approval of IFMAs. All applications are submitted to the Regional office (RENRO) in order to avoid problems in determining which applicant submitted first. The applicant pays the application fees and submits all documentary requirements. The RTD for Forestry determines completeness of application documents and furnishes copies of the application to the PENRO, CENRO and LGU concerned for their information and review.

The RED then creates a composite team from the RENRO, PENRO/s, and CENRO/s to undertake ground validation and evaluation of the area applied for. Representatives from EMB and LGUs will be requested to join the composite team. The composite team's report can form one of the bases for the deliberations either at the RENRO or OSEC level where it is to be finally approved.

After an assessment of potential sites and areas available for IFMA, a maximum area limit shall be determined for the RED and DENR Secretary to issue IFMAs. This is purposely done to decentralize the approval and awarding of IFMAs and establishing accountability mechanisms. The REDs and Secretary have to be made accountable for the responsibility of awarding IFMAs. Making the whole process of approving/issuing IFMAs more transparent and participatory through the active involvement of various sectors (through multisectoral deliberations committees) will hopefully address accountability issues of approving/issuing officials. It will also significantly reduce transactions costs to be incurred by the applicants and hopefully address issues of graft and corruption in the DENR ranks.

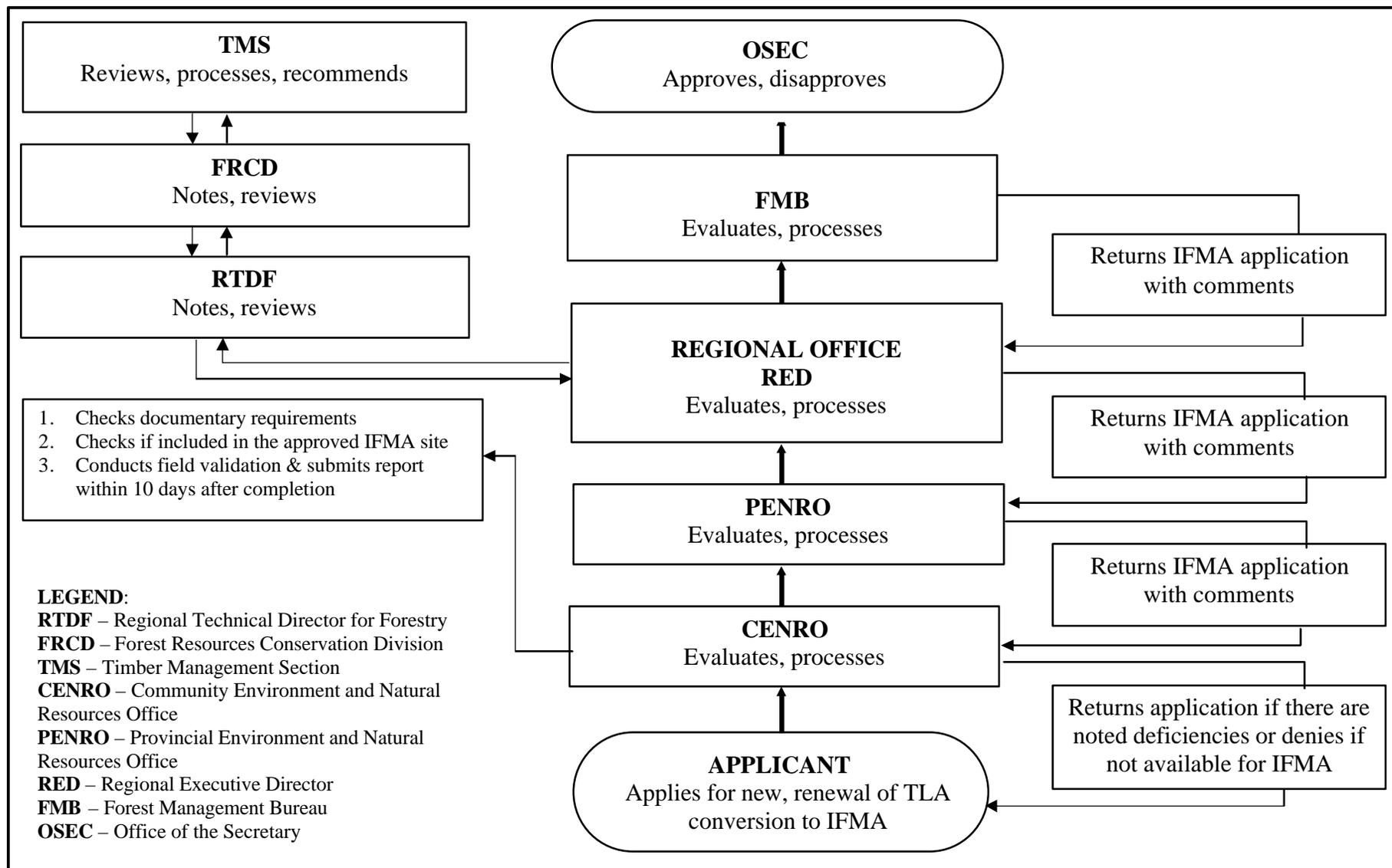


Figure 6. Existing procedure for processing and approval of Industrial Forest Management Agreement (Source: DENR Regional Offices)

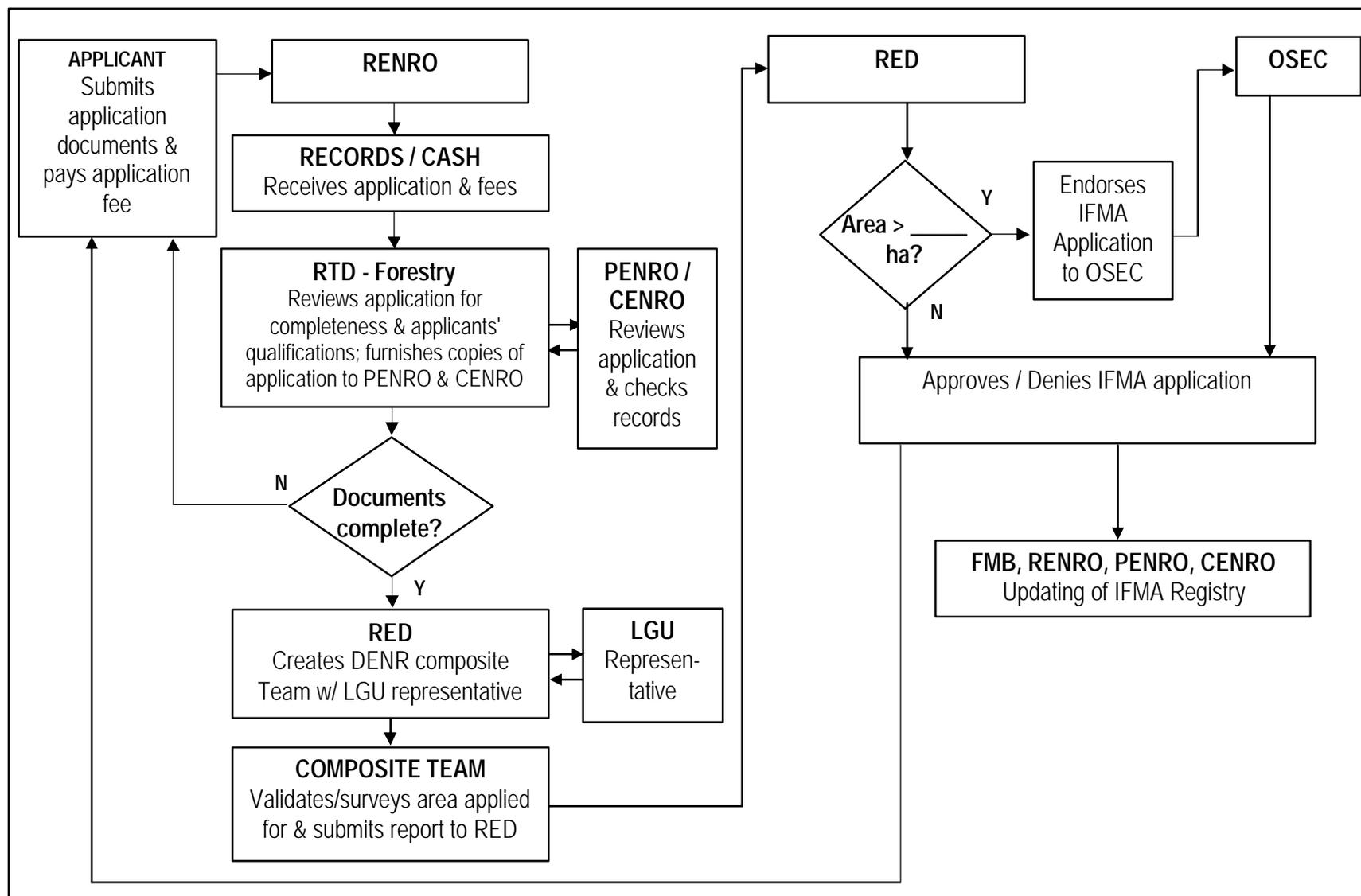


Figure 7. Proposed procedure for processing and approval of IFMA

3.5 Responsibilities of IFMA holder

Among the responsibilities of the holder after the IFMA is awarded include the submission of a 25-year comprehensive development and management plan (CDMP) for approval by the Secretary and an initial environmental examination (IEE) as basis for the issuance of an environmental compliance certificate (ECC) by the RED. Upon approval of the CDMP by the Secretary and issuance of ECC by the RED, the IFMA holder is also required to submit 5-year Integrated Operations Plan (IOP) (DENR Memo dated January 16, 2001).

Other responsibilities of the IFMA holder are the following:

- Delineation and marking on the ground of perimeter boundaries;
- Submission of aerial photo/satellite imageries of the IFMA area and interpretation map within 1 year and every 5 years thereafter (for areas more than 5,000 ha);
- Implementation of mitigation/enhancement measures stipulated in IEE or ECC conditionalities;
- Plant principally timber-producing and other plantation species;
- If included in CDMP, conversion of degraded forestlands into plantations;
- Management and protection of production residual natural forests, and if authorized, harvest and utilize them on sustainable manner;
- Reforest open and denuded lands within protection forestlands and 20-m sides of river banks;
- Protection and conservation of flora and fauna in the area;
- No cutting within protection forestlands and restricted areas;
- Construction of permanent structures only in accordance with approved CDMP and OP;
- Employment of experienced registered foresters; and
- Submission of annual reports.

Again, Joint DENR-DILG MC 98-01 (reiterated by JMC 2003-01) provides for the collaboration between DENR and LGUs on the issuance of licenses and permits, stated as follows:

JMC 98-01, Section 9.3 Issuance of Licenses and Permits – *“To further strengthen DENR-LGU partnership pursuant to the pertinent provisions of RA7160, henceforth the issuance by the DENR of tenurial instruments in forestlands and for forest products utilization shall be in coordination with the LGUs as follows:*

9.3.1 Approval of Operations Plan of Timber License Agreements – The concerned LGU (province, city or municipality) shall sit in the committee created by DENR to deliberate said operations plan. The comments of the LGU in the committee’s deliberations shall be recommendatory to the DENR.

9.3.1 Other Tenurial Instruments – After the applicant has submitted his application papers to the DENR, the DENR shall notify the LGU (province, city or municipality) of said pending application to solicit the comments of said LGU. The comments made by the LGU shall be advisory to the DENR for the latter’s final action on the application.”

JMC 2003-01, Section 7 Reiteration of LGU Participation in the issuance of Tenure Instruments and Permits under Section 9.3 of JMC 98-01 – *“Henceforth it is mandatory for pertinent DENR offices to submit for comments by the LGUs any application for tenurial*

instruments, including resource extraction permits, before instruments or permits are issued; provided, that the concerned LGU shall inform DENR of the action it has taken within fifteen (15) days from the date of receipt of the document; otherwise, it will be presumed that the LGU fully endorses said applications or instruments.

In cases where the forest area covers one or more cities/municipalities, then the comments of all the city/municipal LGUs including the provincial LGU must be requested.

In cases where the forestland area covers two or more provinces, the comments of all the city/municipal LGUs and the provincial LGUs which cover the area must be requested.

If the comments of the LGUs as above indicated are not solicited, the tenurial or allocation instrument or resource extraction permit so issued shall be subject to further review and all activities in said forestland area shall be suspended, until such time that the comments of the concerned LGUs are received."

3.5.1 Processing time is too long and redundant requirements for CDMP and ECC; delayed approval of IOPs due to delayed issuance of ECC

A common complaint among IFMA holders is the long delays in processing and approval of CDMP. This also has to do with the many levels of DENR hierarchy that the CDMP has to go through before it reaches the OSEC for approval. There is also a need to decentralize the approval of CDMP for IFMAs that are to be issued at the RED level.

Another problem deals with the difficulty in obtaining ECC, particularly in the long period it takes for the IEE or EIS to be reviewed as well as the high cost of employing IEE/EIS preparers. The ECC is a prerequisite in the approval of the IOP. The problems or difficulties in obtaining ECC have been recently addressed through DAO 2003-30 (Implementing rules and regulations for the EIS system) but the amendments still have to trickle down to the field offices for the positive changes to be felt.

The problem of redundant requirements for both the CDMP and ECC is also common to many agreement holders and permittees. The DENR is presently discussing the possibility of incorporating the IEE requirements in the long-term comprehensive development and management plans since there are many information/requirements common to both. This is expected to remove redundant requirements particularly the consultations with dependent communities and LGU endorsement of the project.

3.5.2 Deliberation procedures for CDMP are not clear to all concerned

Existing deliberation procedures vary in different regions. Others include representatives of other sectors while others confine the deliberations within the DENR. There is a need to develop standard guidelines for evaluating and approving the CDMP based on its technical, financial, management, and environmental soundness. The need to address cases of arbitrary decision making calls for multisectoral participation of concerned sectors such as the EMB, LGUs, POs, other agencies, NGOs, etc. However, guidelines and specific timeframes for the deliberation and approval of CDMP are needed to avoid problems of delays.

3.5.3 Processing time is too long and redundant requirements for securing other permits

It is often complained that there are too many requirements for harvesting and utilization permits and the processing time is too long. There is a clamor for integrating all these requirements and permits to reduce too long and costly processing on the part of the holders and to reduce or remove opportunities for graft and corruption among DENR action officers and field personnel. (These are discussed in another Report on the Analysis of Utilization Permits included in this TOR).

3.5.4 Difficulty of IFMA holders in procuring aerial photos/satellite imageries every 5 years (for those with natural forests and areas of more than 5,000 ha)

Many IFMA holders have problems with procurement and submission of aerial photos / satellite imageries and interpretation maps within 1 year and updated versions every 5 years thereafter. This is required from IFMA holders with areas more than 5,000 ha and with existing natural forests. It was suggested that for IFMA holders with contiguous areas, they could share in the cost of obtaining the aerial photos/satellite imageries, if these are really necessary. Otherwise, the possibility of scrapping this requirement was also raised. Some DENR personnel also admitted that they have difficulty in enforcing this requirement as many holders have difficulty in obtaining the aerial photos/satellite imageries, more so for every 5 years.

3.5.5 Many IFMA holders prioritize cutting in residual forests as a source of cash instead of developing the area first before harvesting for cash; need for stiffer sanctions against holders abandoning the area after harvesting

The IFMA policy (DAO 99-53, Section 14.1) allows harvesting and utilization of naturally grown trees in production residual natural forests (RNF) within the IFMA area on condition that this is authorized in the approved CDMP. Many IFMA holders reportedly abuse this by including in their CDMP the harvesting of production residual forests at the earliest possible time. A number of IFMA holders reportedly did not establish plantations but abandoned the area after the production forests were harvested.

It was noted that holders who abandon the IFMA area after harvesting the RNF are sanctioned through cancellation of their IFMA. However, stiffer penalties are needed to prevent speculators from entering into IFMA with harvesting RNF as their only goal.

3.5.6 Requirements for renewal of IFMA are not very clear in existing IFMA policies

Section 13 of DAO 99-53 states that *"an IFMA shall have a duration of twenty five (25) years and may be renewed for another twenty five (25) years, provided, that all conditions of the IFMA, pertinent laws, rules and regulations have been complied with by the holder thereof."* This is the only statement on the renewal of IFMAs in existing policies.

Many IFMA holders have ventilated their concerns regarding renewal of existing IFMAs in the light of recent policies and whether they will be required to secure LGU endorsement and NCIP consent. Related issues raised include the IFMA holders' difficulty in securing both LGU

endorsement and NCIP consent either due to political differences and interference or due to long-time conflicts with LGUs. The holders also questioned the need for NCIP consent especially for those IPs claiming portions of the IFMA but who came into the area years after the holder was already in existence before them.

The question has to be addressed on which agency (DENR, LGU or NCIP) should prevail over the decision to renew the IFMA in cases where said agencies have conflicting stands over the renewal.

Recommendations:

To simplify the procedures for evaluation and approval of CDMP/IOP and ECC, it is recommended that ECC requirements be integrated with those for CDMP to eliminate redundant requirements common to both CDMP and ECC and reduce overall processing time. Among the redundant requirements is the conduct of community consultations and securing their consent for use of the area as well as LGU endorsement. Instead of two separate activities, these could be done at the same time with both the forestry and environment (EMB) representatives involved to reduce time and cost on all parties concerned. Related to this is the need to incorporate in the CDMP/IOP and ECC the plans for harvesting, processing, utilization, and transport activities to facilitate issuance of related permits.

There is also need to establish guidelines and timeframes for deliberation and approval of CDMP and ECC. Deliberation procedures should be disseminated to all concerned for purposes of ensuring transparency, accountability and participatory decision making in the process.

With regards to the requirement for aerial photos/ satellite imageries, there is a need to study alternative options for determining/monitoring vegetative cover or land uses in IFMA areas. One such option is to scrap the requirement and let DENR provide it as one of its technical assistance services through the NAMRIA. Another is to use part of the application fees for monitoring the vegetative cover and land uses in IFMA areas. The possibility of using the environmental guarantee or monitoring fund for this purpose can be explored.

DENR has to firm up its policy on whether or not to allow cutting in production residual natural forests. If cutting in natural forests is allowed, it should be done after the open areas have been developed with an acceptable survival rate. This would insure that the holder really intends to develop plantations in the IFMA area and not merely entering into the agreement as speculator with the goal of harvesting the production forest for short-term gains. Stiffer penalties for erring holders are needed such as requiring them to pay the government for the volume harvested in the RNF within the IFMA area.

In the light of recent issuances on LGU and NCIP endorsements for the use of forestlands, there is a need for policy statements regarding additional requirements for renewal of IFMA apart from compliance with existing conditions, laws, rules and regulations at the time the IFMA was issued. There has to be clear basis for determining which agency should prevail in cases of conflicting decisions over the renewal. The DAO should have adequate provisions for protecting the investments of IFMA holders with good performance.

3.6 Responsibilities of DENR

Section 15 of DAO 99-53 lists the following responsibilities of DENR in respect of all IFMAs:

- Make available existing information on the status of the land, resources and dependent communities within or adjacent to the IFMA areas;
- Ensure the compliance by IFMA holders on the activities in the CDMP, ECC conditionalities, and related laws, rules and regulations;
- Assist the IFMA holders and host communities in developing and implementing mutually beneficial agreements;
- Not alter or modify the boundaries or legal status of IFMA areas, provided that amicable settlements be undertaken in cases of boundary conflicts or ancestral land claims; and
- Promote and/or approve joint venture, financing and/or securitization schemes recommended by IFMA holders.

3.6.1 Inadequate monitoring by DENR of IFMA holders' implementation of ECC conditionalities and compliance with other laws, rules and regulations

The implementation of ECC conditionalities has been given little emphasis since the Environmental Impact Assessment (EIA) Law was implemented. Many IFMA holders do not have any problem with this since there is little monitoring done by the DENR anyway. Personnel of the EMB regional offices admitted that they have very few personnel and limited resources to closely monitor the activities of thousands of IEE and ECC holders. EMB regional and field personnel can barely cope up with the processing of a large number of applications for IEE/ECC/CNC from various sectors, not only in forestry, so they can spare less time for monitoring activities.

However, the need for closely monitoring environmental protection is crucial for sustainable forestry to be achieved. Otherwise, we may be seeing a speedier destruction of our forests in the near future particularly if government continues to allow cutting in natural forests and conversion of inadequately stocked forests into plantations. Unless mitigating/enhancing measures are strictly implemented and monitored in IFMA areas, our natural forests will soon be a thing of the past.

Also, there is weak monitoring of holders' compliance with IFMA conditionalities and other rules and regulations. DENR field officers blame their inability to regularly and properly monitor the IFMA holders' compliance on DENR's inadequate resources, i.e., limited personnel and travel allowances, etc.

3.6.2 Instability of policies due to frequent changes in DENR administration and politically influenced amendments to existing policies

The instability of government policies through frequent changes has had major impacts on the activities and investment of many IFMA holders. Among the policy changes that have affected investors are the logging ban in certain regions, moratorium on issuance of related permits, allowable cut limitations, and other restrictions. Most of these changes were usually brought about by complaints from influential sectors and where DENR have been forced to react and instigate

policy changes without proper consultations with concerned sectors particularly it agreement holders and permittees.

One of the issues raised by IFMA holders regarding the instability of policies has to do with the four DAOs on IFMA (DAO 91-42, 93-60, 97-04, and 99-53) issued by different Secretaries. The amendments/repeals were issued after two, four, and two years, respectively since 1991. Although existing IFMAs should not be affected too much by changes in the new DAOs, the holders have experienced the opposite in reality. With each new DAO, IFMA holders were usually asked to submit new requirements in line with the new provisions.

A major change from the two earlier DAOs (91-42 and 93-60) is the shift from the competitive public bidding to the first qualified applicant (DAOs 97-04 and 99-53) as basis for awarding IFMAs. Confusion remains regarding the performance guarantee bonds held by IFMA holders awarded through bidding in the years before 1997. DENR personnel are also not clear as to what should be done with the performance guarantee bonds held by older IFMA holders since these are no longer required in the new DAOs.

3.6.3 Inadequate turn-over of records when there is a change of officials in the DENR

This has long been a problem in many government offices including the DENR. The problem arises from an inefficient management of information system (MIS) in many offices from the central to the field levels. It is also often associated with insufficient resources to put in place and maintain efficient and up-to-date MIS.

Recommendations:

Inadequacy of resources for monitoring IFMA holders' compliance can be addressed by sharing of responsibilities and resources among DENR Bureaus and attached agencies. It has been pointed out in some regions that there is unequal distribution of personnel in various sectors, e.g. there are more personnel assigned in the forestry sector than at the environmental sector. It seems possible to harmonize the resources and manpower of the different sectors within DENR and to distribute existing manpower where there is greater need. This could be reviewed and implemented through the DENR's Human Resources Development Office. The environmental guarantee fund set aside by IFMA holders as a requirement for their ECC compliance can be shared among the DENR Bureaus and attached agencies for purposes of monitoring the IFMA holders' compliance.

In terms of the instability of administrative issuances, there is need to push for institutionalizing forestry policies thru the passage of the Sustainable Forest Management Bill in Congress or the Executive Order to lessen room for politically influenced policy changes. Establish mechanisms for consultations with concerned sectors and proper study of existing policies before new policies or specific changes are made. Include statements in major DAOs regarding a minimum period of implementation before they can be replaced as well as on their retroactive non-applicability if warranted.

Again, DENR really needs to improve its records and MIS systems and to establish procedural mechanisms for proper turn-over of records and disseminate them to all DENR offices.

3.7 Benefits of IFMA holders; sanctions and penalties

The IFMA holders are entitled to incentives as listed in Section 20 of DAO 99-53:

- Interplant secondary crops between trees within areas designated for IFP;
- Right to own, harvest, sell, and utilize trees and crops established by the holder in the area;
- Allowed to export logs, lumber and other forest products derived from the IFMA area (except for naturally grown trees);
- Exemption from payment of forest charges on all plantation products derived from the area (except for naturally grown trees);
- Entitlement to incentives provided under the Omnibus Investment Code and Section 36 of PD 705;
- Transfer 3-year old developed plantations to cooperatives upon compensation by cooperative or through financing institution;
- Use stable 3-year old plantation crops as collateral or security for loans; and
- If holder has satisfactory performance and compliance with terms and conditions, may be allowed (a) an additional IFMA area or (b) a new or another IFMA with maximum area not exceeding 40,000 ha.

Section 23 provides for the mechanisms of suspension of an IFMA while Section 24 lists the grounds for cancellation of IFMA.

3.7.1 Abusive IFMA holders illegally cutting in adjacent (open access) natural forests

There are many reports of abusive IFMA holders found cutting in production natural forests in adjacent areas not covered by any tenurial instrument and therefore left as open access areas. Most cases have been reported in Mindanao where most of the remaining natural forests are found. However, none of such cases have been tried and the erring holders have not been penalized. Either the DENR has a weak law enforcement capability or it lacks the political will to enforce the law to stop this rampant destruction of natural forests in open access areas.

3.7.2 Lenient sanctions and penalties for abusive IFMA holders

Non-compliance with IFMA and ECC conditionalities by holders is mainly sanctioned by suspension or cancellation of their IFMAs. Existing policies do not include penalties for abusive IFMA holders such as those who cut the residual natural forests then abandon the area, or those who fail to develop the area within their tenure, or those who convert the forests for other uses. Because of the lenient sanctions, speculators continue to apply for and are issued IFMAs then leave the deforested areas for open access by others since government is unable to protect them. Stricter penalties should be imposed so as to discourage speculators.

3.7.3 Process of IFMA cancellation is not clear

Existing policy on IFMA cancellation is mostly based on the old policies applicable to lease agreements, licenses or permits. It is clear that by definition, IFMA is a production sharing contract between DENR and the agreement holder, and as such, should be treated differently from leases, licenses or permits where DENR is the lessor and the other party considered as lessee. The IFMA

policy specifies various grounds for cancellation of the IFMA but it does not specify how the cancellation of the contract is to be done. This is often left to the legal division of the concerned offices but it is not disseminated to the field action officers so that cases filed against erring IFMA holders are usually dismissed due to technicalities.

Recommendations:

For the monitoring of IFMA holders' compliance, DENR should focus its resources on the monitoring/supervision of the harvesting operations inside the IFMA areas rather than maintaining monitoring stations along the highways outside the IFMA areas. DENR's law enforcement capability in the field has to be strengthened through retooling of its field officers and information dissemination of forest law enforcement policies to the LGUs and Police or Army.

Provide stiffer penalties and sanctions for erring and abusive IFMA holders and prevent speculators from deforesting the remaining natural forests. One penalty option is to value the amount of harvested products as well as the damages to the forest caused by harvesting and then abandoning the area and have the erring holders pay this amount. Also, there is need to improve access to DENR's records and MIS systems in order for field officers to keep track of IFMA speculators and other erring holders before they can do more damage in the forests.

Procedural mechanisms on IFMA cancellation have to be developed and established based on legal conditions (due process and arbitration) for cancellation of contracts. DENR action officers will also have to be trained on the suspension and cancellation procedures. This procedural mechanism should contain the following features:

- a) Observance of due process wherein both sides - the government and the IFMA holder – are given adequate opportunity to present evidence in support of their respective claims;
- b) Independent body to verify and/or investigate the claims and counter-claims of the contending parties;
- c) Transparency in the conduct of the various activities from start to finish of the investigation;
- d) Imposition of proper accountability on the guilty parties, either in their personal or official capacities; and
- e) Use of arbitration system as provided by the Philippine Arbitration Law.

It is suggested that the procedural system follows these basic steps:

- a) Filing of a sworn complaint by any concerned party or an official report by the DENR field offices, LGUs, OGAs, and Sps;
- b) Creation of an independent body to verify and/or investigate the complaint and/or official report;
- c) Actual verification and/or investigation of the subject matter of the complaint and/or official report;
- d) Submission of the corresponding report by the independent body;
- e) Creation of a panel of Arbitrators to hear and decide on the complaint and/or official report;
- f) Conduct of arbitration following the procedures laid out in the Philippine Arbitration Law;
- g) Imposition of the appropriate sanctions and/or penalties on the guilty parties; and

- h) Except for questions of law and on Motion for Reconsideration, the Arbitration Award shall be final and executory.

3.8 Government share

Negotiated sharing of profit between DENR and the IFMA holder is based on consideration of the following cost factors:

- Plantation establishment, protection, management, infrastructure and harvesting cost as well as mitigating measures;
- Fixed assets, equipment and machineries directly related to the plantation development and harvest;
- Kind and volume of products shall be harvested and prevailing market prices thereof;
- Variation in rates of interest and foreign exchange for financial investment;
- Expenses incurred in indirect activities such as community development, etc.;
- Forest charges and taxes paid; and
- Reasonable margin for profit and risks.

The FMB has conducted a study on the determination of government share in profits from IFMA and the recommended option is by computation of 5 percent of gross sales (Cheng et al. 1998). The recommendation is based on the least amount of data needed for computation.

3.8.1 Procedures for negotiated profit-sharing between the government and IFMA holders are not clear

DENR action officers admitted that there are no clear mechanisms on paper for the negotiation for profit sharing between government and IFMA holders. Hence, the informal survey in various regions revealed different methods of computing for the profit share. Mostly computation is by getting a percentage of net sales without a fixed or standard percentage. Although the FMB study shows that the 5% of gross sales option requires the least data and gains for government a reasonable profit, the methodology is not yet widely disseminated.

Another issue raised was on what to do with those IFMAs that were issued prior to the existing DAO where government share was merely from forest charges on residual forest products and rentals on the use of the forestland. It is not clear whether older IFMAs should continue to pay rentals as stipulated in their agreement or to shift to the existing policy of negotiated profit-sharing with government.

Recommendation:

Dissemination of the procedures for determining government share based on FMB's recommended option and training of DENR action officers on the how tos. DENR should make clear policies regarding the shift from rentals to negotiated profit sharing by older IFMA holders.

4.0 SUMMARY AND RECOMMENDATIONS

The analysis of IFMA regulatory procedures is limited to a content analysis of the major policy issuances and those items identified by respondents (both DENR and other sectors) to be riddled with issues and problems that have not been addressed by changes made through the four major DAOs and related laws (Local Government Code and IPRA Law). The proposed revisions, items for further study, simplification and harmonization are guided by the ecogovernance principles of transparency, accountability and participatory decision making.

4.1 Transparency

In order for the IFMA regulatory procedures to be transparent, there is a need for the active participation of multisectors (LGUs, local communities, private industry sector, NGOs, etc.) in the various deliberations prior to decision making, especially with land allocation activities. In particular, multisectoral committees are needed in the evaluation of potential IFMA areas; evaluation of applications for IFMA and ECCs, evaluation of CDMPs, and evaluation of IFMAs for suspension/cancellation. Consultations with as many concerned sectors as possible are also needed where policy changes such as amendments, revisions or repeals are to be made.

For the IFMA to be attractive to investors, DENR has to reduce the insecurity brought about by unclear policy statements or procedures and an unstable policy environment. Simplified, harmonized and standardized policies and procedures have to be made accessible to the public to ensure transparent transactions between DENR and its clientele.

4.2 Accountability

Accountability in decision-making and implementation of the IFMA policy and program can be achieved in a number of ways. One is by decentralization of decision-making in terms of approval and issuance of IFMA, CDMP, and ECC. Another is deregulation of related policies particularly the integration of common requirements for CDMP, ECC and related permits. Establishment and enforcement of checks and balance mechanisms, clear mechanisms for law enforcement, and enhancing or building up capabilities of action officers are other ways of inculcating accountability among the DENR rank and file.

4.3 Participatory decision-making

Social equity and justice in public forestland allocation can be achieved by defining the roles and mechanisms for participation of all interested stakeholders in IFMA. The IFMA is biased towards the moneyed investors mainly because of the substantial financial investments required to develop and manage large IFMA areas. However, the policy has to define the role of the local communities - both migrant and indigenous people - as well as the local government units and related local industries.

REFERENCES

- Cheng, A., A. Bello, A. Sibucan, Jr., A. Javier, M Quintos, D. Catindig, A. Lachica, C. Pablo, A. Castillo, G. Francisco, E. Estrada, and M.S. delos Angeles. 1998. Derivation of Government Share in Industrial Forest Management Agreement (IFMA) Production. PEENRA / ENRAP IV Technical Paper. DENR-FMB, Quezon City.
- DAO 41-87 - Interim rules governing the issuance of Lease Agreement on the Industrial Tree Plantations and Agroforest Farms
- DAO 01-89 - Revised regulations and guidelines governing the establishment and development of Industrial Tree Plantations
- DAO 42-91 - Revised regulations and guidelines governing the establishment and development of Industrial Forest Plantations (IFPs)
- DAO 16-92 - Addendum to DAO 42 which provides the Regulations and guidelines governing the establishment and development of IFPs
- DAO 60-93 - Revised regulations and guidelines governing the establishment and management of Industrial Forest Plantations (IFPs) and management of residual natural forests for production purposes
- DAO 68-93 - Amendment of DAO 60, series of 1993, otherwise known as the Revised regulations and guidelines governing the establishment and management of Industrial Forest Plantations (IFPs) and management of residual natural forests for production purposes
- DAO 15-94 - Further amendments/clarification to the provisions of DAO 68, series of 1993, Re-Additional incentives to IFP
- DAO 11-95 - Performance evaluation guidelines for IFMA holders
- DAO 97-04 - Rules and regulations governing the Industrial Forest Management Program
- DAO 98-66 - Amendments to DAO 97-04 dated March 4, 1997, Re: Rules & regulations governing the Industrial Forest Management Program
- DAO 99-53 - Regulations governing the Integrated Forest Management Program (IFMP)
- DAO 2003-21 - Amending certain provisions of DAO 99-53 (The regulations governing the IFMP)
- DAO 2003-30 - Implementing rules and regulations (IRR) for the Philippine Environmental Impact Statement (EIS) System
- DENR MC 6-94 - Temporarily suspending the implementation of the waiving of guarantee bond on IFMA pursuant to DAO 68, series of 1993

DENR MO 15-94 - Continuance of the acceptance, evaluation and issuance of IFMA and providing additional guidelines thereof

EO 725 (1981) - Facilitating the establishment of Industrial Tree Plantations

EO 192 (1987) - Providing for the Reorganization of the Department of Environment, Energy, and Natural Resources renaming it as the Department of Environment and Natural Resources, and for other purposes

EO 278 (1987) - Prescribing the interim procedures in the processing and approval of application for the development or utilization of forestlands and/or forest resources

EO 263 (1995) - Community-Based Forest Management as the national strategy for the sustainable development of the country's forestlands resources

Joint DENR-DILG Memorandum Circular No. 98-01 – Manual of Procedures for DENR-DILG-LGU Partnership on Devolved and Other Forest Management Functions

Joint DENR-DILG Memorandum Circular No. 2003-01 – Strengthening and Institutionalizing the DENR-DILG-LGU Partnership on Devolved and Other Forest Management Functions

PD 705 (1975) – Revised Forestry Code of the Philippines

Philippine Forestry Statistics. 2001. Forest Management Bureau, DENR, Quezon City.

The Philippine Constitution (1987)

APPENDIX Table 1. Chronology and salient provisions of policy issuances related to IFMA

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
PD 705	1975	Revised Forestry Code of the Philippines (Pres. Ferdinand E. Marcos)	<u>Section 19</u> - provides that only the utilization, exploitation, occupation or possession of any forest land , or any activity therein, involving one or more of its resources, which will produce the optimum benefits to the development and progress of the country and public welfare, without impairment or with the least injury to its other resources, shall be allowed <u>Section 27</u> - allows the utilization, exploitation, occupation, possession or conduct of any activity within any forest land, through license agreements, licenses, leases and permits . The duration of the privilege to harvest timber in any particular forest land is fixed and determined in accordance with the annual allowable cut, the established cutting cycle, the yield capacity of harvestable timber, and the capacity of healthy residuals for a second growth. However, the maximum period of any privilege to harvest timber is 25 years renewable for a period not exceeding 25 years or as maybe necessary to utilize all the remaining commercial quantity or harvestable timber. With respect to the size of the forest concessions, it is limited to that which a person may effectively utilize and develop for a period of fifty years considering the cutting cycle, the past performance of the applicant and his capacity not only to utilize but more importantly, to protect and manage the whole area, and the requirements of processing plants existing or to be installed in the region
EO 725	1981	Facilitating the establishment of Industrial Tree Plantations (Pres. Ferdinand E. Marcos)	Mandating the establishment of Industrial Tree Plantations (ITPs) in open, denuded, brushland & inadequately stocked areas for immediate implementation ITP Lease Agreement – 25 years renewable for another 25 years
	1987	The Philippine Constitution (term of Pres. Corazon C. Aquino)	<u>Art. XII, Section 2</u> - " All lands of the public domain , waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State . With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements maybe for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
			...The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country."
EO 192	1987	Providing for the Reorganization of the DEENR renaming it as the DENR, and for other purposes (Pres. Corazon C. Aquino)	DENR as the primary agency responsible for the conservation, management, development and proper use of the country's environment and natural resources
EO 278	1987	Prescribing the interim procedures in the processing and approval of application for the development or utilization of forestlands and/or forest resources (Pres. Corazon C. Aquino)	<u>Section 4</u> – DENR is authorized to negotiate and enter into joint venture, co-production, or production-sharing agreements for the development or utilization of forestlands and/or forest resources with any Filipino citizen, or corporation, or association
DAO 87-41	1987	Interim rules governing the issuance of Lease Agreement on the Industrial Tree Plantations and Agroforest Farms (Sec. Fulgencio S. Factoran, Jr.)	<ol style="list-style-type: none"> 1. Effectivity of MAO 33, S-1986, prescribing areal limits to the grant of industrial tree plantation, tree farms & agroforestry farms, is hereby deferred; 2. New ITP, TF, AFF applications of individual persons & other qualified applicants maybe considered provided the area applied for has been inspected/evaluated by personnel of the District Office & the lease agreement & related documents endorsed by the Regional Director prior to March 15, 1987 & if found in order shall be granted a tenure up to 25 years; 3. New applications (without inspection of the area applied for) pending shall be held in abeyance until the revised guidelines are approved;
DAO 89-01	1989	Revised regulations and guidelines governing the establishment and development of Industrial Tree Plantations (Sec. Fulgencio S. Factoran, Jr.)	<u>Industrial Tree Plantation</u> - refers to any tract of forestland planted to tree crops primarily to supply the raw material requirements of existing or proposed wood processing & energy-generating plants, & related industries <u>Section 6</u> - size of area: area that can be developed within 5 years by the lessee but not to exceed 20,000 ha, provided that granting of additional areas on a case to case basis be allowed depending on the excellent performance of lessee <u>Section 7</u> - DENR shall identify lands of the public domain, the biophysical features of which indicates

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
			<p>feasibility of establishing an ITP; areas so identified shall be delimited on scaled map as basis in determining location & extent of areas available for ITP</p> <p><u>Section 8</u> - areas available for ITO shall be granted through 25-year ITP Lease</p> <p><u>Section 13</u> - processing of applications:</p> <ul style="list-style-type: none"> • CENRO - receives application; inspects the area applied for; indorses & forwards papers to the PENRO • PENRO - evaluates documents & indorses them to the RED thru RTD for Forestry • RED - RTD evaluates documents & prepares ITP Lease Agreement for approval by RED if area below 300 has, or forwards it to DENR Office if area above 300 ha • DENR Office - approval of ITPLA: <ul style="list-style-type: none"> 300-500 ha - Asec for Operations 501-750 ha - USEC for Field Operations over 750 ha - Secretary <p><u>Section 14</u> - within 12 months from issuance of ITPLA, lessee shall submit 25-yr CDMP</p> <p><u>Section 15</u> - nominal filing fee for ITPLA of P0.50/ha</p> <p><u>Section 16</u> - reduced payment for forest charges (25%) due on timber from ITP</p> <p><u>Section 26</u> - at least 30% of area should be developed within 3 years & 100% of area within 5 years after lease is granted</p> <p>Section 30 - in consonance with approved ITPDM Plan, cutting of naturally grown, mature, over mature & defective trees within ITPLA may be allowed but at least 20% of such area shall be preserved for biodiversity.</p> <p>In other areas of ITPLA, naturally grown trees may be cut if in accordance with timetable in approved management/development plan; and no cutting done within 40 m of both sides of riverbanks where enrichment planting is required of the ITPLA holder in such areas</p>
DAO 91-42	1991	<p>Revised regulations and guidelines governing the establishment and development of Industrial Forest Plantations (IFPs)</p> <p>(Sec. Fulgencio S. Factoran, Jr.)</p>	<p><u>Section 5</u> – potential IFMA areas identified, validated on ground, demarcated/ delineated on map, & classified as part of Permanent Forest Estate</p> <p><u>Section 6</u> – 2 types of IFMA areas:</p> <p>I – for purely plantation establishment</p> <p>II – for plantation development and management of natural forest combined</p> <p><u>Section 8</u> – awarding of areas is thru:</p> <ul style="list-style-type: none"> • First-come-first-served basis for areas without adequately stocked natural forest • Competitive bidding for areas with adequately stocked natural forest • Bidding for existing TLAs willing to convert to IFMA

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
			<p><u>Section 9</u> – bidding & screening process; performance bond required</p> <p><u>Section 10</u> – issuance of IFMA: < 1000 ha – RED 1000-2000 ha – USEC-Field Operations > 2000 ha – DENR Secretary</p> <p><u>Section 11</u> – size of area: 100 to 20,000ha</p>
DAO 92-16	1992	<p>Addendum to DAO 42 which provides the Regulations and guidelines governing the establishment and development of IFPs</p> <p>(Sec. Victor O. Ramos)</p>	<p><u>PFDA</u> – agreement entered into by & between DENR and a private land owner for the establishment & development of forest plantations within his/her private land</p> <ul style="list-style-type: none"> • CENRO – accepts, processes & recommends applications for PFDA • RED – approving/issuing authority
DAO 93-60	1993	<p>Revised regulations and guidelines governing the establishment and management of Industrial Forest Plantations (IFPs) and management of residual natural forests for production purposes</p> <p>(Sec. Angel C. Alcala)</p>	<p><u>Section 4</u> - Types of IFMA areas:</p> <ul style="list-style-type: none"> • Type I – areas that do not contain any residual production forest & are for IFP establishment & management, & protection of Protection Forest, if any • Type II – areas that contain residual production forest & are for IFP establishment, sustainable management of the residual production forest & protection of Protection Forest <p><u>Section 6</u> – size of area: 500 to 40,000 ha or up to size of TLA converted to IFMA</p> <p><u>Section 7</u> – RED identifies, evaluates suitability of land, demarcates on maps suitable & available areas for IFMA</p> <p><u>Section 8</u> – RED assisted by LGU notifies dependent communities of IFMA areas & acts on objections</p> <p><u>Section 9</u> – RED thru DENR field staff or FSO carries out resource inventory & prepares resource management plan for IFMA areas</p> <p><u>Section 11</u> – RED & DENR-CO maintain register of available areas for IFMA</p> <p><u>Section 13</u> – assignment of responsibilities:</p> <ul style="list-style-type: none"> • IFMA I – first qualified applicant (those areas with government plantations are allocated thru public bidding) • IFMA II – public bidding among qualified applicants on value of performance bond • TLAs converting to IFMA – direct negotiation of value of performance bond covering RPF area within TLA <p><u>Section 16</u> - application fee: P0.50/ha & fraction thereof</p>

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
			<p><u>Section 18</u> – issuance of IFMA: < 2000 ha – RED 2000-5000 ha – USEC Field Operations > 5000 ha - Secretary</p> <p><u>Section 20</u> – responsibilities of IFMA holders:</p> <ul style="list-style-type: none"> • submit every 5 years aerial photo/satellite imagery for areas >1000 ha; • IFMA holders can convert Degraded Residual Forest within their area to productive state • responsible for operation & control of licenses & permits for harvesting NTFPs within IFMA area • payment of rentals, charges & performance bond (IFMA II) <p><u>Section 34</u> – transitory provisions for conversion of ITPLA to IFMA</p>
DAO 93-68	1993	<p>Amendment of DAO 60, series of 1993, otherwise known as the Revised regulations and guidelines governing the establishment and management of Industrial Forest Plantations (IFPs) and management of residual natural forests for production purposes</p> <p>(Sec. Angel C. Alcalá)</p>	<p><u>Section 1</u> – expansion of incentives package for IFMA:</p> <ul style="list-style-type: none"> • guarantee bond as basis in awarding IFMA is administratively waived • IFMA holders with satisfactory performance are allowed to apply for additional area • IFMAs considered as priority program in Debt for Nature Swap • IFMA holders may turn over 3-yr developed plantations to cooperatives & be entitled to refinancing • IFMA holders may use stable plantations as collateral for soft loans <p><u>Section 2</u> – complementary revisions:</p> <ul style="list-style-type: none"> • Type II IFMA – award based on bid offer that is most advantageous to government in shares from production (naturally growing W&NW) but not lower than forest charges • TLA holders in good standing – apply for conversion to IFMA subject to regulations & negotiation for government shares in terms of forest charges • Performance bond as guarantee for satisfactory compliance with T/C of IFMA
DMC 94-06	1994	<p>Temporarily suspending the implementation of the waiving of guarantee bond on IFMA pursuant to DAO 68, S-1993</p> <p>(Sec. Angel C. Alcalá)</p>	<p>Waiver of guarantee bond as basis in award of IFMA (DAO 68-93, section 2 except sub-sec. 21.4) is temporarily suspended. Provisions of DAO 60-93 related to use of guarantee bond as basis in award of IFMA is temporarily restored.</p>
DAO 94-15	1994	<p>Further amendments/ clarification to the provisions of DAO 68, series of 1993, Re: Additional incentives to IFP</p>	<p><u>Section 1</u> – performance guarantee bond as basis in award of IFMA is restored <u>Section 2</u> – performance bond as basis in award of IFMA is revoked</p> <p><u>Section 3</u> – IFMA holders in good standing are entitled to annex additional areas to their IFMA except</p>

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
		(Sec. Angel C. Alcala)	areas with residual production forest which are subject to public bidding <u>Section 4</u> – existing TLA holders in good standing converting to IFMA shall be given full term of 25 years renewable for another 25 years
DENR Memo Order 15	1994	Continuance of the acceptance, evaluation and issuance of IFMA and providing additional guidelines thereof (Sec. Angel C. Alcala)	<u>Section 1</u> - lifting of suspension (dated June 22, 1994) on the processing & issuance of IFMA <u>Section 2</u> - conflict of IFMA areas with other DENR projects are resolved by giving priority to these projects over IFMA <u>Section 3</u> - provides procedural guidelines for processing & issuance of IFMA to avoid conflicts & submission of erroneous field reports <ul style="list-style-type: none"> • RED identifies potential sites, validates on the ground, evaluates their suitability & availability, conducts community consultations, & prepares brief statement of forest management regime for such areas
DAO 95-11	1995	Performance evaluation guidelines for IFMA holders (Sec. Angel C. Alcala)	Central Office teams (1 FMS & 2 foresters/team) - annual performance evaluation of IFMAs; submit evaluation reports to Secretary & shall form the basis for renewals or conversions RENRO - regular monitoring of progress of activities of IFMAs
EO 263	1995	Community-Based Forest Management as the national strategy for the sustainable development of the country's forestlands resources (Pres. Fidel V. Ramos)	Integrates and unifies all people-oriented forestry programs of the government making it an umbrella program Advocates a change in the general approach of the government to sustainable development by empowering the upland communities, securing the support and participation of local government units and the civil society, and integrating the elements of social equity, public participation, forest conservation, security of tenure, benefit-sharing mechanisms, democratized access to the resources, and sustainable development
DAO 97-04	1997	Rules and regulations governing the Industrial Forest Management Program Repeals/amends DAO 93-60 & other policy issuances	<u>Section 2</u> - gives priority to CBFM (EO 263), CADC (DAO 2-93), IPAS, SIFMA over IFMA in case of conflicts <u>Section 5</u> - size of area: 500 to 20,000 ha; aggregate of IFMA areas by a holder does not exceed 40,000 ha <u>Section 7</u> - IFMA applicants required to submit PD or IEE and ECC issued by RED; after IFMA awarded, holders required to submit EIS & ECC issued by Secretary as requirements for approval of

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
		<p>inconsistent with provisions of this Order</p> <p>(Sec. Victor O. Ramos)</p>	<p>CDMP</p> <p><u>Section 8</u> - applications for TLA conversion or IFMA expansion are deemed as new applications & subject to pertinent requirements & procedures</p> <p><u>Sections 9,10, 11</u> - identification, evaluation & delimitation of potential IFMA areas:</p> <ul style="list-style-type: none"> • CENRO - identifies potential areas, evaluate suitability & availability of such areas • PENRO - maintains database of potential IFMA areas including physical description & community profiles; conducts information dissemination; informs LGUs & together validates on ground the feasibility of such areas; forwards info & maps to Secretary for approval • RED - after approval of areas, informs LGUs and publishes the approved sites; maintains Register of available IFMA areas • FMB - maintains database of approved sites (maps & documents) for monitoring <p><u>Section 14</u> - application fee:</p> <ul style="list-style-type: none"> >500-2000 ha = P12,000 >2000-5000 ha = P14,000 >5000-10,000 ha = P15,000 >10,000-15,000 ha = P20,000 >15,000-20,000 = P25,000 <p><u>Section 15</u> - processing of applications: (120 days)</p> <ul style="list-style-type: none"> • CENRO - accepts & processes applications on first-come-first-served basis, validates area applied for; forwards to PENRO; (30 days) • PENRO - reviews & evaluates applications; consultative meetings with communities to determine acceptability; endorses application to RED (40 days) • RENRO - RTD evaluates application & endorses to RED for denial or endorsement to DENR-CO; (20 days); applicant may appeal to RED within 15 days • DENR-CO - approves or denies IFMA application (30 days); applicant may appeal to UFO or motion for reconsideration to OSEC within 15 days <p><u>Section 16</u> - issuance of IFMA:</p> <ul style="list-style-type: none"> • 10,000 ha & below - approval by Usec Field Operations with concurrence of Usec Env't & Planning & Usec Legal • above 10,000 ha - DENR Secretary <p><u>Section 19</u> - salient responsibilities of IFMA holders:</p> <ul style="list-style-type: none"> • Cutting in natural forests not allowed unless absolutely necessary & permit required • Prepare, maintain & update register of families & communities within IFMA area

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
			<p><u>Section 28</u> - government share in the IFMA is negotiated between applicant & DENR based on: plantation establishment & maintenance costs; harvesting schedule; kind of products harvested; projected volume of harvest; market price; interest rate of financial investment; amount of government share remains unchanged for duration of IFMA unless renegotiated & mutually agreed upon by both parties</p>
DAO 98-66	1998	<p>Amendments to DAO 97-04 dated March 4, 1997, Re: Rules & regulations governing the Industrial Forest Management Program (Sec. Antonio H. Cerilles)</p>	<p><u>Section 7 of DAO 97-04</u> is amended - after IFMA is awarded, holder is required to submit IEE; thus IFMA applicant is no longer required to submit PD as part of application documents (<u>Section 14-1</u> of DAO 97-04) <u>Section 19.1</u> is also amended such that after IFMA is awarded, the holder submits IEE instead of an EIS as a previously stated requirement for approval of CDMP</p>
DAO 99-53	1999	<p>Regulations governing the Integrated Forest Management Program (IFMP) Repeals DAO 91-42, DAO 93-60, DAO 97-04 & other policy issuances inconsistent with its provisions (Sec. Antonio H. Cerilles)</p>	<p><u>Section 6</u> - size of IFMA area: 500 to 40,000 ha (but can extend up to size of TLA at the time of conversion) <u>Section 7</u> - DENR identifies potential areas, determines land use, validates on ground, along with LGUs consults dependent communities; LGUs indorses areas for approval by the RED <u>Section 8</u> - Registry of Available IFMA areas at FMB, RED, PENRO, CENRO <u>Section 9</u> - automatic conversion of TLA into IFMA allowed after proper evaluation <u>Section 10</u> - application fees: P0.50/ha + survey fee of P50/ha & actual transport cost of survey team <u>Section 11</u> - processing & approval of IFMA:</p> <ul style="list-style-type: none"> • CENRO - accepts, & processes application on first-come-first-served basis (except for automatic TLA conversion); inspects area on ground; prepares IFMA & endorses to PENRO or returns to applicant with comments • PENRO - evaluates/reviews application documents; endorses IFMA & documents to RED or returns to CENRO with comments for action • RENRO - evaluates/reviews documents; forwards IFMA & documents to Secretary thru FMB Director or returns to PENRO with comments for action • FMB - evaluates/reviews documents; forwards IFMA to Secretary or returns to RED with comments for action • OSEC - approves or disapproves IFMA; sends notice of approval to applicant, copy furnished the FMB, RENRO, PENRO, CENRO & concerned LGUs • No provision for appeal or motion for reconsideration of denied applications

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
			<p><u>Section 12</u> - after IFMA is awarded, holder submits IEE; RED grants or denies ECC or may required EIS if needed</p> <p><u>Section 14</u> - salient responsibilities of IFMA holder:</p> <ul style="list-style-type: none"> • Delineation & marking on ground perimeter boundaries; 5% timber inventory in natural forest & plantations • After IFMA awarded, submit CDMP & IEE as basis of Secretary's approval (of CDMP) & issuance of ECC by RED • For areas more than 5,000 ha, submit aerial photos/satellite imageries within 1 year & every 5 years thereafter (except where no natural forests exist) • Implement mitigation/enhancement measures in IEE & conditionalities of ECC • If included in CDMP, convert degraded residual natural forest within IFMA area • According to approved CDMP & OP, sustainably harvest & utilize naturally grown trees except old growth & protection forest where no cutting is allowed <p><u>Section 20</u> - salient incentives:</p> <ul style="list-style-type: none"> • IFMA holder in good standing may be allowed either (a) an additional area to existing IFMA area but not to exceed 40,000 ha, or (b) a new or another IFMA with an area not exceeding 40,000 ha <p><u>Section 21</u> - profit sharing is negotiated between IFMA holder and government thru DENR considering the cost factors: plantation establishment/protection/management/ infrastructure & harvesting cost; fixed assets, equipment & machineries; kind, volume & prices of harvested products; interest rate & foreign exchange for financial investment; expenses for indirect activities; forest charges & taxes paid; & reasonable margin for profit & risks; agreed profit sharing forms part of IFMA</p> <ul style="list-style-type: none"> • Government share is currently 5% of gross sale (source: FMB study)
Memo from Secretary	Jan. 16, 2001	Adopting the regular five-year operations plan in lieu of the Integrated Operations Plan for the IFMA holders with approved long-term forest or Timber Management Plan and/or Comprehensive Forest Management and Development Plan (Sec. Antonio H. Cerilles)	<p>IAOP of TLA or IFMA holders has been observed to be very tedious, repetitive & time-consuming causing undue economic losses, following rules & guidelines are promulgated:</p> <ol style="list-style-type: none"> 1. All TLA or IFMA holders with approved long-term Forest or Timber Management Plans &/or Comprehensive Forest Management & Development Plans, shall be required to submit a 5-yr Operations Plan in lieu of the IAOP for approval by the Secretary. 2. TLA holders who do not have long-term Forest or Timber Management Plans as well as corresponding ECCs shall be allowed to continue to submit the IAOPs until such time as they have secured the approval by the DENR of such plans and ECCs. In case of IFMA holders, a CFMDP must have to be approved first before any OP (5-year or annual) can be approved.

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
DAO 2003-21	2003	Amending certain provisions of DAO 99-53 (The regulations governing the IFMP) (Sec. Elisea G. Gozun)	<p><u>Section 9.2 of DAO 99-53</u> is amended - conditions under which conversion of TLA into IFMA can be allowed:</p> <ul style="list-style-type: none"> • TLA holder signifies in writing to DENR Secretary the intention to convert not later than 1 year prior to expiry date of TLA • Satisfactory performance of TLA holder (for at least the past 5 years) based on comprehensive performance evaluation commissioned by the Secretary <p><u>Section 9.3</u> - size of area allowed for conversion may extend up to size of TLA subject to exclusion of the following:</p> <ul style="list-style-type: none"> • Areas prohibited for IFMA under section 5 of DAO 99-53, • Other contentious areas that cannot be made available as per section 5 of DAO 99-53 <p>* Areas within CADC/T - free and prior informed consent should properly be obtained before filing of the application</p> <p><u>Section 9.4</u> - application requirements on conversion of TLA to IFMA shall be the same as those prescribed in section 10 of DAO 99-53</p>
Proposed DAO ____	draft	Rules and regulations for the implementation of EO 278, otherwise known as Interim guidelines in the processing and evaluation of application for the development and utilization of forest lands and its resources	<p><u>Section 3</u> - definition of terms:</p> <p>Co-production agreement - refers to an agreement between the government and the contractor wherein the government shall provide inputs to the operations other than the natural resources</p> <p>Joint venture agreement - an agreement where a joint venture company is organized by the government and the contractor with both parties having IFMA area (refers to a specified and delineated area of forestland subject of or covered by an IFMA)</p> <p>Production sharing agreement - refers to an agreement where the government grants to the contractor the exclusive right to conduct operations within a contract area and shares in the gross output; the contractor shall provide the financing, technology, management and personnel necessary for the implementation of the agreement</p> <p>Other provisions still under discussion:</p> <ul style="list-style-type: none"> • Bidding procedures • Conditions for co-production, joint venture & production-sharing agreements • Size of area - 500 to 40,000 ha but may extend up to 120,000 ha • No cutting of naturally grown trees for conversion of ISLO areas into plantations • Methods for determining government share in production cost & profit

**ANALYSIS, SIMPLIFICATION AND HARMONIZATION OF
SOCIALIZED INDUSTRIAL FOREST MANAGEMENT AGREEMENT
(SIFMA) REGULATORY PROCEDURES**

I.0 POLICY BASIS OF SIFMA

The SIFMA is an agreement entered into by and between a natural or juridical person and the DENR wherein the latter grants to the former the right to develop, utilize and manage a small tract of forestland, consistent with the principle of Sustainable Development. Like Integrated Forest Management Agreement (IFMA), the agreement is valid for twenty-five (25) years and can be renewed for another twenty-five (25) years. This security of tenure will enable the holders to fully benefit from the use of the land primarily through the crops they planted in addition to their share in enhancing the environment through forest cover restoration and protection. The area coverage of a SIFMA ranges from 1 to 10 hectares for individuals or single family units and over ten hectares but not more than five hundred (500) hectares for associations/cooperatives and corporations.

The existing rules and regulations governing SIFMA are stipulated in DAO 1996-24. This policy was promulgated in pursuant to EO 263 dated July 1995, PD 705, as amended, EO 27 dated 25 July 1987, the Social Reform Agenda and the Philippines 2000 program. Furthermore, the procedures stated in DAO 1996-24 are in line with the policy of the government to ensure the development and management of forestland resources on a sustainable basis, promote equitable distribution of natural resources, provide healthy environment and promote economic upliftment of the people. Hence, it is the policy of the DENR, the primary institution responsible for the development, management, protection, and conservation of the country's forest resources to ensure the equitable access and sharing of rights to natural resources development and utilization by giving opportunities to the people to participate in the development of forest plantations. Security of tenure to the participants shall be provided by the DENR through the issuance of SIFMA. Also, qualified tree farmers shall be granted the privilege to benefit from their crops (e.g., trees for wood production, non-timber species and other cash crops that may be interplanted). Likewise, the general welfare of society shall be enhanced through the effects of forest cover restoration and the production of forest goods and services, both on-site and off-site.

2.0 EXISTING SIFMA AND POTENTIAL SIFMA AREAS

2.1 Number and Area of Existing SIFMAs

The Philippine Forestry Statistics revealed that as of 2001, a total of 1501 individuals, single family units, corporations, and associations were awarded SIFMAs covering a total of 33,565.88 hectares over thirteen regions of the country (Tables 1 and 2). Of the total SIFMA holders, 94.5% or 1418 are individuals or single family units whose areas range from 1 to 10 hectares. Of this, about 828 individuals or single family units have SIFMA areas covering 1 hectare to 5 hectares and about 590 have areas greater than 5 to 10 hectares. All of the existing SIFMA areas with ≤ 10 hectares are concentrated in Regions 1, 2, 3, and 4 with most of

the bulk located in Region 2 with 1104 SIFMA holders covering a total area of 6203.09 hectares. On areas greater than 10 hectares, 66 SIFMA holders have areas from 100 to 500 hectares. Only about 17 holders have greater than 10 hectares to less than 100 hectares.

About 74 percent of the total SIFMA holders or 1110 individuals/single family units are found in Region 2 covering a total area of 7206.56 hectares; followed by Region 3 with 268 covering an area of 8,186. Region 3 has the highest area coverage since it has the most number of holders with area coverage greater than 10 hectares.

2.2 Potential SIFMA Areas

Potential SIFMA areas may cover all grasslands, brushlands and open and denuded forestlands identified by the DENR with the aid of the latest forest resource data and other baseline information. These SIFMA sites must be suitable for production forests, accessible, located in contiguous blocks, or adjacent to existing natural forests, plantation forests, CBFM projects, and devoid of claim conflicts. Other areas that can be identified as potential sites for SIFMA include parts of existing, suspended and cancelled tenurial instruments (e.g., TLA, CBFM, IFMA, ITPLA, etc.)

Table 1. Number of SIFMA holders

Region	<= 1	> 1 - 2	> 2 - 3	> 3 - 4	> 4 - 5	> 5 - 10	> 10 -		Total
							< 100	100 - 500	
1	0	6	0	1	8	2	6	13	36
2	44	126	126	90	238	480	4	2	1110
3	0	27	32	4	108	75	2	20	268
4	2	4	4	3	5	10	1	9	38
6	0	0	0	0	0	18	1	8	27
7	0	0	0	0	0	0	1	10	11
8	0	0	0	0	0	0	0	2	2
10	0	0	0	0	0	0	2	1	3
12	0	0	0	0	0	5	0	0	5
13	0	0	0	0	0	0	0	1	1
Total	46	163	162	98	359	590	17	66	1501

Table 2. Area covered by SIFMA holders

Region	<= 1	> 1 - 2	>2 - 3	> 3 - 4	> 4 - 5	> 5 - 10	> 10 - < 100	100 - 500	Total
1	-	12.00	-	4.00	40.00	20.00	375.25	3,740.25	4,191.50
2	44.00	210.12	313.51	317.56	1,153.47	4,164.43	205.46	800.00	7,208.56
3	-	54.00	89.22	15.46	538.82	726.16	150.00	6,612.47	8,186.12
4	2.00	7.76	10.16	10.24	24.30	100.00	100.00	4,040.00	4,294.46
6	-	-	-	-	-	180.00	100.00	3,716.37	3,996.37
7	-	-	-	-	-	-	100.00	4,259.84	4,359.84
8	-	-	-	-	-	-	-	462.25	462.25
10	-	-	-	-	-	-	200.00	127.00	327.00
12	-	-	-	-	-	39.78	-	-	39.78
13	-	-	-	-	-	-	-	500.00	500.00
Total	46.00	283.88	412.89	347.25	1,756.59	5,230.37	1,230.71	24,258.18	33,565.88

3.0 Analysis of Existing SIFMA Regulatory Procedures and Issues and Proposed/Recommended Simplification and Harmonization

In assessing and analyzing the current procedures for SIFMA, ten areas of concerns were used as basis of study. These are:

- (a) Identification and approval of available sites for SIFMA;
- (b) qualification requirements of SIFMA applicants;
- (c) application requirements;
- (d) processing and approval of SIFMA;
- (e) responsibilities of SIFMA holders;
- (f) responsibilities of DENR;
- (g) benefits and incentives for SIFMA holders;
- (h) benefits of the government from SIFMA;
- (i) sanctions and penalties to SIFMA holders;
- (j) monitoring and evaluation system; and other provisions.

The various issues identified/discussed on SIFMA regulatory procedures were obtained from an analysis of existing policy issuances particularly DAO 1996-24, "Rules and Regulations governing the Socialized Industrial Forest Management Program" and from interviews and consultations with representatives of various stakeholders like the DENR, LGUs, SIFMA holders/applicants, NGOs, and POs. A number of these issues, concerns and recommendations were incorporated in the process of simplification and harmonization of the requirements and procedures. These are summarized in Table 3 and are also discussed in the following subsections. The principles of transparency, accountability and participation in policy decision making are the major considerations in the analysis. The proposed simplification and harmonization of SIFMA regulatory procedures were based on the analysis, fieldwork and various consultations.

3.1 Identification and approval of potential SIFMA areas

DAO 96-24 states that the identification of potential SIFMA sites with the aid of the latest resource information and other baseline data is the responsibility of the DENR through the CENRO. Once the potential sites are identified, the CENRO informs in writing the concerned LGUs and, together with their representatives, validate on the ground the feasibility of the SIFMA sites. The validated sites are then indicated in a map of appropriate scale and forwarded through channels to DENR Secretary with all pertinent data and information. The FMB director will be furnished with the approved map and other documents for data base management and monitoring purposes. The CENRO, upon receipt of the notice of approval by the Secretary inform within 15 days the concerned LGUs and together conduct an information drive to inform the public about the program. The site map together with the program guidelines, are posted in strategic places in the municipality and barangay where the site is located.

However, some problems/issues were raised in the field during the consultation. Based on interviews with field officials and staff of the DENR, they revealed that they were unable to carry out fully the above responsibilities due to insufficient funds and resources. For instance,

the latest forest resources information on the area (e.g., aerial photographs/remote sensing data, forest resources inventory data, etc.) are not readily available. Hence, they just rely on whatever baseline information and maps they have at the DENR's regional, provincial and field levels which according to them make it easier for them to identify the potential SIFMA sites.

Likewise, as revealed by the regional consultations, there are no available land use plans in the various DENR offices in the regions where the identification of potential sites can be based. Other agencies e.g. DA, DAR, DTI and LGU have their own plans on portions of the forestlands where they have development activities or programs. Hence, harmonization of plans should be done by DENR to avoid conflicting claims among stakeholders within forestlands.

Table 3. Summary of Issues, Problems and Proposed Revisions, Simplification, Harmonization and Items for further study on SIFMA Procedures

AREA OF CONCERN	ISSUES/PROBLEMS	PROPOSALS
Identification & Approval of Available SPLUP/MA Sites	<ul style="list-style-type: none"> DENR unable to carry out this task fully due to inadequate/insufficient funds and resources 	<ul style="list-style-type: none"> Funds should be made available by including this activity in the DENR's key result areas (KRA) so that it forms part of the annual budget.
	<ul style="list-style-type: none"> No systematic and credible database/ unavailability of latest forest resources information on the area 	<ul style="list-style-type: none"> DENR control maps should be regularly updated and latest forest information be made available through other units of DENR (i.e. NAMRIA)
	<ul style="list-style-type: none"> No available forest land use plan in the regional offices of DENR 	<ul style="list-style-type: none"> Harmonization of plans with LGUs and other agencies with portions of forestlands where they have development activities, should be made by DENR.
	<ul style="list-style-type: none"> Overlapping areas/conflicting claims on identified areas with LGUs, etc. 	<ul style="list-style-type: none"> Proper coordination should be done by DENR with LGUs, IPs, etc.
Application Requirements	<ul style="list-style-type: none"> Difficulty in securing LGU endorsement causing delays in the processing of applications 	<ul style="list-style-type: none"> Although LGU/NCIP endorsement is already included in the identification of available areas for various management agreements, it is still mandatory for concerned LGU/NCIP to endorse or comment any application for tenurial instruments like SIFMA within 15 days. Otherwise, non-action within this period would mean LGU/NCIP fully endorses said application.
	<ul style="list-style-type: none"> Existing policies do not specify how to determine financial capital of applicants 	<ul style="list-style-type: none"> Applicants should be properly screened. Need to have standard bases/criteria or evaluation to be followed by all

AREA OF CONCERN	ISSUES/PROBLEMS	PROPOSALS
	<ul style="list-style-type: none"> • High application fee (in relation to other Tenurial Instruments (TIs) like IFMA For IFMA -- P0.50/ha For SIFMA: P 500 – 1 to 5 ha P1,000 – over 5 ha to 10 ha P 5,000 – over 10 ha to 100 ha P7,500 – over 100 ha to 300 ha P10,000 – over 300 ha to 500 ha • Does not require an indicative Forest Management Plan for the area, only a sketch map of the area. 	<p>regions.</p> <ul style="list-style-type: none"> • Must present a banking guarantee to develop the area. • Fair and acceptable application fee should be instituted. • Harmonized fees for SIFMA and IFMA • An Indicative Forest Management Plan should be made a prerequisite for the approval of SIFMA. The plan is needed to assess the technical capability of the applicant to develop the area.
Processing and Approval	<ul style="list-style-type: none"> • Too many levels of authority in the DENR that are involved in the processing of SIFMA application. These cause delays and high transaction costs on the part of applicants. 	<ul style="list-style-type: none"> • Number of levels in the processing and approval of applications should be reduced. All applications should be submitted at RENRO. For areas, over 10ha to 500 ha, processing and approval will be done in the RENRO level. However, for areas \leq 10 ha, after validation of applications at RENRO, the processing and approval of SIFMA will be done at CENRO. • Strict implementation of timeframe policy set by DENR. Hence, non-action after the said period would mean automatic approval of the said application. (In the premise that all requirements submitted are complete and in order)

Ground validation to determine the feasibility of the proposed SIFMA sites is another issue that requires substantial time and resources depending on accessibility and area coverage. The lesser the accessibility and the larger the area, the longer the time and the more resources will be needed to conduct this activity. Likewise, the conduct of resource inventory and the preparation of management plan are also activities that are time and resource consuming since, as they pointed out, they are undermanned and have limited resources.

Another problem or issue identified as a result of the field visit is the conflicting claims on identified SIFMA areas. In some instances, these areas have conflicts with LGU areas or these areas have already existing projects or programs being implemented. As pointed out, this problem resulted since there was no proper coordination among forestry offices and other related agencies in the identification of SIFMA areas. Furthermore, this problem existed because some of these offices have no updated control map to rely on what should show the areas of the existing tenurial instruments, land uses and vegetable cover, among other things.

Several actions have been recommended to address these problems/issues. For example, some suggested that the task of determining the land uses, vegetative cover and the extent of the SIFMA area applied for could be passed on to the applicants/holders. The applicant pays not only for the survey but also for the resource inventory and mapping of the area being applied for. But, this is giving much burden to the applicant or would-beholder. Hence, the DENR should have the initiative and must seriously undertake its responsibility of identifying, ground truthing, and mapping at appropriate scale of the different areas available for SIFMA including the different cover types/land uses therein. Furthermore, available control maps (e.g. vegetable cover, land use, existing projects, and programs, etc.) of the various field offices of the DENR should be updated to give solution to the problem of conflicting claims and overlapping of areas particularly with LGUs. Every time an area for particular project/program has to be identified by the DENR, proper coordination must be done with LGUs, communities and other related institutions/entities. This would allow the harmonization of plan within forestlands.

Considering these various issues and recommendations, it is proposed that the CENRO initiates the identification of open access areas in forestlands which could be potential sites for various tenurial instruments like SIFMA, with the used of existing information and control maps. Once the open access areas are identified these are submitted to the RENRO. Verification of the actual condition of these sites will be done along with consultations with LGUs and communities including indigenous people's group. This is consistent with existing law that requires the concurrence of LGUs and IPs through the local representatives of the National Commission on Indigenous Peoples (NCIP), in regard to the potential use forestlands under the jurisdiction or domain. Once all open access areas are validated, a regional forest land-use plan should be prepared to determine the compatibility of the land with its various uses. This is in coordination with other government agencies, which also have development activities in some portions of the forestlands. Once the regional forest land-use plan is prepared, sites available for various tenurial instruments are also identified. These sites will be approved by the RED. Copies of approved sites will be furnished to the OSEC, USEC, CENRO, PENRO and FMB. The proposed simplified and harmonized process of identification and approval of SIFMA sites is shown in Figure 1.

3.2 Qualification requirements of SIFMA applicants

DAO 96-24 states that those qualified to apply for SIFMA are the following:

- a. Individuals/single family units who are Filipino citizens of legal age and preferably residents of the municipality where the area is located. Actual occupants of the area will be given priority. Government employees are also qualified to apply but shall first secure the consent of their respective agency

- b. Cooperative and associations whose members are Filipino citizens and residents of the province where the SIFMA site is located, and duly registered with the Cooperative Development Authority or Security and Exchange Commission, as the case may be. These cooperatives and associations must show proof of financial and technical capacity to develop the area.

There are some revisions that had been done on these requirements based on the field visits and consultations. For instance, the technical and financial capability requirements can be excluded since these are already gauged in the various application requirements. The financial capability of the applicants for example, is already accounted for through the payment of fees, bond, deposit and proof of capitalization. On the other hand, the technical capability is gauged through the submission of management plans and maps.

An additional qualification requirement for SIFMA that is of equal importance is good standing. This applies for former tenurial instrument holders. In this way, a former holder with bad records or is not performing very well in his/her former lease area will not be allowed to apply for a SIFMA.

A lot of issues and recommendations cropped up from the field visits and regional consultations. For instance on the issue of screening applicants, it was suggested that the applicants must be properly screened to flush out speculators who do not have the resources to develop the area. Existing policies do not specify how to determine financial capacity of applicants. Hence, there is a need for a standard basis of evaluation to be followed by all regions. Along this, it was suggested that the applicant must present a banking guarantee that his money in the bank will be used solely for the development of his SIFMA area. Accordingly, the proof of capitalization or bank certification is presently useless if the money can be withdrawn later on for purposes other than plantation development once the SIFMA is issued

Considering these, the proposed simplified and harmonized qualification requirements for SIFMA applicants have been arrived at as follows:

- a. Filipino citizen of legal age. Preferably resident of the municipality where the area is located.
- b. For corporation, association, partnership and cooperative, it must be registered and capital stock is at least 60% owned by Filipino citizens.
- c. For former tenurial holders, they must be in good standing.

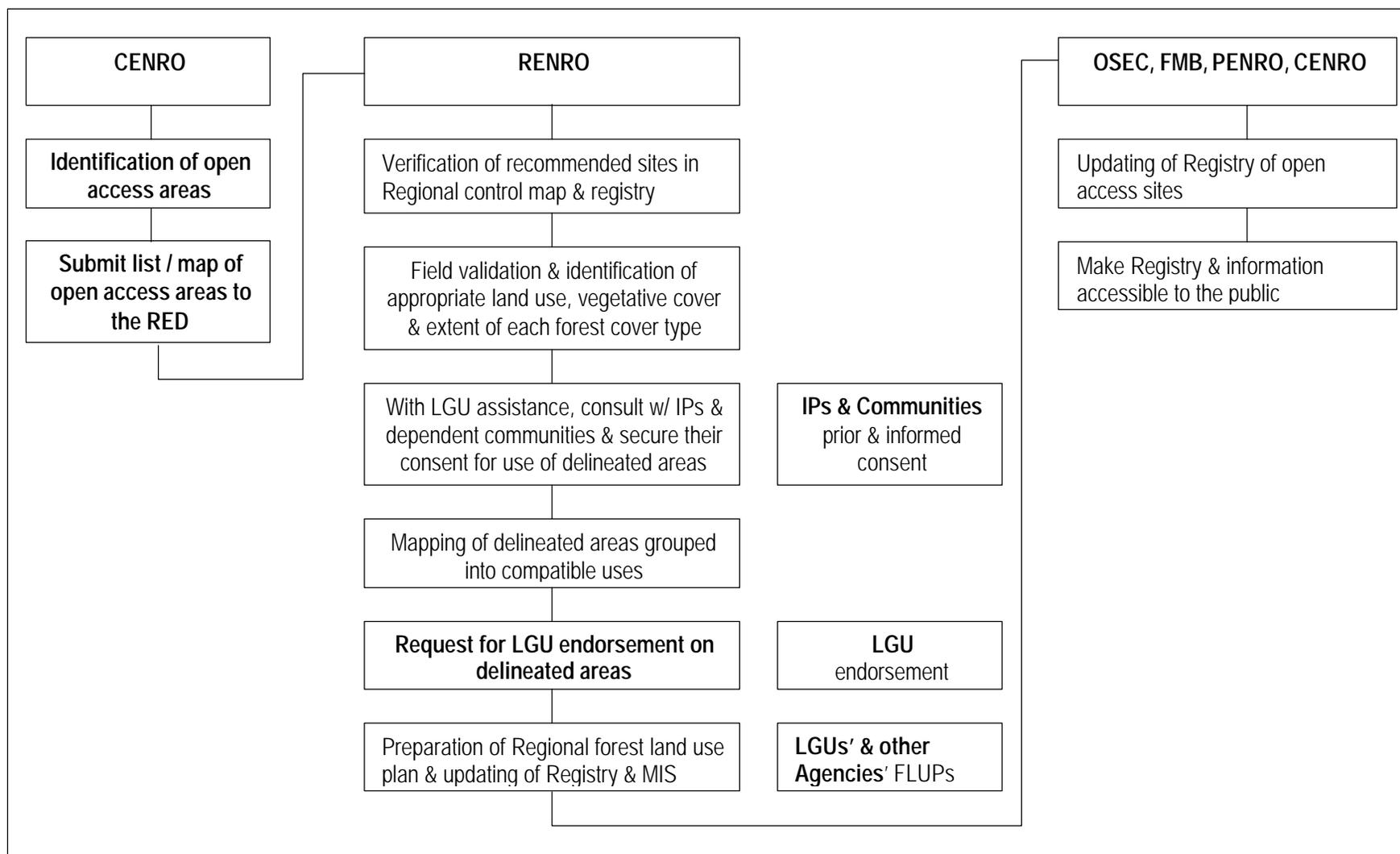


Figure 1. Proposed procedure for identification and approval of open access sites for various uses

3.3 Application requirements

DAO 96-24 gives the list of the requirements that a SIFMA applicant has to submit. These are the following:

1. A filing fee in the amount of:

P 500	-- for applications covering 1 to 5 ha.
P-1000	-- for applications of over 5 to 10 ha.
P 5000	-- for applications of over 10 to 100 ha.
P 7500	-- for applications of over 100 to 300 ha.
P 10000	-- for applications of over 300 to 500 ha.
2. Sketch map of the area applied for
3. For individuals/family units
 - a. Community Tax Certificate
 - b. Certification from the Barangay Chairman and Municipal/City Mayor that the applicant is a resident of the area where the site is located.
 - c. If a government employee, authorization from the head of the department or agency where the applicant is employed.
4. For cooperatives/associations
 - a. Certified true copy of the Certificate of Registration with the Cooperative Development Authority or Securities and Exchange Commission.
 - b. List of duly elected officers and members and their addresses, duly certified by the Board Secretary.
 - c. Resolutions/minutes of meeting indicating the cooperative's or association's interest in participating in the program.

With the implementation of Joint DENR-DILG Memorandum Circular No. 2003-01, another requirement is added in DAO 96-24, which is the **comments by LGUs** on any application for tenurial instrument, including resource extraction permits, before said instruments or permits are issued. Provided, that the concerned LGU shall inform DENR of the action it has taken within fifteen (15) days from the date of receipt of the document; otherwise, it will be presumed that the LGU fully endorses said applications or instruments. However, based in our interviews with different tenurial holders and applicants, LGU endorsement is difficult to get which causes delay to most applications.

Therefore, it is recommended that the LGUs should strictly implement its policy to endorse or comment any application for tenurial instruments like SIFMA not later than 15 days. Also, the LGU together with the NCIP and other stakeholders, were already consulted during the identification of potential areas for various tenurial instruments.

An important addition to the requirements and must be a prerequisite for the approval of SIFMA is an indicative Forest Management Plan. This plan is needed to assess the technical capability of the applicant to develop the area.

Another issue raised by the applicants and holders is that the application fee of SIFMA is higher than IFMA. As seen in Table 1, the application fee for IFMA is P0.50 per hectare while that of SIFMA, it ranges from P500 to P10,000. It is therefore recommended that fees for SIFMA and IFMA should be harmonized. Application fee should be fair and acceptable.

3.4 Processing and Approval of SIFMA

As stated in DAO 96-24, all SIFMA applications are received and processed at the CENRO level (Figure 2). New applications are accepted and processed on a first-come-first-served basis. It is in the CENRO also that the application documents and qualification of applicants are checked for completeness and the area verified if available within the approved SIFMA site per the registry. If application is not in order, it is returned to that applicant to complete the necessary requirements. Once the area is considered available, and the requirements complete, the CENRO conducts field inspection and endorses SIFMA and forwards all application documents to PENRO with his comments and recommendations.

In the PENRO, the documents are evaluated. The office prepares and approves the SIFMA with areas of 1 to 10 hectares. All SIFMA applications with areas of more than 10 to 500 hectares are forwarded to the RED for approval. If the application is not in order, the PENRO issues notice denying the application, furnishing copies to the FMB, RED, CENRO and concerned LGU.

In the RENRO, the SIFMA application is evaluated and if in order, the RED approves it. If not, the RED issues a notice denying the application with copies furnished to the FMB, PENRO, CENRO and concerned LGU.

It can be observed that there are three offices in the DENR in which SIFMA applications are processed and evaluated before they are finally approved or denied. These many levels of processing at the field offices of the DENR are being blamed for the lengthy processing time and high transaction costs incurred by the applicants. Accordingly, it takes months and even the whole year for application to be processed and approved. They also spent amounts in transacting at the various levels of the DENR for the documents to move from one level to another. Hence, it is strongly suggested/recommended, based on the field interview and consultations that the number of levels in the processing and approval of application be reduced, not only for SIFMA but also for the various forest management agreements as well. This is done primarily to address the problems of too lengthy processing time, high transaction costs due to unnecessary follow-ups in the various levels, and limited resources in the field offices for field verification/assessment activities. Of course as suggested the set duration/time frame for the processing and approval of application should be strictly implemented and non-action within the said period would mean automatic approval of the said application.

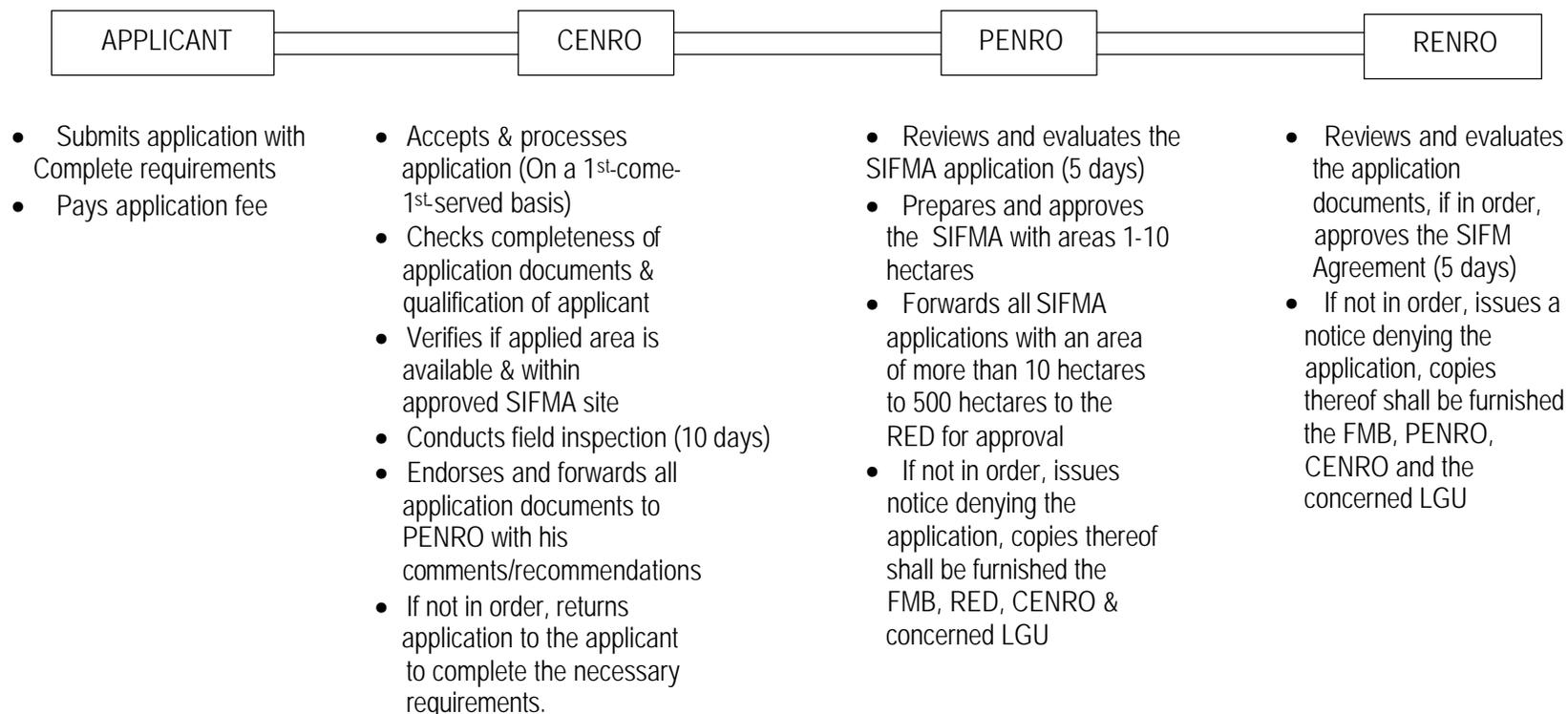


Figure 2. Existing processing and approval of SIFMA.

Considering the above concerns, simplified and harmonized processing procedures and approval are proposed/recommended as shown in Figures 3 and 4.

1. For areas \leq 10 ha (Figure 3)

All applications are to be submitted to the Regional Office (RENRO) in order to avoid problems in determining which applicant submitted first. The applicant will pay the application fees and submit all documentary requirements. It is also at the RENRO that the application requirements are checked for completeness and the area verified if within the approved areas for SIFMA, if still available per the Registry and if the area has no conflicts with other applications, SIFMA or otherwise. If there are deficiencies in the submitted requirements, the applicant is required to submit the necessary requirements for completion. Then the RTD for Forestry forwards the application documents to the Community Environmental and Natural Resources Office (CENRO). A composite team organized by the CENRO will conduct field validation/inspection of the area to determine its feasibility. Likewise, the indicative plan of the SIFMA area will be reviewed to check its viability, doability, workability, etc. A local deliberation of the application will be conducted considering the application documents submitted, field validation/inspection report and the indicative plan. It will be participated by representatives from RENRO, PENRO, concerned LGUs/NCIPs and other concerned stakeholders. The CENRO will approve or disapprove the SIFMA based on the results of the local deliberation. Once approved, copies on approved tenure will be forwarded to PENRO, RENRO, FMB and OSEC to update the Registry.

2. For areas greater than 10 ha to 500 ha (Figure 4)

All applications are to be submitted to the Regional Office (RENRO) in order to avoid problems in determining which applicant submitted first. All succeeding procedures will be conducted in the RENRO.

The applicant will pay the application fees and submit all documentary requirements. The application requirements are checked for completeness and the area verified if within the approved areas for SIFMA, if still available per the Registry and if the area has no conflicts with other applications, SIFMA or otherwise. If there are deficiencies in the submitted requirements, the applicant is required to submit the necessary requirements for completion. Then the RTD for Forestry will organize a composite team to conduct field validation/inspection of the area to determine its feasibility. Likewise, the indicative plan of the SIFMA area will be reviewed to check its viability, doability, workability, etc. A regional deliberation of the application will be conducted considering the application documents submitted, field validation/inspection report and the indicative plan. It will be participated by representatives from RENRO, PENRO, concerned LGUs/NCIPs and other concerned stakeholders. The RED will approve or disapprove the SIFMA based on the results of the regional deliberation. Once approved, copies on approved tenure will be forwarded to PENRO, CENRO, FMB and OSEC to update the Registry.

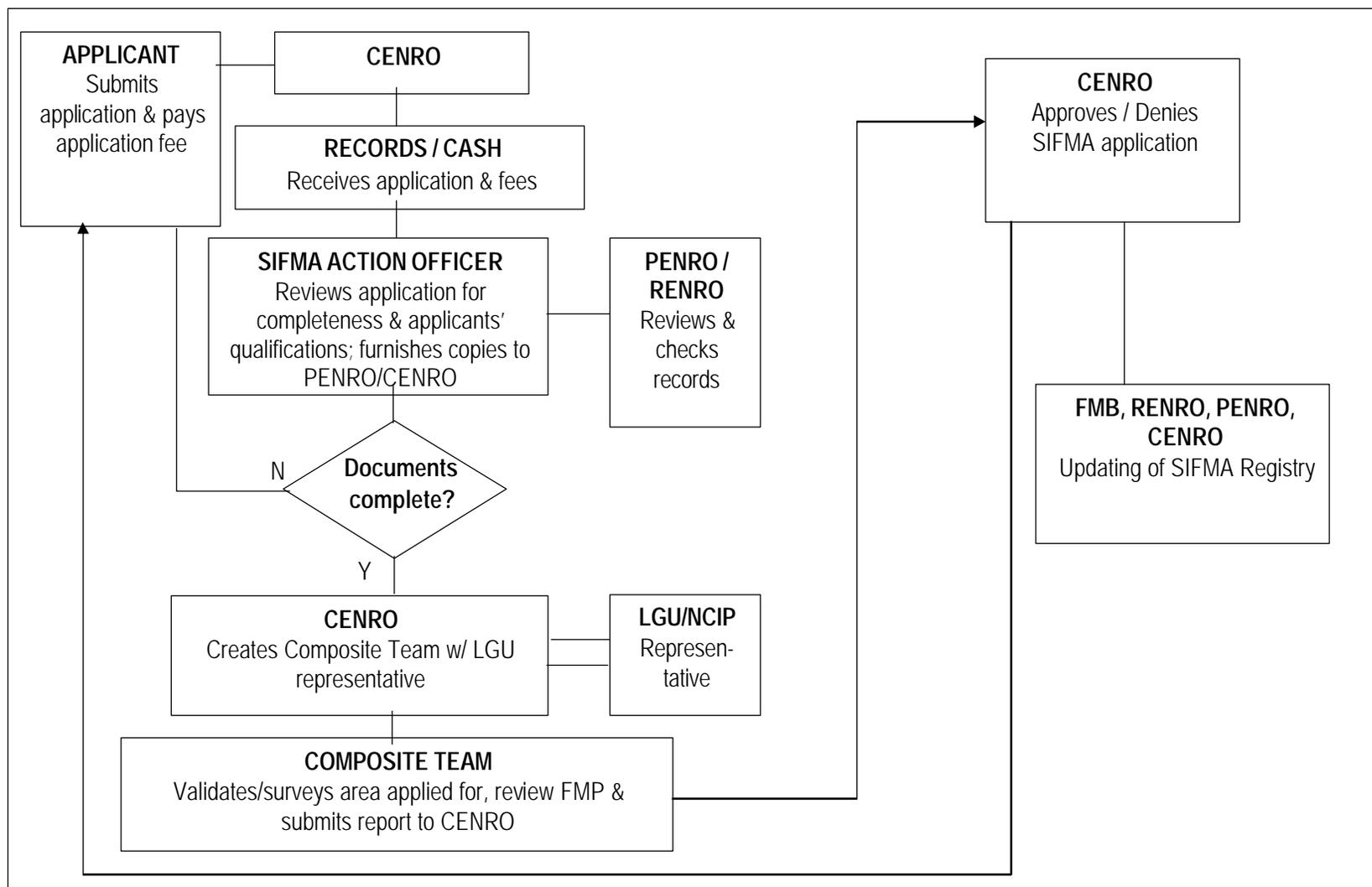


Figure 3. Proposed procedures for processing and approval of SIFMA (for areas \leq 10 hectares)

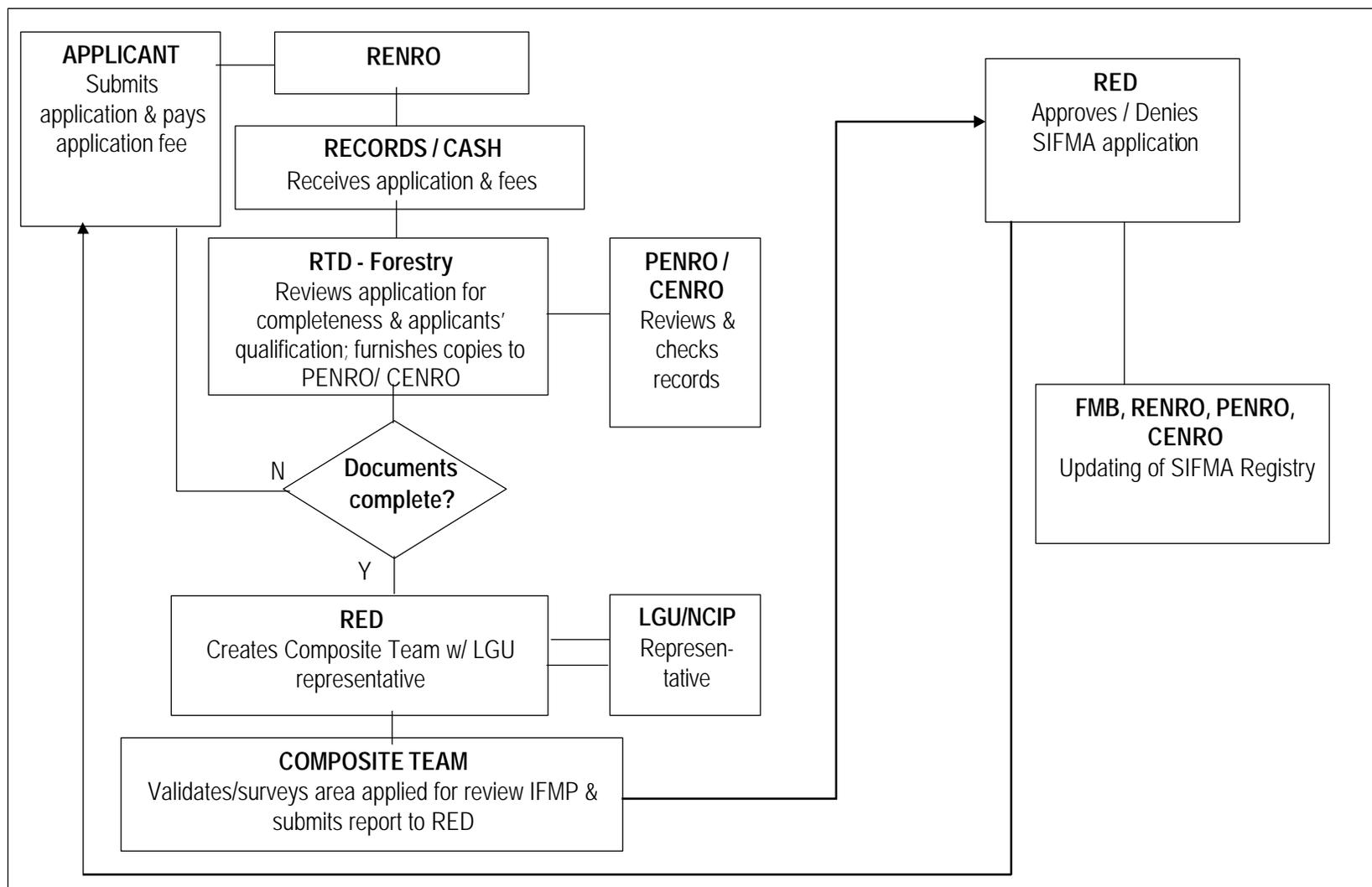


Figure 4. Proposed procedures for processing and approval of SIFMA (for areas > 10 hectares)

3.5 Benefits, Sanctions and Penalties

There are six benefits that a SIFMA holder can enjoy in the SIFMA area (DAO 96-24). These are the following: a) the right to harvest, sell and utilize planted trees and crops except those retained for environmental purposes; b) export of logs, lumber and other forest products harvested from SIFMA allowed under government allocation system; c) exemption from forest charges of all plantation products from SIFMA area; d) participants who are actual occupants shall be given priority when future laws allow more permanent tenurial arrangement; e) SIFMA and the improvements in the area can be used as collateral for loans provided there is prior approval of issuing authority of SIFMA; and f) technical assistance to SIFMA holders who are willing to confederate into a larger organization.

Based on the field visits and as a result of the consultations, other benefits were identified/suggested for the SIFMA holder aside from those stated in DAO 96-24. These were already incorporated in the recommended simplified and harmonized version of the benefits that could be derived from developing/ managing the area by a SIFMA holder. These benefits are the following:

- a) The holder can interplant secondary crops between trees;
- b) Upon expiration or termination of the SIFMA, the holder will be entitled to fair compensation for any improvements in the SIFMA area and,
- c) Holder will also be paid fair compensation for any damage to improvement if any, for the use of portions of the SIFMA for public interest.

DAO 96-24 also states the government share under SIFMA. These are in the form of products/benefits derived from the execution of the SIFMA. These are as follows:

- a) Environmental enhancement thru:
 - Protection/rehabilitation of steep and eroded slopes, riverbanks/stream banks and degraded residual forest
 - Conservation of natural forests through the complementation of natural growing timber with plantation forest.
 - Accelerated revegetation and regeneration of open areas.
 - Protection of soil, water, wildlife and existing natural forest resources
- b) Employment generation as a result of the existence of SIFMA.
- c) Access road and trail development and improvement.
- d) Income taxes and rentals for the use of the land.
- e) Ready and steady supply of raw materials for wood-dependent industries.
- f) Increased production of fuelwood, food and non-timber forest products.

No revision had been made in the proposed version of the government share since all the provisions had been considered stated in DAO 96-24.

The SIFMA of any holder may be revoked or cancelled on any of the following grounds (DAO 96-24).

1. Failure to develop the SIFMA area within 3 years;
2. SIFMA holder has been found to be a dummy;
3. Conversion of area or any part thereof to any land use other than that of tree farming and planting of allowable crops;
4. Transfer of rights over the area to another person without knowledge and concurrence of the DENR;
5. Allows entry of other persons into the area for the purpose of building residential houses;
6. Cuts or allows cutting of naturally grown trees within or adjacent to the SIFMA area;
7. Refuses entry of any duly authorized forest officer into SIFMA premises or into any other improvement introduced and used for the purpose of SIFMA execution;
8. SIFMA was obtained through fraud or misrepresentation or by false or misleading statements;
9. Conviction for violation of pertinent provisions of the Labor Code and other labor laws;
10. Violation of any of the terms and conditions of the SIFMA or any of the pertinent provisions of forestry laws and regulations;
11. Abandonment of area;
12. Failure to pay rentals or other required fees;
13. Voluntary surrender of SIFMA; and,
14. When public interest so requires.

Based on the results of the field interviews and consultations, the proposed simplified and harmonized version of the grounds for suspension/ cancellation included three more grounds aside from those stated above. These additional grounds are : failure to submit required reports and other necessary requirements; failure to implement plans; and operating outside the approved area.

3.6 Responsibilities of SIFMA holders

The responsibilities of the SIFMA holder were based on the minimum terms and conditions of SIFMA as stated in DAO 96-24. These responsibilities of the SIFMA holder include the following:

1. Furnishes necessary management technology and financial services needed for the development and management of the area;
2. Consults and arbitrates with respect to SIFMA interpretation;

3. Prohibits the conversion of the area into other land uses not authorized under the SIFMA;
4. Provides anti-pollution and environmental protection measures;
5. Rehabilitates open and denuded areas and protects existing natural forest vegetation;
6. Provides effective M & E scheme to be implemented by the DENR;
7. Integrates gender concerns in the implementation;
8. Protects worker's rights;
9. Commits to community development;
10. Plants forest tree species including rubber and NTFPs in not less than 90% of the plantable area and the remaining planted to agricultural crops;
11. Keeps areas with 50% slope or over and strips of land at least 20 meters in width bordering rivers and streams permanently under tree cover;
12. Not to plant or introduce exotic crops untested in Philippine condition unless with clearance from the DENR.

As per review of DAO 96-24, field visits and consultations, additional responsibilities were identified to include the following:

1. Under supervision of the DENR, conduct delineation and marking on the ground of the exact location of the SIFMA area. The description and boundaries of which, shall be shown on the map based on land classification standards, and determines the biophysical condition of the area.
2. Protects and conserves unique, rare and endangered flora and fauna within SIFMA.
3. Protects the natural and protection forests, if any. Naturally grown trees shall not be cut or harvested.
4. Protects the area from forest fires, encroachment and other forms of forest destruction.
5. Shall not unreasonably impede, obstruct or prevent passage through the area.
6. Harvests, sells and utilizes all trees and crops planted under SIFMA except those retained for environmental protection.
7. Prevents or arrests gully erosion (conserve soil and water).
8. Submits annual accomplishment report to the DENR.

REFERENCES:

DENR Administrative Order No. 24, August 23, 1996 – Rules and Regulations Governing the Socialized Industrial Forest Management Program

Joint DENR-DILG Memorandum Circular No. 2003-01. Strengthening and Institutionalizing the DENR-DILG-LGU Partnership on Devolved and Other Forest Management Functions.

ANALYSIS, SIMPLIFICATION AND HARMONIZATION OF SPECIAL LAND USE MANAGEMENT AGREEMENT (SPLUMA) REGULATORY PROCEDURES

1.0 OVERVIEW

Special Land Use includes all forms of legal uses of public forestlands. Pursuant to the provisions of Section 79 (b) and 1817 of the Revised Administrative Code, granting of permits/leases is allowed over forestlands or vacant public lands not declared agricultural lands for special uses. Hence, a permit or a lease can be awarded to a qualified applicant giving him/her the right to develop or use a certain portion of forestland or vacant public land for a specific purpose.

The Special Land Use Management Agreement (SPLUMA) is a privilege granted by the state to a person to occupy and possess in consideration of specified return fee, any public forestlands for a specific use/purpose. The agreement is valid for twenty-five (25) years and can be renewed for another twenty-five (25) years. On the other hand, a Special Land Use Permit (SLUP) is given to an applicant when no improvement is introduced in the area. The validity of SLUP is one (1) year renewable for another year. SLUP can be converted into a lease agreement provided substantial improvement or development is introduced in the area and no violations of the terms and conditions of the permit are committed by the permittee.

1.1 Policy Basis

The policy basis of the existing forest regulations for SFUMA is from a very old regulation, which is the Forestry Administrative Order (FAO) No. 8-3, Series of 1941. Various FAOs on Special Land Use were formulated as amendment to this FAO, however they mostly dealt with schedule of fees, rentals and area. Through time, some kinds of Special Land Uses such as Pasture Lease and Tree Farm Lease have been covered by separate FAOs. However, no FAO or DAO has been formulated to amend important regulatory provisions such as application requirements and processing and approval of SPLUMA.

Based on the 1987 Philippine Constitution, it is the policy of the State to provide equitable access to forestlands and forest resources and to provide security of tenure to qualified persons to occupy, develop, utilize and manage forestlands through appropriate special uses. Considering this State policy and the major developments on the use of forestlands, there is a need to have a new DAO for Special Land Use. To respond to this need, the Forestry Management Bureau (FMB) has proposed a new DAO known as the "Rules and Regulations Governing the Co-production on Special Uses of Forest Lands". This proposed DAO is formulated pursuant to the provisions of Section 2, Article XII of the 1987 Philippine Constitution, E.O. No. 192 of 1987, E.O. No. 278 of 1987, P.D. No. 705 as amended and RAS 7160 and 7161.

The proposed DAO on Special Land Use has the following objectives:

- a) To develop the country's open land or idle forest lands into their appropriate productive uses;
- b) To provide economic opportunities to local communities;
- c) To generate additional revenues for the government; and
- d) To optimize the use of forest lands.

After several deliberations by the Policy Technical Working Group (PTWG) of the DENR, the term "co-production" in the title of proposed DAO (DAO 2003 - __) was deleted to avoid confusion. The newest version submitted to the Office of the Secretary (OSEC) is titled " Rules and Regulations Governing the Special Uses of Forestlands. While this version appears to have come up with various amendments, there is still a need to assess its effectiveness and soundness, based on the ecogovernance principles of transparency, accountability and participation.

2.0 Status of SPLUP/MAs

As of 30 June 2003, a total of twenty-two (22) Special Land Lease Agreements were issued by the DENR (Appendix Table 1). Of this, fifteen (15) are from Region VII covering 74.439 hectares and twelve (12) of them are located in foreshore areas. Annex Table 1 shows the complete list of SPLUMAs.

On the other hand, according to the Forest Management Bureau (FMB), there are hundreds of SPLUPs awarded by the different PENROs, CENROs and REDs in the country and Region VII has the most number with a total of 162 (Appendix Table 2). Exact number of SPLUPs in the country is not known since some regions have not submitted their lists of SPLUPs to the DENR Central Office or to the FMB. Submission of applications and processing and approval of SPLUPs (except in SPLUP with tree cutting) are done in the provinces and regions.

Most of the areas awarded for SPLUPs are located in foreshore areas. In Region VII alone, around 70% of SLUPs are located in these areas. SPLUPs in foreshore areas are categorized into the following: bathing establishment; shipbuilding/ship repair; shipyard and dry dock; nipa plantation; boat landing site; seaweed culture; mangrove rehabilitation and wildlife park and research; and saltworks.

3.0 Analysis of Issues on Existing SPLUMA Regulatory Procedures

In assessing and analyzing the current procedures to come up with proposed simplified and harmonized procedures for SPLUP/MA ten (10) areas of concerns were used as basis of study. These areas are:

- (a) identification and approval of available sites for SPLUP/MA;
- (b) qualification requirements of SPLUP/MA applicants;
- (c) application requirements;
- (d) processing and approval of SPLUP/MA;
- (e) responsibilities of SPLUP/MA holders;
- (f) responsibilities of DENR;
- (g) benefits and incentives for SPLUP/MA holders;
- (h) benefits of the government from SPLUP/MA;
- (i) sanctions and penalties to SPLUP/MA holders;
- (j) monitoring and evaluation system; and other provisions.

In analyzing the procedures for the above areas of concerns, various issues, concerns and recommendations raised by the different sectors consulted during the field data gathering, regional consultations conducted and several meetings with our Forest Management Bureau (FMB) counterparts and project advisers were considered. A number of these issues, concerns and recommendations were incorporated in the process of simplification and harmonization of the requirements and procedures. These are summarized in Table 1 and categorized as either policy issues or operational issues. These are also discussed in the following subsections.

Table 1. Summary of issues problems and proposed revisions, simplification, harmonization and items for further study on SPLUMA procedures

AREAS OF CONCERN	ISSUES/PROBLEMS	PROPOSALS	Type of Issue
Identification & Approval of Available SPLUP/MA Sites	<ul style="list-style-type: none"> No nationwide forest land use planning specifically on the identification of potential sites for SPLUMA and other forest management agreements 	<ul style="list-style-type: none"> Prioritize forest land use planning in consonance with LGU land use planning; maintain and update registry and MIS. 	Operational
	<ul style="list-style-type: none"> Areas for SPLUMP/A not identified & approved by DENR prior to submission of applications due to insufficient budget and resources since such activity is not included in DENR's key result areas. 	<ul style="list-style-type: none"> Include as KRA of regional offices so that it becomes part of the annual budget. 	Operational
	<ul style="list-style-type: none"> No proper coordination between DENR and LGUs in the issuance of permits. 	<ul style="list-style-type: none"> Proper coordination with the concerned LGUs regarding the management of SPLUMA areas. 	Operational
	<ul style="list-style-type: none"> Existing provision on allowable maximum area under each special use permit/lease is mostly based on the very old regulations contained in FAO No. 8-3, Series of 1941 	<ul style="list-style-type: none"> Need to propose a new DAO for SPLUMA 	Policy
	<ul style="list-style-type: none"> Most special land use areas were not fully utilized/developed 	<ul style="list-style-type: none"> Adoption of the allowable maximum area on the different special land use permits/leases as proposed in the pending DAO for Special Land Use 	Policy
	<ul style="list-style-type: none"> Application in first-come-first-served basis 	<ul style="list-style-type: none"> Competitive bidding shall be applied only in foreshore areas suitable for SPLUP/MA where the demand of such areas is high 	Policy
Requirements of	<ul style="list-style-type: none"> Inclusion in the list of 	<ul style="list-style-type: none"> Delete the term since this 	Policy

AREAS OF CONCERN	ISSUES/PROBLEMS	PROPOSALS	Type of Issue
New Applicants	qualification requirements the term "financially and technically capable to develop the given area"	provision is difficult to measure, and it can be gauged in the various application requirements	
Application Requirements	<ul style="list-style-type: none"> Differing interpretation of policy statements leading to delays in processing and approval 	<ul style="list-style-type: none"> Re-training of DENR action officers on proper verification cross-checking of application documents 	Operational
	<ul style="list-style-type: none"> Difficulty in securing LGU endorsement causing delays in processing of applications for permits/leases 	<ul style="list-style-type: none"> Although LGU/NCIP endorsement is already included in the identification of available areas for various management agreements, it is still mandatory for concerned LGU/NCIP to endorse or comment any application for tenurial instruments like SPLUMA within 15 days. Otherwise, non-action within this period would mean LGU/NCIP fully endorses said application. 	Operational
	<ul style="list-style-type: none"> Regulation requiring a married applicant to get a written consent of the husband 	<ul style="list-style-type: none"> Non-inclusion of the regulation requiring a married woman applicant to get a written consent of the husband. 	Policy
Processing and Approval	<ul style="list-style-type: none"> Too many hierarchical levels involved in the processing of SPLUMA application causing delays and high transaction costs on the part of applicants 	<ul style="list-style-type: none"> Lessen levels of hierarchy: receipt, processing, evaluation, deliberation at the RENRO; field validation by composite team; deliberation by multi-sectoral group 	Policy
	<ul style="list-style-type: none"> Too centralized approval issuance of SPLUMA 	<ul style="list-style-type: none"> Decentralize by defining maximum area limits for approval at RED and OSEC levels and establish accountability mechanisms 	Policy
	<ul style="list-style-type: none"> Permittees not interested to convert their permits into leases 	<ul style="list-style-type: none"> To come up with an appropriate procedures on the conversion of SPLUP to SPLUMA 	Operational and Policy

AREAS OF CONCERN	ISSUES/PROBLEMS	PROPOSALS	Type of Issue
Responsibilities of DENR and M& E System	<ul style="list-style-type: none"> • Proliferation of illegal structures and business operations in foreshore areas. 	<ul style="list-style-type: none"> • The LGUs should be properly informed on the existing forest regulations so as to help the DENR in enforcing its policies regarding execution of contracts/permits. • The LGUs should encourage people interested to operate in special land use areas to apply for SLUP/MA. • To come up with protocol of implementation on how to demolish illegal structures in foreshore areas considering the penal provision stated in Section 36 of FAO No. 8-3, Series of 1941. 	Operational
Benefits of the Government	<ul style="list-style-type: none"> • No standard/uniform policy on appraisal and valuation of foreshore lands 	<ul style="list-style-type: none"> • To come up with policy on unified appraisal and valuation for foreshore lands • To adopt the appraisal and reappraisal system in the proposed DAO for SPLUMA. 	Operational and Policy

3.1.0 Identification and approval of sites for SPLUMA

3.1.1 Identification of potential sites/areas

At present, the identification of potential sites/areas for SPLUP/MAs is not conducted anymore by the DENR. What is practiced at present is that the area for special land use is identified and validated only when an applicant applies for it. Based on our interview with some DENR staff, this is justifiable since there are only few interested parties who are willing to invest in these areas except in foreshore areas where demand of these areas is high. Also, DENR field personnel were unable to fully carry out the above activity due to insufficient budget and resources especially if said activities are not included in their key result areas (KRAs) from which annual budgets are based. Also, ground validation and evaluation of the sites' availability and suitability require substantial time and resources that are allegedly not readily available at the ground level.

At present, conflicts arise in some special land uses areas specifically in foreshore areas due to proliferation of illegal squatters and businesses in these areas. Some of these businesses have business permits issued by the concerned municipalities/cities. If identification of these areas has been conducted and copies of these potential sites are given to the concerned LGUs where these areas are located, conflicts should have been avoided. Also, there is a need to properly coordinate with the concerned LGUs regarding the management of the respective SPLUMA areas. However, before identifying potential sites for SPLUMA or in any forestland use management agreement,

forest land use planning should have been conducted. This activity will help avoid future conflicts on the use of these areas. Therefore, forest land use planning and identification of areas applicable for different special land uses should be prioritized by the DENR and appropriate part of its budget should be allotted to these activities.

Proposals:

- 1. Nationwide forestland use planning should be conducted and prioritized by DENR.**
- 2. Identification of areas for SPLUMA and other forest management agreements should be conducted by the DENR to help avoid future conflicts on the use of these areas.**

The proposed flowchart in the identification of potential areas for SPLUMA and other forest management agreements are seen in Figure 1. It is also discussed in details below.

It is proposed that the CENRO initiates the identification of potential sites for management based on existing information and control maps. Verification of the actual conditions of these sites will be done along with consultations with LGUs and communities including indigenous people's groups. This is consistent with existing law that requires the concurrence of LGUs and IPs, through the local representatives of the National Commission on Indigenous Peoples (NCIP), in regard to the potential use of forestlands under their jurisdiction or domain. Results of field verification of potential sites and consultations will then be forwarded to the RENRO or OSEC for approval. The list and map of approved sites will then be forwarded back to the RENRO, PENRO and CENRO registry of available sites. The OSEC, USEC for Field Operations and FMB shall be furnished with copies of the registry of available sites. This process of identification of potential sites is also applicable to other forest management agreements such as IFMA, SIFMA and FLGMA.

- 3. Proper coordination with the concerned LGUs regarding the management of SPLUMA areas.**

3.1.2 Allowable maximum limits on the different kinds of SPLUMA

Existing provision on allowable maximum area under each special use permit/lease is mostly based on the very old regulations contained in FAO No. 8-3, Series of 1941 (Table 1). From 1941 up to the present, more kinds of special land uses are added in the list. With the emergence of new kinds of special land uses and the need to revise FAO No. 8-3, Series of 1941 to address the changes of some of its provisions, the DENR has come up with a proposed DAO for Special Land Use. In the formulation of this new DAO, the DENR has studied the validity of the maximum allowable area for the different special use permits/leases. For this purpose, the DENR has considered various factors in determining the maximum limits such as maximized use of the area and the demand for the area.

Based on the monitoring and evaluation activities of DENR in the different special land use areas, it was found that most of these areas were not fully utilized/developed. On the other hand, there is an increase of interested parties who want to venture in special land use areas especially in foreshore areas. For more people to benefit and to maximize the use of the special land use areas, there is a need to determine the appropriate area limit of various types of SPLUMA in consideration with the policy of the State, which is to provide equitable access to forelands and forest resources. This proposed provision of the DAO is pursuant to the provisions of Section 2, Article XII of the 1987 Philippine Constitution, EO No. 192 of 1987, EO no. 278 of 1987, and PD 705 as amended.

Proposal: Adoption of the allowable maximum area on the different special land use permits/leases as proposed in the pending DAO for Special Land Use as seen in Table 2.

Figure 1. .Proposed simplified and harmonized process of identifying and approval of available sites.

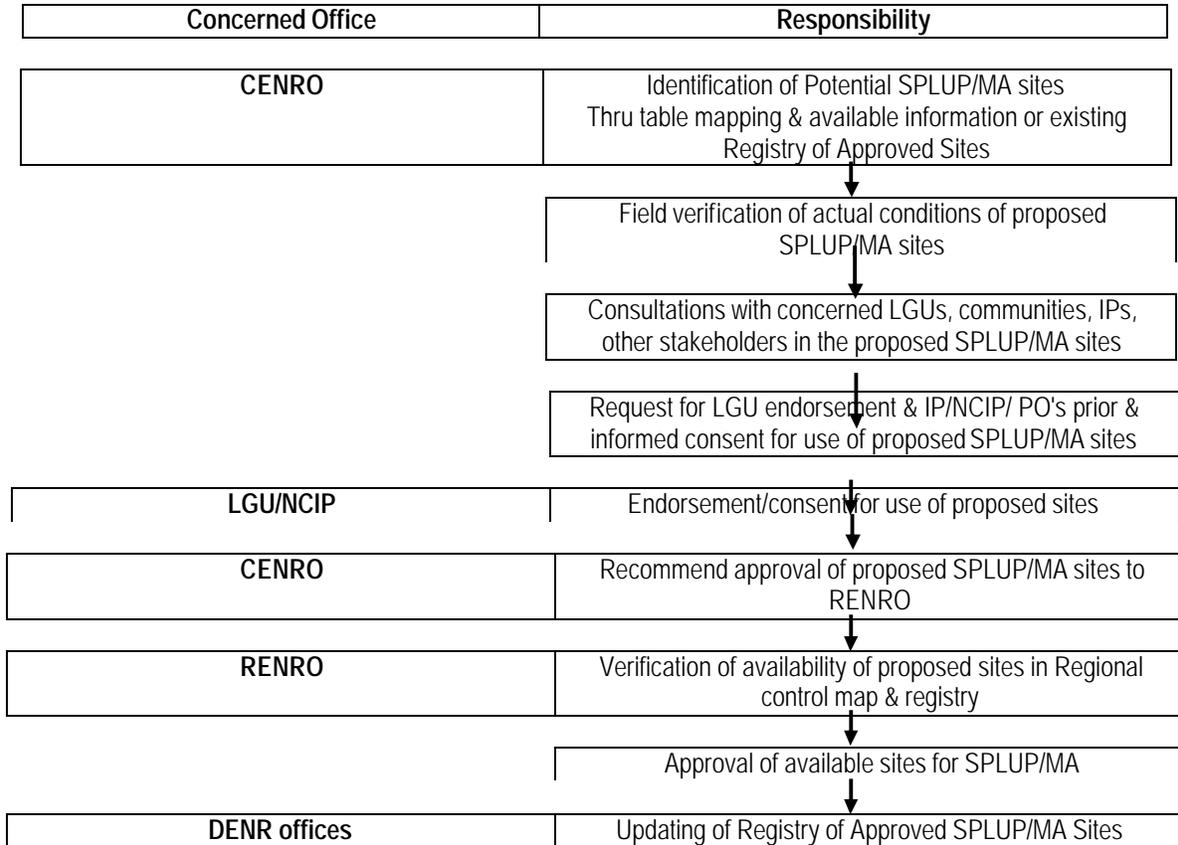


Table 1. Kinds of existing SPLUMA and the allowable maximum area.

<u>Kind</u>	<u>Maximum area in ha.</u>
• Bathing establishment	24
• Private Camp	24
• Hotel site	6
• Nipa Plantation	10
• Road Right-of-Way	200
• Communication Station Site	6
• Right-of-Way	200
• Saltworks	24
• Sanatorium	24
• Sawmill Site	24
• Lumber Yard	24
• Timber Depot	24
• Logging Camp Site	24
• Lime and Charcoal Kiln	24
• Mining Waste Disposal Site	200
• Prospecting	5,000 ha per province (for Corporation) 500 ha per province (for individual)
• School Site	5
• Other Special Uses	24
• Other Lawful Purposes	6

Table 2. Kinds of proposed SPLUMA and the allowable maximum area.

<u>Kind</u>	<u>Maximum area in ha.</u>
• Bathing Establishment	24
• Bodega/Warehouse site	5
• Camp site	5
• Communication station site	3
• Drydock site/shipbuilding/ship breaking site	24
• Ecological Destination	Subject to the recommendation of RED concerned
• Fish drying site	5
• Herbal/Medicinal Plantation	10
• Hotel site (inclusive or related resort facilities)	10
• Industrial Processing site	24
• Landing site (Air strip)	As recommended by the Air Transportation Administration (ATO/Civil Aeronautics Administration (CAA)
• Log pond/Log Depot site	5
• Lumberyard	5
• Mineral storage and/or crushing site	5
• Mining Waste Disposal site	Subject to joint recommendation of RED and RD-MGB concerned
• Motor pool site	5
• Nipa plantation	10
• Other Lawful Purposes (as determined by the Secretary or his/her duly Authorized representative	Subject to the recommendation of RED concerned
• Plant nursery site	3
• Power station site	5
• Mineral Prospecting Permit	Subject to the joint recommendation of RED and RD-MGB concerned
• Right-of-way (including Road right-of-way (RRW), Transmission Line Right-of-Way (TLRW), Communication Right-of-Way (CRW)	Subject to the recommendation of RED concerned and agency concerned
• School Site	5
• Water reservoir or Impounding dam	Subject to the recommendation of RED concerned & agency concerned
• Other Lawful Purposes (as determined and recommended by FMB Director and approved by the Secretary)	Subject to the recommendation of RED concerned

3.1.3 Mode of Disposition and Awarding of Special Use Areas

The existing policy is that SPLUP/MAs are granted/awarded to the earliest qualified applicant. However, in the proposed DAO for Special Land Use, areas suitable for CSFUMA shall be awarded thru competitive bidding except the following: Areas applied for Road Right-Of-Way; Transmission Right-of- Way and other rights of way; Communication station Site; and other similar uses; and Dam or Water Reservoir Site. After complying with all the requirements and after having declared the bid winner, an applicant is awarded with a CSFUMA.

Comments regarding competitive bidding process used in awarding SPLUP/MA were solicited during the field interviews and regional consultation conducted by FDC Staff. It has been suggested that areas available for SPLUP/MA could be granted to qualified applicants either

through competitive bidding or first-come-first-served basis depending on the demand for these areas. When there are many interested applicants, the most equitable disposition of the area would be made by competitive bidding as in the case of foreshore areas. Also, disposition of special use areas through competitive bidding is one way of helping the government generate higher revenues from these areas.

On the other hand, application thru first-come-first-served-basis can be applicable to other special land use areas where there are few takers. FMB commented that some areas suitable for special land uses have no takers.

Proposal: Competitive bidding shall be applied only in foreshore areas suitable for SPLUP/MA such as the following: areas for bathing establishment, dry dock site/shipbuilding/ship breaking site, nipa plantation (>3 ha), hotel site, and other lawful purposes to be located in foreshore areas. Priority for Nipa plantation areas less than 3 hectares will be given to the existing occupants and growers in these areas. This move will safeguard the low-income nipa plantation growers. The process involved in competitive bidding is reflected in Section 9 of the proposed DAO for SPLUMA.

3.2.0 Qualification requirements for SPLUMA applicants

The following are the existing qualification requirements of SPLUMA applicants:

- 1) Filipino citizen of legal age
- 2) For corporation, association or partnership, must be registered and capital stock is at least 60% owned by Filipino citizens
- 3) Financially and technically capable to develop the given area

Proposal: It is proposed that the *technical and capability requirements* will be deleted from the list of qualification requirements. Aside from the fact that this provision is difficult to measure, this can be gauged in the various application requirements (e.g. for financial capability, payment of fees, bond deposit and proof of capitalization, while for technical capability, submission of Plans and maps).

3.3.0 Application requirements:

The ease of satisfying the requirements in applying for SPLUP/MA is one way of attracting prospective investors. However, various issues and comments were raised by the previous applicants regarding application requirements that contributed to the delay and difficulty of securing permits or leases. These issues/comments are discussed in details below:

3.3.1 Differing interpretations of the required application requirements resulting to the delay in processing and approval

Although there is a uniform list of applications requirements being distributed to the different regions in the country, the applicants faced difficulty in satisfying these requirements. This is because there are different interpretations of what documents are needed as proof of technical and financial capability of the applicant. Processing is delayed when the applicant is unable to immediately submit the required documents. Some applicants even resorted to paying DENR personnel just to facilitate processing of their applications. This happens up to the higher levels of the hierarchy. Some DENR personnel from FMB and RENRO have expressed

discontentment over the irresponsibility of some DENR personnel in the CENRO and PENRO of endorsing applications with insufficient requirements.

Proposal: Re-training of DENR action officers on proper verification and crosschecking of application requirements.

3.3.2 Difficulty in securing LGU endorsement

Most of the applicants have difficulty in securing LGU endorsement especially when they belong to the different party as that of the incumbent local officials. Although LGU/NCIP endorsement is already included in the identification of available areas for various management agreements, it is still mandatory for concerned LGU/NCIP to endorse or comment any application for tenurial instruments like SPLUMA. To safeguard any application concerning LGU endorsement, Joint Memorandum Circular between DENR and LGU has devised a policy in relation to this predicament, wherein LGU is mandated to process the endorsement within 15 days, otherwise, non-action within this period would mean LGU/NCIP fully endorses said application.

Proposal: With the implementation of Joint DENR-DILG Memorandum Circular No. 2003-01, the concerned LGU has to inform DENR of the action it has taken within fifteen (15) days from the date of receipt of the document; otherwise, it will be presumed that the LGU fully endorses said application or instrument.

3.3.3 Inclusion of the regulation requiring a married woman applicant to get a written consent of the husband.

Regulation requiring a married woman applicant to get a written consent of the husband is no longer necessary since under the 1987 Philippine Constitution, a married woman is already allowed to acquire properties even without the husband's consent. Therefore, this existing regulation should not be included in the list of the requirements.

Proposal: Non-inclusion of the regulation requiring a married woman applicant to get a written consent of the husband.

3.4.0 Processing and approval of SPLUMA

3.4.1 Too many hierarchical levels involved in the processing of SPLUMA application causing delays and high transaction costs on the part of applicants

In FAO No. 8-3, Series of 1941, "a permit or lease may be issued only after application has been filed, and investigation of the land for which a lease is desired has been made and the issuing officer is satisfied that the applicant, upon reasonably showing and compliance of the requirements and will be able to utilize the land during the period fixed by the lease; that the necessary fees and rentals have been paid and the corresponding bond is deposited; and that the use will not be prejudicial to public interest."

"However, an area may be advertised after investigation of an area applied for ordinary permit or lease agreement, and in the opinion of the Director of Forestry the most equitable disposition of the area would be made by public auction, the said Director of Forestry may decide to advertise for bids by having suitable notice posted on the bulleting board of the Bureau of

Forestry and conspicuous places in the provincial and municipal building where the land is located and on the land applied for a period of not less than thirty (30) days, prescribing the area to be included in the lease agreement, setting forth the term and conditions of said agreement and calling for bids covering the said area."

At present, the DENR has implemented a different procedure for processing and approval as seen in Figure 2 and 3 without amending the said FAO, It is summarized below.

"The Special Use application shall be filed with the Office of the CENRO, where the area applied for is located. Upon receipt of the application the CENRO shall send technical personnel under him/her to inspect the area applied for and check the status of the same. Thence, the CENRO submits its findings to the DENR Regional Executive Director (RED) thru the Provincial Environmental and Natural Resources Officer (PENRO). The PENRO upon receipt of the application evaluates the same and draft endorsement to the RED thru the Regional Technical Director (RTD) who evaluates the application and drafts the permit and the corresponding sketch map of the area for approval by the RED".

With the promulgation, however, of DAO No. 38, dated April 19, 1990, approval of Special Use Permits and/or had been delegated to DENR Field Offices as follows:

CENRO	-- .01 ha to .99 ha.
PENRO	-- 1.0 ha to 5.0 has.
RTD (for Forestry)	-- More than 5 to 10 has.
RED	-- More than 10 has. and all Special Land Use Permits for Public Infrastructure without tree cutting

"The approval however, of all leases is still vested to the Secretary, DENR, regardless of the kind of use or uses and area coverage. Moreover, the approval of Assessment Report (for renewal application and or five years of existence of lease agreement) as basis for computation of an updated annual rental and Special Land Use Permit for Public Infrastructure with tree cutting is still vested to the Secretary, DENR."

It is observed that there are too many levels in the DENR hierarchy involved in the processing of Special Forestland Use Permits and Agreements (Figures 2 and 3). This often caused the lengthy processing time and high transaction costs incurred by the applicants. Previous applicants said that approval of SPLUMAs usually take more than one (1) year. Also, they had spent large amounts in transactions with various levels of the hierarchy for their documents to move from one level to another. Some avoid this predicament and shorten the period of processing by bribing DENR officials/staff. Previous applicants said that bribes increased as the levels of hierarchy increased.

The present system of processing and approval is said to be based on the DENR Manual of Approvals where application documents have to pass through channels of the DENR hierarchy before approval. The system ideally provides for checks and balances. However, it also causes problems of bureaucratic red tape, undue delays and opportunities for graft and corruption.

Figure 2. EXISTING PROCESS FLOW FOR SLUP (Ordinary Permit)

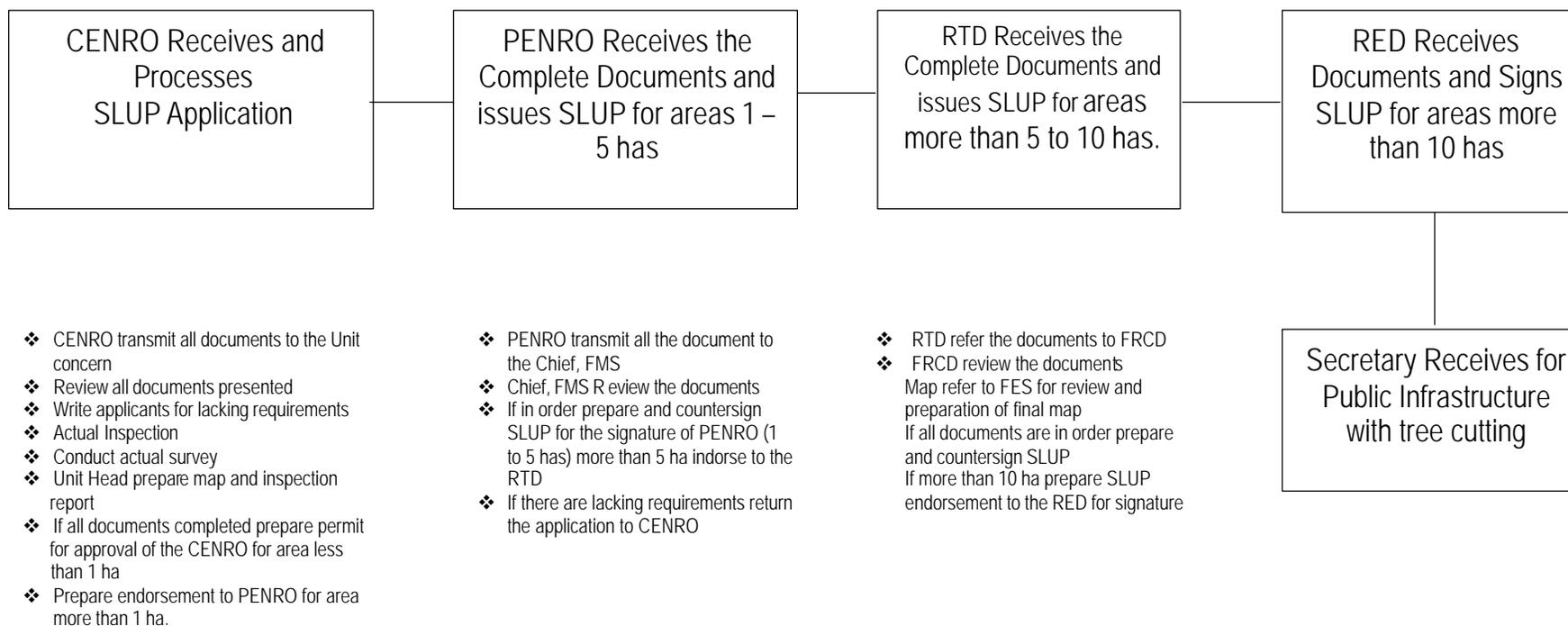
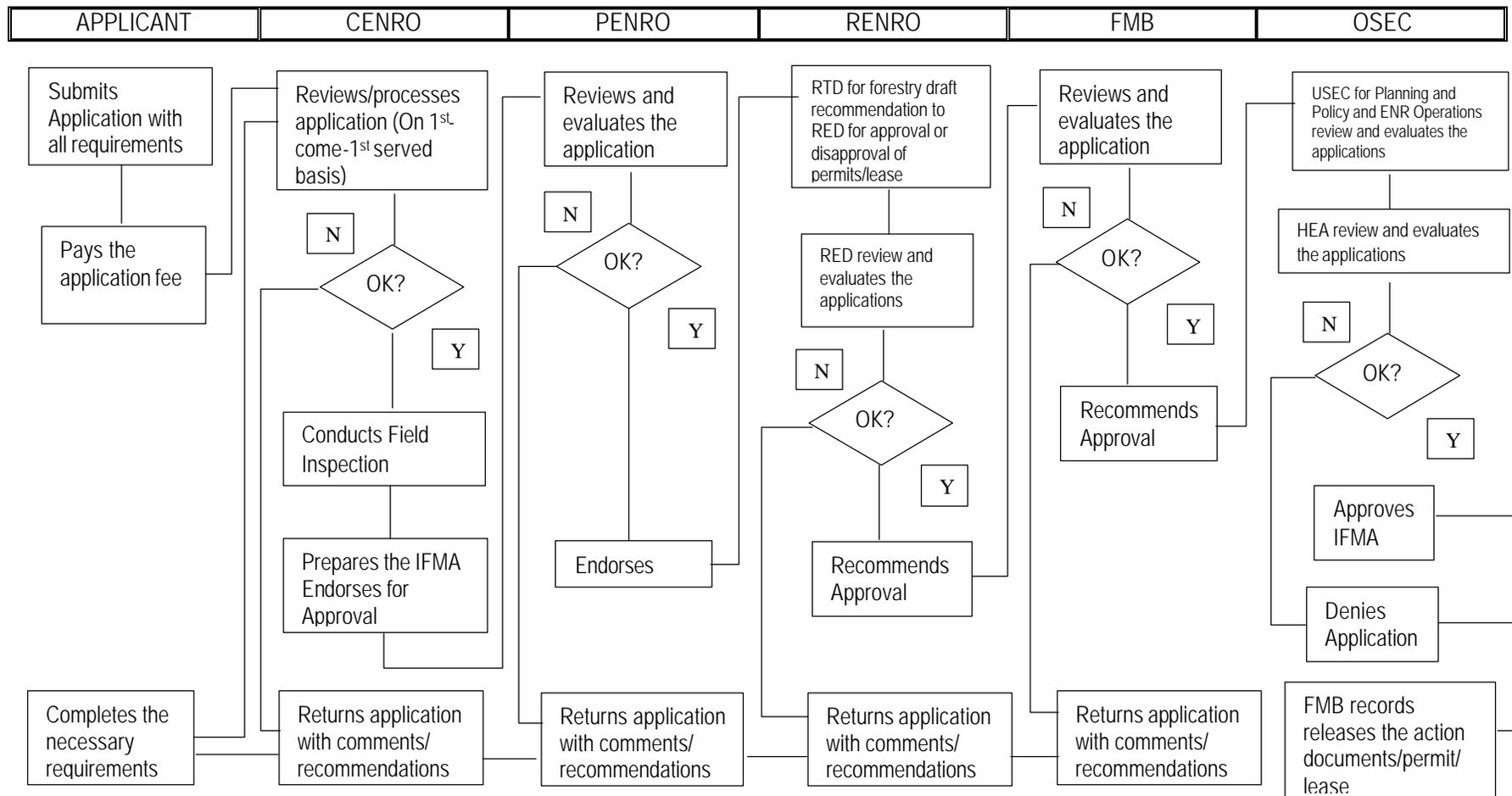


Figure 3. Existing Processing and Approval of SFUMA



Proposals:

1. **In order to streamline the processing and approval of instruments, it is proposed that the number of levels be reduced primarily to address the problems of lengthy processing time and very high transaction costs due to unnecessary follow-ups in the various levels.** Figure 4 shows the simplified and harmonized processing and approval of SPLUP and SPLUMA. The proposed procedure is also summarized below.

Applicants will submit application requirements and fees at the RENRO. All requirements will be checked to determine its completeness. A composite team to be led by the CENRO, will then validate/inspect the area being applied for. In the same manner the proposed management plan for the area will be reviewed for its validity at the RENRO level. A regional deliberation to be coordinated by the RTD for Forestry will follow to determine the merits and soundness of the application considering the report of the composite team, review of the management plan and other requirements. If application is found meritorious, the RED approves the application.

Applications with tree cutting or earth moving activities will be indorsed to the OSEC level. A final deliberation will be conducted which will be coordinated by the USEC for Field Operations. The UFO will then submit the report on the deliberations and indorse the application to the Secretary for approval. Information on approved instruments shall be forwarded to concerned CENRO, PENRO, RENRO and higher levels (OSEC, UFO, FMB) for proper recording and updating of control maps.

All applications shall be submitted to the Regional Office in order to avoid problems in determining which applicant submitted first. Composite team's report can form one of the bases for deliberations of the application. Deliberations at the regional level will have to be made by a multisectoral committee of representatives of various sectors as a way of ensuring transparency. This is also participatory in nature since this committee will be involved in determining and deciding the right applicant to be awarded with SPLUP/MA. Final approval by RED and OSEC on the applications shall depend on the results of the deliberation.

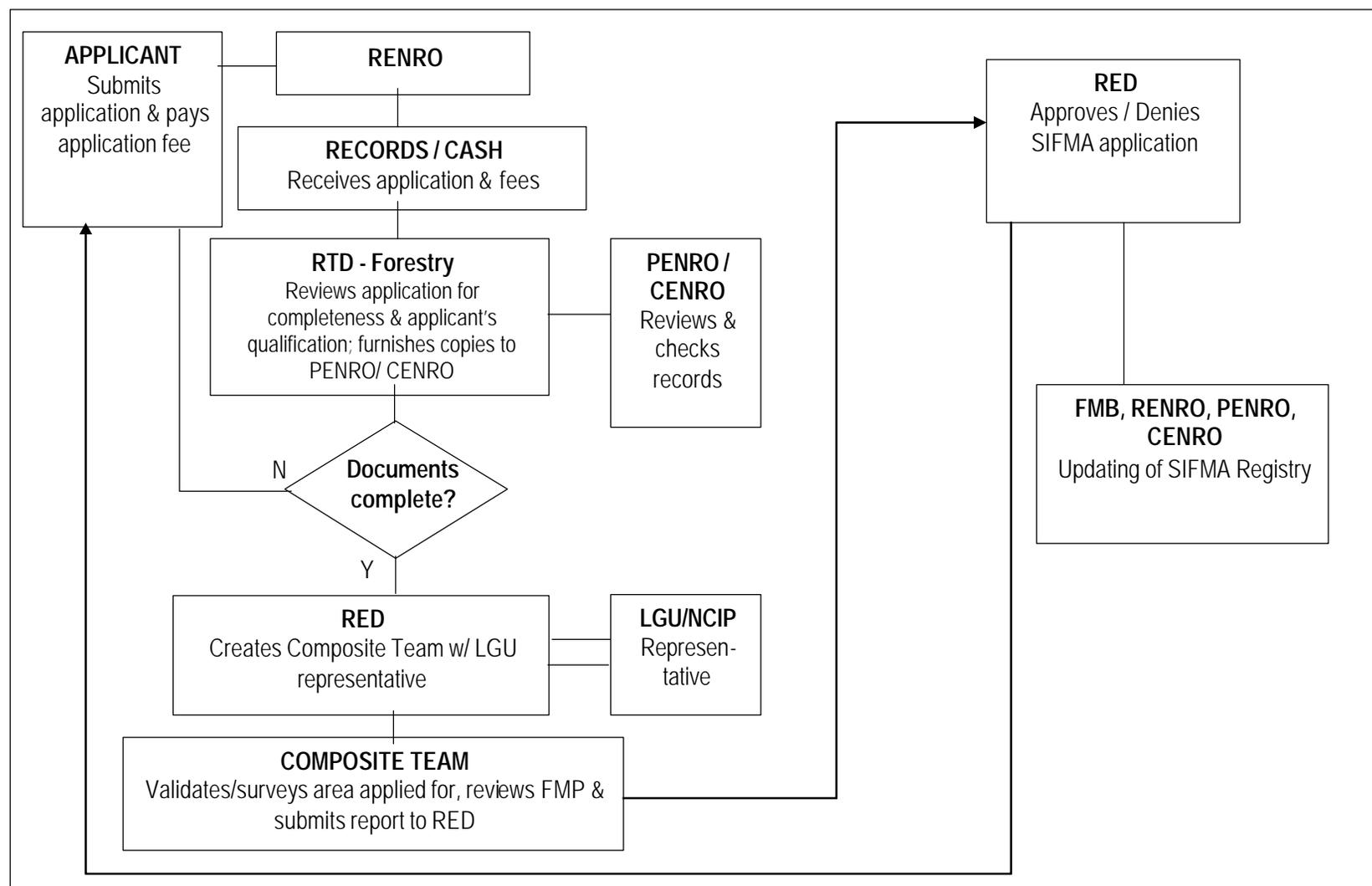
This proposed procedure will decentralize the approval of some SPLUMAs from the Secretary to the RED. This move will unload the Secretary of some responsibilities. However, an accountability mechanism, transparency and participation should be established through the active involvement of various sectors (through multisectoral deliberations committees).

- 2.5 **2. Bidding Procedures for SLUP/MAs should be applied only in foreshore areas** (Details of these can be seen in attached proposed DAO on SPLUMA)

3.4.2 Conversion of SLUP to SPLUMA

Out of the hundreds of SPLUPs throughout the country, there are only 22 which were converted into SPLUMA (Appendix Table 1). According to some permittees/leases and DENR personnel interviewed, most of the holders of SPLUP are not interested to apply for SPLUMA even though the latter offers a longer and secured tenure. The existing policy is that a SLUP holder can renew his/her permit every year or convert his/her permit into a lease agreement provided that his/her area has a substantial

Figure 4 . Proposed procedures for processing and approval of SFUMA (without cutting)



improvement or development introduced thereof and no terms and conditions in the contract has been violated. The following are the reasons why permit holders are not interested in applying for lease agreements:

- a) **Business ventures are perceived to be for short duration only.** Examples of these are bodega/warehouse site, campsite, and fish drying site among others. Therefore, application for SLUP is advisable.
- a) **Improvements are put up in the area within 1-3 years.** In the existing appraisal/reappraisal system, special use areas are re-appraised every five (5) years from the date of approval of the SPLUP/MA. Also, the annual rental from the 2nd year up to the 4th year is the same as that of the 1st year. Those permittees who have put up high amount for improvements during the first four years are mostly not interested to apply for lease agreement to avoid payment of high rentals since the area will have to be reappraised when converted to lease agreement. This is because the new rental under lease agreement will be based on the reappraisal of the land and its improvement wherein the rental shall not be less than 3% of the appraisal or reappraisal value of the land and 1% of that of improvements. So most of them decided to delay the conversion of their permits to leases after 5 years.
- b) **Processing of lease agreements takes long period of time since applications will have to pass to many levels of hierarchy.** Final approval for SPLUMA is up to the Secretary level while that of permit is only up to the RENRO level. According to the previous applicants, it took more than a year before their lease agreements were awarded to them. Also, they had spent large amounts in transaction with various levels of the hierarchy for their documents to move from one level to another.

Proposal: To come up with an appropriate procedures on the conversion of SPLUP to SPLUMA

3.5.0 Benefits, sanctions and penalties

3.5.1 Appraisal and reappraisal

Awarding of leases/permits for foreshore areas are done by the two sectors of DENR, the Forestry and Lands sectors. Regarding appraisal of foreshore areas, there is no existing policy or legal basis of appraisal and valuation of these areas. If foreshore areas are adjacent to A & D lands, awarding of lease/permit and appraisal/reappraisal are done by Bureau of Lands while those areas adjacent to forestlands, it will be under the Forestry Sector of DENR. Based on our interview with some DENR staff, this was an unwritten agreement between the Directors of the two (2) sectors during the early 60's, which is still implemented at present. Because of this, there is no unified appraisal/valuation system implemented for foreshore areas.

PD 705 and other DAOs has defined appraisal as the act or process of determining the value of a property or economic resource in a particular location, at a specific time, for a specific purpose. The government share or annual rental on the area shall be based on the result of appraisal or reappraisal conducted prior to the renewal of any tenurial instrument. It shall not be less than 3% of the appraisal or reappraisal value of the land and 1% of that of improvements. A reappraisal shall be made five (5) years after the first appraisal and every five (5) years thereafter. In the proposed DAO for Special Land Use, the fair market value of the area, the best economic use or potential use of the area based on the current needs of the local communities and other relevant factors

were considered in determining the value of the land. The new system of appraisal and reappraisal of special land use areas in the proposed DAO is very comprehensive and therefore should be implemented.

Proposals:

1. To come up with policy on unified appraisal and valuation for foreshore lands.
2. To adopt the appraisal and reappraisal system in the proposed DAO for SPLUMA.

3.6.0 Responsibilities of DENR and M & E System

3.6.1 M & E System

In the recent Two-day Assessment of Foreshore and Shoreland Management in Central Visayas held at Panglao, Bohol, one of the issues came out is the proliferation of squatters, illegal structures and operations/businesses in foreshore areas which have been in existence for many years now. The present problem of DENR is how to demolish these structures or how to encourage the illegal operators to secure permits to legalize their operations. Though some of them have secured business permits from the LGUs, still they have to apply for special land use permits/leases because they are operating within forestlands. The LGUs concerned may be ignorance on the forest regulations concerning the use of foreshore areas or does not mind at all about these regulations as long these business operations have secured permits from them. On the other hand, enforcement of policies and contracts/permits by DENR through regular monitoring of these areas is very weak.

Section 36 of FAO No. 8-3, Series of 1941, states that any person occupying or using any one of the above mentioned public forests without permit or lease from the Bureau of Forestry in violation of the provisions of the Order shall be subject to prosecution under Section 2751 of the Revised Administrative order as amended and to pay double the ordinary rental charges of the land occupied during the period of illegal occupation, in accordance with Section 1838 of the same Code as amended by Republic Act No. 1252, of June 10, 1955. Since this provision of FAO No. 8-3, Series of 1941 is not yet amended, therefore, it still takes effect at present.

Proposal. There are 3 recommendations on how to deal with the proliferation of squatters, illegal structures and operations/businesses in foreshore areas.

1. The LGUs should be properly informed on the existing forest regulations so as to help the DENR in enforcing its policies regarding execution of contracts/permits.
2. The LGUs should encourage people interested to operate in special land use areas to apply for SLUP/MA.
3. To come up with protocol of implementation on how to demolish illegal structures in foreshore areas considering the penal provision stated in Section 36 of FAO No. 8-3, Series of 1941.

5.0 SUMMARY AND RECOMMENDATIONS

The analysis of the forest regulatory procedures for SPLUMA was based on the content analyses of the existing and proposed DAO on SPLUMA and from various issues, concerns and recommendations raised by the different sectors consulted during the field data gathering, regional consultations

conducted and several meetings with our Forest Management Bureau (FMB) counterparts and project advisers. A number of these issues, concerns and recommendations were incorporated in the process of simplification and harmonization of the requirements and procedures. The proposed revisions were guided by the ecogovernance principles of transparency, accountability and participation

It is highly recommended that the proposed DAO for SPLUMA should be adopted except for the following revisions:

- Competitive bidding shall be applied only in foreshore areas suitable for SPLUP/MA such as the following: areas for bathing establishment, dry dock site/shipbuilding/ship breaking site, nipa plantation (>3 ha), hotel site, and other Lawful Purposes to be located in foreshore areas.
- Number of levels in the processing and approval of SPLUMA should be reduced primarily to address the problems of lengthy processing time and very high transaction costs due to unnecessary follow-ups in the various levels.
- Non-inclusion of the term "financially and technically capable to develop the given area" in the list of the qualifications of applicants
- Non-inclusion of the regulation requiring a married woman applicant to get a written consent of the husband

Other recommendations that should be addressed and need appropriate actions to fully implement the forest regulatory procedures for SPLUMA, are the following:

- Prioritize forest land use planning in consonance with LGU land use planning
- Include identification of areas for various tenurial instruments as KRA of regional offices so that it becomes part of the annual budget.
- Re-training of DENR action officers on proper verification cross-checking of application documents
- Come up with an appropriate procedures on the conversion of SPLUP to SPLUMA;
- Come up with policy on unified appraisal and valuation for foreshore lands;
- Come up with protocol of implementation on how to demolish illegal structures in foreshore areas considering the penal provision stated in Section 36 of FAO No. 8-3, Series of 1941; and
- Proper collaboration with the LGUs regarding management of special land use areas.

REFERENCES

- FAO # 8-3, Series of 1941 -- Revised Regulations Governing Special Uses of Forest Lands
- FAO # 4, S-1946 – Amendments to Forestry Administrative Order No. 8-3 of July 1, 1941, known as Revised Regulations Governing Special Uses of Forest Lands
- FAO # 4-1, S-1948 – Amendments to Forestry Administrative Order No. 8-3 of July 1, 1941, known as Revised Regulations Governing Special Uses of Forest Lands
- FAO # 4-2, S-1951 – Amendments to Forestry Administrative Order No. 8-3 of July 1, 1941, known as Revised Regulations Governing Special Uses of Forest Lands
- FAO # 4-3, S-1953 – Amendments to Forestry Administrative Order No. 8-3 of July 1, 1941, known as Revised Regulations Governing Special Uses of Forest Lands
- FAO # 4-4, S-1954 – Amendments to Forestry Administrative Order No. 8-3 of July 1, 1941, known as Revised Regulations Governing Special Uses of Forest Lands
- FAO # 4-5, S- 1954 – Amendments to Forestry Administrative Order No. 8-3 of July 1, 1941, known as Revised Regulations Governing Special Uses of Forest Lands, as amended by Forestry Administrative Orders Nos. 4, 4-1, 4-2 and 4-3.
- FAO # 4-7, S-1955 – Pasture Regulations
- FAO # 4-8, S-1955 – Tree Farm Regulations
- FAO # 4-12,S-1958— Amendments to Forestry Administrative Order No. 8-3 of July 1, 1941, known as the “Revised Regulations Governing Special Uses of Forest Lands”
- FAO # 4-13, S – 1959 –Rules and Regulations Governing the Granting of Tree Farm Leases
- FAO # 8-61 – Regulations Governing Special Uses of Forest Lands
- FAO # 4-14, S –1966 –Increased Forestry Application Fees and Rentals for Special Uses of Forest Lands
- FAO # 4-15, S – 1967 – Revised Schedule of Fees and Rentals on Pasture Leases/Permits
- DAO # 18, S – 1993 – Prescribing the Revised Schedule of Forestry Administrative Fees
- DAO # 98-27 – Interim Annual Rental for Special Use of Forestland for Energy Projects
- DAO # 66, S-1993 – Addendum to the Prescribed Revised Schedule of Forestry Administrative Fees Under DAO No. 18, Dated April 20, 1993
- DAO # 2000-30 – Annual Government Share/Rental for Special Use of Forestland for Energy Projects
- Bureau of Forestry Administrative Order No. 08-61 – Regulations Governing Special Uses of Forest Lands
- FAO # 8, Series of 1962 --

Appendix Table 1. List of Existing Special Land Use Lease as of 30 June 2003

LEASE NO.	PURPOSE	NAME OF LESSEE	LOCATION/DISTRICT	AREA (HA.)	DATE ISSUED	EXPIRY DATE	ANNUAL RENTAL	STATUS
Region 1								
SWLA No. 16	Saltworks	Precentacion Buenaventura (Formerly Delfin Buenaventura)	Macandong - Macandong, Anda, Pangasinan (1st District)	3.50	9-19-79	12-31-2004	P 875.00	Existing
Region II								
OLP LA NO. 1	School Site	Missionaries of Our Lady of La Salette	Ramon, Isabela (4th District)	15.00	04-21-89	12-31-2013	P47,118.56(1997)	Existing
Region IV-B								
Bela No. 6	Bathing Establishment	Carmencita Reyes	Silangan, Mogpog, Marinduque (Lone District)	10.80	01-16-85	09-30-2010	P11,322.56	Existing
OLP LA No.004	Primate Breed	A.T. Viri	Tambo, Looc, Occ. Mindoro (Lone District)	55.50	01-02-90	12-31-2004	P13,875.00	Existing
Region V								
OLP LA No. 1-0011 (Grat)	Summer	Roberto G. Villanueva, Jr.	Tailon Island, Panganiban, (1st District)	6.81	4-29-98	12-30-2022	P15,532.00	Existing
Region VII								
OLP LA No.	Equipment Site	Bureau of Equipment	Cortes, Bohol	2	11-30-79	12-31-2003	exempted	Existing
CSS No. 0005	Transmitter Site	Word Broadcasting Corp.	Aluminos, Mambaling, Cebu City (2 nd District)	1.044	12-22-97	12-30-2022	P17,598.24	Existing
OLP LA No. 9	Bodega, Pier Landing Site	Apo Cement Corp.	Tinaan, Naga (1 st District)	24	11-28-94	12-31-2020	P225,227.49	Existing
OLP LA No. 10	Drydock & Shipyard	L'Nor Marine Services, Inc	Liloan, Cebu (5 th District)	6	06-06-95	12-31-2020	P57,370.52	Existing
RWLA No. 003	Road-Right-of-Way	L'Nor Marine Services,	Liloan, Cebu	0.225	06-06-95	12-31-2020	P4,632.05	Existing
OLPLA NO.008	Shipbuilding, Repair and Breaking Yard	PKS Shipping Co., Inc.	Tayud, Consolacion (6 th District)	2.01	06-30-94	12-31-2020	P18,463.00	Existing
OLPLA No. 0015	Shipbuilding/Ship repair	Tsuneishi Heavy Industries Inc.	Buanoy, Balamban Cebu (1 st District)	6.0	12-09-02	12-31-2027	P208,748.35	Existing
OLPLA No. 0017	Shipyard/Ship repair	FBM-A Babcock Marine, Inc.	Arpili, Balanban, Cebu (1 st District)	3.39	12-09-02	12-31-2027	P87,512.80	Existing
OLPLA No. 0018	Fabrication Plant	K & A Metal Industries, Inc.	Buanoy, Balamban, Cebu (1 st District)	6.0	12-09-02	12-31-2027	P100,258.00	Existing

LEASE NO.	PURPOSE	NAME OF LESSEE	LOCATION/DISTRICT	AREA (HA.)	DATE ISSUED	EXPIRY DATE	ANNUAL RENTAL	STATUS
BELA No.008	Bathing Establishment	Eurasia Holiday Resort Corp.	Zaragoza Island Badian, Cebu (2 nd District)	4.68	11-12-95	12-31-2020	P12,067.00	Existing
BELA No. 5	Bathing Establishment	Dennis Mendoza	Compostela, Cebu (5 th District)	4.16	03-18-84	12-31-2004	P15,781.00 (1993)	Existing
OLPLA No.0013	ERAP	Alcorido International	Ronda, Cebu (2 nd District)	3.8	11-24-99	12-31-2024	P6,673.00	Existing
CSS & RRW	Communication Station Site and Road Right-of-Way	Philippine Long Distance Telephone Company	Cadulawan, Minglanilla, Cebu (1 st District)	2.53	01-15-01	12-31-2015	P26,210.80	Existing
OLPLA NO. 7	Other Lawful Purposes (Drydock & Shipyard)	Santiago Shipyard & Shipbuilding Corp.	Consolacion, Cebu (6 th District)	5.25	08-17-93	12-31-2025	P67,118.90	Existing
OLPLA NO. 12	Other Lawful Purposes (Drydock & Shipyard)	Colorado Shipyard Corp.	Tayud, Consolacion, Cebu (6 th District)	3.35	05-21-03	12-31-28	P44,837.00	Existing
Region XIII CARAGA								
CSS	Communication Station Site	NAPOCOR	Mt. Magdiwata, San Francisco, Agusan del Sur (Lone District)	0.12	05-24-99	12-30-2024	exempted	Existing
OLPLA No.	Other Lawful Purpose (Market Site)	Tandag Municipal Market	Bagong, Lungsod, Tandag Surigao del Sur (1 st District)	1.63	05-10-99	12-31-2024	P300.00	Existing
TOTAL							P939,114.27	

Appendix Table 2. Existing and proposed harmonized forestry regulatory procedures for SPLUMA based on various areas of concern

AREAS OF CONCERN	EXISTING	PROPOSED
Policy Basis	FAO # 8-3, Series of 1941	
Available areas	<p>All forest lands may be made available for CSFUMA and other special uses except the following areas:</p> <ul style="list-style-type: none"> ▪ Communal forests; ▪ Areas with existing forestry tenurial and/or use-right instrument; ▪ Protected areas under the NIPAS Act; and ▪ Proclaimed reservation areas; ▪ Areas covered by Certificate of Ancestral Domain Claim CADC/CADT, Community Forest Stewardship Agreement (CFSA) and Community Based Forest Management Agreement (CBFM) Program. <p>Right-of-way and other facilities of vital public importance may be allowed in the protected and other critical areas, subject to existing laws, rules and regulations on the matter.</p>	<p>All forest lands may be made available for CSFUMA and other special uses except the following areas:</p> <ul style="list-style-type: none"> ▪ Communal forests; ▪ Areas with existing forestry tenurial and/or use-right instrument; ▪ Protected areas under the NIPAS Act; and ▪ Proclaimed reservation areas; ▪ Areas covered by Certificate of Ancestral Domain Claim CADC/CADT, Community Forest Stewardship Agreement (CFSA) and Community Based Forest Management Agreement (CBFM) Program. <p>Right-of-way and other facilities of vital public importance may be allowed in the protected and other critical areas, subject to existing laws, rules and regulations on the matter.</p>
	<p>Existing process of identifying an approval of available sites for SPLUMA</p> <ul style="list-style-type: none"> • Identification of a potential SPLUMA site is only conducted when an applicant applies for it. 	<p>Proposed process of identifying and approval of available sites for SPLUMA</p> <p>2. In the CENRO</p> <ul style="list-style-type: none"> • CENRO initiates the identification of potential sites for management based on existing information and control maps. • Field verification of actual conditions of the proposed SPLUMA sites • Consultations with concerned LGUs, communities, IPs, other stakeholders in the proposed SPLUP/MA sites • Request for LGU endorsement &

		<p>IP/NCIP/ PO's prior & informed consent for use of proposed SPLUP/MA sites</p> <ul style="list-style-type: none"> • Recommend approval of proposed SPLUP/MA sites to RENRO <p>3. In the RENRO</p> <ul style="list-style-type: none"> • Verification of availability of proposed sites in Regional control map & registry • Approval of available sites for SPLUP/MA <p>4. Other DENR Offices</p> <ul style="list-style-type: none"> • Updating of Registry of Approved SPLUP/MA Sites
Qualification requirements for SIFMA applicants	<p>New applicants:</p> <ol style="list-style-type: none"> 1. Filipino citizen of legal age 2. For corporation, association or partnership, must be registered and capital stock is at least 60% owned by Filipino citizens 3. Financially and technically capable to develop the given area 	<ol style="list-style-type: none"> 1. Filipino Citizen of legal age 2. For Corporation, association, partnership & cooperative, must be registered and capital stock is at least 60% owned by Filipino citizens
Application requirements	<p>New Applicants (11)</p> <ol style="list-style-type: none"> 1. Duly accomplished & notarized application form (3 copies) 2. If applicant: <ol style="list-style-type: none"> a) Corporation papers duly certified by the SEC b) Marital consent if applicant is a married woman (2 copies) c) A government employee --written permission from Dept/Agency Head concerned d) uses a name, style or trade name other its true name, A CR with DTI 3. Xerox (2) copies of income Tax Returns for last 2 years 4. Comments/ Endorsements by the Municipal Mayor or SB & from the barangay council (for 	<p>A. First-come-first-served Basis:</p> <ol style="list-style-type: none"> 1. Duly accomplished application form 2. Payment of the following fees: <ol style="list-style-type: none"> A. First-come-first-served basis: <ul style="list-style-type: none"> ▪ Filing fee ▪ Inspection fee ▪ Oath fee ▪ Performance bond B. In Competitive Bidding: -- Bid deposit 3. Proofs of legitimacy/existence/ satisfactory performance <ol style="list-style-type: none"> a. For Individual applicant: <ul style="list-style-type: none"> ▪ Written permission from Head of Agency (for government employees) B. For corporation/Association/

	<p>Region 7)</p> <ol style="list-style-type: none"> 5. Project Feasibility Study/business and Management Plan 6. ECC 7. Bank certification as to availability of sufficient bank deposit for the operating cost of the project (for Region 7) 8. Authority for the authorized DENR employee to inspect such bank deposit (for Region 7) 9. Map of the area with technical description, longitude and latitude. 10. Proof of payment of the ff regulatory fees: <ol style="list-style-type: none"> a) Application fee - P300 per application for all SPLUP except for Mining Disposal Site Permit which is P1.00/ha or fraction thereof but not less than P500.00 b) Inspection -- P2,400.00 c) Oath -- P36.00 (if subscribed by a DENR Official authorized to administer Oath) d) Performance Bond (in cash) – twice the annual rental, except for Mining Waste Disposal Site which is now fixed at P100,000 e) Annual rental (DAO # 18, S-1993) <ol style="list-style-type: none"> » 1ha or less = P74/ha » over 1ha to 5has = P150/ha » over 5has = P250/ha 11. Certification from the Bureau of Mines & Geo-Science that the area applied for is not in conflict with the exploration, mining and gold panning permit (for Region 2) 	<p>Partnership/ Cooperative:</p> <ul style="list-style-type: none"> ▪ Certification of good standing from SEC/CDA/DENR/DTI where applicable ▪ Uses a name, style or trade name other than its true name, a certificate with DTI <ol style="list-style-type: none"> 4. Proof of financial capability: <ul style="list-style-type: none"> ▪ Statement of Assets/bank certification/audited financial reports --- availability of funds or assets equivalent to amount needed for development of area during the term of tenure 5. Technical Requirements: <ul style="list-style-type: none"> ▪ Detailed & scaled map ▪ Business Management Plan ▪ IEE/EIS report/CNC application <p>B. Proposed Pre-qualification requirements of Prospective Bidders:</p> <ol style="list-style-type: none"> 1. Proofs of legitimacy/existence/ satisfactory performance <ul style="list-style-type: none"> ▪ If applicant is a government official or employee, whether in career or non-career service, a written permission from the Department head of the agency concerned; ▪ If applicant is a naturalized Filipino Citizen, a copy of his/her. Certificate of Naturalization Certified by the Clerk of Court of the Regional Trial Court that issued the same; ▪ If applicant is a naturalized Filipino Citizen, four (4) copies Articles of Incorporation and By-Laws, and audited financial statement for the preceding year and a Board Resolution authorizing
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Processing and approval of SPLUMA	<p>A. In the CENRO</p> <ol style="list-style-type: none"> 1. Accepts and reviews application and checks completeness of requirements (within 2 hrs) 2. Conducts field investigation for 1-3 days depending on the area coverage 3. Prepares map within 2 days after completion of filed work. 4. Issues special land use permit for areas less than one (1) ha within 2-3 days. 5. Endorses application to PENRO for areas 1 ha or more or those SLUP which involve tree cutting such as Road Right- not Way within 1 day. 6. Endorses Special Land Use Permit which involves tree cutting within 2-3 days. <p>B. In the PENRO</p> <ol style="list-style-type: none"> 1. Reviews and evaluates application together with the report of CENRO within 1 day. 2. Issues Special Use Permit for areas 1 ha to 	<p>the officers to file the application in behalf of the Corporation;</p> <ul style="list-style-type: none"> ▪ If the applicant uses a name, style or trade name other than its true name, four (4) copies of Certificate of registration of such name, style or trade name with the Bureau of Domestic trade, certified by the authorized officer of the said bureau; <ol style="list-style-type: none"> 2. Proof of financial and technical capability to manage and develop the area applied for 3. Four (4) certified copies of the income tax return filed for the preceding two (2) years 5. Indicative Management/ Development Plan <p>A. In the RENRO</p> <ol style="list-style-type: none"> 1. Accepts application and requirements and fees on a first-come-first-serve basis 2. Verifies completeness of requirements if area is still available per the Registry. <i>If there are deficiencies in the submitted requirements, the applicant is required to submit the necessary requirements for completion. If area to be applied has existing claimants and tenurial instrument, the application is denied and the applicant is advised to find another area found in the Registry</i> 3. Conducts field validation/ inspection of the area by composite team (applicant, RENRO, PENRO, CENRO, concerned LGU, etc) 4. Reviews Business Management Plan. <i>If not in order and there are deficiencies, the applicant is required to revised the plan</i>
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	<p>5 ha within 2 days.</p> <ol style="list-style-type: none"> 3. Endorses application to RED for areas more than 5 ha within 1 -2 days or those SLUP which involve tree cutting such as Road -Right-of-Way. 4. Endorses Special Land Use Application which involve tree cutting within 2-3 days <p>C. In the RENRO (2 days)</p> <ol style="list-style-type: none"> 1. Reviews application and field report within 1 day. 2. Validates report if necessary within 1-2 days. 3. Issues Special Land Use Permit for areas more than 5 has to 99 ha within 2 days. 4. Endorses application and field reports to the OSEC covering areas 100 ha and above within 2 days or those SLUP which involve tree cutting such Road -Right-Of-Way 5. Endorses Special Land Use Application which involves tree cutting within 2-3 days <p>D. In FMB.</p> <ol style="list-style-type: none"> 1. Reviews application and supporting documents within 1 day 2. Draft final map, special land use permit/lease including the covering memo for the Secretary and CSW Report within 5-10 working days. 3. Endorses application to Secretary thru the USEC for Field Operations within 2 -5 days 4. Releases the permit/lease approved by the Secretary within 1-2 days. <p>E. In the UFO</p> <ol style="list-style-type: none"> 1. Reviews application and endorsement from FMB within 2-5 days 	<p><i>based on comments and suggestions/ recommendations.</i></p> <ol style="list-style-type: none"> 5. Regional deliberations of the application to be coordinated by RTD for Forestry considering the documents submitted, field validation/inspection report and Business Management Plan. 6. Prepares and approves the SPLUMP and SPLUMA application (without tree cutting and earth moving activities) . Copies of the approved SPLUMP and SPLUMA shall be furnished to CENRO, PENRO and concerned LGU, and OSEC (cc: UFO, EMB, FMB) 7. Endorses all SPLUMA applications (with tree cutting or earth moving activities) to the OSEC. If not in order, issues notice denying the application based on the results of the regional deliberation. <p>B. In the OSEC</p> <ol style="list-style-type: none"> 1. Final deliberation of the SPLUMA application (with tree cutting or earth moving activities) to be headed by the USEC for Field Operations, considering all requirements submitted, reports of field validation/inspection, Business Management Plan and other aspects 2. Secretary approves or disapproves the SPLUMA based on the results of the final deliberation. 3. Furnishes copies of the approved SPLUMA to the Regional Office (cc: RTD for Forestry, FRCD, PENRO and CENRO), FMB and
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	<p>2. Affixes initials on the permit/lease and map and/or endorses application to the OSEC thru the HEA within 2-3 days.</p> <p>F. In the OSEC</p> <p>1. Reviews the application and the draft Special Land Use permit/lease.</p> <p>2. Approves/affixes signature on the permit/lease and map within 22-10 days.</p> <p>3. Returns the approved permit/lease to FMB for numbering and/or release within 1-2 days.</p>	LGUs concerned.
Benefits of SPLUMA holders		<p>1. Reduction of payment of the user's fee under the ff conditions:</p> <ul style="list-style-type: none"> • For developing, managing and protect an area equivalent to his/her holding to be reforested by planting forest trees within 5 years from the date of the issuance of the agreement, ; and <p>For maintaining the area at survival rate of at least 80% at the time of expiration of the SLUMA</p>
Benefits of government from SPLUMA	<p>1. Annual rental: For the first year rental : 1 ha or less – P74/ha over 1 ha to 5 has – P150/ha over 5 has –P250/ha For the first 5-year period and every five years thereafter: -- shall not be less than 3% and 1% of the reappraised value of the land and improvement therein respectively</p> <p>2. Income and real property taxes paid by the Holder</p> <p>3. Employment generation</p> <p>4. Environmental enhancement and protection</p>	<p>1. Payment of annual rental</p> <p>2. Income and real property taxes paid by the Holder</p> <p>3. Employment generation</p> <p>4. Environmental enhancement and protection</p>

Sanction and Penalties	<p>Grounds for suspension/cancellation:</p> <ol style="list-style-type: none"> 1. For serious or continued violation of its terms, or of the Forest Laws and Regulations. 2. By repudiation or abandonment of the area on the part of the permittee or lessee. 3. Upon request of the permittee or lessee. 4. When the public interest so require. 5. Failure to pay without justifiable cause the rental charges and surcharges. 6. Failure to (a) advise or furnish the Director of Forest Management Bureau with copy of all prevailing transactions affecting or involving the forest land under application, permit, or lease (b) to secure approval of such transaction before they become effective 7. Occupation by the permittee or lessee of an area greater or other than that covered by the permit or lease. 8. Failure of the permittee or lessee to use the area for the purpose within 4 months from the date issued. 9. For submitting and/or reporting, or for having submitted and/or reported, any statement of himself or of others misrepresenting, hiding, misleading, or omitting the facts actually existing in the area under permit or lease. 10. For sub-leasing and/or sub-letting, or allowing other persons the use of the area or any portion thereof, or using the area or any portion thereof for purposes other than for the purposes specified in the permit or lease. <p>The cancellations of the permit shall carry with it the forfeiture of the bond if any, to the government.</p>	<p>Common grounds for suspension/ cancellation:</p> <ol style="list-style-type: none"> 1. Violation of any terms and conditions stipulated in the Lease Contract. 2. Violation of forestry laws and other laws, rules and regulations. 3. Failure to develop the area within three (3) years after the contract is awarded. 4. The Holder is found to be a dummy. 5. Failure to pay rentals and other required fees. 6. Failure to submit required reports and necessary requirements. 7. Failure to implement plans. 8. Conversion of the area or any part to other land uses without approval. 9. Abandonment of the area. 10. Voluntary surrender of the IFMA 11. Operating outside the approved area. 12. Allowing other persons the use of the area without approval. 13. Refusing the entry of authorized officers in the area. 14. IFMA obtained thru fraud, misrepresentation or by false or misleading statements or omission of facts. 15. When public interest so requires. 16. Illegal transfer of rights
Responsibilities of	<ol style="list-style-type: none"> 1. To prevent injury in the public forest. 	<ol style="list-style-type: none"> 1. Delineate and mark on the ground the

SPLUMA Holder	<ol style="list-style-type: none"> 2. To be responsible for any injury to the public forest covered by his lease or permit 3. To help fight fire in public forests, forest reserves, forest plantations, area reforested or under reforestation. 4. To accept obligations for any damage which may be caused by his operation. 5. To submit reports or statements of his operation 6. To keep records of transaction in connection with his permit or lease 7. To permit at any time a forest officer duly authorized by the Dir of Forestry to inspect all the records in connection with his operation. 8. To be present or send a representative during the inspection of his area of operation. 9. To surrender his permit or lease if not renewed on the date of expiration or after its cancellation. 10. To inform the names of other persons or companies as well as their addresses and capital invested, who may be interested in his permit or lease. <p>To advise the Dir. Of Forestry of any change in the mgmt, ownership, or capital of the company or corp., or transfer of authority of the stock or shares of said company or corporation</p>	<ol style="list-style-type: none"> boundaries of the area within three (3) months upon issuance of the management agreement; 2. Preserve the monuments and other landmarks indicating the corners and stations along the boundaries and within the confines of the area covered by the management agreement under the supervision of competent DENR field personnel 3. Construct buildings and/or accessories on the land covered by the lease pertinent to the operation or purposes for which the lease is granted 4. Protect and conserve unique, rare and endangered trees/plant and wildlife, identified under existing rules and regulations 5. To ensure that no forest growth shall be cut from a strip of 20 meters wide on each side along the roads or permanent trails unless expressly authorized in writing. 6. To be responsible for any injury to the public forest covered by his lease or permit 7. Prevent and suppress fires in his area or areas adjacent thereto. 8. To accept obligations for any damage which may be caused by his operation. 9. Pay annual rental for the use of the area on time 10. Report to the RED concerned every six (6) months the kind and value of improvements made in the area. 11. Keep records of transaction in connection with his permit or lease
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		<ol style="list-style-type: none"> 12. Permit at any time a forest officer duly authorized by the DENR to inspect all the records in connection with his operation. 13. To be present or send a representative during the inspection of his area of operation. 14. To surrender his permit or lease if not renewed on the date of expiration or after its cancellation. 15. Inform the names of other persons or companies as well as their addresses and capital invested, who may be interested in his permit or lease. 16. Inform the DENR of any change in the management, ownership, or capital of the company or corp., or transfer of authority of the stock or shares of said company or corporation 17. Comply with the laws, rules and regulations and instructions now or hereafter be in force for the proper use of the land 18. Report forest violators within his area or neighboring forests 19. Submit reports or statements of his operation
<p>Responsibilities of DENR</p>	<ol style="list-style-type: none"> 1. Effect the establishment of a buffer zone in the area covered by the permit 2. Conduct regular monitoring work on all areas covered by existing permit or lease within its administrative jurisdiction to ensure full implementation of all rules, regulations stipulated in the permit or lease. 3. Conduct appraisal and reappraisal to determine the rent of the area under permit or 	<ol style="list-style-type: none"> 1. To provide maps, data and other information about the IFMA sites 2. To provide assistance on technical, social, institutional (stability of policies and legal status of area covered by the instrument), management, and marketing aspects 3. To provide assistance in fund sourcing or other forms of financing and securitization

	lease.	<p>for development of the areas covered by the instrument</p> <ol style="list-style-type: none"> 4. To conduct periodic appraisal and regular monitoring and evaluation of instrument holders' performance 5. To investigate irregular activities and give sanctions to the instrument holders
M & E System	<ol style="list-style-type: none"> 1. Conduct regular monitoring work on all areas covered by existing permit or lease within its administrative jurisdiction to ensure full implementation of all rules, regulations stipulated in the permit or lease. 	<ol style="list-style-type: none"> 1. The RENRO shall be directly in charge of regular monitoring and evaluation of the instruments approved at the OSEC and RENRO levels while the concerned CENROs directly monitor the instruments approved at their level. 2. Results of M&E conducted at the CENRO and RENRO levels shall be forwarded to the UFO/OSEC for records and information management purposes. 3. The FMB's role as a staff bureau of the DENR shall primarily be on the resolution of policy conflicts and preparation/deliberation of policy amendments. <p>The OSEC-UFO shall be responsible mainly for resolution of conflicts and actions on complaints and cases against DENR personnel or instrument holders.</p>
Other Provisions	<p style="text-align: center;">Transfers and Sale Provisions:</p> <ol style="list-style-type: none"> 1. That the permittee or lessee had, except when otherwise specifically authorized, hold the permit/lease actually operated and made improvements on the area during a period of at least 1 year from the date the permit/lease is granted. 2. That the permittee/lessee has no unpaid rental, if he has any, the transferee shall settle 	<p>Transfer and Sale Provisions:</p> <ol style="list-style-type: none"> 1. Upon the death of the agreement/permit holder: <i>Surviving heirs may succeed thereto; Provided they are willing to assume the obligation of the deceased and are capable of developing the area.</i> 2. Transfer and sale of lease is allowed only after 3 years from approval of the lease with the following conditions:

	<p>all such unpaid rentals previous to the approval of the transfer.</p> <p>3. That the permittee shall submit a statement to the Director of Forestry transferring his rights to the land in favor of any person who is qualified to hold a permit/lease, then an investigation of the land will be conducted before such transfer can be effected. That such transfer shall only be valid when approved by the Director of Forestry, or the Secretary, otherwise it shall be considered sufficient cause for the cancellation of the permit/lease.</p>	<ul style="list-style-type: none"> • The transferor or vendor has no unpaid rental. <i>If he has any, the transferee or vendee should agree to settle all such unpaid rentals.</i> • Transferor or vendor has faithfully complied all terms and conditions of the lease; • No evidence that such transfer or sale is being made for speculation purposes. • The transferee or vendee has all the qualifications and none of the disqualifications to hold an agreement. • The transferee or vendee is agreeable and capable to assume all obligations of transferor or vendor. • Consent of financing institutions if area is financed by loan funds. • The transfer or sale is not made to defraud creditors • Consultation & agreement reached with all certified Ancestral Domain or Ancestral Land claimants in the leased area. <p>3. Transfer shall only be valid when approved by the Secretary or his/her duly authorized representatives. <i>Otherwise it shall be considered sufficient cause for the cancellation of the permit/lease.</i></p> <p>The document of transfer, conveyance or sale shall be notarized and copies forwarded to the FMB, RED, CENRO and concerned LGUs.</p>
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ANALYSIS, SIMPLIFICATION AND HARMONIZATION OF FOREST LAND GRAZING MANAGEMENT AGREEMENT REGULATORY PROCEDURES

1.0 OVERVIEW

Presidential Decree 705, as amended by PD 1559, defines grazing lands as portions of the public domain which have been set aside in view of the suitability of their topography and vegetation for the raising of livestock. The Department of Environment and Natural Resources (DENR) has jurisdiction over the administration, management, development and disposition of forest lands for grazing purposes. This is accomplished through the issuance of grazing agreements to qualified applicants.

A Forest Land Grazing Management Agreement (FLGMA) is a production-sharing agreement between a qualified person, association and/or corporation and the government to develop, manage and utilize grazing lands. An FLGMA is valid for twenty-five (25) years and renewable for another twenty-five (25) years. The area that may be covered by an FLGMA shall not be less than 50 hectares but not more than 500 hectares for an individual holder, and not more than 2,000 for an association, cooperative or corporation (DAO 99-36).

As of March 2003, there are 400 Pasture Lease Agreement (PLA)/ FLGMA holders nationwide. Region II registered the most number of lessees, followed by Region IV, with 100 and 54 lessees respectively. However, in terms of area coverage, Region XII has the largest, 24,895.6 ha, followed by Region II, 21,625.95 ha (see Figure 1).

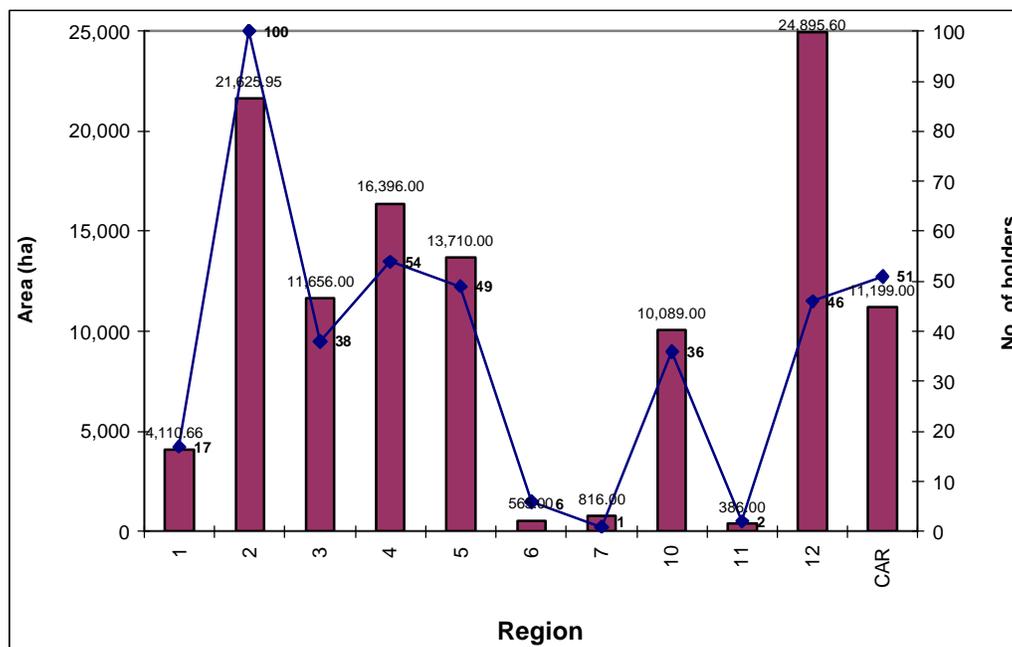


Figure 1. Existing Grazing Leases by Region as of March 2003

Majority (92%) of Region 2's 100 grazing lease holders belong to the less than or equal to 500-hectare category, while only 8 holders have a ranch size of greater than 500 hectares (Figure 2). The big ranches in the region are found in the 3^d district of Cagayan, particularly in Peñablanca and in the first and second districts of Isabela in the towns of Tumauni, Cabagan, Quirino, Magsaysay and Mallig.

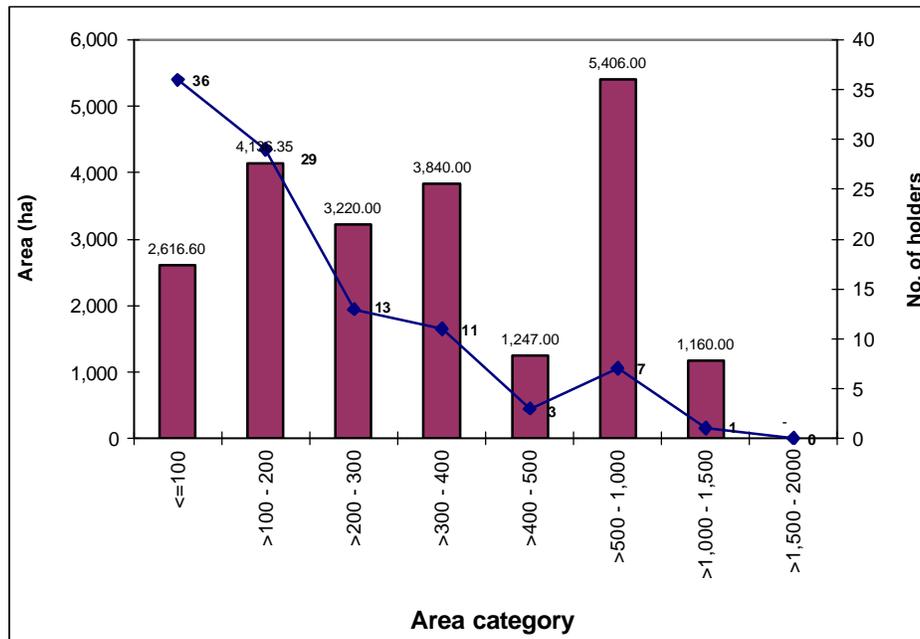


Figure 2. Profile of FLGMA Holders in Region 2.

Region 12 has less than half the number of lessees of Region 2, yet its area of grazing land is much larger. This is because grazing leases in Region 12 are relatively bigger in size. Only 2 grazing lease holders in Region 12 have a ranch size of = 100 hectares. Big ranches are found in Datu Piang Maguindanao, Alamada and Libungan, North Cotabato, Maasim Sarangani and General Santos in South Cotabato (Figure 3).

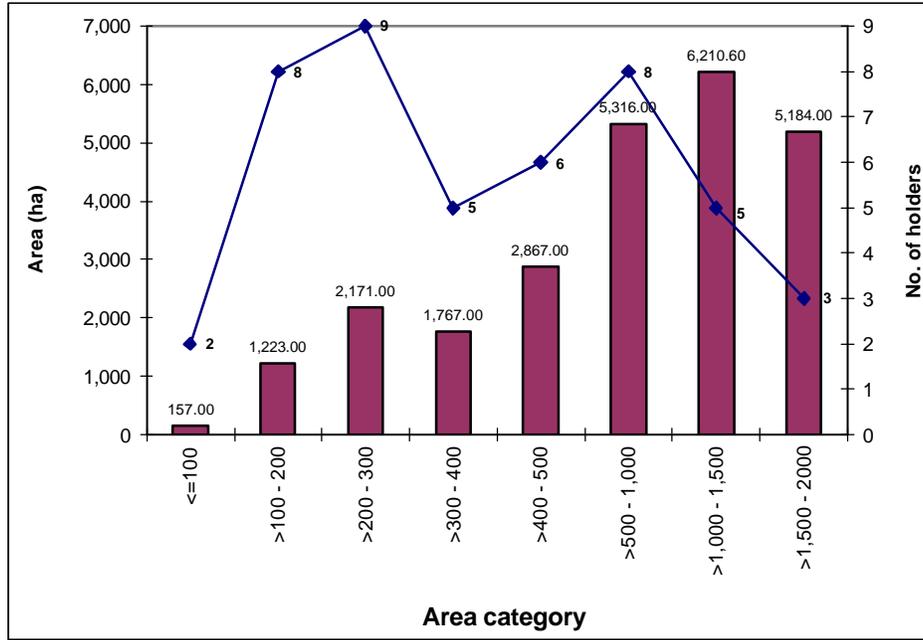


Figure 3. Profile FLGA Holders in Region 12.

Figure 4 below shows that 84% of FLGMA holders nationwide cover a lease area of equal to or less than 500 hectares; 57% are \leq 200 hectares in size; 28% are in the > 200-500 hectare category, and only less than 15% are > 500-2,000 hectares in size.

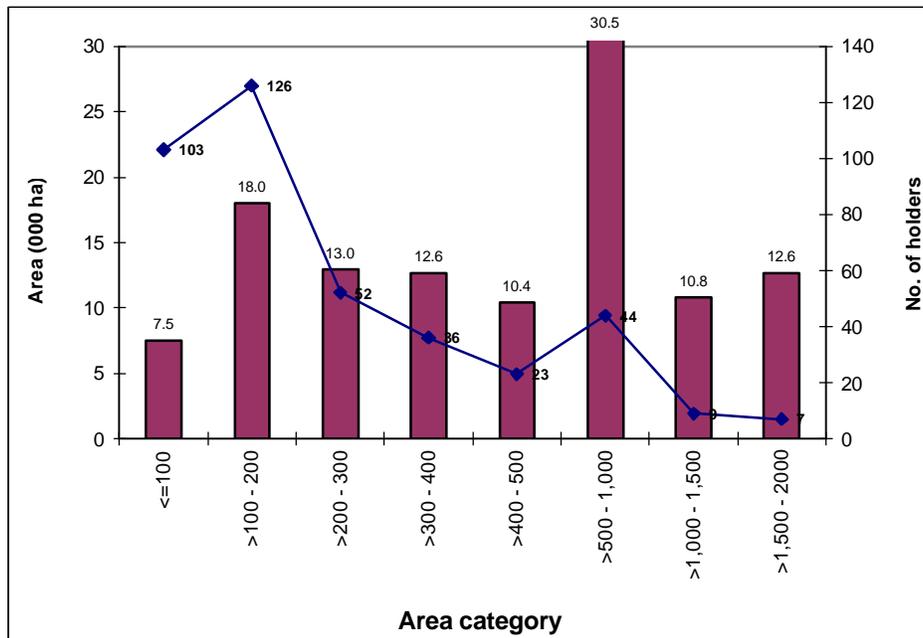


Figure 4. FLGMA Holders Nationwide by Area Category

2.0 Enabling Policy

The enabling policy for FLGMA is DENR Administrative Order (DAO) No. 99-36) as amended by DAO 2000-23), titled "Revised Rules and Regulations Governing the Administration, Management, Development and Disposition of Forest Lands Used for Grazing Purposes". It was issued by then Secretary Antonio H. Cerilles, and it repeals MAO 50 and Commonwealth Act 452. DAO 99-36 supports the basic state policies of ensuring a balanced and healthful ecology; social equity or equitable access to natural resources use; and increased employment opportunities accompanying industrialization.

The DENR is mandated by law to administer and manage grazing lands of the public domain either for grazing purposes and other uses. As provided for in Sec.1 the DENR shall:

- a. Adhere to its policy to promote the development, improvement and sustainable use of grazing land through appropriate grazing management strategies and grassland improvement schemes.
- b. Promote ecologically sound, technically-feasible, economically-viable and socially-acceptable technologies for the sustainable development and management of grazing lands.
- c. Encourage the private sector, particularly the pasture agreement holders, NGO's and other government agencies in the rehabilitation, improvement and sustainable use of grazing lands.
- d. Ensure equitable access of individuals, associations and communities to benefits derived from grazing lands through co-production sharing scheme.

3.0 The Problem

Existing grazing land procedures are based on DAO 99-36 and MC 99-26 (Procedural Manual in the Implementation of DAO 99-36), as amended by DAO 2000-23 and DAO 2001-5 (approved but not published). Since its enactment into a law on August 10, 1999, DAO 99-36 has elicited strong opposition from ranchers nationwide. Foremost among the complaints and oppositions to its implementation is what ranchers regard as numerous and too high fees and rate of government share. From 2000-2002, ranchers postponed paying their annual dues (government share) unless their grazing areas were assessed/evaluated first as provided for in Section 8 of DAO 99-36. The DENR however, has not yet conducted the assessment of all grazing areas due to lack of financial and manpower resources. The issue on government share was addressed in 2002 when President Arroyo issued a pronouncement reducing said fee to ₱40.00/ha.

Interviewed FLGMA holders also complained of too many application requirements and levels of the DENR hierarchy that needs to approve the Forest Land Grazing Management Plan (FLGMP) and 5 year Operations Plan (OP) resulting in a very long processing time. They also expressed dismay over the failure on the part of the DENR to; provide assistance in management and technical services to agreement holders; generate technology for the improvement of grazing management strategies and provide legal assistance and active support in pursuing cases against claimants, squatters and other forest violators in their leased areas.

A proposed DAO relative to the use of forest lands for grazing purposes integrating DAO 99-36, DAO 200-23, DAO 2001-5 and recommendations from other stakeholders is at present in the pipeline for the Secretary's approval.

4.0 Analysis of Existing FLGMA Regulatory Procedures and Issues

DAO 99-36, with its accompanying IRR (procedural manual), is a very comprehensive law. Information on how to go about each of the different procedures involved in the processing of an FLGMA application, from the conduct of survey and assessment to the preparation of various required plans and reports e.g., 25-year FLGM Plan; 5-year Operations Plan; Annual Grazing Report and other procedures, are provided for in minute detail.

However, certain provisions need to be revised to address the various issues and concerns raised by the different stakeholders, particularly the ranchers and the DENR officials involved in the implementation of said law. Proposed amendments/improvements on DAO 99-36 shall also be guided by the EcoGov's principles of transparency in government operations, use of mechanisms to promote accountability and participatory decision-making. It is envisioned that the proposed changes will result in the interest of the public being served better, elimination of graft and corruption and perpetuation of our natural resources. Below is a summary table (Table 1) of issues/problems and proposed revisions, implementation, harmonization and item for further study on FLGMA. A more detailed presentation is attached (Attachment 1)

Table 1. Summary of issues/problems and proposed revisions, simplification, harmonization on FLGMA procedures.

ITEM	ISSUES/PROBLEMS	PROPOSALS
1. Identification of areas available for FLGMA	<ul style="list-style-type: none"> • Regulations on grazing i.e., Commonwealth Act No. 452, MAO 50 and DAO 99-36 are silent on who shall identify the areas available and suitable for FLGMA. • Section 3 of DAO 99-36 merely states the criteria for classifying forest lands to grazing lands. 	<ul style="list-style-type: none"> Insert a paragraph on the proposed DAO on grazing to address this issue (see attachment 1). For DENR regional offices to prioritize forest-land use planning in consonance with LGU land-use planning; maintain and update registry and MIS.
2. Application requirements	<ul style="list-style-type: none"> • Too many unnecessary and redundant requirements. • Too high inspection/survey fee • Too high bond deposit 	<ul style="list-style-type: none"> .Requirements that are redundant (also required prior to the issuance of an ECC and or component of an ECC and or component of the 25-Year FLGMP) are removed. Certification requirements are also reduced. Retained are only those that are really necessary (see attachment 1). Instead of depositing to the CENRO the amount of P300.00/ha, it is proposed that the applicant shoulders/pays for the actual cost (per diem and transportation of assessment team; equipment rental and purchase of supplies/materials) needed in the conduct of area inspection and survey. Reduce bond deposit to P75.00/ha of which a minimum of 25% should be in cash and the remaining 75% in the form of surety bond
3. Processing procedure and approval of FLGMA	<ul style="list-style-type: none"> • Too lengthy processing time because of many levels of DENR hierarchy in which FLGMA application are processed and reviewed. • Submission and consequent acceptance of incomplete application requirements • Insufficient capability of the DENR the field offices in cross-checking application documents. • Unnecessary delay or withholding of approval of the FLGMP. • Classifying grazing lands into A, B or C is very time consuming yet has no use now that the government share/user's fee is fix 	<ul style="list-style-type: none"> Reduction in the levels of the DENR hierarchy. Setting / fixing of the required number of days for each of the processing procedure. No application shall be accepted and processed unless all requirements are completely submitted first. Re-training of DENR action officers/ point persons on proper cross-checking of application documents. Reduction in the number of signatories in the FLGMP. Convening the members of the regional deliberation team (after complying with the recommendations in the initial

ITEM	ISSUES/PROBLEMS	PROPOSALS
	at P40.00 / ha for all grazing lands.	regional deliberation) for a final deliberation and one time signing of the approval sheet (FLGMP). Removal of the provision to classify grazing lands into A, B or C.
4. Responsibilities of FLGMA holders	<ul style="list-style-type: none"> • The 40.00/ha government share is very low, an 89% reduction from the supposed rate of P350.00/ha for 2002. 	Base the payment of government share on total aggregate leased area instead of the effective grazing area.
5. Responsibilities of DENR	<ul style="list-style-type: none"> • Failure on the part of the DENR to : <ul style="list-style-type: none"> → provide assistance in management and technical services to agreement holders → generate technology for the improvement of grazing management strategies → provide legal assistance and active support in pursuing cases against claimants, squatters and other forest violators in their leased areas. 	<ul style="list-style-type: none"> Make grazing/rangeland improvement one of the KRAs of the DENR field offices. Sharing of responsibilities and resources among the DENR Bureaus and attached agencies. Re-training of range management officers and other field personnel on grazing land improvement or rehabilitation Part of the government share should be used to fund trainings and research for development.
6. Benefits and incentives of FLGMA holders	<ul style="list-style-type: none"> • An 89% reduction in government share/user's fee from the supposed P350.00/ha in 2002 to just P40.00/ha. 	<ul style="list-style-type: none"> In the absence of an assessment of the grazing area and the fixing of the rate of government share/ user's fee at P40.00/ha, the provision of further giving of 80% reduction in user's fee as provided for in Section 27, DAO 99-36 as amended by Section 4 of DAO 2000-23 is hereby deleted. Study further the option of ranchers to convert portions of grazing areas under their management into other tenurial instruments as provided for in Section 40 of DAO 99-36.
7. Grounds for cancellation	<ul style="list-style-type: none"> • Process of FLGMA cancellation is not clear. 	Develop and establish procedural mechanisms on FLGMA cancellation and training of DENR action officers.

4.1. Areas available for FLGMA

DAO 99-36, as well as other previous regulations on grazing i.e., Commonwealth Act No. 452 and MAO 50, are silent on who shall identify the areas available and suitable for FLGMA. Section 3 of DAO 99-36 merely states the criteria for classifying forest lands to grazing lands.

Upon filing of application, applicants are required to pay a non-refundable application fee of ₱ 10.00 per hectare or a fraction thereof and yet, the area they are applying for may not even be available after all. As provided for under Section 15, the application process starts with the preliminary evaluation of the area applied for to determine: if it is covered by an existing license agreement, license or permit; its present classification and its actual condition. It must be emphasized that this is done after the applicant had already paid for the non-refundable application fee.

To address this issue, a paragraph is inserted in the Proposed Regulatory Procedure (PRP) stating that *The DENR through its field offices shall identify, validate on the ground, delimit on properly scaled maps the areas available and suitable for FLGMA.* These activities should have been accomplished ages ago. Legal encumbrances resulting from overlapping tenurial instruments/conflicting land claims and other related problems could have been avoided had an effective/workable database been established and maintained by the different DENR field offices many years ago.

While funds may not yet be available for the ground validation and evaluation of the sites, the CENROs nationwide may, for a start, initiate the identification of potential FLGMA areas based on existing information/databases, control maps or existing Registry of available sites. Sufficient resources (financial and manpower) should first be provided by the Department to the various field offices before ground delineation activities can be accomplished.

4.2 Application Requirements

The checklist of application requirements for an FLGMA (MC 99-26) lists 19 items. It failed to include one important requirement which is the submission of an Initial Environmental Examination (IEE)/Environmental Impact Assessment (EIA) by the FLGMA holder and the issuance of an Environmental Compliance Certificate (ECC) by the RED/Sec. as provided for in Sec. 24 of DAO 99-36. A closer look at the checklist however showed that for individual applicants, actual application requirements is between 15-17 and for corporation 21-22.

4.2.1 Inspection/Survey Fees and Bond deposits

Of great concern to interviewed holders are the exorbitant fees specifically the inspection/survey fee of P300/ha. or a fraction thereof and the P500/ha. bond deposit. To them, these fees are unjust, too high, unconstitutional and confiscatory in nature.

New applicants and existing FLGA holders applying for renewal or conversion to FLGMA who want to amend their areas are required to pay the inspection/survey fee. The said fee covers the cost of perimeter survey and boundary delineation, bio-physical assessment, topology classification as well as the gathering of socio-

economic information and data concerning production, management and other related information.

Interviewed DENR personnel in the Central office regarding this issue, however, said that the ₱300/ha. is even ₱100/ha. lower than NAMRIA rate of ₱400/ha. cost of perimeter survey and boundary delineation. FLGMA holders also complain of the ₱500/ha. bond deposit. This too, according to them, is too high.

Instead of depositing to the CENRO the amount of P300/ha. or a fraction thereof, it is proposed that the applicant should pay for the actual cost (per diem and transportation of assessment team; equipment rental and purchase of supplies/materials) needed in the conduct of area inspection and survey.

Money deposited by the applicants to the CENR offices are deposited in a government bank and withdrawn to defray the cost of the survey. Interviewed holders, however, revealed that on top of the P300/ha. fee, they also spend for the food, transportation and other expenses needed in the conduct of said activities.

This proposal will considerably reduce the transaction cost on the part of the applicants. It will also reduce processing time due to the elimination of red tape in the procurement and disbursement of survey funds by the field personnel. A workable mechanism to implement this payment scheme should be acceptable to both the DENR and FLGMA applicants.

A cash/surety bond of P500/ha or a fraction thereof is a requirement that interviewed holders are very much opposed to. The bond for them is too high and unaffordable. *The proposed DAO on grazing lands reduced the bond deposit to just P75/ha. of which a minimum of 25% should be in cash and the remaining 75% in the form of surety bond. This is an 85% reduction from its original rate and will greatly reduce transaction cost.*

4.2.2 Removal of some certification requirements

Certification requirements specifically for corporation/association are reduced to a minimum. Retained are only those that are really necessary, documents which show that the organization is legitimate and qualified to enter into an agreement with the DENR as indicated in their By Laws/Constitution and Articles of Incorporation.

Requirements that are redundant (also required prior to the issuance of an ECC and component of the 25-year FLGM plan) are removed, e.g. Certification from Barangay Captain and Range Management Officer as to the absence of illegal occupant, etc.

Application requirements should also be reduced to a minimum so as to shorten processing time, reduce transaction cost and as an incentive for would-be applicants. To facilitate the processing, a clear or laymanized checklist of requirements should accompany every application form. DENR officials tasked to accept application requirements shall see to the authenticity of submitted documents and their completeness. No application must be considered accepted unless all requirements are submitted.

4.3 Processing Procedure and Approval of FLGMA

Initial interviews with FMB officials yielded an approximate period of time for an FLGMA application to be processed and approved at 102 days or almost 3.5 months. This figure perhaps is the ideal or the target period for the whole process in as much as in the conduct of field validation (Region II & IV), we learned that it takes a relatively much longer period of time for an FLGMA application to be processed.

From available secondary data in Region II and from interviews with DENR staff and FLGMA holders, the team documented the actual processing procedure of an applicant. To date, this applicant has yet to receive his FLGMA almost three years after he applied for renewal in January 2001 (see table 1).

Table 1. Actual Processing Procedure for a FLGMA Application in Region II

DATE	PHASES OF THE APPLICATION PROCESS
June 30, 1999	FLGA #3708 covering 1380 ha. expired.
January 9, 2001	Applicant filed for renewal of 400 hectares.
March 27, 2001	Partial payment of ₱1,160.00 (application fee). Payment of ₱112,560.00 (survey & assessment fee).
August 16, 2001	Submission of a letter of intent/promise to undertake food production in the area.
September 8, 2001	Submission of a certificate from the Brgy. Captain attested by the Mayor that the area is free from adverse claims.
October 16, 2001	Submission of an affidavit that he is not a dummy of any person, group or corporation. Submission of certificates from 2 disinterested persons that the applicant is not a dummy of any person, group or corporation.
October 23, 2001	Submission of proof of capitalization – bank deposit at RCPB in the amount of ₱39,585.14. Payment of ₱38,600.00 service fee for renewal and change of lessee.
November 2002	Conduct of Survey and Assessment by the Multi-Sectoral Assessment Team.
December 9, 2002	PENRO Cagayan endorsed survey and assessment report of the MAT Team to the RED
January 20, 2003	Endorsement of the application by the OIC CENRO to the RED through the PENRO.

DATE	PHASES OF THE APPLICATION PROCESS
February 27, 2003	First endorsement of the application by the PENR Officer to the RED.
March 25, 2003	Deliberation of the 25-year FLGM Plan at the Office of the ARED for Technical Services.
Later part of June	Submission to the CENRO of one final copy of the FLGMP incorporating the comments/suggestions elicited in the regional deliberation.
July 1-15, 2003	CENRO reviewed the final copy submitted.
July 23, 2003	Chief Forest Engineering Section wrote the Chief Range Section re: "Conflict of application" (overlapped of 4.3 has with another FLGMA holder).
Last week of July	Applicant reproduced 5 copies of the report. CENRO approved and consequently signed the approval sheet of the 25-year FLGM Plan.
	Submission to the newly appointed PENRO of the 5 copies of the report for signing of the approval sheet. PENRO edited/made corrections in the final report. Copies of the FLGMP returned to the applicant for another revision and reproduction.
August 8, 2003	CENRO submitted rectified blue print copy of the area applied.
August 21, 2003	Rectified map was referred to the Chief, Engineering Section for preparation of final map.
August 27, 2003	Engineering Section sent memo to Range Management Section, re: Final maps prepared.
September 1, 2003	CENRO Peñablanca submitted the duly rectified Mgt. Plan and Operations Plan to the RED thru PENRO Cagayan.
September 4, 2003	PENRO Cagayan endorsed 25-year FLGMP and 5-year OP to the RED.
October 13, 2003	FLGMA application with the requirements to include 25-year FLGMP and 5-year OP forwarded to Central Office.
November 20, 2003	ERDB received from FMB the application documents
January 26, 2004	FMB returned the 25-Year FLGMP and 5-Year OP to DENR Reg. 2 for revision and submission of lacking requirements

The whole process should have not taken this long if only:

1. All application requirements were submitted upon the filing of application (or the DENR field office did not accept incomplete requirements)
2. A time frame acceptable to both the DENR and the applicant for each of the various processes has been set in advance.
3. Schedule of the conduct of survey and assessment was done earlier
4. DENR field offices have an updated database of available areas for FLGMA and other tenurial instruments.
5. The levels of the DENR hierarchy in which FLGMA application are processed and reviewed are reduced.

It is proposed that only applications with complete requirements shall be accepted and processed by the concerned field office. In the case of the documented FLGMA applicant, the DENR office did not require him to submit all the requirements at once hence, 9 months after filing for renewal, he has yet to complete the requirements.

A document detailing the procedure with the corresponding time frame should be prepared and posted in DENR offices so that both the applicant and the concerned DENR staff will be guided.

Interviewed grazing holders expressed dismay over the DENR's failure to conduct inspection/survey and assessment of their grazing areas. A respondent said that it took the DENR office four months to have his area scheduled for inspection. The DENR's reason is the unavailability of both financial and manpower resources to undertake said activities. As discussed earlier, this problem will be partly addressed by the proposal to allow FLGMA applicants to shoulder the actual cost of the survey instead of paying for the ₱300/ha. fee.

It is further proposed that the Multi-Sectoral Assessment Team (MAT) in charge of inspection, survey and assessment do away with the classification of grazing lands to A, B or C. Classifying grazing lands into three sub-classes based on agro-climatic conditions and productivity factors was required in the past when basis for computation of gov't share/user's fee were total revenue and total cost/ha. Now that the rate of user's fee is fix for all grazing lands at ₱40/ha, there is no more need to classify since this process is very tedious and time-consuming for the assessing team.

A proposal for the reduction in the number of DENR hierarchy in which FLGMA is processed and reviewed is presented in table 2 below. It is proposed that all FLGMA applications, regardless of size, be submitted and processed at the concerned regional office.

Table 2. Existing Processing Procedure vs. Proposed Processing Procedure for FLGMA

Existing Procedure	Proposed Procedure
<p>PROCESSING PROCEDURE AND APPROVAL OF FLGMA</p> <p>In the CENRO</p> <ol style="list-style-type: none"> 1. Accepts and processes FLGMA Application 2. Conducts preliminary evaluation to determine the present classification of the area, the availability of the area and the completeness of requirements, evaluation and assessment of the area 3. Prepares assessment report together with the map of the area 4. Endorses FLGMA application with the requirements to the PENRO with his recommendation; otherwise returns to the applicant <p>In the PENRO</p> <ol style="list-style-type: none"> 1. Evaluates the FLGMA application and the completeness of requirements 2. Endorses the application to RED, with recommendation; otherwise returns to CENRO <p>In the RENRO</p> <ol style="list-style-type: none"> 1. Evaluates the FLGMA application and the completeness of requirements 2. Endorses the application to RED, with recommendation; otherwise returns to CENRO <p>In the UFO</p> <ol style="list-style-type: none"> 1. Receives/records application 2. Refers to technical personnel 1. Refers to FMB <p>In the FMB</p> <ol style="list-style-type: none"> 1. Evaluates/reviews application 2. Refers FLGMP to ERDB for comments/signature of approval sheet <p>In the ERDB</p> <ol style="list-style-type: none"> 1. Evaluates/reviews application 2. Refers FLGMP to ERDB for comments/signature of approval sheet <p>In FMB</p> <ol style="list-style-type: none"> 1. Reviews/evaluates application and FLGMP; if application and the FLGMP are in order, endorses application for approval; otherwise returns to RED or applicant <p>In the OSEC</p> <ol style="list-style-type: none"> 1. ENRO/PRO evaluates/endorses application 2. Secretary approves/disapproves the application 3. If approved, returns to FMB for releasing 	<p>In the RENRO</p> <ol style="list-style-type: none"> 1. <i>Accepts application requirements including fees on a first-come-first-served basis</i> 2. <i>Verifies if area is included in the approved areas for FLGMA and if still available per the Registry. If area to be applied is not included in the approved available sites for FLGMA, the application is denied and the applicant is advised to find another area found in the Registry. If only a portion of the area covered by the application is available, applicant is notified and given 15 days to amend his application and cover only the available vacant and suitable area. Check if there are deficiencies in the submitted requirements. Only applications with complete requirements as per the checklist provided to the applicant shall be accepted and processed. .</i> 3. <i>Conducts field survey/assessment of the area by composite team</i> 4. <i>Initial review of the 5-year Operational Plan and 25-year Forest Land Grazing Management Plan with the incorporated IEE/EIA requirements by the RMO and the Regional Office of EMB. If not in order and there are deficiencies, the applicant is required to revise the plan based on comments and suggestions/ recommendations. RMO shall see to it that all necessary documents are in order prior to the conduct of the regional deliberation of the FLGMP and OP.</i> 5. <i>Regional deliberations of the 25-year FLGMP and 5-year Operation Plan to be coordinated by the RTD for Forestry</i> 6. <i>Requires the FLGMA applicant to revise the 25-year FLGMP and 5-Yr. OP incorporating the suggestions/recommendations generated in the regional deliberation. Set the date for submission by the applicant of the revised plan.</i> 7. <i>Convene the members of the deliberating team for the final evaluation of 25-year FLGMP and 5-year OP and signing of the approval sheet.</i> 8. <i>The RED approves the FLGMA agreement contract with areas \leq 500 ha. Copies of the approved FLGMA shall be furnished to CENRO, PENRO and concerned LGU, and OSEC (cc: UFO, EMB, FMB)</i> 9. <i>The RED, endorses all FLGMA applications with an area > 500 ha to the OSEC. If not in order, issues notice denying the application based on the results of the regional deliberation.</i> <p>In the OSEC</p> <ol style="list-style-type: none"> 1. <i>Final deliberation of the FLGMA application to be headed by the USEC for Field Operations,</i>

Existing Procedure	Proposed Procedure
	<p><i>considering all requirements submitted, reports of field validation/inspection, 25-year Grazing Management Plan and other aspects (e.g. possible conflicts in the use of the area especially those located in 2 or more regions).</i></p> <ol style="list-style-type: none"> 2. <i>Secretary approves or disapproves the FLGMA based on the results of the final deliberation.</i> 3. <i>Furnishes copies of the approved FLGMA to the Regional Office (cc: RTD for Forestry, FRCD, PENRO and CENRO), FMB and LGUs concerned.</i>

All requirements will be checked to determine its completeness. A composite team to be led by the CENRO will then validate/inspect the area being applied for. In the same manner, the proposed management plan for the area will be initially reviewed by the Range Management Officer (RMO) and the Regional Office of the EMB for its validity. The RMO shall see to it that all the necessary documents, i.e., inspection and survey report, sketch map, etc. are in order prior to the conduct of the regional deliberation of the 25-year FLGMP and 5-year OP. A regional deliberation to be coordinated by the RTD for Forestry will follow to determine the merits and soundness of the proposed plans. Representatives from EMB, FMB and ERDB thru its regional office ERDS, shall be invited to participate in the deliberation.

The FLGMP and OP will be returned to the applicant to incorporate the necessary revisions as per outcome of the deliberation. The deliberating team shall again be convened for the final evaluation of the plans and the signing of the approval sheet.

The RED approves the application with areas ≤ 500 ha. For areas over 500 ha, application will be indorsed to the OSEC. A final deliberation will be conducted which will be coordinated by the USEC for Field Operations. The UFO will then submit the report on the deliberations and indorse the application to the Sec. for approval. Information on approved instruments shall be forwarded to concerned CENRO, PENRO, RENRO and higher levels (OSEC, UFO, FMB) for proper recording and updating of control maps.

Applications are centralized at the RENRO level to reduce instances of conflicts in land use and issuance of different instruments for the same sites. Also, centralizing the submission and processing/approval/endorsement of applications at the RENRO is logical since submission and approval/endorsement of most IEE and CNC is made at the Regional EMB office while EIS/ECC is forwarded and approved at the OSEC. On the other hand, approval of areas above 500 ha. is lodged in the OSEC due to the high impacts of activities (by mostly higher income applicants) in said areas.

4.4 Responsibilities of FLGMA Holders

Since year 2000 when DAO 99-36 took effect, most ranchers nationwide have postponed paying their annual user's fee/government share unless their grazing areas are assessed first, as provided for in Section 8 of DAO 99-36. However, the DENR

has not yet conducted the assessment of all grazing areas due to lack of financial and manpower resources.

The government, through no less than Pres. Gloria Macapagal-Arroyo, gave in to the clamor of ranchers for reduced fees, from P200/ha in year 2000; P275/ha in 2001 and the supposed rate of P350/ha in 2002, it was reduced to just P40/ha effective 2002 onward reducing payment of government share by almost ninety percent. This reduction in the payment of fees necessitates the amendment of certain provisions in DAO 99-36 as amended by DAO 2000-23 to remedy the substantial loss of revenue for the government.

It is therefore proposed that the incentive scheme involving the reduction of government share of up to 80% (Section 27, DAO 99-36; Section 4 of DAO 2000-23) be removed. Implementing this provision will further reduce the user's fee to a mere P8/ha, way below the old rate of P15/ha for type 1 climate and P20/ha for types 2, 3 and 4 climate. Furthermore, the P40/ha fee should be based on the total aggregate leased area, instead of the effective grazing area (EGA). With this amendments in place, ranchers do not have any reason not to pay their annual dues despite their areas not being assessed. In effect, this changes, simplifies the procedure for the DENR and addresses the problem on non-payment of fees.

4.5 Responsibilities of the DENR

Interviewed agreement holders complained of the DENR's failure to attend to the following: (a) provide assistance in management and technical services to agreement holders; (b) generate technology for the improvement of grazing management strategies and; (c) provide legal assistance and active support in pursuing cases against claimants, squatters and other forest violators in their leased areas.

Section 29 of DAO 99-36 as amended by DAO 2000-23 states that a portion of the government share shall be used to provide assistance in management and technical services to the agreement holders. This provision has not been effected due to the difficulty in accessing funds once government share has already been deposited to the National Treasury. Lack of manpower in the field offices also hinders provision of technical assistance to agreement holders.

It is proposed that grazing/range land improvement be one of the KRAs of the DENR. Likewise, action officers specifically RMO's and other support staff should be re-trained in order that they will be able to attend to the various technical needs of agreement holders.

4.6 Benefits and Incentives of FLGMA Holders

Section 27 of DAO 99-36 as amended by DAO 2000-23 provides an incentive scheme involving the reduction of government share of up to 80% depending on the capability of the agreement holder to comply with an established set of criteria. As already mentioned earlier, the reduction of government share /user's fee from the supposed P350.00 ha in 2002 to just P40.00/ha, results to a substantial loss of 89% in

government revenue, further giving of as much as 80% discount on government share would reduce payment to just P8.00/ha which is way below the old rate of P15.00-20.00/ha.

In the absence of an assessment of the grazing area and the setting of the rate of government share/user's fee at P40.00/ha, the provision of further giving of 80% reduction in user's fee is recommended deleted. Further study of the option of ranchers to convert portions of grazing areas under their management into other tenurial instruments (Section 40, DAO 99-36) must be undertaken.

4.7 Grounds for Cancellation

The process of FLGMA cancellation is not clear. There is a need to develop and establish a procedural mechanism on how to go about implementing sanctions on erring agreement holders.

REFERENCES

- Memorandum Circular No 2003-19, September 20, 2003
- Clarification on the Rate of Annual User's Fee for the Use of Grazing Lands
- DENR Administrative Order No. 2000-23. March 22, 2000
- Amending Certain Sections of DAO 99-36 Entitled *Revised Rules and Regulations Governing the Administration, Management, Development and Disposition of Forest Lands Used for Grazing Purposes*
- Memorandum Circular No. 99-26, November 29, 1999
- Prescribing New Guidelines and Procedural Manual in the Implementation of DAO 99-36
- DENR Administrative Order No. 99-36, August 10, 1999
- Revised Rules and Regulations Governing the Administration, Management, Development and Disposition of Forest Lands Used for Grazing Purposes
- Memorandum Order No. 98-10, June 2, 1998
- Additional Terms and Conditions to be Incorporated in the Forestland Grazing Lease Agreements (FLGLAs) Relative to the Conduct of Prescribed Burning Inside Pasture Areas.
- DENR Administrative Order No. 13-95, April 27, 1995
- Amending Section 16 of Ministry Administrative Order No. 50, Series of 1982, Re: Regulations Governing the Administration, Management and Disposition of Grazing Lands, Communal Grazing Land and Forest Land Used for Grazing Purposes and Providing Additional Provisions on the Collection and Mode of Payment of Pasture Rentals and Other Regulatory Fees.
- DENR Memorandum Circular No. 05-95
- Amending BFD Circular No.12, series of 1983, *Revised Guidelines in the Processing of Grazing Lease/Permits Application*.
- Administrative Order NO. 66, November 26, 1993
- Addendum to the Prescribed Revised Schedule of Forestry Administration Under DAO No. 18, Dated April 20, 1993.
- Administrative Order No. 18, April 20, 1993
- Prescribing the Revised Schedule of Forestry Administrative Fees.
- Executive Order No. 407, June 14, 1990
- Accelerating the Acquisition and Distribution of Agricultural Lands, Pasture Lands, Fishponds, Agroforestry Lands and Other Lands of the Public Domain Suitable for Agriculture
- BFD Circular No. 45-83, October 25, 1983
- Guidelines in the Conversion of Pasture Lease Agreement/ Ordinary Pasture Permits into Forest Land Grazing Leases/ Permits and Additional Guidelines in the Processing of Grazing Lease/ Permit Application.

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| Memorandum, August 10, 1982 | ▪ Disposition of Areas Under Expired Pasture Lease Agreements/Permits |
| BFD Circular No. 12, Series of 1983 | ▪ Revised Guidelines in the Processing of Grazing Lease/Permits Application |
| Ministry Administrative Order No. 50, Series of 1982 | ▪ Regulations Governing the Administration, Management and Disposition of Grazing Lands, Communal Grazing Lands, and Forest Lands Used for Grazing Purposes |
| Commonwealth Act No. 452, June 5, 1939 | ▪ Pastoral Land Act |

Attachment 1: Existing and Proposed FLGMA Forest Regulatory Procedures

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>DAO 99-36</p> <p>1. Forest lands sub-classified as grazing lands under the following criteria: Extent – contiguous area of not less than 250 ha. Topography – at least 75% of the area must have a slope of not more than 50% Vegetative cover – the dominant vegetation is grass sufficient to support livestock and minimize soil erosion. Forage production capability – at least 500 kg, air-dry, forage production per hectare preferably measured during the maximum growth period. Occupancy – area should be free from established private right or claims, forest concessions or other forest licenses or permits, and forest occupancy and other forest management agreement</p> <p>2. Forest lands which cannot be sub-classified as grazing lands under the first category but are presently devoted to grazing under a pasture lease agreement</p>	<p><i>DAO 99-36 as well as other previous regulations on grazing i.e., Commonwealth Act No. 452 and MAO 50 are silent on who shall identify the areas available and suitable for FLGMA.</i></p> <p><i>Section 3 merely states the criteria for classifying forest lands into grazing lands.</i></p>	<p>1. <i>The DENR through its field officers shall identify, validate on the ground, delimit on properly scaled maps the areas available and suitable for FLGMA using the following criteria:</i> Extent – contiguous area of not less than 250 ha. Topography – at least 75% of the area must have a slope of not more than 50% Vegetative cover – the dominant vegetation is grass sufficient to support livestock and minimize soil erosion. Forage production capability – at least 500 kg, air-dry, forage production per hectare preferably measured during the maximum growth period. Occupancy – area should be free from established private right or claims, forest concessions or other forest licenses or permits, and forest occupancy and other forest management agreement</p> <p>2. Forest lands which cannot be sub-classified as grazing lands under the first category but are presently devoted to grazing under a pasture lease agreement</p>	<ul style="list-style-type: none"> • <i>Avoid legal encumbrances resulting from overlapping tenurial instrument/conflicting land claims</i> • <i>Reduction in processing time</i>

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>or permit may continuously be used therefor, if so warranted after an evaluation thereof. In such an event, a forest land grazing management agreement shall be executed in favor of the existing holder</p> <p>3. Expired / cancelled TLA areas which are suitable for grazing</p>		<p>or permit may continuously be used therefore, if so warranted after an evaluation thereof. In such an event, a forestland grazing management agreement shall be executed in favor of the existing holder.</p> <p>3. Expired / cancelled TLA areas which are suitable for grazing</p>	
WHO MAY APPLY			
<p>1. Citizens of the Philippines who are of legal age at the time of the filing of the application;</p> <p>2. Corporation, partnerships, associations and such other juridical persons as may be recognized and registered in accordance with the laws of the Philippines, at least (60) percent of the capital of which is owned, controlled and managed by citizens of the Philippines</p> <p>3. Financially and technically capable</p>	<p>Financial and technical capability is sufficiently measured in the application requirements</p>	<p>1. Filipino Citizen of legal age</p> <p>2. For Corporation, association, partnership & cooperative, must be registered and capital stock is at least 60% owned by Filipino citizens</p>	
APPLICATION REQUIREMENTS			
<p>1. Application form duly accomplished;</p> <p>2. If applicant is a government employee, a written permission</p>	<ul style="list-style-type: none"> • Too many unnecessary requirements that are redundant and difficult to secure. • Too high inspection/survey fee 	<p>1. Duly accomplished application form</p> <p>2. Payment of fees/bonds/rentals: Application fee -- P10.00/ha Oath fee -- P30.00</p>	<ul style="list-style-type: none"> • Transaction cost will be greatly reduced • Processing time will be shortened

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>from the Secretary</p> <p>3. If the applicant is a naturalized Filipino citizen</p> <ul style="list-style-type: none"> ➤ A copy of certificate of naturalization certified by the Clerk of Court of the CFI that issued same; ➤ Certification by the Office of the Solicitor General that it has not filed or taken any action for his denaturalization or any action that may affect his citizenship <p>5. If applicant is a partnership, 3 copies of its articles of partnership certified by the Securities and Exchange Commission;</p> <p>6. If applicant is a corporation, 3 copies of:</p> <ul style="list-style-type: none"> ➤ Its article of Incorporation; ➤ Its By-Laws; ➤ The minutes of the latest organizational meeting of its stockholders electing the present members of the Board of Directors; ➤ The resolution adopted at said stockholders meeting electing the present members of the Board of Directors, certified by the Corporate Secretary; ➤ The minutes of the latest organizational meeting of the 	<p>and bond deposit</p>	<p>Inspection/survey fee – <i>actual cost of transportation and per diem of team members, rental of equipments and purchased of supplies and materials needed in the conduct of the survey.</i></p> <p>Bond deposit -- P75.00 /ha and fraction thereof, 25% in cash and the remaining 75% in surety bond.</p> <p>3. Proofs of legitimacy/satisfactory performance:</p> <p>For corporation/ association/ partnership</p> <ul style="list-style-type: none"> ➤ Certificate of good standing from Security and Exchange Commission (SEC) ➤ Its Articles of Incorporation ➤ Its By-Laws <p>For cooperative – Certificate of good standing from Cooperative Development Authority (CDA)</p> <p>For government officials/employees – Written permission from Head of Agency</p> <p>For naturalized Filipino citizen – a certification by the Office of the Solicitor General that it has not filed or taken any action for his denaturalization or any action that may affect his citizenship.</p> <p>For partnership – 3 copies of its articles of partnership certified by the SEC</p> <p>If uses a name, style or trade name other than its true name – A Certificate of Registration with the Department of</p>	<ul style="list-style-type: none"> • Clients/grazing holders will be better served.

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>Board of Directors, electing the present officers of the corporation, certified by the Corporate Secretary</p> <p>➤ The minutes of the meeting of the Board of Directors indicating authority of the Officer to file the application in behalf of the corporation</p> <p>7. If applicant uses a name, style or trade name, other than its true name, 3 copies of the Certificate of Registration of such name, style or trade name with the Bureau of Domestic Trade, certified by the authorized officer of said Bureau;</p> <p>8. Applicant's Income Tax Return for the proceeding year, in 3 copies If he/she /it was already in existence at the time and required to file said return;</p> <p>9. Application fee of P10.00 for every hectare or fraction thereof;</p> <p>10. Oath fee of P30.00 (if oath is administered by Forest Officer, pursuant to DAO 18, Series of 1993);</p> <p>11. Inspection/survey fee of P300.00 / ha or fraction thereof;</p> <p>12. Certification of the Barangay Captain, attested by the Municipal Mayor who have political</p>		<p>Trade and Industry (DTI)</p> <p>4. Proof of financial capability: Capitalization (bank and/or cattle ownership at one head per five ha. or P2,000 per ha.)</p> <p>5. Technical requirements: Five Year Operational Plan 25 Year Grazing Management Plan incorporating the IEE/EIA requirements Approved ECC</p> <p>➤ Original and 10 blue print copies of the sketch of the area covered by the proposed FLGMA</p>	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>jurisdiction over the sea as to the presence or absence of settlers/squatters/lps;</p> <p>13. Five-Year Operational Plan;</p> <p>14. Twenty-five Year Grazing Mgt Plan;</p> <p>15. Capitalization (bank and/or cattle ownership at one head per five ha or P2,000 per ha);</p> <p>16. Bond Deposit cash or surety P500.00 / ha or fraction thereof;</p> <p>17. Affidavit of the applicant that he is not a dummy of any person, group or</p> <p>18. Affidavit of 2 disinterested persons that the applicant is not a dummy of any other person, group or corporation;</p> <p>19. Certification from the Range Management Officer attested by the CENR Officer that the area is free from squatters or claim of IP and</p> <p>20. Original and 10 blue print copies of the Sketch of the area covered by the Proposed Forest Land Grazing Management Agreement;</p> <p>21. Initial Environmental Examination Environment IEE/ EIA/ECC</p>			

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
PROCESSING PROCEDURE AND APPROVAL OF FLGMA			
<p>In the CENRO</p> <ol style="list-style-type: none"> 5. Accepts and processes FLGMA Application 6. Conducts preliminary evaluation to determine the present classification of the area, the availability of the area and the completeness of requirements Evaluation and assessment of the area 7. Prepares assessment report together with the map of the area 8. Endorses FLGMA application with the requirements to the PENRO with his recommendation, otherwise returns to the applicant <p>In the PENRO</p> <ol style="list-style-type: none"> 1. Evaluates the FLGMA application and the completeness of requirements 2. Endorses the application to RED, with recommendation, otherwise returns to CENRO <p>In the RENRO</p> <ol style="list-style-type: none"> 1. Evaluates the FLGMA application and the completeness of requirements 2. Endorses the application to RED, with recommendation, otherwise 	<ul style="list-style-type: none"> • <i>Too lengthy processing time because of many levels of the DENR hierarchy in which FLGMA application are processed and reviewed.</i> • <i>Unnecessary delay or withholding of approval of the FLGMP.</i> • <i>Submission and consequent acceptance of incomplete application requirements.</i> • <i>Insufficient capability of the DENR field offices in cross-checking application documents.</i> • <i>Classifying grazing lands into A, B, or C is very time consuming yet has no use now that government share/user's fee is fix at P40/ha for all grazing lands.</i> 	<p>In the RENRO</p> <ol style="list-style-type: none"> 1. Accepts application and requirements and fees on a first-come-first-served basis 2. Verifies completeness of requirements if area is included in the approved areas for FLGMA and if still available per the Registry. <i>If there are deficiencies in the submitted requirements, the applicant is required to submit the necessary requirements for completion. If area to be applied is not included in the approved available sites for FLGMA, the application is denied and the applicant is advised to find another area found in the Registry. If only a portion of the area covered by the application is available, applicant is notified and given 15 days to amend his application and cover only the available vacant and suitable area.</i> 3. Conducts field survey/assessment of the area by composite team 4. Initial review Five-Year Operational Plan and 25-Year Forest Land Grazing Management Plan <i>with the incorporated IEE/EIA requirements by the RMO and the Regional Office of EMB. If not in order and there are deficiencies, the applicant is required to revise the plan based on comments and suggestions/</i> 	<ul style="list-style-type: none"> • Reduced instances of conflicts in land use and issuance of different instruments for the same sites. • Reduced transaction cost. • Shortened processing time.

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>returns to CENRO</p> <p>In the UFO</p> <ol style="list-style-type: none"> 1. Receives / records application 2. Refers to technical personnel 3. Refers to FMB <p>In the FMB</p> <ol style="list-style-type: none"> 1. Evaluates / reviews application 2. Refers FLGMP to ERDB for comments/signature of approval sheet <p>In the ERDB</p> <ol style="list-style-type: none"> 1. Evaluates / reviews application 2. Refers FLGMP to FMB for comments/signature of approval sheet <p>In FMB</p> <ol style="list-style-type: none"> 1. Reviews / evaluates application and FLGMP, if application is in order and the FLGMP is also in order, endorses application for approval, otherwise returns to RED or applicant <p>In the OSEC</p> <ol style="list-style-type: none"> 1. ENRO/PRO evaluates / 		<p><i>recommendations. RMO shall see to it that all necessary documents are in order prior to the conduct of the regional deliberation of the FLGMP and OP.</i></p> <ol style="list-style-type: none"> 5. Regional deliberations of the 25 Year-FLGMP and 5-Year Operation Plan to be coordinated by the RTD for Forestry \ 6. Requires the FLGMA applicant to revise the 25-Year FLGMP and 5-Year Operation Plan incorporating the suggestions/ recommendations generated in the regional deliberation. Set the date for submission by the applicant of the revised plan. 7. Convene the members of the deliberating team for the final evaluation of the 5-Year FLGMP and 5-Year Operation Plan and signing of the approval sheet. 8. The RED, approves the FLGMA agreement contract with areas \leq 500 ha. Copies of the approves FLGMA shall be furnished to CENRO, PENRO AND concerned LGU, and OSEC (cc: UFO, EMB, FMB). 9. The RED endorses all FLGMA applications with an area > 500 ha to the OSEC. If not in order, issues notice denying the application based on the results of the regional deliberation. 	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>endorses application</p> <p>2. Secretary approves / disapproves the application</p> <p>3. If approved, returns to FMB for releasing</p>		<p>In the OSEC</p> <p>1. Final deliberation of the FLGMA application to be headed by the USEC for Field Operations, considering all requirements submitted, reports of field validation/inspection, 25-Year Grazing Management Plan and other aspects (e.g. possible conflicts in the use of the area especially those located in 2 or more regions).</p> <p>2. Secretary approves or disapproves the FLGMA based on the results of the final deliberation.</p> <p>3. Furnishes copies of the approved FLGMA to the Regional Office (cc: RTD for Forestry, FRCD, PENRO and CENRO), FMB and LGUs concerned.</p>	
RESPONSIBILITIES OF FLGMA HOLDERS			
<p>1. Protect, develop and maintain the productivity of the area as indicated in the approved 5-Year Operational Plan (OP) and 25-Year Forest Land Grazing Management Plan (FLGMP).</p> <p>2. Communal forests, communal pastures and other forests reserves for special purposes shall not be used even if found inside the area covered by the FLGMA</p>	<ul style="list-style-type: none"> • Non payment of government share/ user's fee by ranchers since year 2000. • The 40/ha government share is very low, an 89% reduction from the supposed rate of P350/ha for 2002. It is proposed that payment of government share be based on the total aggregate leased area instead of the effective grazing area. 	<ol style="list-style-type: none"> 1. Fence the perimeter of leased area with barbed wire or vegetative fence. 2. Preserve the corners and boundary lines by means of planted trees, posts, or piled stones with marks containing the number of the lease agreement and his name and/or initials. 3. Submit a 5-Year Operational Plan (OP) and a 25-Year Forest Land Grazing Management Plan (FLGMP). 4. Place the required animal units based 	<ul style="list-style-type: none"> • Simplified procedures in the computation and payment of user's fee.

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>3. Boundaries of the area covered by the FLGMA shall not be altered or modified</p> <p>4. If public interest requires, the holder shall allow the opening of portions of the area which shall not be more than 10 m. wide along the periphery. The person or entity granted the right-of-way shall pay the FLGMA holder reasonable compensation for any damage to improvements</p> <p>5. Shall not impede, obstruct or prevent the passage of legitimate licensee, lessees, permittees and/or other persons authorized by the Secretary by virtue of the management agreement.</p> <p>6. Grazing shall be confined to the leased area with slope of below 50%</p> <p>7. Establish a food production area within the arable portion of the area equivalent to 10% of the area but not less than 1 ha nor more than twenty (20) ha</p> <p>8. Undertake pasture improvements equivalent to a minimum of 10% of the agreement area</p> <p>9. Pay the prescribed government share per hectare or fraction thereof based on the assessment</p>		<p>on the computed grazing capacity</p> <p>5. Introduce/establish the necessary ranch facilities such as corrals, cattle shed, cluster saltboxes and etc.</p> <p>6. Reforest within 15 years from the issuance of the agreement a strip 10m.wide along the boundary of the leased area and 20 m wide on both sides of creeks, rivers and streams, found in the area</p> <p>7. Plant with appropriate forest trees portions of the area with a slope 50% and above within a maximum period of five years</p> <p>8. Preserve trees found within a strip of 40 m wide on both sides of creeks, rivers, and streams</p> <p>9. Establish a food production area within the arable portion of the area equivalent to 10% of the area but not less than 1 ha nor more than twenty ha</p> <p>10. Undertake pasture improvements equivalent to a minimum of 10% of the agreement area</p> <p>11. Graze only in area with slope of below 50%</p> <p>12. Practice rotation grazing</p> <p>13. Protect, develop and maintain the productivity of the area as indicated in the approved 5-Year OP and 25-Year Forest Land Grazing Management Plan.</p>	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>conducted by the Assessment Team. Payment is due on the first month of the succeeding year</p> <p>10. Fence the perimeter of the leased area with barbed wire. Vegetative fence may be used provided that the trees or other vegetations be close enough to prevent the escape of animals from the leased area. Corners and boundary lines of the leased area must be preserved by means of planted trees, posts or piled stones with marks containing the number of the lease agreement and his name and/or initials</p> <p>11. Common boundary with other FLGMA holder shall be jointly fenced and maintained on equal share basis or each rancher may put up his fence parallel to and five m away from the common boundary.</p> <p>12. Boundary fences already established by prior grantee must be respected by the FLGMA holder and they shall be reported to the nearest ENR office for settlement. The fence shall not interfere with, or impede the use of the public of any road/ trail crossing or adjoining the area.</p>		<p>14. Do not sublease the area or any portion thereof and do not allow animals belonging to other people to graze in the area.</p> <p>15. Not use communal forests, communal pastures and other forests reserves for special purposes even if found inside the area covered by the FLGMA</p> <p>16. If public interest requires, he/she shall allow the opening of portions of the area, which shall not be more than 10 m. wide along the periphery.</p> <p>17. Shall not impede, obstruct or prevent the passage of legitimate licensee, lessees, permittees and/or other persons authorized by the Secretary by virtue of the management agreement.</p> <p>18. Pay the prescribed government share</p> <p>19. Comply with the laws governing the registration of cattle and brand and with other laws pertaining to the animal industry and regulations of the Bureau of Animal Industry</p> <p>20. Submit annual report to the CENR Office on all activities undertaken in the area</p>	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>13. Practice rotation grazing by systematic division or fencing of 2 or more compartments in the pasture land to avoid adverse effects on watershed and other forestry value and promote even grazing of the area</p> <p>14. Within a maximum period of 5 years following the approved operational plan, portions of the area with a slope of 50% and above must be planted with appropriate tree species</p> <p>15. Reforest within 15 years from the issuance of the agreement a strip 10m. wide along the boundary of the leased area and 20 m wide on both sides of creeks, rivers and streams, found in the area.</p> <p>16. Preserve trees found within a strip of 40 m wide on both sides of creeks, rivers, and streams. Trees found on other portions of the area may be cut only for fencing purposes.</p> <p>17. Comply with the laws governing the registration of cattle and brand and with other laws pertaining to the animal industry and regulations of the Bureau of Animal Industry</p> <p>18. Payment of cash bond in the</p>			

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>amount of P500./ha or fraction thereof</p> <p>19. Submit a 5 Year Operations Plan and a 25-Year Grazing Management Plan.</p> <p>20. Submit in every December of each calendar year a sworn annual report in 6 copies to the CENR Office on all activities undertaken in the area</p> <p>21. Do no sublease the area or any portion thereof and do not allow cattle or animals belonging to other people to graze in the area covered by the agreement</p>			
RESPONSIBILITIES OF DENR			
<ol style="list-style-type: none"> 1. Receives annual grazing report 2. Review and evaluate the performance of lease holder annually for 3 years for new lease holder and every 2 years thereafter. For renewed or converted, every 2 years. 3. Collect government share and corresponding penalties 4. Monitor compliance of 25-Year Forest Land Grazing Management Plan and 5-Year Operations Plan. 5. Evaluate the FLGMA area every 5 years or prior to the granting of renewal of FLGMA. 	<p>Failure on the part of the DENR to:</p> <ul style="list-style-type: none"> • Provide assistance in management and technical services to agreement holders • Generate technology for the improvement of grazing management strategies. • Provide legal assistance and active support in pursuing cases against claimants , squatters and other forest violators in leased areas. 	<ol style="list-style-type: none"> 1. Make grazing /rangeland improvement one of the KRAs of the DENR field offices. 2. Sharing of responsibilities and resources among the DENR bureaus and attached agencies. 3. Re-training of range management officers and other field personnel on grazing land improvement or rehabilitation. 4. Part of the government share should be used to fund training and research for development. 5. To provide maps, data and other information about the sites 6. To provide technical, social, 	<ul style="list-style-type: none"> • Agreement holders being better served. • Clear accountability of the DENR in implementing sound policies on grazing management and rehabilitation.

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
To collect government share and corresponding penalties.		institutional (stability of policies and legal status of area covered by the instrument), management, and marketing assistance to the FLGMA holder 7. To provide assistance in fund sourcing or other forms of financing and securitization for development of the areas covered by the instrument 8. To review and evaluate annually the performance of new FLGMA holder for 3 years and every 2 years thereafter. For renewed or converted, every 2 years. 9. To monitor compliance with the 25-year management plan & 5-year operations plan 10. To assess and appraise the FLGMA area every 5 years or prior to the granting or renewal of FLGMA . 11. To collect government share & corresponding penalties 12. To investigate irregular activities and give sanctions to the instrument holders	
BENEFITS AND INCENTIVES OF FLGMA HOLDERS			
1. Reduction of government share up to 80% depending on the capability of the agreement holder to comply with the specified incentives as provided		1. In the absence of assessment of the grazing area and the fixing of the rate of government share/user's fee at P40/ha., the provision of granting an 80% reduction in government share as	<ul style="list-style-type: none"> • A minimum increased in government revenues that can be used to fund developmental activities for grazing areas.

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>for in DAO 99-36. Said reduction of government share takes effect after the assessment during the transitory period and thereafter</p> <p>2. As per Pres. Gloria Macapagal-Arroyo's pronouncement in January 2002, reduction of government share to P40.00 per hectare.</p>		<p>provided for in Sec 27 (DAO 99-36) and Sec 4 (DAO 2000-23) is proposed deleted.</p>	
BENEFITS AND INCENTIVES FOR THE GOVERNMENT			
<ol style="list-style-type: none"> 1. Payment of fees for the use of grazing lands to the government (DAO99-36): 2. Payment of income and real property taxes by holder. 3. Generation of employment 4. Environmental enhancement and protection thru planting 		<ol style="list-style-type: none"> 1. Rental fee for the use of grazing lands 2. Payment of Income and Real Property Taxes by holder 3. Generation of employment 4. Environmental enhancement and protection thru planting of trees in steep slopes and/or eroded slopes, riverbanks and streambanks 	
GROUNDS FOR CANCELLATION			
<ol style="list-style-type: none"> 1. Violation of any of the provisions specified in the agreement; 2. Non-compliance of the approved mgmt & operational plans; 3. Failure to submit the annual mandatory grazing report; 4. Failure to pay the user's fee for two consecutive years; 5. Commits an act tending to influence a forest officer or to 	<ul style="list-style-type: none"> • Process of FLGMA cancellation is not clear. There is a need to develop and establish procedural mechanisms on FLGMA cancellation and training of the DENR action officer. 	<ol style="list-style-type: none"> 1. Violation of any terms and conditions stipulated in the Lease Contract 2. Violation of forestry laws and other laws, rules and regulations. 3. Failure to develop the area within three (3) years after the contract is awarded. 4. The Holder is found to be a dummy. 5. Failure to pay rentals and other required fees. 6. Failure to submit required reports and 	<ul style="list-style-type: none"> • Improved transparency and accountability for both the DENR and the agreement holders.

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
induce him, directly or indirectly to violate existing rules and/or regulations		necessary requirements. 7. Failure to implement plans. 8. Conversion of the area or any part to other land uses without approval. 9. Abandonment of the area. 10. Voluntary surrender of the FLGMA 11. Operating outside the approved area. 12. Allowing other persons the use of the area without approval. 13. Refusing the entry of authorized officers in the area. 14. FLGMA obtained thru fraud, misrepresentation or by false or misleading statements or omission of facts. 15. When public interest so requires. 16. Illegal transfer of rights.	
MONITORING AND EVALUATION			
1. Assessment of the FLGMA area every 5 years or prior to the granting /renewal of FLGMA . 2. Conduct performance evaluation every year for a period of 3 years for new agreement holder and periodic evaluation every 2 years. For renewed or converted, every 2 years. 3. Determine compliance of the terms and conditions of the agreement		1. The RENRO shall be directly in charge of regular monitoring and evaluation of the instruments approved at the OSEC and RENRO levels. 2. Results of M&E conducted by the CENRO and the RENRO levels shall be forwarded to the UFO/OSEC for records and information management purposes. 3. The FMB's role as a staff bureau of the DENR shall primarily be on the resolution of policy conflicts and preparation/deliberation of policy	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
		<p>amendments.</p> <p>4. The OSEC-UFO shall also be responsible mainly for resolution of conflicts and actions on complaints and cases against DENR personnel or instrument holders.</p>	
TRANSFER, SALE OR ASSIGNMENT PROVISIONS			
<p>Upon application filed within sixty (60) days after the death of the holder of an FLGMA, the surviving heirs may succeed thereto; Provided, they are willing to assume the obligation of the deceased and are capable of developing the area.</p> <ol style="list-style-type: none"> 1. With prior approval by the Secretary 2. Maybe allowed only after 3 years from approval thereof and only when it is shown that: <ol style="list-style-type: none"> a) the transfer, vendor or assignor has not violated any provision of PD 705 as amended; of this Order; or of any forestry rules & regulations which may hereinafter be promulgated, or any of the terms and conditions of the agreement; b) the transferor, vendor or assignor has been faithfully 		<p>Upon application filed within sixty (60) days after the death of the holder of an FLGMA, the surviving heirs may succeed thereto; Provided, they are willing to assume the obligation of the deceased and are capable of developing the area.</p> <ol style="list-style-type: none"> 1. Transfer, sale or assignment of lease area is allowed only after 3 years from approval of the agreement with the following conditions: <ul style="list-style-type: none"> • The transferor or vendor has no unpaid rental. <i>If he has any, the transferee or vendee should agree to settle all such unpaid rentals.</i> • Transferor or vendor has faithfully complied with all terms and conditions of the lease agreement; • No evidence that such transfer or sale is being made for speculation purposes. • The transferee or vendee has all the qualifications and none of the 	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
<p>complying with the terms and conditions of the agreement;</p> <p>c) the transferee, vendee or assignee has all the qualifications and none of the disqualifications to hold an agreement;</p> <p>d) the transferee, vendee or assignee is agreeable and capable to assume all the obligations of being such and shall present documentary evidence to prove such capability;</p> <p>e) the transfer, sale or assignment is not made to defraud creditors; and</p> <p>f) the transfer, sale or assignment is not being made for purposes of speculation.</p> <p>3. Upon the death of the agreement holder, surviving heirs may succeed thereto; Provided they are willing to assume the obligation of the deceased and are capable of developing the area.</p>		<p>disqualifications to hold an agreement.</p> <ul style="list-style-type: none"> • The transferee or vendee is agreeable and capable to assume all obligations of transferor or vendor and shall present documentary evidence to prove such capability. • Consent of financing institutions if area is financed by loan funds. • The transfer or sale is not made to defraud creditors • Consultation & agreement reached with all certified Ancestral Domain or Ancestral Land claimants in the FLGMA area. 	

ANALYSIS, SIMPLIFICATION AND HARMONIZATION OF PRIVATE FOREST DEVELOPMENT AGREEMENT (PFDA) REGULATORY PROCEDURES

1.0 INTRODUCTION

As defined by Department Administrative Orders (DAO) 92-16, PFDA is an agreement entered into by and between the DENR and a private land owner or his duly authorized representative for the establishment and development of forest plantation within his private property. It encourages the participation of private landowners in the reforestation program of the government in A&D lands.

The PFDA policy was promulgated through DAO 92-16, an addendum of the order that created IFMA through DAO 91-42, which was later repealed by DAO 99-53 without modifying the PFDA provisions.

The PFDA was welcome to many in 1992 because it was the only policy that allows private landowners to harvest naturally grown timber crops that include premium species such as dipterocarps. However, the effectiveness of PFDA seemed to have ended in 1999. This was due to the passage of DENR Memorandum Order No. 12 which indefinitely suspended the issuance of cutting permit for naturally growing timber species in PFDA areas. This policy technically suspended PFDA such that there were no PFDA applications after year 2000. This is because the policy clearly states that the landowners can only develop the land but cannot harvest the naturally grown timber products, particularly the premium timber species. At present, there are no other DENR policies that update and revise the PFDA policy.

Another reason for the technical suspension of PFDA is that it is now redundant with the Private Land Tree Plantation (PLTP) cutting permit. That is any private forest owner, whether naturally grown trees or introduced fast growing trees, can apply for PLTP with or without PFDA. Hence, with the present DENR policies, PFDA is no longer necessary.

2.0 PFDA-RELATED POLICIES

2.1. Deregulation

The following are the DAOs concerned with the deregulation of private lands:

DAO 88-86 deregulated tree harvest, transport, and sale of firewood, pulpwood, or timber planted in private lands. Deregulation was further enhanced by DAO 90-29 and DAO 90-79, which detailed the rules and regulations in private lands.

DAO 90-79 lifted the restrictions in the harvest, transport and sale of timber derived from private lands except for pines and other premium species. This policy promotes the planting of trees by owners of private lands and gives incentives to tree farmers.

DAO 97-23 reiterates the existence of the timber deregulation law as it was not implemented by the DENR. It reiterates that only Certificate of Verification is required as indicated in the Ministry Administrative Order 87-04, instead of the Private Land Tree Plantation Cutting Permit or the Private Land Tree Cutting Permit.

At present, a timber deregulation in private lands has been pilot-tested in the Caraga region, and is now being revised to include the whole of Mindanao. The concept behind the timber deregulation law is to classify timber (including other related crops) from private lands as similar to agricultural crops that do not require harvest and transport permits from the government.

2.2 PLTP/SPLTP

Although the PLTP/SPLTP policy was unstable during the 1990s due to the alternate prohibition and lifting of prohibition on the issuance of cutting and harvesting permits in PLTP covered areas, it has become quite stable starting year 2000.

PFDA was initially adopted by private forest landowners because PLTP was suspended through the DENR MC 93-18. However, MC 94-09 lifted the said suspension. This policy requires the holder to secure endorsement from the provincial governor and clearance from the RED. In addition, the harvested logs must be milled/processed only in a nearby sawmill within the province. This makes PFDA still a better option over PLTP/SPLTP.

MC 94-16 lifted the prohibition on the transport of timber/lumber cut from PLTP/SPLTP areas outside the province of origin. However, it needs transport documents as required by DAO 93-59 and clearance from the Multi-Sectoral Forest Protection Committee. In addition, clearance from the Barangay Captain and Town Mayor is required as per MC 93-18.

MC 95-10 lifted the issuance of PLTP/SPLTP where logging ban is in effect. The Secretary however, can approve PLTP/SPLTP provided that:

- Clearance is secured from the Barangay Captain and Mayor;
- Harvested timber will be only for personal use, government infrastructure, and cottage industries within the province of origin;
- Harvested timber will not to be transported outside the province of origin unless authorized by the Secretary;
- Forest charges are paid prior to transport.

DENR MC 98-16 suspended again the issuance of PLTP/SPLTP cutting permits. Exception are those that harvest less than or equal to 200 cu.m. per year. But the permit needs to be approved by the Secretary.

Up to year 1999, PFDA was still a better option than PLTP/SPLTP until the issuance of DENR MO 99-12 which suspended DENR Regional Directors from issuing cutting permits of naturally grown trees in private lands.

On the other hand, DAO 2000-21 revised the guidelines on the issuance of PLTP/SPLTP. With this policy, the PLTP/SPLTP allows the harvest of both naturally and plantation timber species.

3.0 PFDA STATUS

The DENR statistics in Table 1 shows that there are at least 91 PFDA holders in the country covering an aggregate total area of 4,961.83 hectares. Most of the holders are in Region 13 with 73 holders but covering only 1,610.25 hectares as indicated in Table 2. The largest area covered by a single holder is 1,841 hectares located in Region 4, while the smallest is 8,000 sq. m. located in Region 8.

It must also be noted that there are 4 PFDA holders interviewed in Region 2 by the Team, but this is not reflected in the DENR figures.

Table 1. Number of PFDA holders per region

Region	Area class (ha)								Total
	Unknown	0 - 5	> 5 - 20	>20 - 50	>50 - 100	>100 - 500	500 - 1,000	>1,000 - 2,000	
3	-	0	0	0	0	0	2	0	2
4	-	0	0	0	0	0	0	1	1
5	-	1	0	0	0	0	0	0	1
6	1	0	2	0	0	1	0	0	4
8	-	0	6	0	0	0	0	0	6
10	-	3	1	0	0	0	0	0	4
13	7	30	25	7	1	2	1	0	73
Total	8	34	34	7	1	3	3	1	91

Source: Forest Management Bureau

Table 2. Area covered by PFDA holders by region (in hectares)

Region	Area class (ha)							Total
	0 - 5	> 5 - 20	>20 - 50	>50 - 100	>100 - 500	500 - 1,000	>1,000 - 2,000	
3	-	-	-	-	-	1,160.00	-	1,160.00
4	-	-	-	-	-	-	1,841.00	1,841.00
5	3.53	-	-	-	-	-	-	3.53
6	-	30.45	-	-	245.86	-	-	276.31
8	-	55.17	-	-	-	-	-	55.17
10	9.61	5.96	-	-	-	-	-	15.57
13	117.21	263.37	169.66	56.99	360.39	642.63	-	1,610.25
Total	130.35	354.94	169.66	56.99	606.25	1,802.63	1,841.00	4,961.83

Source: Forest Management Bureau

Most of the PFDA applications were approved from 1996 to 1998 (Table 3). In 1999 and 2000, only five new agreements were approved, four for the former and one for the latter. As observed in Table 3, there was an abrupt decrease in the PFDA applications.

Table 3. Approval of PFDA holders/applications per year from 1992 – 2000

Year	No. of holders	AREA
Unknown	12	243.28
1992	1	1,841.00
1994	6	1,191.59
1995	3	13.30
1996	14	722.01
1997	25	176.98
1998	25	292.90
1999	4	282.65
2000	1	198.12
Total	91	4,961.83

Source: Forest Management Bureau

4.0 ANALYSIS OF PFDA REGULATORY PROCEDURES

In assessing and analyzing the current procedures to come up with proposed simplified and harmonized procedures for PFDA, ten areas of concern were studied as follow:

- 1) Qualification requirements of PFDA applicants;
- 2) Application requirements;
- 3) Processing and approval of PFDA;
- 4) Responsibilities of DENR and M & E system;
- 5) Responsibilities of PFDA holders
- 6) Benefits and incentives for PFDA holders;
- 7) Benefits of the government from PFDA;
- 8) Sanctions and penalties to PFDA holders; and
- 9) Other provisions

PFDA analysis was based on the review of the existing DAO for PFDA and its related policies, PFDA implementation guidelines provided DENR Regional Officers, and issues and recommendations raised during various regional consultations and field interview. The list of issues and recommendations are summarized in Table 4.

Table 4. Summary of issues, problems and proposed revisions, simplification, harmonization and items for further study on PFDA procedures.

AREA OF CONCERN	ISSUES, GAPS AND COMMENTS	PPROPOSAL
Application Requirements	<ul style="list-style-type: none"> • Too many application requirements 	<ul style="list-style-type: none"> • With the deregulation policy, only a Registry of Private Forest Lands should be maintained.
	<ul style="list-style-type: none"> • Requirement of 100% forest inventory in the application 	<ul style="list-style-type: none"> • Sampling intensity should be determined by the owners based on size and variability of the area
	<ul style="list-style-type: none"> • Difficulty in securing LGU endorsement 	<ul style="list-style-type: none"> • This requirement should be deleted since the area is privately owned.

AREA OF CONCERN	ISSUES, GAPS AND COMMENTS	PPROPOSAL
	<ul style="list-style-type: none"> Requiring PFDA applicants to secure ECC 	<ul style="list-style-type: none"> IEE/ECC should be required only when securing a cutting permit.
Processing and Approval	<ul style="list-style-type: none"> Too many hierarchical levels involved in the processing of PFDA application causing delays and high transaction costs on the part of the applicants 	<ul style="list-style-type: none"> Under the deregulation policy, the maintenance and updating of the Registry of Private Forest Land Owners should be made as simple as possible.
Benefits/Incentive for the Holders	<ul style="list-style-type: none"> PFDA is not an investor-friendly instrument 	<ul style="list-style-type: none"> Private forest lands should be deregulated since these are privately owned and the owners have the right to manage their lands as they see fit. They can also harvest and utilize the resources within their private lands so they should not be burdened with the PFDA or related permits. Creation of a conducive climate for private forest plantation development.
Sanction and Penalties	<ul style="list-style-type: none"> The suspension of all cutting permit for naturally grown timber species. 	<ul style="list-style-type: none"> The government thru DENR should respect its existing contract between PFDA holders regarding cutting of naturally grown trees inside their privately owned and titled lands.
Other Provisions	<ul style="list-style-type: none"> Issuance of PFDA-Related Policies outdated PFDA 	<ul style="list-style-type: none"> A single policy on deregulation and permitting system in private forestlands should be formulated and implemented

4.1.0 Application Requirements:

4.1.1 Too many application requirements

The following are the application requirements for new PFDA applicants:

a. Basic Requirements:

- 1) Written request or application letter filed by the applicant himself/herself. In case applicant is not the owner of the land, present a waiver from the owner;
- 2) Authenticated photocopy of the land title duly certified by Register of Deeds;
- 3) Copy of latest tax declaration & receipts of realty tax paid;
- 4) Affidavit of at least 2 adjoining land owners/disinterested persons that the applicant is the owner of the titled property;
- 5) For areas covered by CLOA & within the retention limit, the applicant submit/ secure a certification/ clearance from DAR Local Office (MARO) to cut and utilize trees found therein: For areas more than the retention limit, applicant secures an exemption from DAR in addition to aforesaid certification/clearance;

b. Requirements to be submitted after the basic requirements are complied & verified/evaluated by CENRO concerned:

- 6) 100% Inventory Report duly subscribed and sworn accompanied by the following:
 - Original tally sheets;
 - Stand and stock table;
 - Tree charting map with a scale of 1:2,000, except for large area, showing among others the location of the charted trees, vegetative cover and at least one corner of the lot should be tied up to the Forest Zone corner and BLLM;
 - Survey notes/returns; and
 - Duly attested photographs showing the first and last tree marked and the panoramic view of the entire area applied and the forested portion inventoried;
- 7) Certification from CENRO or Forester III concerned regarding the conduct of field checking/verification if the inventoried trees at 55% sampling check;
- 8) Certification from a Registered Geodetic Engineer (Private or connected with the DENR) re: correctness of plotting and technical description of property under application
- 9) Certification of CENRO that are applied for falls within certified A&D lands;
- 10) Certification from Barangay Captain;
- 11) Certificate from the Municipals Mayor;
- 12) Endorsement from the Provincial Governor
- 13) Inventory fee P200/ ha (100% inventory)
- 14) Oath fee = P50/application (if subscribed by DENR)
- 15) Cash Bond = P1/cu m based on AAC granted but not less than P1000/application
- 16) 25-year Private Forest Dev't. & Mgmt Plan of the area applied for to include:
 - a) IEE to determine environmental impact;
 - b) Biophysical environment of the area such as climate, ecological characteristic, hydrology, topography, soil (depth of top soil, type, etc), forest type, etc
 - c) Planned route, timber harvesting schedule, transport/hauling and marketing plan for purpose of determining term duration of permit;
 - d) Stream/riverbank reforestation plan if the area applied for its traversed and/or bordering rivers/creeks.
- 17) Environmental Compliance Certificate (ECC)/EIA.

It is observed that there are 17 application requirements for PFDA. Requirements which are too many and difficult to satisfy will discourage interested private land owners to engage in forest plantation development.

Proposal: With the deregulation policy, only a Registry of Private Forest Lands should be maintained.

4.1.2 Requirement of 100 % forest inventory in the application requirements.

Conduct of 100% inventory as a requirement for application is very costly. It will not attract new applicants to invest in forest plantation development. The sampling intensity for forest inventory should depend on the size and variability of the area. This will lessen the financial burden on the part of the applicant as 100 % forest inventory is very costly.

Proposal: Sampling intensity should be determined by the owners based on size and variability of the area.

4.1.3 Difficulty in securing LGU endorsement

Based on the field interview conducted, most of the applicants have difficulty in securing LGU endorsement especially when the applicant belongs to the different party as that of the incumbent local officials. It is then suggested that the DENR should help the applicant in securing this requirement from the LGU whenever this happen. This move will unload burden on the part of the applicant. Otherwise, this requirement should be deleted since the area is privately owned anyway.

Proposal: This requirement should be deleted since the area is privately owned.

4.1.4 Requiring PFDA applicants to secure ECC

With the deregulation policy, ECC should be required only prior to cutting operations.

Proposal: IEE/ECC should be required only when securing a cutting permit.

4.2.0 Processing and Approval

4.2.1 Too many hierarchical levels involved in the processing of PFDA application causing delays and high transaction costs on the part of the applicants

As reflected in Figure 1, there are many levels involved in the processing and approval of PFDA. This is often the cause of lengthy processing time and high transaction costs incurred by the applicants. Applicants complained of this since the areas are privately owned.

The present system of processing and approval is said to be based on the DENR Manual of Approvals where application documents have to pass through channels of the DENR hierarchy before approval. The system ideally provides for checks and balances. However, it also causes problems of bureaucratic red tape, undue delays and opportunities for graft and corruption. With deregulation, there is no longer a need for the lengthy processing and approval system.

Proposal: Under the deregulation policy, the maintenance and updating of the Registry of Private Forest Land Owners should be made as simple as possible.

4.3.0 Benefits/Incentives for PFDA Holders

Issue: PFDA is not an investor-friendly instrument

Though this instrument applies in private lands, it is considered not investor-friendly instrument because of the following reasons:

a) Financially unattractive

This instrument is attractive only to those private landowners whose areas contain natural forests. However, those without forest are discouraged to invest in private forest plantations because this requires high capital. Also, the an unstable market condition (i.e. the prices of logs

and wood products are fluctuating) does not make plantation development an attractive investment.

b) **Instability of policies**

Frequent changes in policies due to varying political interest of DENR executives and influence of interest groups (i.e. forest industry players) such as the suspension or moratorium of harvesting of naturally grown trees and its lifting does not bode well for investors. Any change in policy will definitely affect operations and delays are costly.

Proposals:

1. Private forest lands should be deregulated since these are privately owned and the owners have the right to manage their lands as they see fit. They can also harvest and utilize the resources within their private lands so they should not be burdened with the PFDA or related permits.
2. Creation of a conducive climate for private forest plantation development.

4.4.0 Sanction and Penalties

Issue: Suspension of the issuance of cutting permit for naturally grown timber species.

The issuance of DENR MO 99-2 technically suspended the PFD Agreements. Although there are now substitutes for PFDA such as deregulation and PLTP/SPLTP, the existing holders have invested their time and efforts in securing the agreement that have been suspended. It is therefore recommended that all existing PFD agreements should be terminated since the harvesting of naturally grown and plantation tree products have been deregulated.

Proposal: Termination of all existing PFDA as a deregulation policy on private forest lands.

4.5.0 Other provisions:

Issue: Issuance of PFDA-Related Policies outdated PFDA

The PFDA covers the establishment and/or sustainable management of both naturally growing and plantation timber species. However, there are two existing policies that are closely related or can be a better substitute of PFDA, particularly the Deregulation and the PLTP/SPLTP. The latest promulgations on these two related policies seem to be outdated the PFDA. PLTP/SPLTP allow the harvest and utilization of naturally grown and plantation tree species, which remain suspended in PFDA areas. On the other hand, both the PLTP/SPLTP and the Deregulation allow for the management and utilization of introduced or plantation timber crops in private lands.

Proposal: A single policy on deregulation and permitting system in private forestlands should be formulated and implemented.

5.0 SUMMARY AND RECOMMENDATIONS:

. In summary, an analysis of the PFDA policy and related issuances shows the need to harmonize with the deregulation policy of government on private forestlands. Hence, we propose that existing PFDA's be terminated in line with deregulation. Instead, a Registry of Private Forestland Owners be maintained for information purposes. All other requirements of for harvesting and utilization of forest products from private forest lands should likewise be deregulated.

REFERENCES

1. DENR: 1988 – 2002 Electronic Library Of ENR Policy Issuances.
2. DENR Region 13 Checklist of Requirements for PFDA Application
3. DENR Region 11 Salient Features of DAO 16-92
4. Interview with PFDA holders in Brgy. Hacienda Intal, Baggao, Cagayan. 2003.
5. Interview with DENR personnel in DENR Region 2 Office.