SIMPLIFIED AND HARMONIZED FORESTRY REGULATORY PROCEDURES OF THE PHILIPPINES

TERMINAL REPORT

Forestry Development Center
College of Forestry and Natural Resources
University of the Philippines Los Baños
(Through the University of the Philippines Los Baños Foundation, Inc.)

April 2004

This project is implemented by Development Alternatives, Inc. with the support of its subcontractors:

Orient Integrated Development Consultants, Inc. ■
Resources, Environment and Economics Center for Studies, Inc. ■
Winrock International ■
Abt Associates, Inc. ■
Management Systems International ■
Michigan State University ■

Produced by the Department of Environment and Natural Resources-United States Agency for International Development's (DENR-USAID) Philippine Environmental Governance (EcoGov) Project through the assistance of the USAID under USAID PCE-1-00-99-00002-00. The views expressed and opinions contained in this publication are those of the authors and are not intended as statements of policy of USAID or the authors' parent organization.

TABLE OF CONTENTS

List of Tables ii
List of Figures ii
List of Annexes ii
Acronyms iii
Executive Summary v
1.0 Introduction 1
1.1 Rationale 1
1.2 Objectives 2
2.0 Project Operational Framework 3
2.1 Policy Analysis of Project Component I 4
2.2 Project Component II: Case Studies on the Co-management of Forest Resources 4
3.0 Methodology 5
4.0 Highlights of Results 10
4.1 Forest Land Use Management Agreements 10
4.1.1 The Integrated Forest Management Agreement (IFMA) 19
4.1.2 The Socialized Industrial Forest Management Agreement (SIFMA) 24
4.1.3 The Special Land Use Management Agreement (SPLUMA) 24
4.1.4 The Forest land Grazing Management Agreement (FLGMA) 29
4.1.5 The Private Forest Development Agreement (PFDA) 31
4.1.6 The Utility of Recommendations for the Forest Management Agreements 33
4.1.7 Community-Based Forest Management (CBFM) 34
4.2 Forest Resources Utilization Permits 36
4.2.1 The Wood Processing Plant Permit (WPPP) 36
4.2.2 The Wood Recovery Permit (WRP) 39
4.2.3 The Private Land Timber Permit/The Special Private Land Timber Permit (PLTP/SPLTP) 42
4.2.4 The Integrated Annual Operations Plan (IAOP) 45
4.2.5 The Rattan Cutting Contract (RCC) 49
4.3 Co-Management Schemes in the Philippine Forest lands 50
4.4 Forest Law Enforcement and Due Diligence 52
5.0 Recommendations 55

Annexes *(The annexes contain detailed reports on the various land management agreements and permits mentioned in this Main Report. Please see attached CD)*

LIST OF TABLES

Table 1. Number of persons consulted during the field data gathering 7

Table 2. Number of participants by sector in the regional consultations 8

Table 3. Kinds of existing SPLUMA and their allowable maximum areas 26

Table 4. Kinds of proposed SPLUMA and their allowable maximum areas 26

Table 5. Existing and proposed simplified procedures/steps for OP processing and approval 47

LIST OF FIGURES

Figure 1. Project operational framework for the analysis, simplification and harmonization of the FRP 6

Figure 2. Policy Analysis of Project Component 1 – FRP on: Forest land Management Agreements, Forest Resources Utilization Permits, and Forest Law Enforcement 6

Figure 3. Simplified procedure for the identification and approval of open access sites available for various uses 12

Figure 4. Existing procedure for the processing and approval of FMA applications (Source: DENR Regional Offices) 15

Figure 5. Proposed procedure for the processing and approval of IFMA and FLGMA 16

Figure 6. Proposed procedure for the processing and approval of SIFMA (for areas > 10 hectares) and SPLUMA 16

Figure 7. Proposed procedure for the processing and approval of SIFMA (for areas < 10 hectares) 17

LIST OF ANNEXES

Annex A. Technical Reports on the Analysis of the Forest Land Use Management Agreements
- A.1 The Integrated Forest Management Agreement
- A.2 The Socialized Industrial Forest Management Agreement
- A.3 The Special Land Use Management Agreement
- A.4 The Forest Land Grazing Management Agreement
- A.5 The Private Forest Land Development Agreement

Annex B. Technical Report on the Analysis of the Community-Based Forest Management and Draft Manual on CBFM

Annex C. Technical Reports on the Analysis of the Forest Resources Utilization Permits
- C.1 The Wood Processing Plant Permit
- C.2 The Wood Recovery Permit
- C.3 The Private Land Timber Permit/The Special Private Land Timber Permit
- C.4 The Integrated Annual Operations Plan
- C.5 The Rattan Cutting Contract

Annex D. Technical Report on Co-Management Schemes for Philippine Forest Lands

Annex E. Draft Manual and Administrative Order on Forest Law Enforcement and Due Diligence

ACRONYMS

A&D	-	Alienable and Disposable
APLO	-	Area Programmed for Logging Operations
ATO	-	Air Transportation Office
AWP	-	Annual Work Plan
CAA	-	Civil Aeronautics Administration
CBFM	-	Community-Based Forest Management
CBFMA	-	Community-Based Forest Management Agreement
CENRO	-	Community Environment and Natural Resources Office
CNC	-	Certificate of Non-compliance
CRMF	-	Community Resource Management Framework
CRW	-	Communication Right-of-Way
CRW	-	Communication Right-of-Way
CS	-	Certificate of Stewardship
CSO	-	Civil Society Organization
DAI	-	Development Alternatives, Incorporated
DAO	-	Department Administrative Order
DENR	-	Department of Environment and Natural Resources
DILG	-	Department of the Interior and Local Government
ECCs	-	Environmental Compliance Certificates
EcoGov	-	Environmental Governance
EGA	-	Effective Grazing Area
EIA	-	Environmental Impact Assessment
EMB	-	Environmental Management Bureau
FAO	-	Forestry Administrative Order
FDC	-	Forestry Development Center
FLGMA	-	Forest Land Grazing Management Agreement
FMB	-	Forest Management Bureau
FRCD	-	Forest Resources Conservation Division
FRP	-	Forest Regulatory Procedures
IAOP	-	Integrated Annual Operations Plan
IEC	-	Information, Education and Communication
IEE	-	Initial Environmental Examination
IFMA	-	Integrated Forest Management Agreement
IP	-	Indigenous People
IPRA	-	Indigenous People's Rights Act
JMC	-	Joint Memorandum Circular
LGC	-	Local Government Code
LGU	-	Local Government Unit
LSP	-	Local Service Provider
MAT	-	Multisectoral Assessment Term
MFO	-	Major Final Outputs
MFPC	-	Multi-sectoral Forest Protection Committee
MO	-	Memorandum Order
NAMRIA	-	National Mapping and Resource Information Authority
NCIP	-	National Commission for Indigenous People
NGO	-	Non-government Organization
NIPAS	-	National Integrated Protected Areas System
OGA	-	Other government agencies
OSEC	-	Office of the Secretary
PAWB	-	Protected Areas and Wildlife Bureau
PENRO	-	Provincial Environment and Natural Resources Office
PFDA	-	Private Forest Development Agreement
PFDA	-	Private Forest Development Agreement

PLTP	-	Private Land Timber Permit
PO	-	People's Organization
RCC	-	Rattan Cutting Contract
RED	-	Regional Executive Director
RENRO	-	Regional Environment and Natural Resources Office
RNF	-	Residual Natural Forest
RRW	-	Road right-of-way
RTDF	-	Regional Technical Director for Forestry
RTRC	-	Regional Technical Review Committee
SEMS	-	Senior Environmental Management Specialist
SFMS	-	Senior Forest Management Specialist
SIFMA	-	Socialized Industrial Forest Management Agreement
SPLTP	-	Special Private Land Timber Permit
SPLUMA	-	Special Land Use Management Agreement
SWOT	-	Strength, Weaknesses, Opportunities and Threat
TLA	-	Timber License Agreement
TLRW	-	Transmission Line Right-of-Way
TMS	-	Timber Management Section
UPLB-FI	-	University of the Philippines Los Baños Foundation, Incorporated
USAID	-	United States Agency for International Development
WPPP	-	Wood Processing Plant Permit
WRP	-	Wood Recovery Permit

EXECUTIVE SUMMARY

The Forestry Development Center (FDC) based at the College of Forestry and Natural Resources, through the University of the Philippines Los Baños Foundation, Incorporated (UPLB-FI) was invited to bid and was contracted as a Local Service Provider (LSP) for the Philippine EcoGovernance Project. The USAID-funded EcoGovernance Project is a technical assistance grant to the Government of the Philippines (GOP) in partnership with the Department of Environment and Natural Resources (DENR), local government units (LGUs) and civil society organizations. The FDC-UPLBFI was contracted as LSP by the Development Alternatives, Inc. (DAI), the technical assistance contractor, to prepare the Manual on Forestry Regulatory Procedures of the Philippines. The undertaking covered the period from June 2003 to 15 April 15 2004.

The scope of work included the analysis of the forestry regulatory procedures (FRP) on forest land use management agreements, forest resources utilization permits, co-management schemes on forest lands, and forest law enforcement and due diligence. Recommendations are made on the issues, concerns and problems raised by respondents and participants in the field data gathering and regional consultations with various sectors. Many of the recommendations forwarded by the teams have been incorporated in the proposed administrative orders currently being drafted by the DENR and the Forest Management Bureau (FMB). Draft manuals were also developed for Community-Based Forest Management (CBFM) and Forest Law Enforcement and Due Diligence.

Significant recommendations for the management agreements analyzed include: a simplified procedure for the identification and approval of open access sites for various uses; a standard and accessible list of application requirements; the processing and approval of management agreements; and the responsibilities of the DENR, the holders, and other stakeholders. Tenurial instruments studied include the Integrated Forest Management Agreement (IFMA), the Socialized Industrial Forest Management Agreement (SIFMA), the Special Land Use Management Agreement (SPLUMA), the Forest Land Grazing Management Agreement (FLGMA), the Private Land Forest Development Agreement (PFDA) and the Community-Based Forest Management Agreement (CBFMA).

Forest resources utilization permits analyzed include the following: the Wood Processing Plant Permit (WPPP), the Wood Recovery Permit (WRP), the Private Land Timber Permit/the Special Private Land Timber Permit (PLTP/SPLTP), the Integrated Annual Operations Plan (IAOP), and the Rattan Cutting Contract (RCC).

The analysis of the said forestry regulatory procedures was based on the ecogovernance principles of transparency, accountability and participatory decision-making. The approaches taken in the simplification and harmonization of FRPs were: the integration of related policies (deregulation); functional levels of the DENR (decentralization, reduction of levels, definition of roles, checks and balances); the simplification of processes, requirements, responsibilities; and the harmonization of procedures (removal of duplicating, conflicting, overlapping provisions).

In summary, the recommendations from the analysis of the FRPs are stated as follows:

1. **Transparency** - In order for the forest 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 where land allocation activities are concerned. In particular, composite teams are needed for the following: the evaluation of open access areas available for various uses and tenurial instruments; the evaluation of applications for FMAs and ECCs, the evaluation of plans and agreements pertaining to suspensions/cancellations and renewals. Consultations with as many concerned sectors as possible are also needed where policy changes such as amendments, revisions or repeals are to be made.

The 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 the DENR and its clientele.

2. **Accountability** - Accountability in decision-making and the implementation of forestry and related policies and programs can be achieved in a number of ways. One is through the decentralization of decision-making in terms of approval and the issuance of tenurial instruments, permits, ECCs, etc. Another is through the deregulation of related policies, particularly the integration of common requirements for development plans, ECCs and related permits. The decentralization of the issuance of instruments; the establishment and enforcement of checks and balance mechanisms, clear mechanisms for law enforcement, and the enhancement or building up of the capabilities of action officers are other ways of inculcating accountability among the DENR's rank and file.

3. **Participatory decision-making** - Social equity and justice in public forest land allocation can be achieved by defining the roles and mechanisms for the participation of all interested stakeholders. Forest policies have to define the role of the local communities—both the migrants and the indigenous people—as well as the local government units and related local industries. Consultations, dialogues and inclusion in deliberations are ways of ensuring that concerned stakeholders are involved in decision-making particularly in the policymaking process.

SIMPLIFIED AND HARMONIZED FORESTRY REGULATORY PROCEDURES OF THE PHILIPPINES

Forestry Development Center
College of Forestry and Natural Resources
University of the Philippines Los Baños
(Through the University of the Philippines Los Baños Foundation, Inc.)

1.0 INTRODUCTION

1.1 RATIONALE

In line with the goals of building and strengthening the LGUs' capabilities to improve local EcoGovernance and ensure a sustainable natural resource base for the benefit of communities, in particular, and the nation, in general, the Philippine Environmental Governance (EcoGov) Project, through consultations with various sectors, recognized the need to prepare a Manual of Forestry Regulatory Procedures.

The FDC, based at the College of Forestry and Natural Resources, University of the Philippines Los Baños, was created under Presidential Decree No. 1559. Part of its mandate includes conducting basic policy research in forestry and related environmental fields, and developing or helping develop effective machinery for policy formulation and implementation in these areas. Besides the end-goal of producing the manual, the FDC, through the University of the Philippines Los Baños Foundation, Inc., welcomes the opportunity to become a Local Service Provider to the EcoGov Project to undertake the review of forestry regulatory policies, consult with the concerned sectors and come up with policy reforms as part of the dynamic policy formulation and implementation process.

A list of issues and recommendations on the five areas of forestry regulations (natural forests, forest land use, protected areas, law enforcement and community-based forest management) were presented by the representatives of the Forest Management Bureau and Protected Areas and Wildlife Bureau (PAWB) in workshops held in August and September 2002. The results of the August workshop and the follow-on roundtable discussion form the basis for the analysis and simplification/harmonization of the Forestry Regulatory Procedures in which the UPLBFI-FDC assumed the role of Local Service Provider.

In reviewing and analyzing the forestry regulatory procedures to determine overlaps, conflicts, gaps and ways to simplify and harmonize them, the Center consulted various sectors/stakeholders in several regions. The consultation process helped ensure that the concerned sectors were able to contribute in improving the regulatory environment within the DENR where transparency, accountability and public participation in the management of forests would exist.

1.2 OBJECTIVES

The project has the following objectives:

1. To review the existing forestry regulatory procedures and come up with a draft manual;
2. To consult the concerned sectors and incorporate their comments and recommendations in the drafting and finalization of the manual;
3. To prepare a due diligence mechanism that will serve as the basis for transparency, accountability and public participation in the overall forest regulatory system of the country; and
4. To review existing procedures and requirements of forest law enforcement in the country and to prepare a simplified and easy-to-follow manual to be used by the DENR and other forest law enforcement agencies.

2.0 PROJECT OPERATIONAL FRAMEWORK

Figure 1 presents the project operational framework for the simplification and harmonization of Forestry Regulatory Procedures (FRP). The project has two major project components. Project Component I involves the review and analysis of FRP on the following: 1) Forest land Management Agreements (Community-Based Forest Management, Integrated Forest Management, Socialized Forest Management, Special Forest Land Use Management, Forest Land Grazing Management, Private Forest Development); 2) Forest Resources Utilization Permits (Wood Processing Plant Permit, Wood Recovery Permit, Rattan Cutting Contracts); and 3) Forest Law Enforcement and Due Diligence. On the other hand, Project Component II involves the review of case studies on co-management enterprises and undertakings on forest lands/upland resources. These two components are guided by the project objectives and guiding principles.

The outputs of these two component studies are the major issues and concerns related to FRP. These served as the basis for the proposed simplification and harmonization of the Forestry Regulatory Policies where the technical, institutional, organizational and other aspects were considered. It is expected that the adoption of the proposed changes in the FRP by the end-users and implementers of Government Forestry Programs, with the appropriate support systems (e.g., IEC program), will contribute to achieve the 4Cs End Goal of the EcoGovernance Project—that of combating corruption, reducing conflict, promoting the conservation of the resources and the capacitation of different stakeholders. The project outputs (e.g., manual, administrative orders, analyses, etc.) however are by no means static. It is expected that these will continually be revised based on feedbacks from a Monitoring and Evaluation (M & E) System that will be put in place and issued by the DENR. Appropriate M & E forms/instruments shall be developed based on the simplified procedures. An external M & E system is also recommended.

In the review and simplification/harmonization of the forestry regulatory procedures, the following basic principles were adopted:

Holistic – all major aspects (technical, social, economic, institutional, political) relevant to the analysis of the forestry policies are considered in addressing the issues (i.e., overlaps, conflicts, inconsistencies, gaps, etc.) and in simplifying the forestry laws, rules and regulations. This involves a synthesis of diverse viewpoints so that the results represent an integration of all these viewpoints.

1. Interdisciplinary – The team is composed of highly qualified and experienced people with different fields of expertise (forestry, environment, agriculture, forest products engineering and utilization, law, economics, sociology, applied anthropology, community development, communication, etc.). They interact closely to represent varied interests while maintaining a holistic view.

2. Participatory/consultative – Various stakeholders were consulted throughout the various stages of the process of analyzing and simplifying the forestry laws, rules and regulations. Consultations were interactive where the stakeholders were asked to freely express their ideas and suggestions on how to simplify the forestry policies.

3. Science-based – The gathering and validation of information, the analysis of issues, the comparison by sector and across sectors, the simplification and formulation of forestry laws, rules and regulations were based on established approaches. The initial outputs of each stage of the process were presented to the DAI-EcoGov Policy Team and the DENR-FMB for discussion and to obtain suggestions on their refinement.

4. Doable and responsive – The outputs (analysis and manuals) were made responsive to the needs of the users (both implementers and clients) through the simplification of requirements and procedures, as well as through the reduction of processing time.

2.1 POLICY ANALYSIS OF PROJECT COMPONENT I

The review and analysis of the existing FRP contains a definable set of activities or processes that would transform the inputs into outputs (Figure 2). The set of activities includes the review and analysis of previously identified areas of concern affecting the clients and implementers. For the clients, the areas of concern include their qualifications, requirements and their responsibilities under the existing FRP. For the implementers, the areas of concern include the administrative/legal procedures being followed and the responsibilities of concerned agencies. The activities also include a review and an analysis of benefit-sharing procedures for resource management schemes, issues/problems and concerns, lessons and recommendations for both the clients and the implementers, the results of which are incorporated in the proposed amendments of the FRP.

The review covers the substantive and procedural aspects of the current forest law enforcement system of the country, to identify areas of improvement leading to the expeditious disposition of cases. Further, this component includes a due diligence mechanism that provides for a common standard of conduct among implementers and clients, with the ultimate objective of preempting unnecessary litigation involving forest regulations related to the discretionary actions of DENR officials.

2.2 PROJECT COMPONENT II: CASE STUDIES ON THE CO-MANAGEMENT OF FOREST RESOURCES

This project component includes an analysis of both primary and secondary information. The analysis of secondary information involves the review of documents and literature on forest resources co-management case studies. It includes the identification of factors influencing the success and failure of the different co-management schemes involving the communities, LGUs, NGOs and OGAs, as well as an analysis of the issues and concerns, lessons learned and recommendations made. On the other hand, the analysis of primary information served to validate the results of the analysis of the secondary information gathered.

The integration of the results of Project Components I and II provides inputs for the simplification and harmonization of the FRP as contained in the Analysis Reports, Manuals, and proposed Administrative Orders.

3.0 METHODOLOGY

Activity 1. The compilation, inventory and review of existing forestry regulations, as well as of issues and recommendations. An inventory was made of existing rules and regulations on Forest land Management Agreements (CBFM, IFMA, SIFMA, SPLUMA, FLGMA, PFDA), Forest Resources Utilization Permits (WPPP, WRP, RCC, PLTP, SPLTP, IAOP, CO, CRLD, OMFPL, CR, Authority to Export), and Forest Law Enforcement. The matrix used by the FMB Team in presenting the regulatory procedures was expanded to further categorize the forestry regulations by commodity, land use and instruments to facilitate the succeeding analysis of overlaps, inconsistencies, conflicts and gaps. The compiled inventory of forestry regulatory procedures was reviewed and the report submitted to the DAI-EcoGov Team on 9 July 2003.

Activity 2. Field data gathering of issues, problems, and recommendations to the existing FRP. Pertinent information and data on the existing requirements and on the procedures of securing, processing and obtaining the approval of permits and agreements, as well as other monitoring procedures of compliance, were gathered from selected regions (2, 3, 4a and b, 7, 8, 10, 11, and CARAGA) and from the central offices from August to September 2003. The FDC teams were fielded to these various regions to gather data through interviews, focus group discussions, informal conversations and the review of literature and references. Respondents included DENR officers, LGUs, permittees, licensees, agreement holders, people's organizations and other stakeholders. Table 1 shows the number of persons consulted during the field data gathering.

Activity 3. An analysis and the simplification of forestry regulatory procedures. The analysis of the regulatory procedures focused on the conflicting and overlapping stipulations and requirements and how to simplify the following processes: (1) the securing of issuances from the DENR and (2) the issuance of permits, licenses, and other instruments by the DENR. The analysis also looked into the conflicts or inconsistencies with other laws such as the National Integrated Protected Areas System (NIPAS) Act, the Indigenous People's Rights Act (IPRA), the Local Government Code (LGC), and others. Data from the field serve as inputs in the analysis and simplification of the FRP. The Report for this activity was likewise submitted on 9 October 2003 to the DAI-EcoGov Team, after which copies were forwarded to the DENR-FMB where the results were discussed with the counterpart staff members.

The existing laws, issuances, rules and regulations were analyzed using simple flow charts and groupings of activities, requirements, processing and approval procedures, responsibilities, incentives, sanctions and penalties, as well as monitoring and evaluation systems. Where possible, similar regulatory procedures of tenurial instruments were compared in terms of the said items. Differences and similarities were noted as well as conflicting, overlapping and problematic provisions. Functional levels of the implementing agency were analyzed and where possible, recommendations made for their reduction, redefinition or strengthening. Appropriate technical, social, institutional, management and other considerations were also incorporated in the process. Issues, concerns and recommendations from the various stakeholders consulted were likewise addressed in the process of simplification and harmonization.

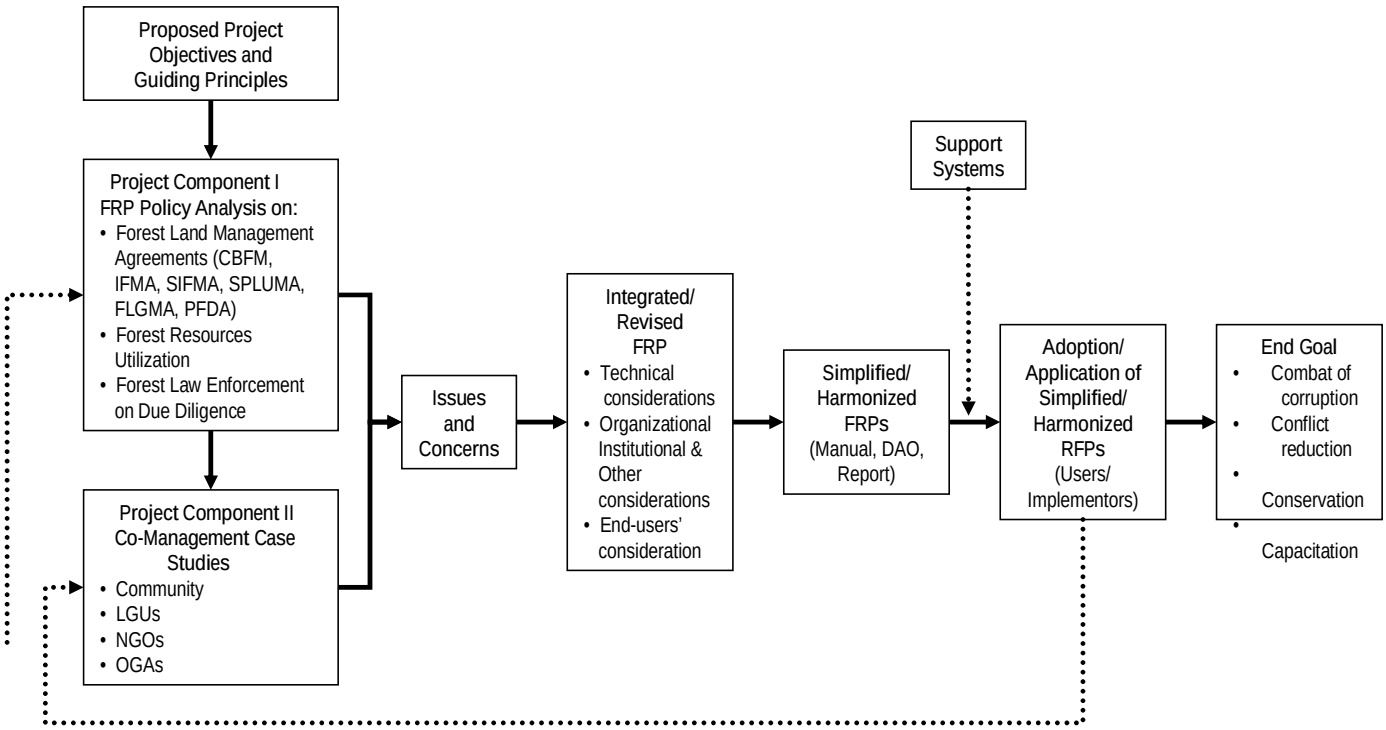


Figure 1. Project operational framework for the analysis, simplification and harmonization of the FRP

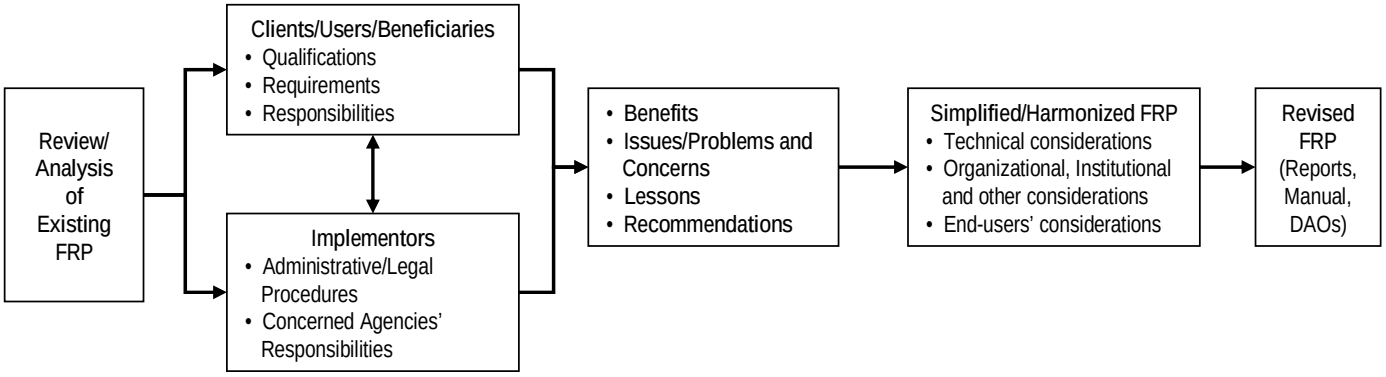


Figure 2. Policy Analysis of Project Component 1 – FRP on: Forest land Management Agreements, Forest Resources Utilization Permits, and Forest Law Enforcement

Table 1. Number of persons consulted during the field data gathering

	Regions	DENR	LGU / OGAs	Permittee/ Leaseholder/PO	TOTAL
CBFM	2,4a,7,11	37	17	63	117
IFMA	2,4a&b,7,10,11,CARAGA	9	1	5	15
SIFMA	2,7,10,11, CARAGA	15	-	6	21
PFDA/ Private Land Owners	2,4a&b,7,10,11,CARAGA	11	-	5	16
SPLUMA	2,4a&b,7,10,11,CARAGA	13	-	4	17
FLGMA	2,4a&b,7,10,11,CARAGA	10	-	5	15
Forest Utilization Permits	2,8,10, CARAGA	42	1	38	81
Co-Management	2	1	5	8	14
Forest Law Enforcement	2,8,10, CARAGA	51	2	21	74
TOTAL			26	155	370

Proposed amendments (prepared by the DENR) to existing laws and policy issuances were also analyzed to determine whether issues and problems with existing regulatory procedures were being addressed or incorporated. Related policies such as the IPRA Law, the Local Government Code, Joint DENR-DILG Memorandum Circulars, and recent DAOs on EIA implementation were among those reviewed and discussed with various sectors. These were also considered in coming up with simplified and harmonized procedures.

Transparency, accountability and the participatory principles of Ecogovernance guided the analysis, simplification and harmonization of various regulatory procedures.

Activity 4. Conduct of multisectoral consultations at the national and regional levels. The consultations were made through roundtable discussions, workshops or individual interviews with the concerned sectors including the DENR-FMB, LGUs, NGOs, POs, industry and the public. An in-house workshop was held at the FDC on 17 to 18 September 2003 with project advisers and selected experts from the academe to solicit their comments on the simplified and harmonized procedures.

Regular consultations and workshops were conducted with the DENR-FMB counterparts to discuss and validate issues arising from the field surveys, as well as to come up with proposals to address the said issues. The DENR-FMB counterparts contributed significantly to the simplification and harmonization of the forestry regulatory procedures.

Major regional consultations were held in Bayombong, Nueva Vizcaya (Region 2) on 24 October 24; Cebu City (Region 7) on 4 November 2003; Butuan City (CARAGA - Region 13) on 27 January 2004, and Davao City (Region 11) on 29 January 2004. All the simplified/harmonized forestry regulatory procedures were presented and discussed during the first two regional consultations in Regions 2 and 7. However, DAI-EcoGov and DENR-FMB prioritized five tenurial instruments (IFMA, SIFMA, WPPP, WRP, RCC) that were presented and discussed thoroughly in the other two regional consultations (Regions 11 and 13). Representatives from the DENR (RENRO, PENRO,

CENRO, EMB), LGUs, NCIP, IPs, POs, NGOs, tenurial instrument holders/permittees/applicants, and other sectors participated actively in the regional consultations (Table 2).

Table 2. Number of participants by sector in the regional consultations

SECTOR	Region 2	Region 7	Region 11	Region 13	TOTAL
DENR	5	13	21	16	55
EMB		2			2
LGU	2	2	2		6
PO	1		1		2
Agreement Holders	1	3	11	4	19
Permittees	1	4	2	7	14
NGO	1				1
DAI-EcoGov		3			3
Private			1		1
TOTAL	11	27	38	27	103

A Summit for CBFM People's Organizations was held in Cebu City on 2 December 2003 during which the FDC-CBFM Team presented the draft Administrative Order on CBFM (prepared in collaboration with FMB-CBFM Office).

The results of the national and regional consultations were incorporated in the draft reports submitted on 21 November (Report on IFMA, WPPP, RCC, and Manual on Forest Law Enforcement) and 17 December 2003 (Reports on SIFMA, SPLUMA, FLGMA, PFDA, WRP, PLTP/SPLTP) to DAI-EcoGov, with copies furnished to the DENR-FMB counterparts. Another round of discussions was held with the DENR-FMB counterparts to discuss the results of the Mindanao Regional Consultations and the resulting draft report on the five priority instruments (IFMA, SIFMA, WPPP, WRP, RCC). The Draft Manual on Forest Law Enforcement was submitted on 29 February 2004, while the Draft Manual on CBFM was submitted to DAI-EcoGov on 2 March 2004.

Activity 5. Review and analysis of case studies on existing co-management enterprises and undertakings on forest lands/upland resources. This activity involved the following processes: 1) a review of literature to identify documented cases of co-management, 2) a review of documents on documented cases to identify lessons/issues and recommendations, 3) the validation of identified issues and concerns at the field level, and 4) the preparation (?) of case studies. Through the case studies the following tasks were undertaken:

1. The identification of the different stakeholders and an evaluation of the mechanism of entering into socially negotiated institutional arrangements.
2. A determination and evaluation of the nature and extent of the stakeholders' involvement in the co-management of forest resources.
3. An identification and documentation of factors affecting the successes and failures of the different co-management schemes.
4. The determination and recommendation of ways to achieve the sustainability of co-management schemes.
5. The issuance of comprehensive recommendations for addressing policy and field level implementation gaps.

Draft reports on the Co-Management Arrangements were submitted to DAI-EcoGov on 9 October 2003 and 2 March 2004.

Activity 6. Deliberations on the FDC Outputs at the DENR Central Office. An overview of the highlights of the FDC Outputs was presented to the DENR Policy Technical Working Group and to representatives of FMB and DAI-EcoGov on 26 March 2004. During the said meeting, it was agreed upon that even if the UPLB-FI-FDC's TOR ends by March 2004, FDC would continue to provide assistance to DENR-FMB in the discussions of draft policy issuances on the various instruments studied in this Project. Small group discussions were to be held in the coming weeks and months on proposed issuances on individual instruments.

Activity 7. Submission of the Project Terminal Report on the Simplified Forestry Regulatory Procedures incorporating the results of the preceding activities. The Terminal Report includes the highlights of the Outputs on the Simplified FRP on various instruments, as well as the Draft Manuals on CBFM and Forest Law Enforcement and Due Diligence.

4.0 HIGHLIGHTS OF RESULTS

4.1 FOREST LAND USE MANAGEMENT AGREEMENTS

The project studied six tenurial instruments under the Forest land Use Management and these included the following:

1. The Integrated Forest Management Agreement (IFMA)
2. The Socialized Industrial Forest Management Agreement (SIFMA)
3. The Private Forest Development Agreement (PFDA)
4. The Special Land Use Management Agreement (SPLUMA)
5. The Forest Land Grazing Management Agreement (FLGMA)
6. The Community-Based Forest Management Agreement (CBFMA)

In assessing the existing procedures to come up with the proposed simplified and harmonized procedures for the six tenurial instruments, 10 areas of concern were analyzed, namely:

1. The identification and approval of available sites
2. The qualification requirements of applicants
3. The application requirements
4. The processing and approval of the instrument
5. The responsibilities of instrument holders
6. The responsibilities of the DENR
7. Benefits and incentives for instrument holders
8. Benefits for the government from the tenurial instruments
9. Sanctions and penalties meted to instrument holders
10. The monitoring and evaluation systems
11. Other provisions.

In analyzing the procedures for the above items, the various issues, concerns and recommendations raised by the different sectors during the field data gathering, regional consultations and several meetings with the Forest Management Bureau (FMB) counterparts and project advisers were considered. A number of these issues, concerns and recommendations were incorporated with the process of simplification and harmonization of the requirements and procedures. The harmonization of the forest regulatory procedures of the five tenurial instruments was also done across sectors. Common issues/problems identified in harmonizing these procedures are discussed in the following subsections. Issues and recommendations unique to each tenurial instrument are discussed immediately following these subsections.

A. Issues/Problems in the Identification and Approval of Open Access Areas Available for Various Uses

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

A number of DENR field officials reported that they are unable to fully carry out ground validation, site suitability evaluation and resource inventory due to insufficient budget and resources mainly due to resource constraints (i.e., inadequate funds, equipment, facilities, etc.). DENR officials admit that it is easy to identify potential sites available for various forest management agreements based on existing maps, information and databases. However, ground validation and the 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 DENR's conducting a separate activity to identify, validate on the ground, consult dependent communities, and approve areas open for access before any application can be accepted, it resorts to short cuts. The existing practice in the fields sees the DENR identifying potential sites (table mapping), whereas the responsibilities of validating on-ground as well as securing the consent of IPs or communities, and an LGU endorsement are passed on to the applicants.

The applicants usually pay not only for the survey cost but also for the resource inventory and mapping of the area applied for. Some applicants even have to pay for community consultations and incur transaction costs to get the LGUs to endorse an area. By allowing such, the DENR's objectivity is severely eroded by the need to factor in the costs already incurred by the applicant. The Department may thus tend to decide in favor of the said applicant.

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

A common problem discovered by the DENR and its clients in many regions involves overlapping tenurial instruments, conflicting land uses and claims over a certain area, after a certain instrument has already been awarded. This problem is closely related to the previous issue whereby the DENR was unable to undertake the identification and approval of areas open for access. The said procedures entailed the need to update the Registry on available areas for various instruments.

The situation is mainly blamed on the lack of reliable maps and a dependable information database in many field offices. Couple this with the inadequate coordination among the different DENR action officers in the various regional, provincial and community offices, divisions, sections, and even programs, and the overlap of tenurial instruments and conflicts in land uses over an area result. Although DENR is mandated to establish and maintain an updated registry, maps of forest land uses and a census of people living in public forest lands, these are often outdated and unreliable, or may sometimes not be readily accessible, if they exist at all.

Another common problem revolves around the conflict arising from ancestral domain claims over areas for which tenurial instruments have already been issued. A number of IFMA, SIFMA and TLA holders (intending to convert to IFMA) reported that their instruments were issued long before some IPs, or people claiming to be IPs, filed their claims on portions of the IFMA/SIFMA or TLA areas concerned.

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

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

Both the DENR and concerned LGUs reported that the difficulty in implementing DENR-DILG JMC 98-01 was primarily due to the fact that it was not made a priority of the heads of both agencies. It was only in 2003 when the heads of both agencies met and came up with JMC 2003-01, reiterating the provisions of the previous JMC and prioritizing the 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.

Yet another issue raised was the different agencies' (i.e., DA, DAR, DTI, DOT, etc.) having their own plans for portions of forest lands. This problem signifies a need for the concerned agencies to

coordinate so that their respective plans can be integrated with the overall forest land use plan of each region.

4. *Need to harmonize forest management agreement policies with LGU and NCIP regulations*

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

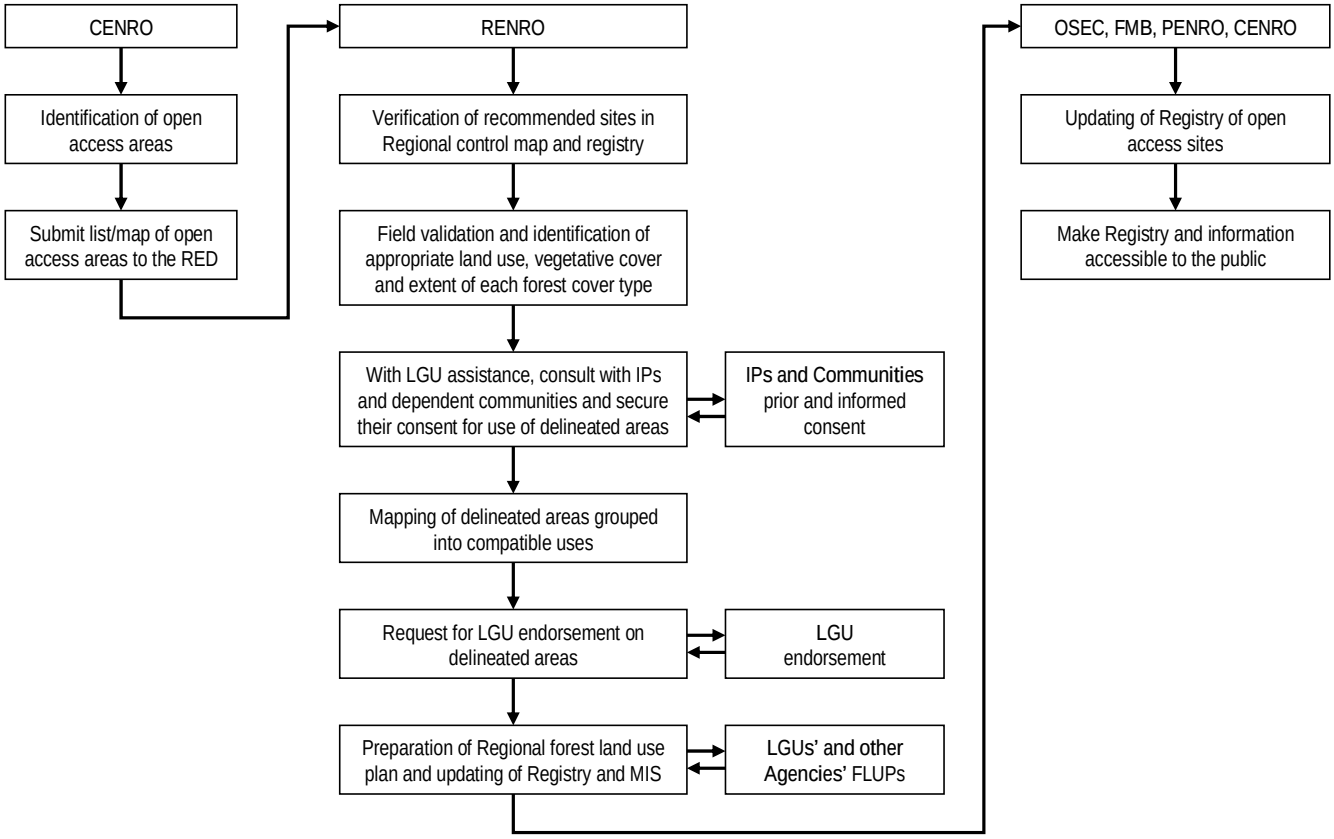


Figure 3. Simplified procedure for the identification and approval of open access sites available for various uses

Recommendations:

Provide an adequate budget in the key result areas (KRAs) (now called major final outputs (MFOs)) of regional offices for the identification of open access areas, ground validation, site suitability evaluation, and resource inventory to ensure that these activities are prioritized. It is important for the DENR to determine what sites are suited to different land uses, and the extent and area available in order that such information could be used as the basis for formulating appropriate, equitable and acceptable land allocation decisions.

Applications for various tenurial instruments should be accepted only after the open access areas have been identified and mapped, and only after appropriate land use plans are made. Where conflicting land uses and claims arise, regional technical working groups should be activated to address these issues.

The requirements for LGU endorsement and NCIP consent in the identification and approval of potential areas available for various forest management agreements have to be incorporated with the whole process. Figure 3 reflects the simplified and harmonized procedure for the identification and approval of open access areas available for various uses. 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 the concerned LGUs and other agencies. The updating of the maps, registry and databases is then performed at all levels

B. Issues/Problems Relating to Application Requirements

1. Different application fees for various forest management agreements

The applicants and holders raised the issue of varying application fees for the different management agreements. The application fee for IFMA is P0.50 per hectare (thereby ranging from P250 to P20,000 per application for 500 and 40,000 ha, respectively) while that for FLGMA is P10.00 per hectare (thereby ranging from P500 to P20,000 for 50 and 2,000 ha, respectively). The application fee for SIFMA, on the other hand, ranges from P500 to P10,000 per application (for a maximum of 500 ha per application); whereas for SFUMA, the fee is P300 per application. Interviews indicated that there was no common basis for setting the application fees for these tenurial instruments.

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

Although the DAOs of various forest management agreements clearly state what documents are required of the applicants, the processing of applications is often delayed by the need to submit additional documents as required by officials at succeeding levels of the DENR hierarchy. This tendency is due to the differing interpretations by officials at different levels of DENR of what documents are needed as proofs of the technical and financial capability of the applicant.

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

3. Difficulty in securing LGU endorsement thereby causing delays in the processing of applications

Processing is also delayed when the applicant is unable to immediately submit the required documents, which often occurs when the LGU and the NCIP refuse or delay their endorsement of the area applied for. Most applicants experience difficulty securing the LGU's endorsement especially when they support a political affiliation different from that of the incumbent local officials.

On the other hand, with the implementation of DENR-DILG Joint Memorandum Circular No. 2003-01, the concerned LGU needs to inform the DENR of the action it has taken within 15 days from the date of receipt of the document; otherwise, that the LGU fully endorses said application or instrument will be presumed. Interviews with a number of applicants and tenurial holders indicate that this provision has not yet been implemented.

Recommendations:

There needs to be a standard basis for setting application fees for all forest management agreements. Considerations for standard fee setting are the number of levels that the application goes through, and the cost of materials and activities required for the processing and approval of the application.

Likewise, complete and standard checklists of documentary requirements per instrument applied for should be made accessible to the public through posters in strategic locations, brochures, or announcements in the DENR website. Additional statements of what documents constitute proofs of financial and technical capability of applicants need to be included in the DAO.

There is a need to facilitate the issuance of LGU and NCIP endorsements of applications for forest management agreements through closer collaboration and communication between the DENR and LGUs/NCIP. This can be facilitated through regular dialogues between local representatives of these agencies.

C. Issues/Problems Relating to the Processing and Approval of Various Forest Management Agreements

1. *There being too many levels of authority involved in the processing of applications for various types of forest management agreements at the DENR, thereby causing delays and raising transaction costs on the part of applicants.*

The experience of previous applicants shows that it usually takes more than the prescribed number of days (e.g., 120 days for IFMA, 102 days for FLGMA) for an application to be processed and approved. Sometimes it takes more than a year before forest management agreements are fully processed. Several respondents claimed they spent large amounts in transactions with various levels of the DENR hierarchy for their documents to move from one level to another before these were finally approved.

The present system of processing and approval is based on the DENR Manual of Approvals which stipulates that application documents have to pass through channels of the DENR hierarchy before approval. The system ideally provides for checks and balances. However, it also results in red tape, undue delays and opportunities for graft and corruption.

Moreover, an analysis of the existing processing and approval system for FMA applications reveals that the role of each higher level of the DENR hierarchy is repetitive of those 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 or endorses it to the Secretary for approval. Before reaching the OSEC, the FMA application has to be reviewed by the FMB (and ERDB for FLGMA applications) and the USEC for Operations, who then endorses it for approval by the Secretary (Figure 4).

2. *Too centralized approval/issuance of various forest management agreements*

At present, the approval of all IFMA, SPLUMA and FLGMA is vested on the DENR Secretary. On the other hand, PFDA and SIFMA applications (for areas greater than 10 hectares but less than or

equal to 500 hectares) are approved by the RED, while applications for SIFMA over areas 10 ha and below are approved by the PENRO.

One major problem inherent to the centralized approval of forest management agreements (FMA) has to do with the prolonged delays in the approval due to the number of levels at which each application is reviewed and endorsed by CENRO, PENRO, RENRO, FMB/ERDB, and USEC before it reaches the Office of the DENR Secretary. The delays also increase transaction costs for the applicants due to the follow-ups they have to make at each level of the hierarchy before the instrument is approved or issued.

The centralized approval of FMAs renders the Secretary solely responsible and accountable for the decision. Decentralizing the issuance of FMAs to the regional levels renders the REDs more responsible and accountable for decisions made, which is only right as they, more than the Secretary, have a more thorough knowledge of field conditions. Also, given the long-term (25 years) nature of the FMAs, the Secretary cannot be held liable beyond his/her tenure with the DENR, unlike the REDs who are more permanently employed and can be made accountable beyond their term in a region.

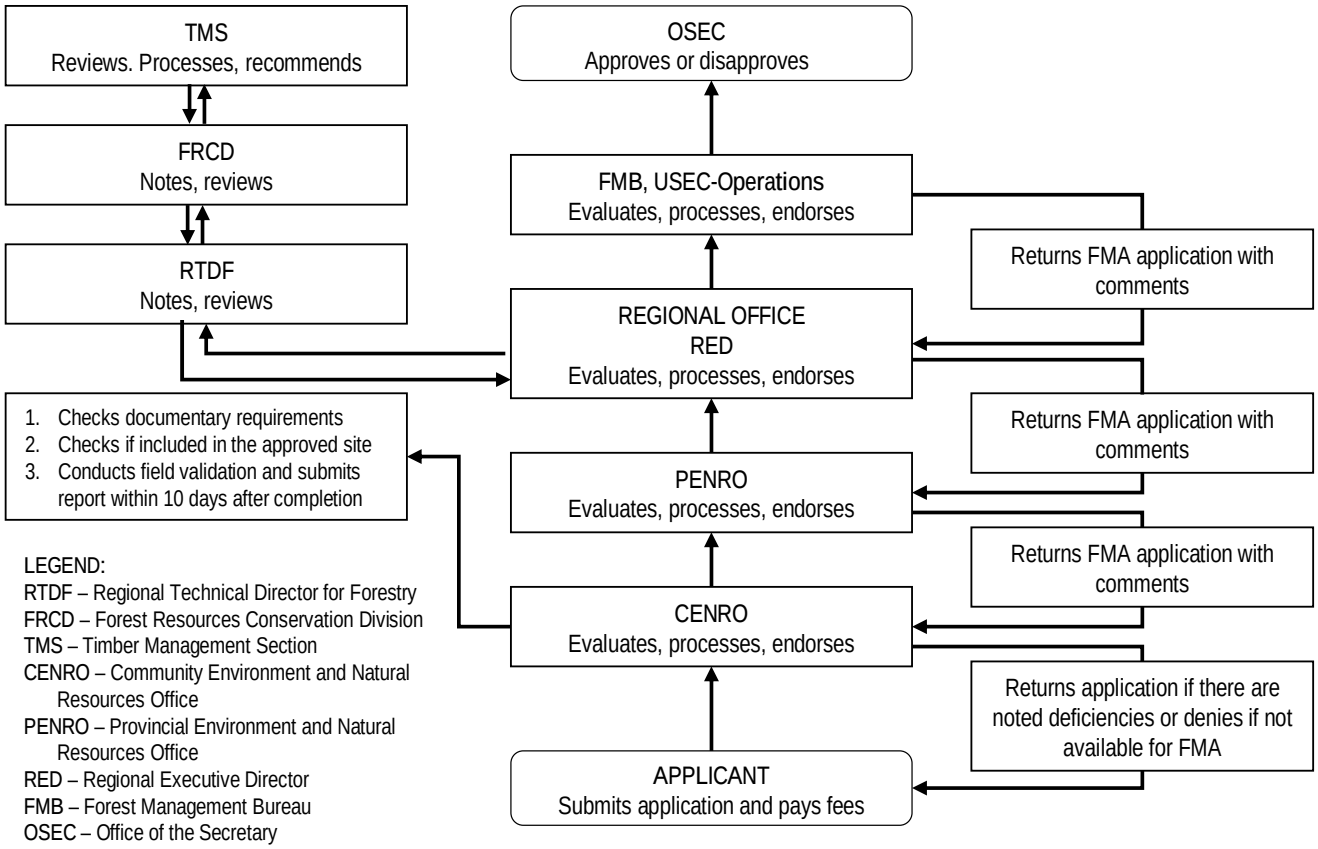


Figure 4. Existing procedure for the processing and approval of FMA applications (Source: DENR Regional Offices)

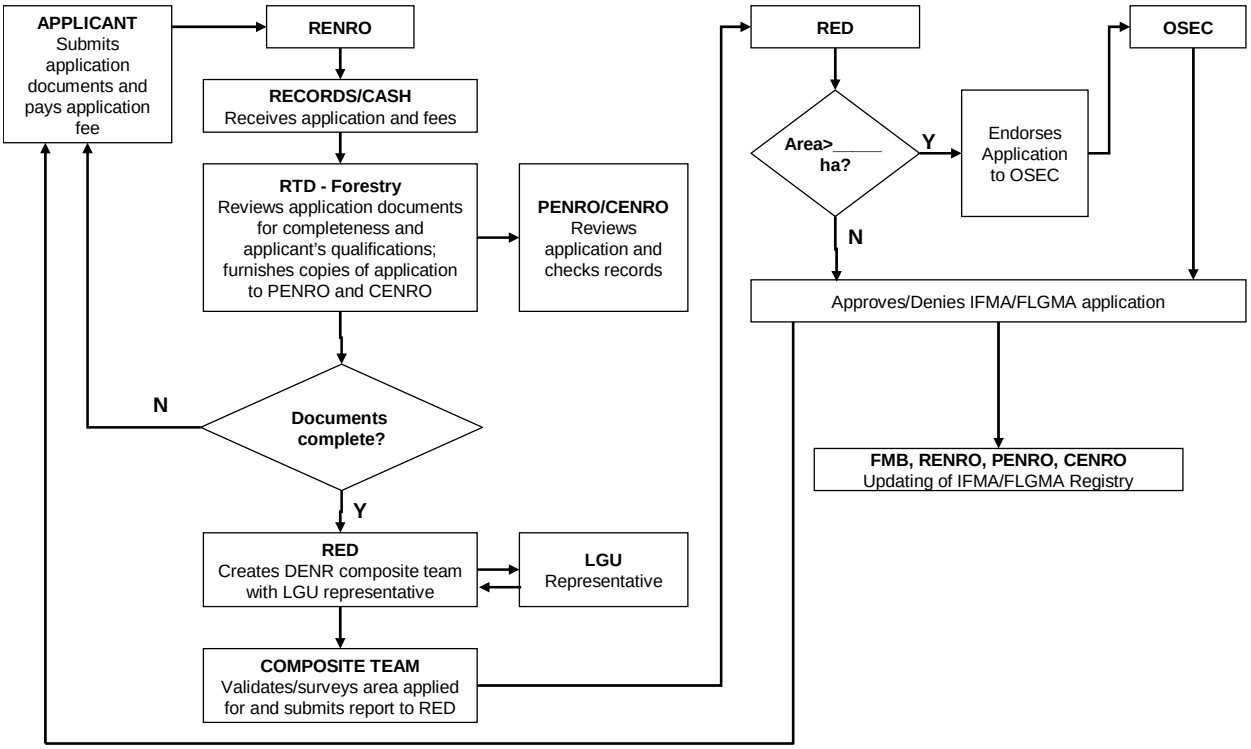


Figure 5. Proposed procedure for the processing and approval of IFMA and FLGMA

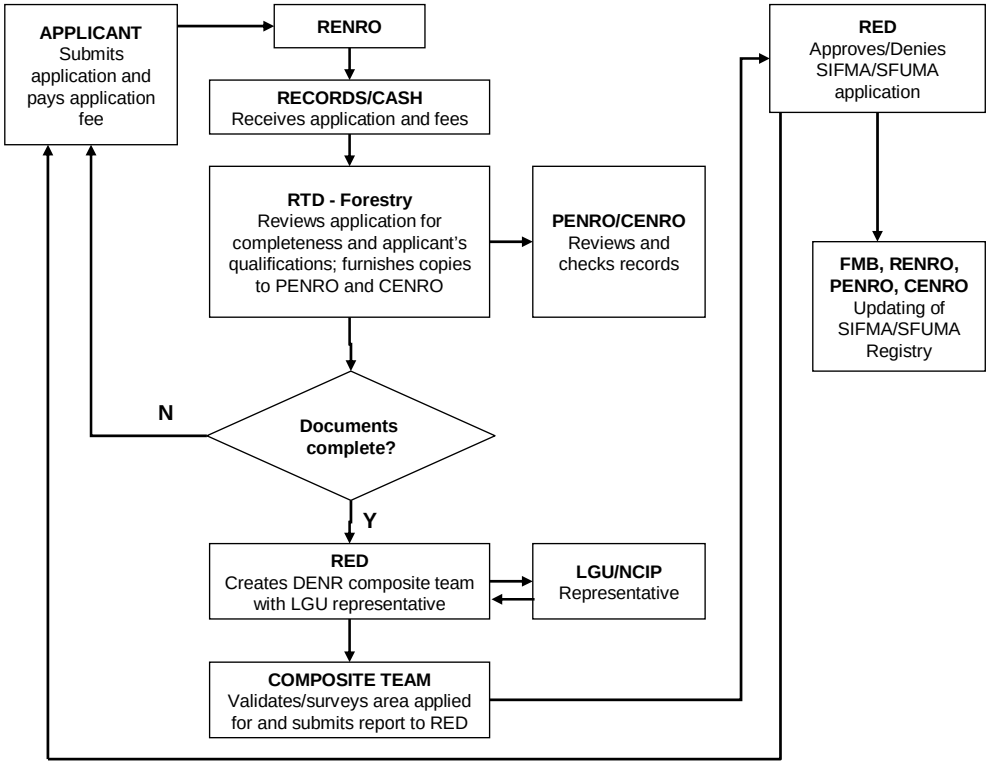


Figure 6. Proposed procedure for the processing and approval of SIFMA (for areas > 10 hectares) and SPLUMA

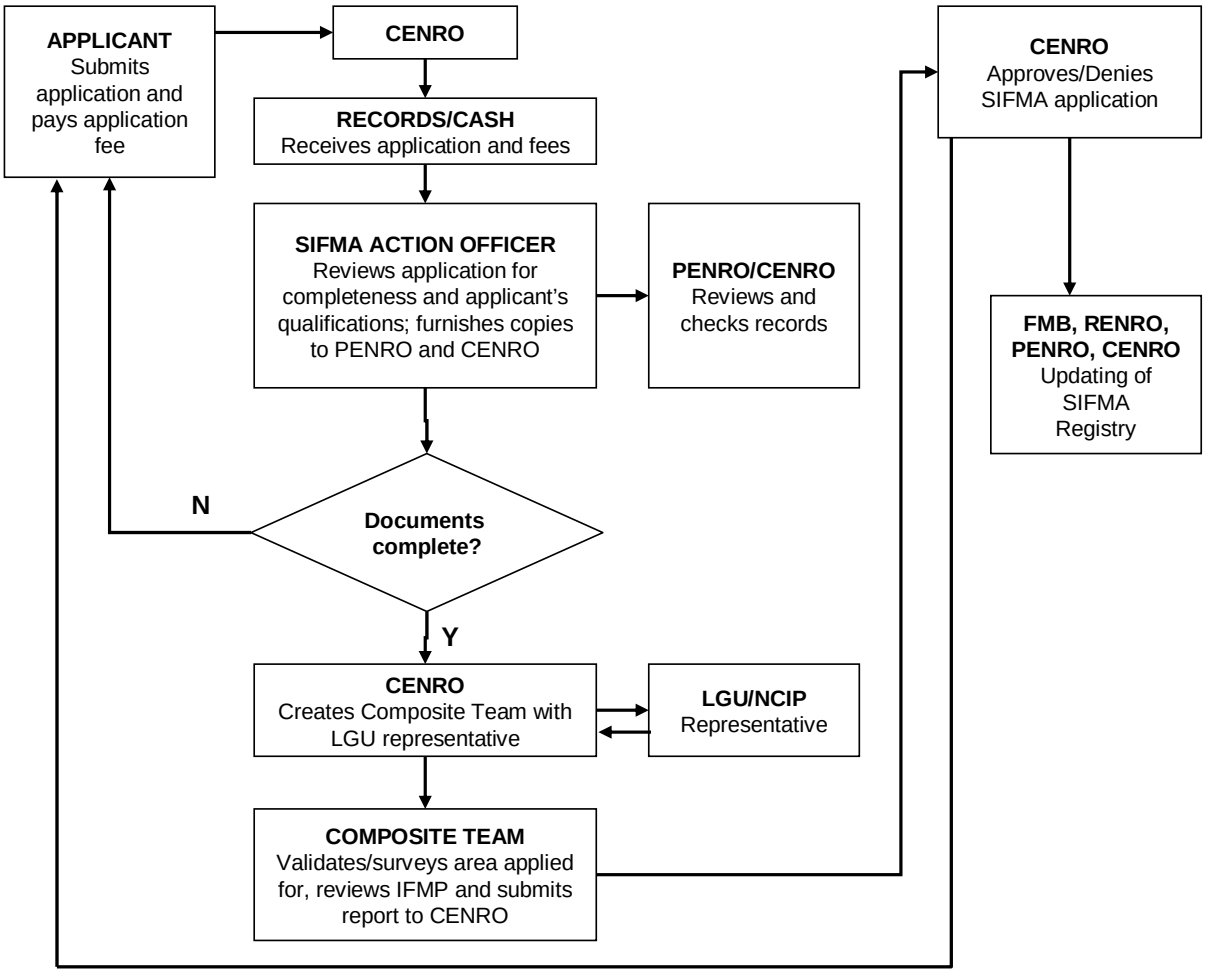


Figure 7. Proposed procedure for the processing and approval of SIFMA (for areas ≤ 10 hectares)

Recommendations:

The number of hierarchical levels of DENR offices that the FMA application has to go through for review, endorsement and approval by defining the roles of each office and doing away with repetitive functions should be lessened. Figures 5 to 7 show simplified procedures for the processing and approval of various forest management agreements. Where IFMA, FLGMA, SPLUMA and SIFMA (>10-ha areas) are concerned, applications are submitted to the RENRO so the first-come-first-served policy for applicants is observed(monitored?). The RED then creates a composite team whose members are from the CENRO/PENRO and LGUs concerned. The composite team validates the area applied for, reviews the management plan, and endorses the application to the RED for approval or endorsement to the Secretary, The same process is followed at the CENRO where applications are submitted and approved for SIFMA on areas 10 hectares and below. Multisectoral committees at the level of the approving authority hold deliberations after which approved or disapproved applications are forwarded to the offices concerned for the updating of the registry and databases.

In addition, the approval and awarding of various forest management agreements should be decentralized by defining maximum area limits for approval at the CENRO, RENRO and OSEC

levels, and by establishing accountability mechanisms. The CENROs, REDs and the Secretary have to be made accountable for the various forest management agreements awarded. Making the entire process of approving/issuing these agreements more transparent and participatory through the active involvement of various sectors (through multisectoral deliberations committees) will hopefully address the accountability issues pertaining to approving/issuing officials.

D. Issues/Problems Relating to the Responsibilities of the DENR

1. *The instability of policies due to frequent changes in the DENR administration and politically influenced amendments to existing policies.*

One of the issues raised by various forest management agreement holders was the instability of policies that often wreaked havoc on their plans and activities, particularly in the harvest of their forest products. To illustrate, as different Secretaries issued four DAOs on IFMA (DAO 91-42, 93-60, 97-04, and 99-53), inevitably, the amendments/repeals were released 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 actually experienced the opposite. That is, with each new DAO, IFMA holders were usually asked to submit new requirements in line with the new provisions. Likewise, policy amendments were made for FLGMA after ranchers complained to President Arroyo about the high government share, leading her to make pronouncements to lower this from P350/ha to P40/ha. Consequently, market-based studies done previously to determine the fair government share were swept aside by the authorities in favor of politically influenced decisions.

The instability of government policies through frequent changes has had major impacts on the activities and investment of many forest management agreement holders. Among the policy changes that have affected investors are the logging ban in certain regions, a moratorium on the issuance of related permits, allowable cut limitations, and other restrictions. Most of these changes were usually brought about by complaints from influential sectors. Moreover, the DENR has on occasion been forced to react and instigate policy changes without proper consultations with concerned sectors, particularly the agreement holders and permittees. To this day, most changes are arbitrarily made so that the policymaking process becomes very unstable. It is neither investor-friendly nor consistent with other policies.

2. *The inadequate monitoring by DENR of the FMA holders' implementation of ECC conditionalities and their compliance with other laws, rules and regulations*

The implementation of ECC conditionalities has been given little emphasis ever since the Environmental Impact Assessment (EIA) Law was implemented. Many forest management agreement holders do not have any problem with this as the DENR does only a little monitoring to begin with. 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 with the processing of large numbers of applications for IEE/ECC/CNC from various sectors, not just forestry, leaving them with less time for monitoring activities.

Nonetheless, the need to closely monitor environmental protection initiatives is crucial for sustainable forestry to be achieved. Otherwise, a speedier destruction of the forests in the near future may take place, particularly if government continues to allow logging in natural forests and the conversion of inadequately stocked forests into plantations. Unless mitigating/enhancing measures are strictly implemented and their application monitored in various forest areas, the Philippines' natural forests may soon be a thing of the past.

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

Recommendations:

The institutionalization of forestry policies through the passage of the Sustainable Forest Management Bill in Congress or the Executive Order to lessen the room for politically influenced policy changes should be pushed. Mechanisms for consultations with concerned sectors and the proper study of existing policies should be established before new policies or specific changes are made. Statements regarding a minimum period of implementation should be included in major DAOs before they are replaced.

The inadequacy of resources can be addressed by having the DENR bureaus and attached agencies share responsibilities and resources. The unequal distribution of personnel in various sectors in some regions has been pointed out. For instance, there have been instances were more personnel were assigned to the forestry sector than to the environmental sector.

Harmonizing the resources and manpower of the different sectors within the DENR and distributing existing manpower where there is greater need appears possible. These measures could be reviewed and implemented through the DENR's Human Resources Development Office. The environmental guarantee fund set aside by various forest management agreement holders as required by their ECC can be shared by the DENR Bureaus and attached agencies for the purpose of monitoring the various holders' compliance.

4.1.1 The Integrated Forest Management Agreement (IFMA)

The IFMA is a product-sharing contract entered into by and between the DENR and a qualified applicant that grants the latter the right to develop, utilize and manage a specified area, consistent with the principle of sustainable development and in accordance with an approved Comprehensive Development and Management Plan (CDMP). Under the Agreement which is valid for twenty-five years and is renewable for another twenty-five years, both parties share in the produce. While the minimum coverage area of an IFMA is 500 hectares, an additional area not to exceed to 40,000 ha is allowed provided that the holder complies satisfactorily with the terms of the agreement.

Aside from the common issues/problems and recommendations discussed in the preceding subsections, following are the specific issues/problems concerning IFMA that must be addressed, as well as related recommendations:

1. Difficulty in delineating degraded residual natural forests using the basal area criterion. This difficulty sometimes leads to the misclassification of areas that have 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. There have been cases, however, 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. They are able to do this because of the difficulties inherent to using the basal area criterion for determining degraded residual natural forests as provided for in DAO 99-53.

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 a degraded residual natural forest based on the old definition of ISLO areas. The method using the 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 the country's natural production forests even as erring public officials and unscrupulous IFMA holders incur short-term gains.

Recommendation: There is a proposal to redefine degraded residual natural forests based on the ISLO definition that has since been been modified. Per the new definition, the term "degraded residual natural forests" refers "*to forest lands 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."Moreover, the DENR has to establish and enforce a strict system of checks and balances to police its ranks and rid it of unscrupulous personnel. The experience of involving multisectoral forest protection task forces in some regions may be used as models in establishing a system of checks and balances for the identification, validation, mapping, resource inventory and approval of the open access areas potential for IFMA purposes.

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

While feasibility studies or business plans form part of the documentary requirements of some forestry programs, the IFMA policy does not impose the same requirement. Rather, an indicative plan of how the applicant will develop and manage the IFMA is made the basis for deliberations on whether to award the IFMA or not.

Recommendation: Make an indicative plan an additional requirement for IFMA applicants in order to determine their technical capability in developing the area, as well as the feasibility of the plan.

3. The insufficient capability of the DENR to crosscheck the documents submitted by the applicants

Section 10.1 of DAO 99-53 requires corporate or cooperative applicants to submit the following: a certificate of registration, a list of incorporators, stockholders and officers, and a copy of the entity's 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: 40,000 hectares. Clearly, the DENR is liable for having issued such instruments to those holders mainly because of negligence in counterchecking the application documents submitted. The required By-Laws should show that forestry development is one the objectives of the firm. However, the applicant through a certified amendment of the By-Laws can easily get around this requirement

Recommendation: A system of proper crosschecking of corporate registration requirements should be developed and implemented. There is urgent need to strengthen the DENR's capability to crosscheck application documents through the re-training of its action officers once the system is in place.

4. Lengthy processing time and redundant requirements for CDMP and ECC; delayed approval of IOPs due to the delayed issuance of the ECC

IFMA holders frequently complained of the long delays in the processing and approval of the CDMP, a problem that stems from the too many levels in the DENR hierarchy through which the CDMP must pass before it reaches the OSEC for approval.

Another problem deals with the difficulty in obtaining the ECC, particularly because of the long period it takes for the IEE or EIS to be reviewed and because of the high cost of employing IEE/EIS preparers. The ECC is prerequisite to the approval of the IOP. Note that the problems or difficulties in obtaining the ECC were 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 positive changes to be felt.

The problem of redundant requirements set by both the CDMP and ECC is also commonly experienced by many agreement holders and permittees. The DENR is presently discussing the possibility of incorporating the IEE requirements with the long-term comprehensive development and management plans since the two plans share considerable information and several requirements. The incorporation of requirements is is expected to remove redundant requirements, particularly consultations with dependent communities and the LGU's endorsement of the project.

Recommendation: Integrate ECC requirements with CDMP to simplify the procedures for evaluation and approval of CDMP/IOP and to eliminate redundant requirements common to both CDMP and ECC and reduce overall processing time. There may also be a need to decentralize the approval of CDMP for IFMAs that are to be issued at the RED level.

5. The lack of clarity of deliberation procedures for CDMP to certain groups

Existing deliberation procedures vary across regions. While some are participated in by representatives from other sectors, there are deliberations confined within the DENR. There are also cases of arbitrary decision-making.

Recommendation: Establish guidelines for the deliberation and approval of the CDMP based on its technical, financial, management, and environmental soundness. Establish timeframes to avoid delays. Deliberation procedures have to be disseminated to all concerned for purposes of ensuring transparency, accountability and participatory decision making in the process. To address cases of arbitrary decision-making multisectoral participation of concerned sectors such as the EMB, LGUs, POs, other agencies, NGOs, etc. may be called for.

6. Lengthy processing time and redundant requirements for securing other permits

A common complaint has to do with there being too many requirements for harvesting and utilization permits. Further, processing time is too long. There is a clamor to integrate all these requirements and permits, shorten processing time, reduce costs on the part of the holders, and reduce or remove opportunities for graft and corruption among DENR action officers and field personnel.

Recommendation: Incorporate the plans for harvesting, processing, utilization, and transport in CDMP and IOP to facilitate the issuance of related permits.

7. The difficulty IFMA holders experience in procuring aerial photos/satellite imageries every five years (for those with natural forests and areas of more than 5,000 ha)

Many IFMA holders have problems with the procurement and submission of aerial photos/satellite imageries and interpretation maps within one year and their updated versions every five years thereafter. These are required of IFMA holders with areas more than 5,000 ha and existing natural forests.

Some DENR personnel also admitted the difficulty in enforcing this requirement as many holders have a difficult time obtaining the aerial photos/satellite imageries within a year, more so every five years. It was suggested that IFMA holders with contiguous areas could share in the cost of obtaining the aerial photos/satellite imageries if these are really necessary. The possibility of scrapping this requirement was also raised.

Recommendation: Study alternative options for determining/monitoring vegetative cover or land uses in IFMA areas. One such option is to scrap the requirement that holders provide the aerial photos/satellite imageries and let the DENR undertake such activity as a technical assistance service through the NAMRIA. Another option 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.

8. How several IFMA holders prioritize cutting in residual forests as a source of cash instead of developing the area prior to harvesting for cash; the need for stiffer sanctions against holders abandoning the area after harvesting

The IFMA policy (Section 14.1) allows the 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 privilege by including in their CDMP the harvesting of production residual forests at the earliest possible time. A number of IFMA holders reportedly abandon their areas after harvesting the production forests without establishing plantations.

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

Recommendation: Additional statements have to be included in the policy with regard to when the holder can harvest in production residual natural forests. If cutting in natural forests is to be 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 has not merely entered the agreement as a speculator with the goal of harvesting the production forest for short-term gains. Stiffer penalties for erring holders are needed, among which may be requiring them to pay the government for the volume harvested in the RNF within the IFMA area.

9. The lack of clarity of the IFMA cancellation process

The existing policy on IFMA cancellations is mostly based on old policies applicable to lease agreements, licenses or permits even if by definition, the IFMA is clearly a production sharing contract between the DENR and the agreement holder, and as such, should be treated differently from leases, licenses or permits where the DENR is the lessor and the other party is the lessee. The IFMA policy specifies various grounds for the cancellation of the IFMA but it does not specify how the cancellation of the contract is to be done.

Recommendation: Procedural mechanisms on IFMA cancellations have to be developed and established based on legalprocedures (i.e., due process and arbitration) for the cancellation of contracts. DENR action officers will also have to be trained on the suspension and cancellation procedures. The procedural mechanisms should have the following features:

a) The observance of due process wherein both sides—government and the IFMA holder—are given adequate opportunity to present evidence in support of their respective claims;
b) An independent body to verify and/or investigate the claims and counterclaims of the contending parties;
c) Transparency in the conduct of the various activities from the start to the end of the investigation;
d) The imposition of proper accountability on the guilty parties, either in their personal or official capacities; and
e) Use of an arbitration system as provided for by the Philippine Arbitration Law.

It is also suggested that the procedural system follow these basic steps:

a) Filing of a sworn complaint by any concerned party or of an official report by the DENR field offices, LGUs, OGAs, and CSOs;
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 case where there is a Motion for Reconsideration, the Arbitration Award shall be final and executory.

10. The lack of clarity in existing IFMA policies with regard to the requirements for the renewal of an IFMA

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."* The preceding is the only statement on the renewal of IFMAs in existing policies.

Many IFMA holders have ventilated their concerns regarding the renewal of existing IFMAs in light of recent policies. They wonder if they will be required to secure the LGU's endorsement and the NCIP's consent. Related issues raised included the IFMA holders' difficulty in securing both LGU endorsement and NCIP consent due either to political differences and interference or to long-time conflicts with LGUs. The holders also questioned the need for the NCIP's consent, especially for those IPs claiming portions of the IFMA even if they came to the area years after the holder had been in it.

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

Recommendation: There is a need for policy statements regarding additional requirements for The renewal of the IFMA, apart from compliance with existing conditions, laws, rules and regulations at the time the IFMA was issued. There has to be a clear basis for determining which agency should prevail in cases where there are conflicting decisions over the renewal. The DAO should have adequate provisions for protecting the investments of IFMA holders with good performance records.

11. The lack of clarity of procedures for negotiated profit-sharing between the government and IFMA holders.

DENR action officers admitted that there are no clear mechanisms on paper for the negotiation of profit sharing between government and IFMA holders. An informal survey in various regions revealed different methods of computing profit shares. Profit shares wee mostly a percentage of net sales, but neither a fixed nor a standard percentage rate was set. Although an FMB study showed that the five percent of gross sales option required the least data and gained for government a reasonable profit, the methodology has not yet been widely disseminated.

Another issue raised was on what to do with those IFMAs issued prior to the existing DAO where the government's share merely came from forest charges on residual forest products and from rentals on the use of the forest land. At this point it is not clear whether older IFMAs should continue to pay rentals as stipulated in their agreement, or shift to the existing policy of negotiated profit-sharing with government.

Recommendation: Disseminate the procedures for determining government share based on FMB's recommended option. Train DENR action officers on the how-tos. The DENR should make clear policies regarding the shift from rentals to negotiated profit sharing by older IFMA holders.

4.1.2 The Socialized Industrial Forest Management Agreement (SIFMA)

The SIFMA is an agreement entered into by and between a qualified applicant and the DENR whereby the latter grants the former the right to develop, utilize and manage a small tract of forest land consistent with the principle of sustainable development. Like the IFMA, the SIFMA is valid for twenty-five years and may be renewed for another twenty-five years. Security of tenure will enable the holders to fully benefit from the use of the land, primarily through the crops they themselves planted and from the ameliorations from a restored and well-protected forest area (DAO 96-24).

The area coverage of a SIFMA ranges from one to ten hectares for individuals or single-family units, and from over ten hectares but not more than five hundred (500) hectares for associations/ cooperatives and corporations. Although the DENR wants more individuals and families to participate and be benefited by the program, this effort is hindered by many factors/problems. It was also determined that these problems are common to other forest management agreements as discussed in the earlier subsections. Among the issues/problems identified, the following are the critical ones that must be addressed:

- Overlapping areas/conflicting claims on identified areas with LGUs, etc.;
- Difficulty in securing LGU endorsement, thereby causing delays in the processing of applications;
- High application fee relative to other tenurial instruments like the IFMA;
- A sketch map's being the requirement rather than an indicative Forest Management Plan for the area and
- There being too many levels of authority involved in the processing of the SIFMA application at the DENR, in effect causing delays and raising transaction costs on the part of the applicants.

4.1.3 The Special Land Use Management Agreement (SPLUMA)

The term "Special Land Use" covers all forms of legal uses of public forest lands. Pursuant to the provisions of Section 79 (b) and 1817 of the Revised Administrative Code, the granting of permits/leases is allowed over forest lands or vacant public lands not declared agricultural lands for special uses. Hence, a permit or a lease can be awarded to a qualified applicant, in effect giving him/her the right to develop or use a certain portion of forest land 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 a specified return fee, any public forest lands for a specific use/purpose. The agreement is valid for twenty-five years and can be renewed for another 25 years. On the other hand, a Special Land Use Permit (SLUP) is given to an applicant when no improvement is introduced to the area. The validity of the SLUP is one year, renewable for another year. The SLUP can be converted into a lease agreement provided that a substantial improvement or development is introduced to the area and no violations of the terms and conditions of the permit are committed by the permittee.

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

The following are the specific issues/problems and recommendations concerning SPLUMA:

1. The existing provision on allowable maximum area under each special use permit/lease's being mostly based on the very old regulations contained in FAO No. 8-3, Series of 1941

The existing provision on the 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 3). Since 1941 up to the present, more kinds of special land uses have been added to the list. Given the emergence of new kinds of special land uses and the need to revise FAO No. 8-3, Series of 1941, 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, among them the maximized use of the area and the demand for the area.

The monitoring and evaluation activities of the DENR in the different special land use areas revealed that most of these areas were not fully utilized/developed. On the other hand, there has been an increase in the number of interested parties who want to venture into special land use areas, especially in foreshore areas. For more people to benefit and 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 1987Philippine Constitution, EO No. 192 of 1987, EO No. 278 of 1987, and PD 705 as amended.

Recommendation: Adopt 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 4.

2. The application/non-application of competitive bidding as provided for in the proposed DAO for SPLUMA to all kinds of special land uses

According to the existing policy, SPLUP/MAs should be granted/awarded to the earliest qualified applicant. However, per the proposed DAO for Special Land Use, areas suitable for SPLUMA shall be awarded through competitive bidding except for the following: areas applied for road right-of-way, transmission right-of-way and other rights of way; communication station sites and other similar uses; and dam or water reservoir sites. After complying with all the requirements and after having declared the bid winner, an applicant shall be awarded with a SPLUMA only.

During the field interviews and regional consultations conducted by the FDC, it was suggested that areas available for SFUP/MA could be granted to qualified applicants either through competitive bidding or first-come-first-served basis, depending on the demand for these areas. In cases where there were many interested applicants, the most equitable disposition of the area would be through competitive bidding, as in the case of foreshore areas. The disposition of special use areas through competitive bidding, after all, is one way of helping the government generate higher revenues from these areas.

On the other hand, applications to other special land use areas where there are few takers may be served on a first-come-first-served basis. FMBs have noted how some areas suitable for special land uses have no takers.

Recommendation: Apply competitive bidding to foreshore areas suitable to SPLUP/MA such as bathing establishments, drydock site/shipbuilding/shipbreaking sites, nipa plantations (>3 ha), hotel sites, and other lawful purposes. Priority for nipa plantation areas less than three hectares will be given to existing occupants and growers in these areas. This move will safeguard the interests of the low-income nipa plantation growers. The competitive bidding process is detailed in Section 9 of the proposed DAO for SPLUMA.

3. The regulation requiring a married female applicant to get the written consent of the husband

The regulation stipulating that a married woman applicant should get the written consent of her husband no longer holds since the 1987 Philippine Constitution provides that a married woman is allowed to acquire properties even without the husband's consent.

Recommendation: The written consent of the husband should no longer form part of the requirements of a married woman's application.

Table 3. Kinds of existing SPLUMA and their allowable maximum areas

Kind	Maximum Area (in ha)
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 Corporations) 500 ha per province (for individuals)
School site	5
Other special uses	24
Other lawful purposes	6

Table 4. Kinds of proposed SPLUMA and their allowable maximum areas

Kind	Maximum Area (in ha)
Bathing establishment	24
Bodega/Warehouse site	5
Camp site	5
Communication station site	3
Drydock site/shipbuilding/Shipbreaking 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 Office (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 the joint recommendation of RED and RD-MGB concerned

Kind	Maximum Area (in ha)
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 the RED and agency concerned
School site	5
Water reservoir/ Impounding dam	Subject to the recommendation of the RED and agency concerned
Other lawful purposes (as determined and recommended by the FMB Director and approved by the Secretary)	Subject to the recommendation of the RED concerned

4. Non-interest of permittees to convert their permits into leases

Out of the hundreds of SFUPs throughout the country, only 22 were converted to SFUMA. According to some of the permittees/leases and DENR personnel interviewed, most SFUP holders are not interested in applying for SFUMA even if the latter offers a longer and secured tenure. Per the existing policy an SFUP holder may renew his/her permit every year or convert this to a lease agreement provided that a substantial improvement or development has been introduced to the area concerned and no terms and conditions in the contract have 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 durations only.** Examples of these are bodega/warehouse sites, campsites, fish drying sites, among others. Therefore, an application for SFUP is advisable.

b) **Improvements are put up in the area within one to three years**. Under the existing appraisal/reappraisal system, special use areas are re-appraised every five years from the date of approval of the SPLUP/MA. Also, the annual rental from the second up to the fourth year is the same as that of the first year. Permittees who invest on improvements during the first four years are not likely to be interested in applying for lease agreements as these are accompanied by high rentals because the area will have to be reappraised once a conversion to a lease agreement is made. The new rental rate under a lease agreement will be based on the reappraisal of the land and its improvements, with the rental not being lower than three percent of the appraisal or reappraisal value of the land and one percent of the improvements. So most have decided to delay the conversion of their permits to leases by five years.

c) **Processing of lease agree**

se (g)Tj10.02 0 0 10.02.16377.438 108.3975

Recommendation: Come up with appropriate procedures on the conversion of the SPLUP to the SPLUMA.

5. The proliferation of illegal structures and business operations in the foreshore areas

In the recent two-day Assessment of Foreshore and Shoreland Management in Central Visayas held at Panglao, Bohol, one of the issues raised was the proliferation of squatters, illegal structures and operations/businesses in the foreshore areas for many years now. The present problem of the DENR is how to demolish these structures or how to encourage the illegal operators to secure permits to legalize their operations. Though some have business permits from the LGUs, they still need to apply for special land use permits/leases because they are operating within forest lands. The LGUs concerned may be ignorant of forest regulations on the use of foreshore areas, or may not actually care about these regulations for as long as the business entities have secured permits from them. On the other hand, the enforcement of policies and contracts/permits by the DENR through the 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 a 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 1941has not yet been amended, therefore, it continues to take effect.

Recommendation: Following are the recommendations on how to deal with the proliferation of squatters, illegal structures and operations/businesses in the foreshore areas.

a) The LGUs should be properly informed on the existing forest regulations so they could help the DENR in enforcing its policies regarding the execution of contracts/permits.
b) The LGUs should encourage people interested to operate in special land use areas to apply for SLUP/MA.
c) Come up with a 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.

6. The absence of a standard/uniform policy on the appraisal and valuation of foreshore lands

The awarding of leases/permits for foreshore areas is done by the two sectors of the DENR: the Forestry and the Lands sectors. Presently, there is no existing policy or legal basis for the appraisal and valuation of foreshore areas. If foreshore areas are adjacent to A & D (what does this stand for?) lands, the awarding of the lease/permit and the appraisal/reappraisal is undertaken by the Bureau of Lands. Meanwhile, the Forestry Sector of the DENR is responsible for the same where areas adjacent to forest lands are concerned. Interviews with some DENR staff revealed that while this arrangement started out as an unwritten agreement between the Directors of the two sectors in the early 60’s, it holds to the present. For this reason, there is no unified appraisal/valuation system implemented on the foreshore areas.

PD 705 and other DAOs have 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 is to be based on the result of the appraisal or reappraisal conducted prior to the renewal of any tenurial instrument. It shall not be less than three percent of the appraisal or reappraisal value of the land and one percent of improvements. A reappraisal is to be made five years after the first appraisal, and every five 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 should therefore be implemented.

Recommendations: A policy on the unified appraisal and valuation of foreshore lands should be formulated. The appraisal and reappraisal system as presented in the proposed DAO for SPLUM should be adopted.

4.1.4 The Forest land Grazing Management Agreement (FLGMA)

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. Valid for twenty-five years, it is renewable for another twenty-five years. The area that may be covered by FLGMA shall not be less than 50 hectares but must not exceed 500 hectares for an individual holder. It should not be more than 2,000 hectares for an association, cooperative or corporation (DAO 99-36).

The following are the specific issues/problems and recommendations concerning FLGMA:

1. Too high inspection/survey fee and bond deposit.

Of great concern to interviewed holders were the exorbitant fees, specifically the inspection/survey fee of ₱300.00/ha or a fraction thereof and the ₱500.00/ha bond deposit. New applicants and existing FLGA holders applying for a renewal or the FLGA's conversion to FLGMA and want to amend their areas are required to pay the inspection/survey fee. The said fee covers the cost of a perimeter survey, a boundary delineation, a bio-physical assessment, a topography classification as well as the gathering of socio-economic information and data concerning production, management and other related information.

Money deposited by the applicants to the CENR offices is deposited in a government bank and withdrawn to defray the cost of the survey. Interviewed holders, however, revealed that on top of the ₱300.00/ha fee, they also spend for the food, transportation and other expenses incurred in the conduct of the said activity

Recommendation: Instead of depositing to the CENRO the amount of P300.00/ha. or a fraction thereof, it is proposed that the applicant shoulders/pays for the actual cost (per diem and transportation of the assessment team; equipment rental and the purchase of supplies/materials) incurred in the course of the area inspection and survey. If adopted, 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 field personnel. A workable mechanism for implementing this payment scheme should be acceptable to both the DENR and FLGMA applicants.

It is also proposed that the bond deposit be reduced to ₱75.00/ha, of which a minimum of 25 percent should be in cash, while the remainder may be in the form of a surety bond. This proposed rate reflects an 85-percent reduction from the original rate, in effect reducing transaction costs.

2. A reduction in government's share from the supposed ₱350.00/ha to ₱40.00/ha from 2002 onwards

Since year 2000 when DAO 99-36 took effect, most ranchers nationwide postponed paying their annual user's fee/government share until such time that their grazing areas had been assessed, 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 a lack of financial and manpower resources.

The government, through no less than President Arroyo, gave in to the clamor of the ranchers for reduced fees. From P200.00/ha in 2000; P275.00/ha in 2001 and the supposed rate of P350/ha in 2002, the fees were reduced to just P40.00/ha effective 2002 onwards, in effect reducing government share's by almost 90 percent.

Recommendation: The reduction in the payment of fees necessitates the amendment of certain provisions in DAO 99-36 as amended by DAO 2000-23 to address the substantial loss of revenue for government. It is proposed that the incentive scheme involving the reduction of government's share by up to 80 percent (Section 27, DAO 99-36 as amended by Section 4 of DAO 2000-23) be removed. Implementing this provision will further reduce the user's fee to a mere P8.00/ha, way below the old rate of P15.00/ha for areas with type I climate and P20.00/ha for areas with types II, III and IV climates.

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 sub-classes based on agro-climatic conditions and productivity factors was required in the past when the bases for the computation of government's share/user's fee were total revenue and total cost/ha. Now that the rate of the user's fee is fixed for all grazing lands at P40.00/ha, there is no longer a need to classify the lands. Moreove, this classification process is not only very tedious but also time-consuming for the assessing team. Furthermore, the P40.00/ha fee should be based on the total aggregate leased area, instead of on the effective grazing area (EGA). With these amendments in place, ranchers do not have any reason default on their annual dues, even if their areas have not been assessed.

3. Too many unnecessary and redundant requirements

An individual applying for an FLGMA must comply with sixteen to nineteen requirements; corporations have to fulfill 22 to 23 requirements. Some of these requirements are also requirements in the issuance of an ECC, while some are components of the 25-Year Forest Land Grazing Management Plan (FLGMP).

Recommendation: It is proposed that certification requireents specifically for corporations/ associations be reduced to a minimum. Only those documents which are really necessary to show that the organization is legitimate and qualified to enter into an agreement with the DENR, such as company By-Laws/Constitutions and Articles of Incorporation, must be required.

Requirements that are redundant (having been also required prior for the issuance of an ECC) and a component of the 25-Year FLGMP are proposed removed, e.g., a certification from the Barangay Captain and the Ranger Management Officer as to the absence of illegal occupants, etc.

Application requirements should also be reduced to a minimum so as to shorten processing time, reduce transaction cost and as an incentive to applicants.

4. There being too many levels of the DENR hierarchy in which FLGMA applications are processed and reviewed

Initial interviews with FMB officials showed that the approximate time it took for FLGMA applications to be processed and approved was 102 days or almost 3.5 months. This figure perhaps is the ideal or the target period for the whole process inasmuch as in the conduct of field validation (Reg. 2 and 4), it was revealed that it took much longer for an FLGMA application to be processed.

From available secondary data in Region 2 and from interviews with DENR staff and FLGMA holders, the team documented the actual processing procedure and time of an application. One applicant has yet to receive his FLGMA more than three years after he applied for renewal in January 2001.

Recommendation: It is proposed that only applications with complete requirements be accepted and processed by the concerned field office. A procedural document detailing the process with the corresponding timeframe should be prepared and posted in DENR field offices so that both the applicant and the concerned DENR staff will be guided accordingly. It is further proposed that all FLGMA applications, regardless of size, be submitted and processed at the concerned regional office.

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

4.1.5 The Private Forest Development Agreement (PFDA)

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. As defined by Department Administrative Orders (DAO) 92-16, the PFDA is an agreement entered into by and between the DENR and a private landowner or his duly authorized representative for the establishment and development of a forest plantation within his private property. It encourages the participation of private landowners in the reforestation program of the government on A&D lands. The validity of a PFDA is twenty-five years; it is renewable for another twenty-five years thereafter.

Many private forest investors welcomed the PFDA in 1992 because it was the only policy that allowed them to harvest naturally grown timber crops that included premium species such as dipterocarps. However, the effectivity of the PFDA seemed to have ended in 1999 due to the passage of DENR Memorandum Order No. 12, which indefinitely suspended the issuance of cutting permits for naturally growing timber species in PFDA areas. This policy technically suspended the PFDA such that there were no PFDA applications after year 2000. The policy, after all, clearly stated that the landowners can only develop the land but not harvest the naturally grown timber products, particularly the premium timber species. Thus far, there has been no DENR policy updating or revising the PFDA policy.

As it is focused on a developmental activity conducted on private lands, most of the issues/ problems the Agreement is subject to are not common to other forest management agreements, which focus on activities conducted on public lands. The specific issues/problems concerning PFDA that need to be addressed, and relevant recommendations are discussed below.

1. Too many application requirements

There are five basic requirements and twelve other requirements to be submitted after the basic requirements are complied and verified/evaluated by CENRO, which receives PFDA applications.

The numerous and myriad requirements, several of which are difficult to satisfy, will definitely discourage interested private landowners to engage in forest plantation development. Since the forest developmental activity is conducted on private lands, the government must find ways and means for private landowners to invest in it.

Recommendation: Following the issuance of the deregulation policy, only a Registry of Private Forest Lands should be maintained.

2. The inclusion of the conduct of a 100-percent forest inventory among the application requirements

Conducting a 100-percent forest inventory is a very costly undertaking and it is one of the many requirements for a PFDA application. It will certainly not attract new applicants to invest in a forest plantation development.

The sampling intensity of a forest inventory should depend on the size and variability of an area, instead as this will lessen the financial burden an applicant would otherwise have to bear if the costly 100-percent forest inventory is insisted upon.

Recommendation: The sampling intensity should be determined by the owners based on the size and variability of the area.

3. Requiring PFDA applicants to secure an ECC

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

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

4. The PFDA's image: not an investor-friendly instrument

Though this instrument applies to private lands, it is nonetheless considered as "not an investor-friendly instrument" for the following reasons:

a) Financially unattractive

This instrument is attractive only to those private landowners whose areas contain natural forests. Those without forest are discouraged from investing in private forest plantations because the undertaking requires considerable capital. Moreover, an unstable market condition, what with the prices of logs and wood products fluctuating, does not make plantation development an attractive investment.

b) The instability of policies

Frequent changes in policies due to the differing political interests of DENR executives and due to the influence of interest groups (i.e., forest industry players), among such changes being the suspension or moratorium on the harvest of naturally grown trees, followed by its lifting, do not bode well for investors. Any change in policy definitely affects operations. Further, delays are costly.

Recommendations: Private forest lands should be deregulated since these are privately owned. This being so, owners have the right to manage their lands as they see fit and may harvest and utilize the resources within these lands as they please. They should not be burdened with the PFDA or related permits. A conducive climate for private forest plantation development should also be created.

5. The suspension of the issuance of cutting permits for naturally grown timber species.

The issuance of DENR MO 99-2 technically suspended the PFD agreements. Although there are now substitutes for the PFDA such as deregulation and PLTP/SPLTP, it must not be forgotten that existing holders did invest their time and effort in securing the suspended agreement.

Recommendation: All existing PFD agreements should be terminated since the harvesting of naturally grown and plantation tree products have been deregulated. The termination of all existing PFDA should be a deregulation policy applicable to private forest lands.

6. The Issuance of PFDA-Related Policies outdating the PFDA

The PFDA covers the establishment and/or sustainable management of both naturally growing and plantation timber species. However, two existing policies that are closely related can be better substitutes for the PFDA, particularly the deregulation policy and the PLTP/SPLTP. The latest promulgations on these two related policies seem to be outdating the PFDA. PLTP/SPLTP allows 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 policy allow the management and utilization of introduced or plantation timber crops in private lands.

Recommendation: A single policy on deregulation and the permitting system in private forest lands should be formulated and implemented.

4.1.6 The Utility of Recommendations for the Forest Management Agreements

Dialogues with DENR-FMB counterparts and participation in a number of meetings held by the Technical Working Group paved the way for the UPLBFI-FDC team to recommend a number of proposals in the ongoing review and revision of existing administrative orders on forest management agreements. Some of those already incorporated in proposed DAOs are the following:

- **Proposed procedures on the identification and approval of open access areas available for various tenurial instruments (Figure 3).** The recommended procedure has been adopted in the proposed DAOs for IFMA, SIFMA, SFUMA and FLGMA. However in the case of SFUMA, RED rather than CENRO will identify the areas available.

- **Inclusion of Indicative Forest Management Plan in the list of application requirements.** This requirement will be used to determine the technical capability of the applicant in developing the area, and the feasibility of the said plan. This recommendation has been incorporated with the proposed DAOs for SFUMA and SIFMA.

- **Fair, acceptable and harmonized fees for all types of forest management agreements**. In the proposed DAO for SIFMA (addendum), the application fee for SIFMA has been reduced and harmonized with that of IFMA.

- **Proposed procedures for the processing and approval of various forest management agreements (Figure 6).** This procedure has been adopted in the proposed DAOs for IFMA and SFUMA, i.e., special land uses that do not require bidding.

- **Proposed decentralization and reduction in the number of levels involved in the processing and approval of applications.** Procedures in the processing and approval of applications that have been adopted in the proposed DAOs for IFMA and SFUMA include the following: 1) The submission, processing and approval of all applications at the RENRO level; 2) the creation of a composite team to conduct field inspection/validation

and local consultations with the concerned LGU/NCIP and other stakeholders; and 3) the decentralization of the approval/issuance of agreements from the DENR Secretary level to the Regional Director.

- **Proposals for the inclusion of standard procedures for the cancellation and renewal of tenurial instruments.** These have been incorporated with the discussions on the proposed DAO for IFMA.

4.1.7 Community-Based Forest Management (CBFM)

A. Integrated Policy Analysis (Retrospective and Prospective)

Three major groups of information (based on identified gaps, issues and concerns) served as inputs in the formulation of policy recommendations. These are:

1. The need for the development of strategies that emphasize inclusiveness and better governance to facilitate the delivery of services and execute CBFM policies in an accountable fashion through collaborative institutional undertakings.

    - The need to promote the establishment of institutional linkages and to launch an intensive IEC campaign, starting early on in the preparatory activities, planning and implementation, on to the participatory monitoring and evaluation stages of the CBFM program implementation.

    - The need to establish long-term partnerships among the different stakeholders to promote transparency, accountability, the transfer of knowledge and solutions to problems that would in effect balance each and everyone's interests.

2. The streamlining of processes and the issuance of CBFM regulatory procedures and protective instruments to overcome problems, issues associated with increasing people's confidence, promoting the security of property rights and related needs.

    - Exemplified in the proposed coordinative and simplified steps and procedures for the identification and delineation of CBFM sites, the validation of CBFM participants, the processing and issuance of the CBFMA and applications for a Certificate of Stewardship (CS), the affirmation of the Community Resource Management Framework (CRMF) and the Five-Year Work Plan.

    - The proposed actions/strategies require greater coordination and strong institutional foundations necessary to the performance of specific key functions and for working on long-term partnerships based on mutually agreed terms and conditions with regard to the above CBFM regulatory procedures. Functions promoting accountability, transparency, and the sharing of resources among and between program implementers should be clearly delineated.

    - The benefits derived by POs range from the clarification of their responsibilities, a reduction in application requirements and processing time, the elimination of possible political interventions in the endorsement of applications, reduced processing costs.

    - In the simplified preparation of the CRMF and the Five-Year Work Plan, the POs: (1) need not prepare a separate resource utilization plan since this had been incorporated in the preparation of the affirmed CRMF; (2) would be able to use the CRMF as Initial Environmental Examination (IEE) for the issuance of the Environmental Compliance Certificate (ECC); (3) need not hire anyone to

prepare the IEE, thereby eliminating costs on their part; (4) would be exempted from paying the ECC under DAO 98-43; and (5) would have the flexibility to adjust the CRMF based on a SWOT analysis.

- The POs will also enjoy the benefits of reduced costs and time in the preparation of the Five-Year WP instead of an AWP.

3. Specific change in governance through the PO's wider and deeper participation which will, in turn, increase the following: their representation, their voice in the decision-making process, the transfer of knowledge and/or access to information. It will also safeguard their interests against possible political intervention.

    - These major institution-building efforts at the PO's level are to be incorporated through the proposed intensive IEC campaigns in all stages of the CBFM implementation and, more importantly, through the clarity of existing steps and procedures and relevant policies pertaining to the processing and application of CBFM regulatory instruments.

    - Accompanying this change in governance is the peoples' active involvement in decision-making and policy formulation through the following: (1) the participation of the POs in CBFM workshops and meetings at various levels; (2) the issuance of the Certificate of Stewardship (CS) at the PO level: for 30 sub-contracting activities for resource land use planning, conservation, development and management and the utilization of resources in respective CBFM areas; and (4) participation in the monitoring and evaluation of CBFM implementation.

    - Under these conditions, the people are provided the opportunity to build their human and social capital necessary to accessing their rights and knowing their responsibilities for the efficient management of resources.

B. Policy Recommendations/The Drafting of the DAO on CBFM

- The analysis was communicated to the concerned policymakers at the DENR through written reports and interactive communications. These consisted of meetings, oral presentations of documented materials and participation in the drafting of the initial draft DAO No. 2003 with the Forest Management Bureau-Community Based Forest Management Division.

- The initial draft of the administrative order underwent review by the DENR technical working group (TWG) prior to its endorsement to the Department Secretary. The administrative order is now in its final form and has been submitted for signature by Secretary Elizea D. Gozun.

- Important provisions from the initial draft were translated and incorporated in the final draft for policy adoption and/or implementation.

A summary of the inputs generated from the initial draft of the administrative order served as outputs of the final draft of the administrative order. Certain portions of the proposed DAO on Strengthening the Implementation of the Community-Based Forest Management Strategy were revised by the Office of the Director, Forest Management Bureau. The revised DAO was forwarded to USEC Ignacio after which his concerns on the DAO were thoroughly deliberated upon by some members of the PTWG, FMB-CBFM Division and the FDC-CBFM team during a workshop on 1 April 2004. The omnibus guidelines on the CBFM were also worked on by the workshop participants.

4.2 FOREST RESOURCES UTILIZATION PERMITS

The five utilization permits reviewed, analyzed and simplified/harmonized consisted of the following: 1) the Rattan Cutting Contract/Permit (RCC); 2) the Private Land Timber Permit (PLTP); 3) the Wood Processing Plant Permit (WPPP); 4) the Integrated Annual Operations Plan (IAOP); and 5) the Wood Recovery Permit (WRP). These existing forest utilization laws, issuances, rules and regulations were reviewed and analyzed focusing on the application requirements, processing and approval procedures, responsibilities both of the instrument holder and the DENR, the provision of benefits and incentives, sanctions and penalties and monitoring and evaluation systems. The process of analyzing, simplifying and harmonizing these utilization permits were guided by transparency, accountability, deregulation, decentralization and participatory principles.

Various issues, concerns and recommendations were drawn out from the different permittees, sectors and DENR officials to solicit their comments on the simplification and harmonization of the different forest resources utilization permits. Key informant interviews and focus group discussions were conducted as part of field data gathering. The results of the preliminary analysis and simplification/harmonization processes were presented during regional consultations for validation purposes. All comments and recommendations gathered during the interviews, focus group discussions and regional consultations were considered in the analysis of the utilization permits.

4.2.1 The Wood Processing Plant Permit (WPPP)

The implementation of the WPPP was and continues to be a focus of attention of the FMB-DENR and the wood processing plants stakeholders. The issues involved in the WPPP implementation range from the technical issues affecting wood processing plants to the socio-politico-legal issues associated with permit issuances, tenure, monitoring and sources of raw materials. WPPP policies are considered by most permittees as extremely restrictive, confusing and without focus, bureaucratic and/or extremely regulatory.

a. Tenure Issues

The existing WPPP policies provide that the permit to establish and operate wood processing plants shall be co-terminus with the forestry tenurial instruments issued such as the CBFMA, the IFMA, the SIFMA and the TLA if the applicant is also the holder of such forestry tenurial instrument, provided that wood production from such forestry projects is the primary input to the processing plant. For applicants who are not holders of forestry tenurial instrument, the permit issued shall have a duration of three years, renewable every three years thereafter. WPP permittees do not question the duration of the first category of permit applicants. To them, the 25-year duration does not provide enough security to their investment.

On the other hand, applicants who are not holders of existing forestry tenurial instruments find the three-year period very short considering the high investment cost required. Consequently, this is a dominant constraint to investment and to the long-term development programs of the wood processing industry. The short duration of the permit greatly influences the efficiency of the industry member's operations and raises great concerns over the stability and growth of their business. They therefore consider their businesses as highly risky ventures, with the permit applicants being at the mercy of the DENR after three years of operation.

Additionally, the three-year period is considered very short relative to the investment being made. For a business to progress, it should have security of tenure commensurate to its investment. Considering that equipment and maintenance costs are very expensive, it is necessary for enough time to be provided for the investor to recoup his investment. Most of the interviewed wood processors suggested a longer period for the tenure, preferably, 10 years, to significantly reduce transaction costs associated with permit renewals and at the same time provide stability to their operations.

As a safeguard on the part of the government, it may suspend or cancel the operation of the permittee if the firm violates certain provisions of the agreement. This means that the agreement should be clear on what would constitute violations, and implies the need for regular monitoring. Regular monitoring should be be undertaken to assess the compliance of the permit holder on the provisions of the agreement. The permittees, for their part, are willing to be monitored regularly. But to promote transparency, accountability and stakeholder participation, it is suggested that the monitoring team be composed of multi-sectoral representatives. The report of the monitoring team should indicate whether a permit holder has violated provisions on the agreement stipulating the responsible processing of forest products. This would serve as the basis for suspension or the cancellation of operations depending on the gravity of the violation.

b. Further Simplification of Requirements

DAO 2003-41 has significantly reduced the application requirements for acquiring a permit to establish and operate wood processing plants. From 11 requirements under MAO 50-86, the new DAO has reduced the number to six. The removal of the location clearance, the pollution clearance, the business plan, and the feasibility study from among the application requirements is particularly appreciated. However, most of the permittees interviewed complained of the high transaction cost of securing an ECC and the Certificate of Non-Coverage (CNC). The pollution clearance and location clearance are, in fact, still part of the requirements for securing an ECC.

The ECC issuance process is a very tedious one involving a number of consultations. The applicant usually engages the services of a consultancy firm or an NGO to secure the ECC, and has to spend, in most cases, between P50,000.00 and P500,000.00 depending on the size and area of the plant. What is even more “painful” is that once the ECC is issued the DENR requires new rounds of consultations with the different stakeholders for the processing of the permit. This translate to added cost on the part of the permittees, which together with the other costs associated with the follow-ups in various offices up to the regional level would constitute roughly between P80,000.00 and P150,000.00. The permittees suggest that since the ECC has undergone extensive public consultations, this should no longer be repeated in the processing of WPP permits. Additionally, while the law requires an ECC for industries such as wood processing, there is a need to simplify the requirements and procedures for its issuance.

Securing a CNC is another issue. A number question the need to secure a CNC from the EMB in the first place, considering that this constitutes another layer of delay plus additional expenses on the part of the WPPP applicants. The delay and additional expenses could in fact be avoided by clearly specifying the types of plants that will no longer need an ECC so that they do not need to go to the EMB and would, instead, simply have to submit their application directly to the concerned CENRO. Moreover, the CENRO concerned should have clear guidelines in determining for which WPPP applications an ECC should not be required. The EMB should simply issue the list of industries or applications that need an ECC. Only from those applications not in the list will a CNC be required. Such innovations will promote transparency and reduce opportunities for corruption.

c. Policy Instability

Wood processors also complain of unstable policies which have great implications on their operations. Application requirements vary from one region to another. While MAO 50-86 and DAO 2003-41 have specific provisions on the documents required for WPPP applications, some regional offices nevertheless still impose additional requirements such as pictures of the processing plants, inspection reports, etc. While these may be necessary and easy to comply with, they nonetheless cause delays in the processing of the permit. Had such requirements been clearly stated in the policy to begin with, the applicants could have easily complied without having to go back to their offices.

The frequent suspension of utilization permits has also greatly affected the operations of wood processing plants. It creates an uncertain environment for the business sector because of the possibility that the wood processing plants could cease operations for lack of raw materials. As a result the business sector would not be able to expand operations and would hesitate to invest because accurate projections with regard to production could not be made.

d. Decentralizing WPPP Approval

Under MAO 50-86 the approval of new WPP permits is lodged in the Secretary of the DENR. Before a permit is issued under this scheme, thrity-six steps are required which implies a waiting time of between six months and two years.

DAO 2003-41, on the other hand, has delegated the authority to issue permit, install/establish and operate the WPP to the Regional Executive Directors (REDs). The issuance of a permit now requires only 24 steps so that the permittees highly appreciate this move of the DENR.

Under both policies, the processing of WPP permit applications has duplications. Both the CENRO and PENRO review the application, conduct validation and field verification, and the endorse application to the RED.

The processing of permit applications could be significantly facilitated if applications would no longer be evaluated at the PENRO level. This innovation will also significantly reduce the transaction cost associated with following up the application. The PENRO may simply be furnished a copy of the application for information purposes. If such were carried out, the CENRO will be strictly accountable for the endorsement of the application to the RED and for any misrepresentation in the validation/inspection report, the CENRO will be held liable.

A major role that the PENRO could play is to monitor the performance of WPPP holders. It should take the lead in organizing a multi-sectoral monitoring team on the performance of the permittees.

Recently, there was a move to revert the authority to issue the WPP permit to the Secretary of the DENR. While there may be strong reasons for doing this, it is highly recommended that the current policy of delegating authority to the RED should be maintained. Doing otherwise will highlight the policy uncertainties as perceived in the wood industry, not to mention the additional transaction costs involved in terms of following up the applications in Manila and the delay in the issuance of the permit. The least that could be done is to conduct consultations with permit holders and interested investors in the wood industry in the fields.

e. Lack of Participation and Transparency in WPPP Monitoring and Evaluation

Under the current regulation, the monitoring and evaluation of the WPPP is mainly undertaken by the CENRO through his Forest Officers. The involvement of other concerned sectors like the LGUs, NGOs, POs and others is not mandated in existing DENR policies. There are regions that have initiated multisectoral monitoring, but this decision depends on the initiative of the field offices. A national policy to promote multisectoral participation and transparency in the implementation of conditions indicated in the permit there needs to be implemented for the move to be institutionalized. In so doing, WPP permittees will be more cautious about their operations since they will be held accountable to the general public. At the same time, the business environment for the investors will be more conducive since this practice will promote predictability in operations. Investors will be motivated to perform consistently, observing good practices and existing policies because they will be assured that if they perform well, the multisectoral monitoring team will continue to recommend the continuance of the operation of their processing plants. They will also no longer have to worry that their permit will be suspended or cancelled, or their operations delayed, as the decision will not come from a single agency but will be the result of a multisectoral evaluation.

Recommendations

The following specific recommendations are forwarded to resuscitate the ailing wood processing industry:

1. Provide longer tenure, preferably 10 years, for applicants who are not holders of a forestry tenurial instrument. DAO 2003-41 provides a permit duration of three years only, renewable every three years. A 10-year tenure will reduce transaction costs associated with permit renewals, and provide the investor enough time to recover his investment and stabilize operations.
2. Study the possibility of further simplifying the requirements and processes involved in the issuance of the ECC. In addition, public consultations should no longer be required in the processing of the WPPP since these are also conducted in the process of securing an ECC. The Environmental Management Bureau (EMB) should likewise issue a list of wood processing plants that will no longer need an ECC so that a Certificate of Non-Coverage will no longer be required of plants already on the list.
3. Standardize the WPPP requirements and procedures at all regional levels.
4. Decentralize WPPP approval to the Regional Executive Director.
5. Institute mutlisectoral monitoring and evaluation of WPPP implementation to promote participation and transparency.

4.2.2 The Wood Recovery Permit (WRP)

The basic issue raised against the WRP is that it has become a vehicle for illegal wood cutting activities. Those interviewed alleged that this permitting system has been abused. Most of the WRP issuances are allegedly for the recovery of abandoned logs. According to them, those logs are perhaps deliberately felled and left in the area so that the perpetrator can request for a WRP after some time.

Since data on WRP issuances are not centralized, gathering basic information for the analysis of WRP issuances has proved difficult. However, key informant interviews conducted in the different offices of the DENR provide insights on the nature of abuse of WRP policies. RED Tumaliuan of DENR Region 13 reported in his paper entitled “Issues and Concerns in the Issuance and Monitoring of Permits in Natural Forest: The CARAGA Experience” that most of the WRPs in Region 13 were issued by the CENRO. Apparently, most of the requests for WRPs are for volumes five cubic meters and below, where the CENRO is authorized to issue the permit under DAO 2000-78. These observations indicate that there is a deliberate attempt to limit the volume requesting for WRP within the authority of the CENRO. This is understandable because according to interviews among the permittees, it is easier to obtain a permit from CENRO as it is accessible. Processing time is significantly shortened, and lesser costs are involved in terms of follow-ups.

The question however is “Why are there allegations of abuse in the issuance of WRPs?” As pointed out by a Memorandum of the DENR Secretary dated 7 May 2003, the issuance of the WRP has effectively served as a convenient cover or front for illegal logging activities that have considerably contributed to the further diminution of the country’s existing forest cover. An analysis of the wood recovery permit system indicates that indeed, this policy is prone to abuse because of the lack of transparency and participation of local stakeholders in the issuance of permits, and consequently, the lack of accountability on the part of the issuing authority and the permittee. These elements of transparency, participation and accountability are necessary ingredients for good governance.

a. Lack of Stakeholders Participation

Under the existing policy on the WRP, upon receipt of the applications for WRP, the CENR office concerned shall conduct a 100-percent inventory of wood materials for recovery. These wood materials will be chronologically numbered, photographed and indicated in a sketch map. The

scaling procedure is supposed to follow the regulations on scaling prescribed in DAO 87-80. Depending on the volume, the application may be approved by the CENRO, the PENRO, the RED or the DENR Secretary. As the application goes to the approving authority, comments and recommendations are made by each office through whcih the application passes.

An examination of the WRP policy indicates that the entire process of issuing the permit—from the investigation, inventory and scaling of the retrievable wood materials, down to the signing of the permit—is mainly done by the DENR. The procedure is apparently very technical but it lacks the participation of other stakeholders in key stages of the processing system. For instance, the determination of the existence of retrievable wood materials and the inventory of the same should be done jointly with other sectors such as the LGUs, NGOs, media groups, Peoples Organizations, and other interested groups. Their participation is crucial in determining whether, indeed, the materials indicated in the permit applied for are genuinely covered by the WRP policy in terms of volume and the kind of retrievable wood materials. By involving other sectors in the key stages of permit processing, it will minimize if not totally eliminate the practice of using WRP for logs that are actually illegally cut.

b. Lack of Transparency

The limited or lack of participation of other key stakeholders in the issuance of the WRP implies that the other sectors in the locality have no way of knowing the permit applicants, becoming familiar with the permits granted and of finding out whether the materials applied for the issuance of permits are genuinely retrievable wood materials. Clearly, there is no transparency in the manner by which WRPs are issued. In fact, allegations of abuse in the issuance of WRPs reflect the absence of transparency.

The lack of participation of other sectors in the determination of whether the materials applied for are genuinely recoverable materials has greatly reinforced non-transparency in the issuance of the permit. While the current policy allows the involvement of representatives of local government units and Multi-Sectoral Forest Protection Committee (MFPC) in the post recovery validation/inspection, this practice is rarely implemented, according to key informants. But this is to be expected. Since LGU and MFPC representatives are never involved in the processing of the permit to begin with, there is no way for them to demand for the monitoring and validation of the recovery operation as they are not aware of who were issued the permits. The end result is that post recovery validation and monitoring are never implemented.

c. Lack of Accountability

Because of the lack of participation in permit processing and due to the absence of a transparency mechanism, the issuing DENR officials and the permittee are not held accountable to the general public. As only the DENR officials are involved in the issuance and processing of permits, the permittees are accountable only to them. Permittees do not bother to consider the interest of the other sectors because these sectors are not involved in the processing of the permit, nor in its monitoring. Likewise, the provisions of the permit, such as those pertaining to allowable activities and limitations, are not known to the general public either.

The absence of a transparency mechanism has also resulted in the lack of checks and balances on the part of the DENR. The current WRP policy has vested full control on the DENR officials in terms of determining whether recoverable wood materials exist, the volume of the recoverable wood materials, the issuance and processing of permits, the monitoring of recovery operations and even the issuance of other necessary permits such as the permit to transport. For this reason, the concerned DENR offices are accountable only to their superiors. They are not concerned about the general public since the latter does not have any information on their decisions and actions.

Recommendations

To prevent the use of the WRP as a cover-up for illegal cutting activities, there is a need to integrate participation, transparency and accountability in the processing and issuance of permit, as well as in the monitoring and validation of recovery operations. The process may also be simplified to promote the responsible recovery of wood materials. The following are specific recommendations:

1. The inspection, inventory and scaling of retrievable wood materials must be done by the Multi-Sectoral Forest Protection Committee, the LGUs, and other interested groups.
2. Inspection results and inventory should be posted in conspicuous public places such as the municipal hall, the DENR offices, etc.
3. The permit application should be endorsed by the concerned barangay and municipal LGUs consistent with the DENR-DILG Joint Memorandum Circular 2003-01.
4. Mandatory monitoring and evaluation of the recovery operation should be conducted by the MFPC.
5. Stiff sanctions should be imposed on the issuing officers guilty of the irregular issuance of WRPs. They should be held administratively liable without prejudice to the filing of criminal charges for the perjury of public documents.
6. (Same as number 5.)
7. Conduct a study to determine the annual wood requirements of an average industry utilizing retrievable wood materials.
8. Discourage the retrieval of illegally felled and abandoned logs.
9. Study how much wood is made available by typhoon, natural calamities, etc.
10. Delete the provision on priority applicants for each type of retrievable wood material as provided for in DAO 2000-78. Instead, give priority to the finders of the wood materials except when the materials are found on private lands and forestlands covered with tenured instruments, in which case, the landowner or tenure holder shall have priority.
11. Post approved WRP providing information on the names of the permittees, the allowable volume to be recovered, the location of the retrievable wood materials and the date of expiration of the said permit.

Considering these recommendations, the following procedure is suggested for the issuance of the WRP:

Step 1.	Filing of application by finders/applicants of retrievable wood materials
Step 2.	Referral of the application to the concerned LGU for the latter's endorsement/comments.
Step 3.	Immediately after the LGU endorsement is received, an inventory of retrievable wood materials by the MFPC, together with the LGU representative and interested individual/groups.
Step 4.	CENRO to advertise the availability of retrievable wood materials to the public.
Step 5.	Processing and approval of the WRP
Step 6.	Posting of the approved WRP

In step 1, the proponent applies for a permit to the concerned CENRO using prescribed application forms indicating location, the quantity of retrievable wood materials, a sketch map, including pictures. A barangay clearance should also be attached.

The second step entails securing the endorsement of the municipal LGUs. The CENRO, upon receiving the application, shall refer the application to the municipal LGU for review, comment and endorsement. The municipal LGU should then submit its comment or endorsement within 15 days, consistent with the DENR-DILG Joint Memorandum Circular No. 2003-01. Otherwise the LGU will be assumed to have no objections to the application.

Once the LGU endorsement is received, the CENRO shall organize the MFPC field verification team, which will conduct field verification and an inventory of the retrievable wood materials (Step 3). The scaling procedures shall be in accordance with the regulations prescribed by DAO 87-80. No WRP should be processed without the MFPC field verification/inspection and inventory report signed by at least two-thirds of the members of the said committee.

The MFPC verification/inspection team shall submit its report, copy furnished the municipal LGU, to the CENRO within five days after completion of the inventory. The results of the verification/ inspection should be posted in conspicuous places to inform the public of the existence of retrievable wood materials. Any objections to the utilization of the same should be filed with the concerned CENRO within 5 days (Step 4).

In case there are no complaints received on the application, the CENRO will proceed with the processing and issuance of the WRP. However, because of improved transparency, accountability and public participation in the issuance of WRPs, it is recommended that the level of CENRO approval should be increased from 5 cu.m or less, to 15 cu.m or less. During regional consultations, both the permittees and the DENR pointed out that the 5-cu.m limit is too small for community livelihood. Meanwhile, the proposed levels of authority for the WRP approval are as follows:

Authorized Official	Net Volume of Retrievable Wood Materials	Permit Effectivity
CENRO	15 cu.m or less	Two months
PENRO	15 to 30 cu.m	Three months
RENRO	30 cu.m or more	Four months and beyond

Once the WRP is issued, it should be posted in the DENR offices and in the municipal hall.

It should be noted that the participants to the regional consultations also recommended that the approval should no longer be elevated to the DENR Secretary because doing so is too costly for the permittees.

4.2.3 The Private Land Timber Permit/The Special Private Land Timber Permit (PLTP/SPLTP)

The issues raised against PLTP/SPLTP were the following:

1) too many requirements for an application;
2) the lengthy duration of the processing and approval of permits
3) their serving as fronts/covers for illegal cutting activities.

The permittees interviewed asked why the DENR regulates the cutting of trees in their private lands when, in fact, these lands are titled thereby giving them the right to do anything inside their property. At the same time, there have been allegations that the PLTP and the SPLTP have been abused and used to cover-up for illegal cutting activities. Existing monitoring and verification reports indicate that some permittees cut more than their allowable volume, and they cut outside their private land. These illegal practices are facilitated by deliberately overestimating the volume of timber in the inventory report or by reporting the existence of naturally grown trees in private lands, when in fact there are no more trees growing in the said property. According to them, this can be easily done through the connivance of DENR staff and the private landowner, and, sometimes, of LGU officials as well. Negative public perception in this regard cannot be avoided because the process by which the PLTP and the SPLTP permits are issued lacks transparency, participation and accountability. Under existing policies, the verification of private lands, the inventory of trees within the said land, and the processing and approval of permits are monopolized by the DENR, with only limited participation from the LGU and registered foresters.

a. Limited Sectoral Participation

The processing of the PLTP/SPLTP permits starts with the applicant filing the application request or application form at the CENRO, followed by the verification of the titled property, an inventory of the standing trees, and finally, the processing and issuance of the permit. The field verification of the titled property and the inventory are very crucial because they establish the existence of the private property and verify whether, indeed, there are still naturally growing trees within the said property which warrant the issuance of PLTP/SPTLP permits. Under existing guidelines, the determination of this situation is mainly undertaken by the DENR. DAO 2000-21 allows the limited participation of professional forester(s) and the LGUs by requiring a 100-percent inventory to be undertaken by a registered forester in the area applied for, which the CENRO and LGU representative concerned validate. Sectoral representation however, is not sufficient to prevent connivance. More sectors should be involved in the process of validating the inventory reports conducted by a professional orester, which form part of the application. With only the CENRO and LGU representatives validating the inventory, the applicant could easily make illegal deals to obtain the permit. Worse, the verification of the boundaries of the private lands is only performed by the CENRO concerned.

Because of the limited participatory mechanism in the verification of the titled property and the inventory of standing trees, the verification reports are usually questioned and are sometimes thought suspicious. There have been reports of some areas' with PLTP/SPLTP applications' being devoid of standing trees. There are also allegations that some timber inventory reports are excessively bloated and that some of the trees cut actually stand outside the private lands, and, in most cases, are on adjacent forest lands.

b. Transparency Issues

With very limited sectoral participation in field verification, transparency of information is also sacrificed. The general public has no way of finding out whether the private property in question genuinely exists and whether the inventory of standing trees is accurate. At the same time, the existing DENR guidelines do not have mechanisms that provide information regarding who have been given the permit, what volume they are allowed to cut, and when the permit would expire. Information such as these are important because only with transparency in information and in decision-making would the public be motivated to be vigilant in monitoring the activities of the permit holder. If the permit holder, the DENR, the foresters, the LGU and the general public were aware and had access to information and decisions made would applicants become more cautious in providing data in their application form, as well as in preparing their validation reports. Such a situation would minimize, if not totally eliminate, connivance between the applicant, the professional foresters, the LGU and the DENR in the provision of false information and reports, including the granting of permits to unqualified applicants. Transparency would promote responsible applications, responsible reports and the responsible issuance of permits.

c. The Accountability Issue

Multi-sectoral participation and transparency of information and decision-making should lead to accountable permit holders and DENR officials. However, since the current guidelines only allow very limited sectoral participation since there are no mechanisms to promote transparency in the issuance of the permit, the permit applicants are not held responsible to the general public. At the same time, since the DENR officials and applicants are aware that there are no mechanisms whereby the public has access to their decisions and their actions, they become irresponsible in providing information in their applications, in preparing validation reports and in the issuance of permits. The overall result is that the applicants become accountable only to the issuing authority and its staff, and do not care about public accountability. This breeds corruption. DAO 2000-21 provides for MFPC participation in the monitoring of the permittees' operation, but this is rarely done since the permit has already been issued and the MFPC is not aware of the permit's being

issued. Thus, it cannot assert its role because MFPC can only be mobilized if the CENRO organizes the monitoring team.

Recommendations

While the clamor specifically among the permit holders is that the requirements for getting the permit should be lessened and the procedure simplified, the researchers believe that the main issue needing resolution is how to prevent the PLTP/SPLTP from being used as a cover-up for illegal cutting activities. The purpose of the policy is to promote the responsible utilization of naturally grown trees in private lands in recognition of the landowners' rights over the said property.

But the State also has the obligation to ensure that in allowing private individuals to utilize naturally grown trees in private lands, this right is not abused and used as a cover-up for illegal cutting activities. The permit issued, being extraction-oriented, must be highly regulated to discourage it from being abused.

To prevent the PLTP/SPLTP from being used as a cover-up for illegal cutting activities, the permit applicant and the issuing official of the DENR must be made aware that their actions and decisions are easily known to the general public, so that they should be accountable to the public.

The following recommendations are therefore proposed for integrated with the guidelines for the processing and issuance of PLTP/SPLTP permits:

1. The verification/inspection of the private land's boundaries and of the number of the naturally grown trees in the said property must be done by the Multi-Sectoral Forest Protection Committee, other interested individuals/groups and LGUs.
2. Posting of the verification/inspection results in conspicuous public places such as the municipal hall, the DENR offices, etc., should be made.
3. The permit application should be endorsed by the concerned barangay and municipal LGUs per DENR-DILG Joint Memorandum Circular 2003-01.
4. Mandatory monitoring and evaluation must be conducted by the MFPC
5. Stiff sanctions must be meted to the issuing officers for the irregular issuance of PLTP/ SPLTP. They should be held administratively liable without prejudice to the filing of criminal charges against them for the perjury of public documents
6. Approved PLTP/SPLTP must be posted in DENR offices.

In consideration of these recommendations, the following procedure for the issuance of the PLTP/SPLTP is suggested:

Step 1. Filing of application by interested private landowners with all required documents.
Step 2. Referral of the application to the concerned barangay/municipal LGU for the latter's endorsement/comments
Step 3. Immediately after the LGU endorsement is received, the verification of the titled property and inventory's being undertaken by the standing timber team, the CENRO, together with the MFPC team and LGU representatives
Step 4. Posting of the findings of the verification team
Step 5. Processing and issuance of the Wood Recovery Permit following the prescribed levels of approval of DAO 2000-21.
Step 6. Posting of the approved PLTP/SPLTP permits and monitoring of their operations by the MFPC

The first step is for the private landowner to apply for a permit with the concerned CENRO using the prescribed application forms, together with the inventory report prepared by a registered forester and other documents as stated in DAO 2000-21. A barangay clearance should also be attached to the application.

The second step is to secure the endorsement of the municipal LGUs. The CENRO, upon receiving the application for the PLTP/SPLTP, shall refer the application to the municipal LGU for review, comments and endorsement. The municipal LGU shall submit its comments or endorsement within 15 days, consistent with DENR-DILG Joint Memorandum Circular No. 2003-01; otherwise, it will be assumed that the LGU does not have any objections to the application.

Once the LGUs endorsement is received, the CENRO shall organize the MFPC field verification team that will conduct the verification/inspection of private land boundaries and standing trees in the said property. No PLTP/SPLTP shall be processed without the MFPC field verification/ inspection report signed by at least two-thirds of the members of the said committee.

The MFPC verification/inspection team shall submit its report to the CENRO within 5 days upon completion of the investigation, copy furnished the municipal LGU. The results shall be posted in conspicuous places to inform the general public of the PLTP/SPLTP application. Any objections to the PLTP/SPLTP application, should be filed with the concerned CENRO within five days. In case no complaints are received on the application, the CENRO will proceed with the processing and issuance of the PLTP/SPLTP, following the prescribed levels of approval.

Once the PLTP and SPLTP are issued, the approved PLTP/SPLTP should be posted at the DENR offices and municipal hall.

4.2.4 The Integrated Annual Operations Plan (IAOP)

The Integrated Annual Operations Plan (IAOP) is a short-term plan showing the programs and activities of the Timber License Agreement (TLA) or the Integrated Forest Management Agreement (IFMA) holder for an annual or five-year period. The main objective of the policy on the Approved Operations Plan is sustainable forest management through the regulation of the commercial extraction and utilization of timber and other forest products in areas covered by the TLA, TPSA, IFMA and similar instruments.

The major issues and concerns regarding the OP regulations are operational in nature. They pertain to the requirements, processing and approval of the OP, and to the monitoring of the activities of the holder.

a. Application requirements

DENR Memorandum Order No. 96-10 lists the following requirements before the OP can be approved:

1. A complete aerial photo coverage of the area under license has been submitted to the Secretary pursuant to DAO No. 92-17 on the Conduct and Submission of Aerial Photography by Holders of Timber License Agreements and the Different Programs and Projects of the DENR and its implementing guidelines).
2. As an incentive for TLA/IFMA holders who have matured plantation tree species which they intend to harvest, a separate IAOP covering the same shall be submitted, processed, and approved even without the required aerial photograph, PROVIDED, however, that no naturally grown tree shall be included in the preparation of the said plan.
3. Whenever applicable, the required Medium Term-Forest Management Plan or a Comprehensive Forest Management and Development Plan has been submitted.
4. The area programmed for logging operations (APLO) is inside a residual forest under the Block I category.
5. A timber inventory of at least 20-percent intensity covering the area(s) programmed for logging has been undertaken jointly by the licensee and the CENRO personnel; and the corresponding report, under oath, has been submitted.

6. The licensee has no pending forestry accounts.
7. The reforestation and timber stand improvement obligations of the licensee for the preceding year(s) have been satisfactorily complied with.
8. License holders have fully filed a checklist EIA and have received, after due review, an Environmental Compliance Certificate for their operations.
9. Additional Considerations: For ease of supervision, administration and monitoring, that the following additional features and/or practices be observed:
    - Operations maps drawn to a convenient scale shall be gridded using the UTM system.
    - Corners of the areas planned for operations (logging, reforestation, TSI) shall be located on the ground using accurate surveying instruments, preferably GPS instrument.
    - A one-meter strip along the perimeter of the planned cutting couples shall be established and all trees 15 cm dbh and larger within the said strip shall be marked with three (3) bands using visible enamel paint.

Respondents to the key informant interviews have no problem with the above requirements except for the submission of a complete aerial photograph of the area, not only once but every after five years starting 1992 or when the agreement was first issued (DAO 99-53). Holders with large contiguous areas (more than 10,000 ha) may be able to secure the said aerial photos, but doing this would be too expensive and difficult for holders with smaller areas and areas not contiguous to those of other holders.

Since the major objective of the required aerial photos is to determine the extent and area of the vegetative cover, the DENR could instead provide this through the NAMRIA as a technical service to the DENR clientele. The DENR can explore other ways of determining forest cover on a regular basis and scrap the requirement for aerial photos from instrument holders.

a. The processing and approval of the OP

The existing procedure is for the holder to submit the OP to the RED through the CENRO for review and evaluation before it is forwarded to the PENRO, again for review and evaluation. The RED also reviews and evaluates the OP before it is forwarded to the OSEC, where it is forwarded to the FMB for further review and evaluation. The OSEC then issues instructions to the concerned RED based on the FMB Director's recommendations.

Existing policies require the OP to be submitted at least three months before the cutting year or before the cutting operation starts. It is assumed that the processing and approval of the OP should not take more than three months, in time for the holder to start logging operations. However, according to key informants, it took them almost eight months to one year to obtain the final approval of their OP. So, to reduce processing time, a proposed simplified procedure is for the OP to be submitted to the RENRO. The RED forwards a copy of the operations map with a stand and stock table for checking and verification of data to the FMB. The RED convenes the Regional Technical Review Committee with representatives of the licensee, CENRO, PENRO, the Multi-sectoral Forest Protection Committee, concerned LGUs, NGOs, and other sectors. Based on the RTRC recommendations, the RED returns the OP to the Holder to incorporate the corrections/ modifications; or the RED forwards the OP to the OSEC. The OSEC forwards the OP to the FMB for evaluation, after which the FMB Director returns the OP to the OSEC with corresponding recommendations. The OSEC then issues instructions to the concerned RED, following which the RED amends, denies or approves and then releases the OP and furnishes copies to the concerned offices.

Table 5. Existing and proposed simplified procedures/steps for OP processing and approval

Responsible Office	Existing Procedures / Steps	Simplified Procedures / Steps
1. Applicant	• Prepares the plan and fulfills all the requirements for the IAOP application • Submits to the CENRO seven copies of the OP at least 3 months before the start of logging operation	• Prepares the plan and fulfills all the requirements for the OP application • Submits to the RED seven copies of the OP, at least 3 months before the start of logging operations, • Submits a copy of the OP along with the IEE checklist to the Regional EMB office • Whenever necessary, revises the Plan to incorporate the corrections/modifications recommended by the RED through the Regional Technical Review Committee (RTRC)
2. CENRO level	• Forwards to the FMB Director a copy of the TLA map showing the vegetative cover or the areas programmed for forestry operations together with a certified copy of timber stand and stock table for checking/verification through aerial photographs • Reviews the Plan, together with representatives of the licensee and other concerned parties (LGUs, NGOs, Multi-sectoral Forest Protection Committee) • Forwards the Plan to the PENRO after making the necessary corrections/modifications	• Whenever instructed by the RED, validates the data and information presented in the Plan, and then forwards the findings to the RED • Attends the RTRC deliberations on the Plan
3. PENRO level	• Causes the review and evaluation of the Plan together with representatives of the licensee and other concerned parties • When necessary, validates the data and information presented in the Plan • Forwards the Plan to the RED, together with his comments and recommendations	• Whenever instructed by the RED, validates the data and information presented in the Plan and forwards the findings to the RED • Attends the RTRC deliberations on the Plan
4. RENRO level	• Convenes the Regional Technical Review Committee, together with representatives of the licensee and other concerned parties, to review and evaluate the Plan • The RTRC, based on the review and evaluation, shall prepare the	• Forwards to the FMB Director a copy of the OP map showing the vegetative cover of the area programmed for forestry operations • Whenever necessary, instructs the PENRO and CENRO personnel concerned to validate the data and

Responsible Office	Existing Procedures / Steps	Simplified Procedures / Steps
	final plan after incorporating the corrections/modifications, if any, and forwards the same to the FMB; • The RED, taking into consideration the observation and/or instructions of the SENR, shall amend, deny, approve and release the IAOP, furnishing a copy thereof to the Director, FMB and the SENR for information and reference.	information presented in the Plan • Convenes the RTRC to review and evaluate the Plan, together with representatives of the licensee and other concerned parties (LGUs, NGOs, Multi-Sectoral Forest Protection Committee), CENRO, PENRO, RENRO and EMB representatives • Based on the RTRC review and evaluation of the Plan, the RED asks the Holder to incorporate the corrections/modifications, if any, then forwards the Plan to the OSEC • The RED, based on the observations and/or instructions of the SENR, shall amend, deny, approve and release the OP, furnishing a copy thereof to the FMB Director and the SENR for information and reference
5. EMB		• Reviews and evaluates the OP and the IEE checklist • Attends RTRC deliberations on the OP and IEE • Forwards recommendations for ECC approval to SENR
6. FMB	• Causes the verification of the status and forest condition of the area programmed for operations using the aerial photographs covering the subject area • Checks and evaluates the timber inventory, reconciles this with the IAOP endorsement of the Regional Office, and summarizes the same for the SENR	• Records and files the submitted map and timber inventory report of the CENRO • Checks and evaluates the timber inventory, reconciles this with the OP endorsement of the Regional Office, summarizes the same for SENR and forwards this to the OSEC
7. OSEC	• Upon receipt of the evaluation and action papers from the FMB Director, issues instructions to the FMB Director and the concerned RED	• Upon receipt of the evaluation and action papers from the FMB Director, SENR issues instructions to the FMB Director and the concerned RED; approves the ECC

b. Monitoring of the activities of the IAOP holder

The OP holders shall be allowed to conduct cutting, gathering and utilization activities within the area covered by the Plan. The OP holders are required to observe and adhere to the prescribed reporting forms and guidelines set by the DENR. The CENRO, through his Forest Officers, monitors the activities of the OP holders based on the reporting forms and guidelines set by the DENR. The involvement of other concerned sectors like LGUs, NGOs, POs and others is mandated in the existing DENR policies. It is proposed that a multisectoral monitoring team should be formulated as a national policy to promote multisectoral participation and transparency in the implementation of the activities in the IAOP.

4.2.5 The Rattan Cutting Contract (RCC)

Rattan resources are among the important products of the Philippine forests because of their significant contribution to the Philippine economy and to employment generation. Thus, in consideration of rattan's importance, policies were formulated by the government through the Department of Environment and Natural Resources (DENR), to regulate its utilization. The current rattan policy that is in effect is the DENR Administrative Order No. 4, S 1989 or the Revised Regulations on Rattan Resources. The formulation of this policy was based on the following objectives: (a) To ensure the sustainable productivity, expanding availability, and access to the rattan resource for the continuing support to dependent industries and the generation of employment opportunities and revenues; (b) To provide a system of rational harvesting, and gainful and efficient utilization of the resources; and (c) To rationalize the industries which are dependent upon rattan as their primary raw material.

The following discussion provides an analysis of the current policy on rattan resources. The analysis is based on the issues of equal access to resources, the simplification of requirements, equity, decentralization, and accountability.

a. Equal Access to Resources

Equal access to rattan resources is promoted in the current policy. In the disposition of rattan production areas where public bidding is required, specific areas are allocated for bidding between and among big entrepreneurs, and separate areas for bidding between and among the small entrepreneurs. Furthermore, the current policy provides special privileges to members of the indigenous communities by giving them the highest priority if the timber licensee is not among the bidders.

b. Simplification of Requirements

Some of the application requirements to secure a cutting permit, an establishment of a processing plant permit, and a plantation establishment and development permit were deleted. For all types of applicants, the requirement for a sworn statement authorizing representative(s) of the DENR to verify submitted information was deleted because even without the said sworn statement, the DENR would still verify the veracity of the submitted documents.

For owners/operators of rattan processing plants, the requirements list and the quantity of rattan product lines, past export revenues from processed rattan products were deleted. Past export revenues are already reflected in the audited financial statements of the company, while a list indicating the quantity of product lines is an unnecessary document.

For cooperatives of rattan gatherers, the requirement certificate of training issued by BCOD was deleted; while for individual and associations of BKKK-accredited rattan gatherers or NACIDA-registered rattan users, the requirement list and the quantity of product line were deleted.

For holders of timber license agreement (TLA), the requirement certification from a wood industry association recognized by the DENR to the effect that such holders are of good standing was deleted because the required certified copy of the TLA is enough proof that the applicant is performing well.

While application requirements indicated in the current policy for securing a permit to establish a rattan processing plant have been retained, requirements such as a certificate of registration and clearance from CENRO/PENRO to the effect that the plant is not pollutive have been deleted from among the requirements of an application seeking permission to expand a processing plant. This is primarily because such requirements had already been submitted when owners applied for a permit to establish a new plant.

The required certification from CENRO signifying the availability of the area for rattan plantation establishment and development, and the required proof of financial capability to engage in rattan plantation were deleted from among the requirements for securing a permit to establish and develop a rattan plantation because, as proposed, the DENR will make available areas suitable for lease.

The required proof of financial capability was also deleted from the list of common requirements for applicants who are holders of a rattan processing plant license, a rattan cutting permit, a TLA, and a tree plantation lease because they should already have submitted this proof when they secured the current permit they now hold.

c. Equity

The current policy promotes a more equitable distribution of the area available for lease. The maximum area for individuals is 5,000 ha, while that for other types of applicants is 30,000 ha.

d. Decentralization

Under the current policy, the processing time for securing a permit is too lengthy because there of the many levels documents must go through. According to field interviews, this practice encourages graft and corruption. To avoid such a problem, the number of levels through which documents pass must be reduced.

e. Accountability

The DENR should have the following accountabilities: (a) the identification and delineation of areas available for use; (b) effective monitoring and evaluation to ensure that permitees do not violate existing rules and regulations; (c) the provision of technical assistance to permitees such as proper techniques in rattan harvesting; and (d) the extension of assistance to permitees in their drive to establish links with government organizations that can help them improve their products and market their produce.

Recommendations

The following are the recommended measures to improve current policies on rattan resources:

- Rattan must be cut based on maturity rather than on the length of the pole.
- Second growth forest scheduled for relogging within 20 years or less must be planted with rattan to increase its raw supply and to make the second growth forest more productive
- Rattan special deposit must be managed by the DENR so that the Department can have easy access whenever the need to replant the area arose.
- Rattan special deposit must be based on actual volume harvested, not on the annual allowable cut.
- An area that contains more than 500 growing seedlings must be included among the potential areas for rattan plantation lease.

4.3 CO-MANAGEMENT SCHEMES IN THE PHILIPPINE FOREST LANDS

The study documented, reviewed and analyzed different co-management schemes existing in the Philippine forest lands. A deeper study of these cases is needed, however, to understand the factors leading to successful co-management arrangements and to find ways of strengthening existing policies and guidelines governing the joint management of forest and natural resources by different stakeholders.

Specifically, the study aimed to pursue the following objectives: (1) to identify the different stakeholders and evaluate the mechanism of entering into socially negotiated institutional arrangements; (2) to determine and evaluate the nature and the extent of stakeholder involvement in co-managing forest resources; (3) to identify and document the factors affecting the success and failure of the different co-management schemes; (4) to determine and recommend ways to achieve the sustainability of co-management schemes; and (5) to provide comprehensive recommendations to address policy and field level implementation gaps.

To attain the objectives of the study, primary and secondary data were collected. The study conducted a case analysis of the co-management scheme in force in the management of the watershed resources in Nueva Vizcaya. The data was gathered through a focus group discussion of the different stakeholders consisting of the DENR, the LGU, and PO. Through a case analysis, lessons were drawn from among the different units' co-management practices. The analysis of secondary data involved an analytical review of different researches, studies and other relevant literature on the co-management of forest and natural resources. The study identified the different stakeholders as consisting of the community represented in most cases by the people's organization, non-government organizations (NGOs), local government units (LGUs), the DENR and other government agencies (OGAs). From the analytical review, the study synthesized the mechanisms for entering into socially negotiated collaborative management; the nature and extent of stakeholder involvement in co-management; their respective responsibilities and benefits or incentives in co-management; and the factors influencing the success and failure of the different co-management schemes.

The mechanisms for entering into co-management arrangements greatly vary, depending on the type of resource, the conditions and needs of particular sites, and the mode of interventions as dictated by the funding or grant-giving agency. Although there are various implementation approaches or intervention activities, there must be a strong partnership among the different stakeholders. There should likewise be real community participation in all phases of the project.

The findings of the study further show that, in general, co-management arrangements have proved to be an effective strategy in managing forest and natural resources that were formerly centrally managed by the government. Several factors contribute to the success or failure of co-management:

At the community level: 1) Co-management can be an effective partner in resource management, protection and conservation if it is clear to the community that it will benefit from the project; 2) the involvement of the community in the planning activities builds confidence and creates ownership of the work and its outputs, thus enhancing participation; 3) the livelihood component must be an integral part of the project so as to sustain the people's participation; 4) social preparation should always precede technical intervention; and, 5) the commitment and people's positive perception of the project must prevail.

At the LGU level, the factors that affect a project's success or failure are as follows: 1) the allocation of human resources and funds for the project; 2) the enactment of local policies and ordinances to support the project; and, 4) a strong Environment and Natural Resources office that is a regular division of the LGU and enjoys staffing support and an annual budget allocation.

At the DENR level these are: 1) the dedication of the DENR personnel; 2) a regular review and update of policy issuances so as to harmonize existing laws with the long-tem needs of the people and the environment; 3) finding ways and means to raise and allocate funds for the project; and, 4) updating and retooling field personnel on the new policies and implementation guidelines for them to be effective partners.

From the case analysis of co-management as practiced in Nueva Vizcaya, the following lessons were drawn: 1) the identification of projects should be demand-driven and based on the felt needs

of the community; 2) the project should address the basic needs of the stakeholders; 3) usufruct and tenurial rights should be recognized; 4) there should be easy and simple to follow guidelines that are transparent and ensure accountability; 5) there should be a clear delineation of the roles and responsibilities of the different stakeholders and a well-defined incentives system; 6) a strong leadership can motivate the various stakeholders and harmonize different and conflicting interests; 7) A social infrastructure and corresponding budgets attuned to the operationalization of plans should be installed; and, 8) capacity-building should be instituted for public officials, as well as networking with potential donors and investors, research institutions and natural resource management practitioners.

The study also analyzed the issues and concerns arising from the practice of co-management in Nueva Vizcaya:

1. JMC No. 2003-01, enjoining LGUs to provide funds to make devolution, partnership and co-management effective, is ambiguous on the mechanisms to implement this since, at present, the funds of the LGUs are severely limited or unavailable at present. Technical training aimed at capacitating the LGUs are constrained by a lack of budget.

2. The implementation of devolved forestry functions as provided by the Local Government Code is still subject to DENR's supervision, control and review, thereby limiting the powers of the LGUs to exercise devolved functions, one of which is the issuance of permits. This is tantamount to limiting the powers of the LGUs to exercise devolved functions.

3. Insufficient IEC to enhance to enhance the awareness and understanding of POs/ communities on the merits of co-management and community-based forest management program. The POs/communities still prefer to be under the old ISF program. Although they expressed interest in joining the CBFM program so that other community members can avail of land to farm, they feel constrained to do so because of the requirements.

The following are the recommendations of the study:

1. Harmonize the laws on devolution with rules and procedures governing devolved functions.

2. Build up the capability of LGUs to deal with the management of natural resources within their territorial jurisdiction. Although there are success stories about the LGUs' ability to manage devolved forest management functions, many LGUs have limited capabilities due to low budget appropriations for staff development.

3. Create enabling policies for the accessing funds and other forms of assistance by LGUs from the DENR and other government agencies. LGUs should also seek alternative sources of investments to sustain co-management efforts such as the users' fee and trust funds.

4.4 FOREST LAW ENFORCEMENT AND DUE DILIGENCE

Following are the issues/problems addressed by the Manual on Forest Law Enforcement and Due Diligence:

1. Incomplete procedure from apprehension up to the disposition of forest products

To complete the forestry law enforcement procedure, the proposed manual incorporated the rules on criminal procedure.

2. Too wordy and confusing provisions on administrative apprehension and seizure procedure

These provisions were simplified, re-arranged and consolidated into one procedure for easy understanding. A provision on the preliminary description, number, weight, volume, measurement and estimated value of items being apprehended is also added. Likewise, the provision on the issuance of a provisional apprehension receipt has been deleted because according to the officers interviewed, this only causes delay in the inventory and documentation proceedings, sometimes resulting in the loss of some items not yet inventoried. The proposed manual recommended that such activity be immediately conducted. If such cannot be completed at the close of regular office hours, however, assistance should be secured from the local DENR offices for a sufficient number of scalers to finish the work. Upon completion of the foregoing procedure, a seizure receipt shall be issued which shall be acknowledged and received by the owner/shipper of the forest products or by his representative. In case of refusal, the fact shall be reflected thereon in their presence as proof of such action.

3. Circuitous procedure in summary administrative confiscation

Since the existing procedure (DAO 97-32) in summary administrative confiscation is too circuitous, the proposed manual simplified this procedure as follows:

- Immediately after seizure, a notice of hearing shall be signed by the PENRO which is to be served by the apprehending officer to the parties concerned. Included therein is an order to parties to submit a written explanation within 3 days from receipt thereof.

- The concerned parties shall submit their written explanation under oath as to why the forest product/conveyance should not be confiscated.

- The PENRO or, in his absence, any Senior Forest Management specialist (SFMS) or Senior Environmental Management Specialist (SEMS) shall preside as hearing officer under the guidance of a DENR lawyer.

- The procedure shall be summary in nature, where the parties are required to submit the necessary documents, affidavits and evidence. However, the hearing officer may ask clarificatory questions if need be.

- The hearing officer shall render his decision within a period of 15 days from receipt of the documents, affidavits and evidence. If evidence is not sufficient to sustain an administrative decision adverse to interested parties, a ruling shall be issued dismissing the case and ordering the seized items to be returned to the owner. When evidence so warrants, a ruling shall be issued declaring that the seized items be confiscated in favor of the government, together with recommendations for further prosecution of the persons involved.

- The decision shall become final and executory after 15 days, unless a motion for reconsideration is filed.

- A party aggrieved by the decision may file only one motion for reconsideration within a non-extendible period of 15 days from receipt of the decision.

- A party may file an appeal within a non-extendible period of 15 days from receipt of the denial of the motion for reconsideration or receipt of the decision.

- The appeal should be filed with the Office of the RED if the volume of forest products confiscated is less than 1,000 cu.m, and with the Office of the Secretary if more than

1,000 cu.m, only upon payment of the corresponding appeal fee. The appeal shall contain a concise statement of all the issues of fact and law raised on appeal.

The proposed manual also added a provision on grounds for appeal since these are not provided for under the existing policy. This proposal was made because the appeal should be meritorious. Further, not all appeals should be entertained to avoid dilatory tactics which only prolong the proceedings. These ground for appeal are the following: If there is prima facie evidence of abuse of discretion on the part of the PENRO; if the decision, resolution or order was secured through fraud or coercion, including graft and corruption; and if serious errors in the findings of facts are raised which, if not corrected, will cause grave or irreparable damage or injury to the appellant.

4. Need to have a check and balance between apprehension, seizure and hearing procedures

In this case, it is proposed that the set of officer(s) authorized to conduct apprehensions and seizures, and to preside over a hearing during confiscation proceedings be different from each other. Under the existing policy,(DAO 97-32), the seizing officer also presides as hearing officer at the confiscation proceedings. For instance, if the RED can also be the seizing officer, he shall preside as hearing officer at confiscation proceedings. As hearing officer, his decision will be forwarded to the RED whose decision will be subject to a motion for reconsideration and appeal. It is proposed that the RED be excluded as hearing officer because he cannot be presumed to reverse his own decision. In this case, it is proposed that the PENRO or, in his absence, any SFMS or SEMS presides as hearing officers with the guidance of a DENR lawyer if the hearing officer happens to be a non-lawyer or lacks legal training. This is because the respondents always have lawyers at their side to defend them. If the hearing officers lack knowledge of legal proceedings, they will have difficulty establishing whether or not parties are able to dispute presumptions of legalities, which sometimes result in the dismissal of cases.

5. Inadequate legal support to field forest officers.

The proposed manual recommends the assignment of DENR lawyers to assist field officers.

6. Problem on temporary release of conveyances

The provision on the temporary release of conveyance is re-arranged and simplified because the existing provision has many requirements which are vague and inconsistent. A provision on the replacement of the original copies of registration papers and supporting documents of the conveyance as a condition for its temporary release has also been added. But, with the succeeding consultations with DENR officers, it was agreed that such provision be deleted because there already exist decided cases regarding this matter, i.e., in Paat, et.al., vs. CA, et al.

5.0 RECOMMENDATIONS

The analysis of forestry 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 amendments 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.

1. Transparency

In order for the forest 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, composite teams are needed in the evaluation of the following: open access areas available for various uses and tenurial instruments, applications for FMAs and ECCs, plans and agreements for the suspension/cancellation and renewal. Consultations with as many concerned sectors as possible are also needed when policy amendments, revisions or repeals are to be made.

The DENR has to reduce the uncertainty 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 the DENR and its clientele.

2. Accountability

Accountability in decision-making and in the implementation of forestry and related policies and programs can be achieved in several ways. One is through the decentralization of decision-making in terms of the approval and issuance of tenurial instruments, permits, ECC, etc. Another is through the deregulation of related policies, particularly through an integration of common requirements for development plans, the ECC and related permits. The decentralization of the issuance of instruments, the establishment and enforcement of checks and balance mechanisms, clear mechanisms for law enforcement, and enhancement or building up of the capabilities of action officers are other ways of inculcating accountability among the DENR rank and file.

3. Participatory decision-making

Social equity and justice in public forest land allocation can be achieved by defining the roles and mechanisms for the participation of all interested stakeholders. Forest policies have to define the role of the local communities—both the migrants and the indigenous people—as well as the local government units and related local industries. Consultations, dialogues and their inclusion in deliberations are ways of ensuring that concerned stakeholders are involved in decision-making, particularly in the policymaking process.

Prepared by:

	Name	Assignment
Project Leader	Eleno O. Peralta	
Assistant Project Leader	Leonida A. Bugayong	

Forest Land Use Management Agreement

Team Leader	Ma. Magdalena B. Villanueva	Special Forest land Use Management Agreement
Team Members	Leonida A. Bugayong	Integrated Forest Management Agreement
	Sofronio C. Camacho	Socialized Industrial Forest Management Agreement
	Dina J. Quimbo	Forest Land Grazing Management Agreement
	Renato A. Folledo	Private Land Forest Development Agreement

Forest Land Use Management Agreement - Community-Based Forest Management

Team Leader	Fe K. Mallion
Team Members	Eumelia B. Corpuz
	Leonito A. Donoso
	Aresna B. Palacpac

Forest Resources Utilization Permits

Team Leader	Priscilla C. Dolom	Wood Processing Plant Permit, Wood Recovery Permit
Team Members	Florencia B. Pulhin	Rattan Cutting Contract
	Bernardino C. Aguilon	Integrated Annual Operations Plan
	Benita A. Punzalan	Private Land Timber Permit / Special Private Land Timber Permit

Co-Management Schemes for Forest Resources

Team Leader	Nena O. Espiritu
Team Members	Ma. Cynthia S. Casin

Forest Law Enforcement and Due Diligence

Team Leader	Eleno O. Peralta
Team Members	Leni N. Garcia
	Dante N. Pecson

Terminal Report

Simplified and Harmonized Forestry Regulatory Procedures

With funding support from The EcoGovernance Program-USAID
(Subcontract No. 4105-506-03P-03)

ANNEX A
Forest Land Use Management Agreements

FORESTRY DEVELOPMENT CENTER
College of Forestry and Natural Resources
University of the Philippines Los Baños

(Through the University of the Philippines Los Baños Foundation, Inc.)
College, Laguna 4031 Philippines

April 2004

Table of Contents

			Page
ANNEX A – FOREST LAND USE MANAGEMENT AGREEMENTS			
ANNEX A.1 – Analysis of the Regulatory Procedures on Integrated Forest Management Agreement (IFMA)			A.1-1
1.0	Overview		A.1-1
	1.1	Enabling Policy	A.1-2
	1.2	Brief History of IFMA Policies	A.1-2
2.0	Existing and Potential IFMA		A.1-4
3.0	Analysis of IFMA Regulatory Procedures		A.1-6
	3.1	Identification and approval of potential IFMA areas and preparation of forest land use plans	A.1-7
	3.2	Qualification requirements	A.1-13
	3.3	Application requirements	A.1-14
	3.4	Processing and approval of IFMA	A.1-16
	3.5	Responsibilities of IFMA holders	A.1-20
	3.6	Responsibilities of DENR	A.1-24
	3.7	Benefits of IFMA holders; sanctions and penalties	A.1-26
	3.8	Government share	A.1-28
4.0	Summary and Recommendations		A.1-29
REFERENCES			A.1-30
Appendix Table 1			A.1-32
ANNEX A.2 – Analysis, Simplification and Harmonization of Socialized Industrial Forest Management Agreement (SIFMA) Regulatory Procedures			A.2-1
1.0	Policy Basis of SIFMA		A.2-1
2.0	Existing SIFMA and Potential SIFMA Areas		A.2-1
	2.1	Number and area of existing SIFMAs	A.2-1
	2.2	Potential SIFMA areas	A.2-2
3.0	Analysis of Existing SIFMA Regulatory Procedures, Issues and Proposed / Recommended Simplification and Harmonization		A.2-4
	3.1	Identification and approval of potential SIFMA areas	A.2-4
	3.2	Qualification requirements of SIFMA applicants	A.2-7
	3.3	Application requirements	A.2-10
	3.4	Processing and approval of SIFMA	A.2-11

3.5 Benefits, sanctions and penalties A.2-16
3.6 Responsibilities of SIFMA holders A.2-17
REFERENCES A.2-19

ANNEX A.3 – Analysis, Simplification and Harmonization of Special Land Use Management Agreement (SPLUMA) Regulatory Procedures A.3-1
1.0 Overview A.3-1
1.1 Policy Basis A.3-1
2.0 Status of SPLUP/MAs A.3-2
3.0 Analysis of Issues on Existing SPLUMA Regulatory Procedures A.3-2
3.1 Identification and approval of potential sites/areas A.3-5
3.2 Qualification requirements for SPLUMA applicants A.3-10
3.3 Application requirements A.3-10
3.4 Processing and approval of SPLUMA A.3-11
3.5 Benefits, sanctions and penalties A.3-17
3.6 Responsibilities of DENR and M & E system A.3-18
4.0 Summary and Recommendations A.3-18
REFERENCES A.3-20
Appendix Table 1 A.3-22
Appendix Table 2 A.3-24

ANNEX A.4 – Analysis of the Regulatory Procedures on Forest Land Grazing Management Agreement (FLGMA) Regulatory Procedures A.4-1
1.0 Overview A.4-1
2.0 Enabling Policy A.4-4
3.0 The Problem A.4-4
4.0 Analysis of Existing FLGMA Regulatory Procedures and Issues A.4-5
4.1 Areas available for FLGMA A.4-8
4.2 Application requirements A.4-8
4.3 Processing and approval of FLGMA A.4-10
4.4 Responsibilities of FLGMA holders A.4-14
4.5 Responsibilities of DENR A.4-15
4.6 Benefits and incentives of FLGMA holders A.4-15
4.7 Grounds for cancellation A.4-16
REFERENCES A.4-17

ANNEX A.5 – Analysis, Simplification and Harmonization of Private Forest Development Agreement (PFDA) Regulatory Procedures A.5-1
1.0 Introduction A.5-1
2.0 PFDA-Related Policies A.5-1
2.1 Deregulation A.5-1
2.2 PLTP / SPLTP A.5-2
3.0 PFDA Status A.5-3
4.0 Analysis of PFDA Regulatory Procedures A.5-4
4.1 Application requirements A.5-5
4.2 Processing and approval A.5-7
4.3 Benefits / incentives for PFDA holders A.5-7
4.4 Sanction and penalties A.5-8
4.5 Other provisions A.5-8
REFERENCES A.5-9

ANNEX A.1

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.

Figure 1. Number and area of existing IFMA I by region (as of 2001)

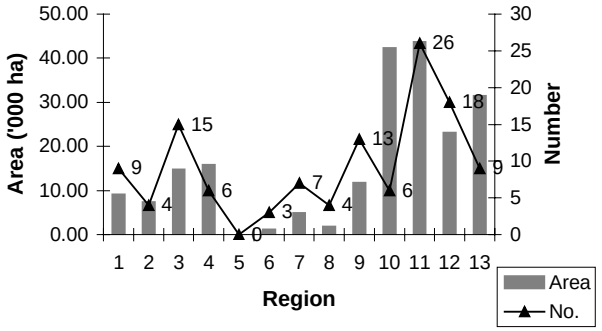


Figure 2. Number and area of existing IFMA II by region (as of 2001)

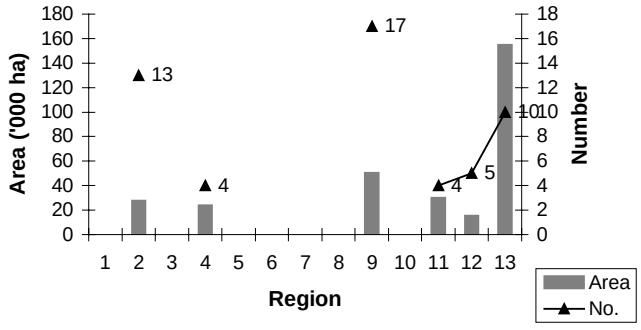


Figure 3. Number and area of existing IFMA by region (as of 2002)

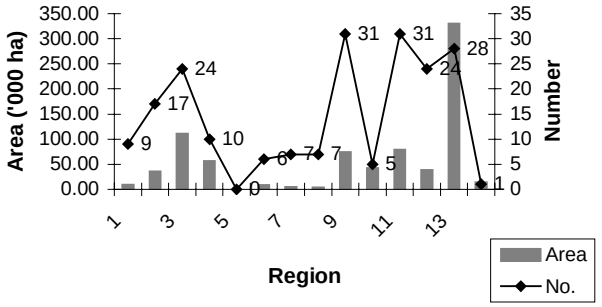


Figure 4. Existing IFMA by area classes (as of 2002)

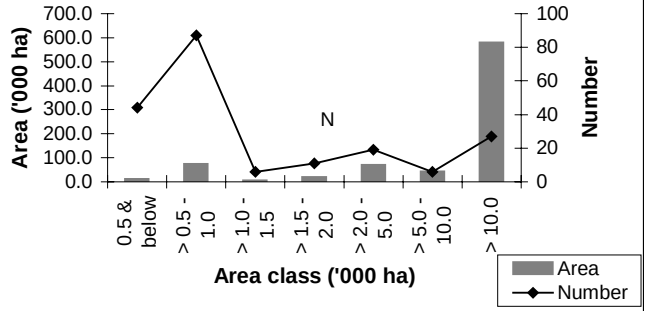


Table 1. IFMAs awarded by number, percent, and size of area (hectares) as of 2002*

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 2003-01and 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 the 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.

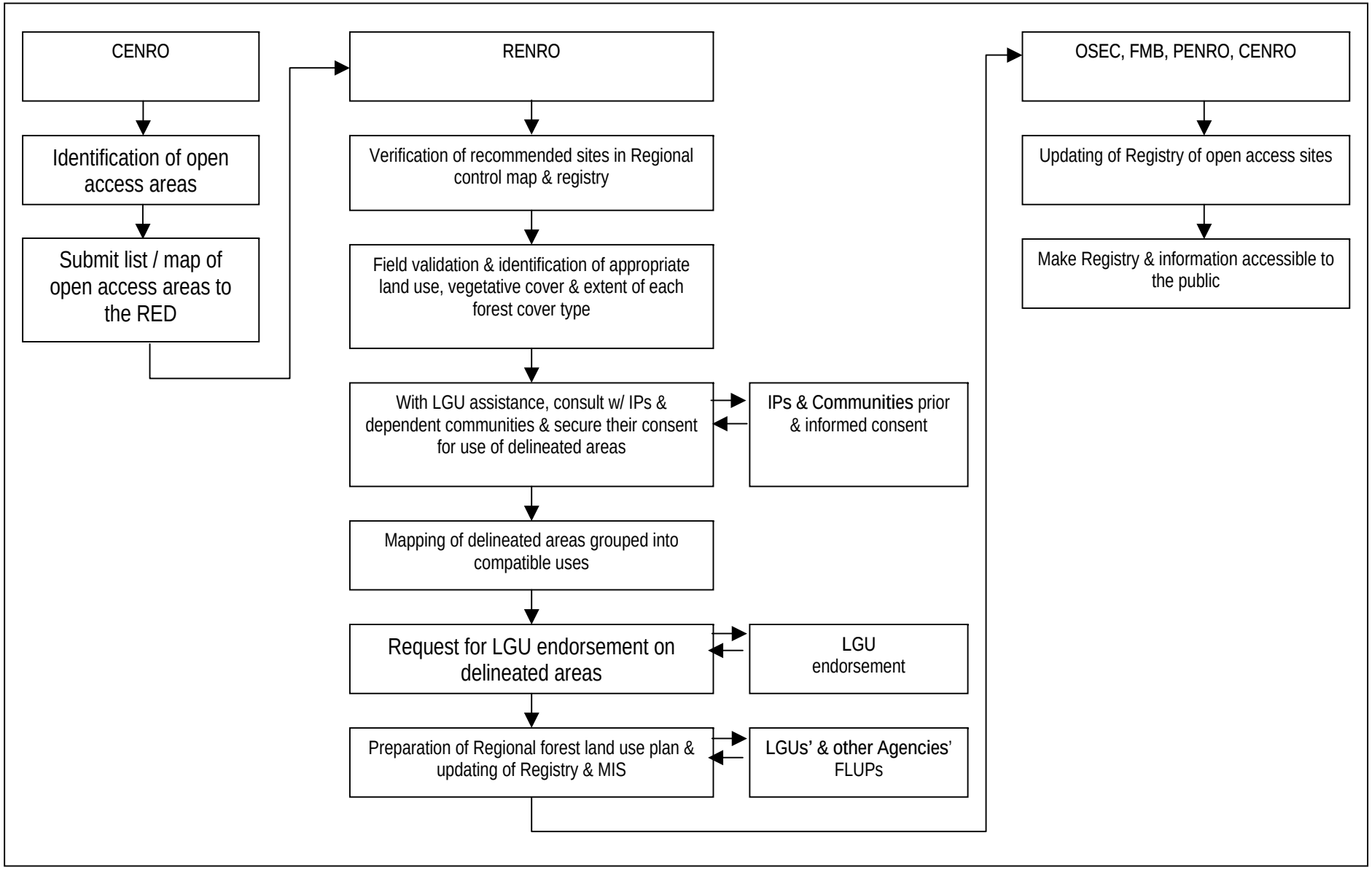


Figure 5. Proposed procedure for identification and approval of open access sites grouped into compatible uses

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, collaterable 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.

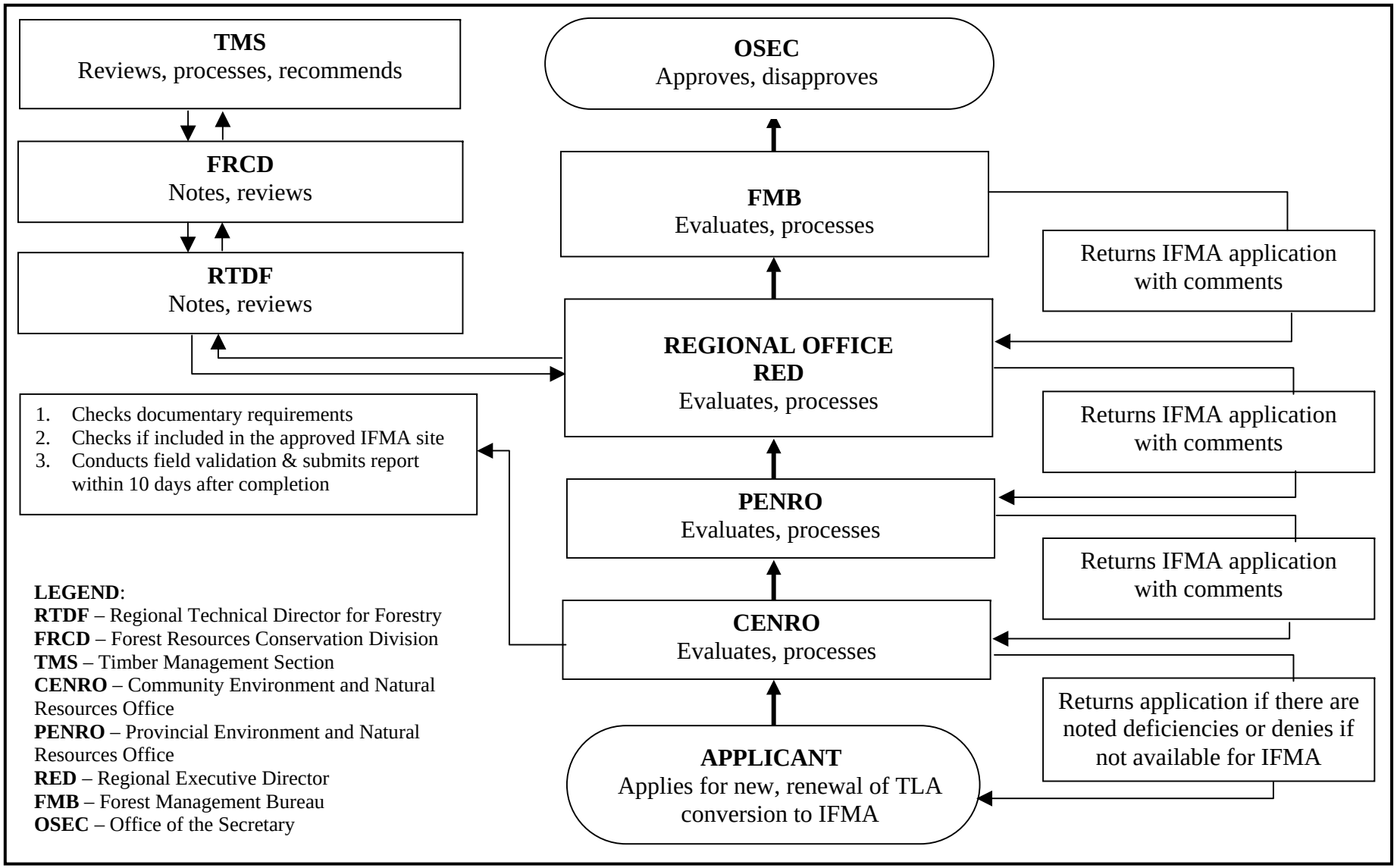


Figure 6. Existing procedure for processing and approval of Industrial Forest Management Agreement (Source: DENR Regional Offices)

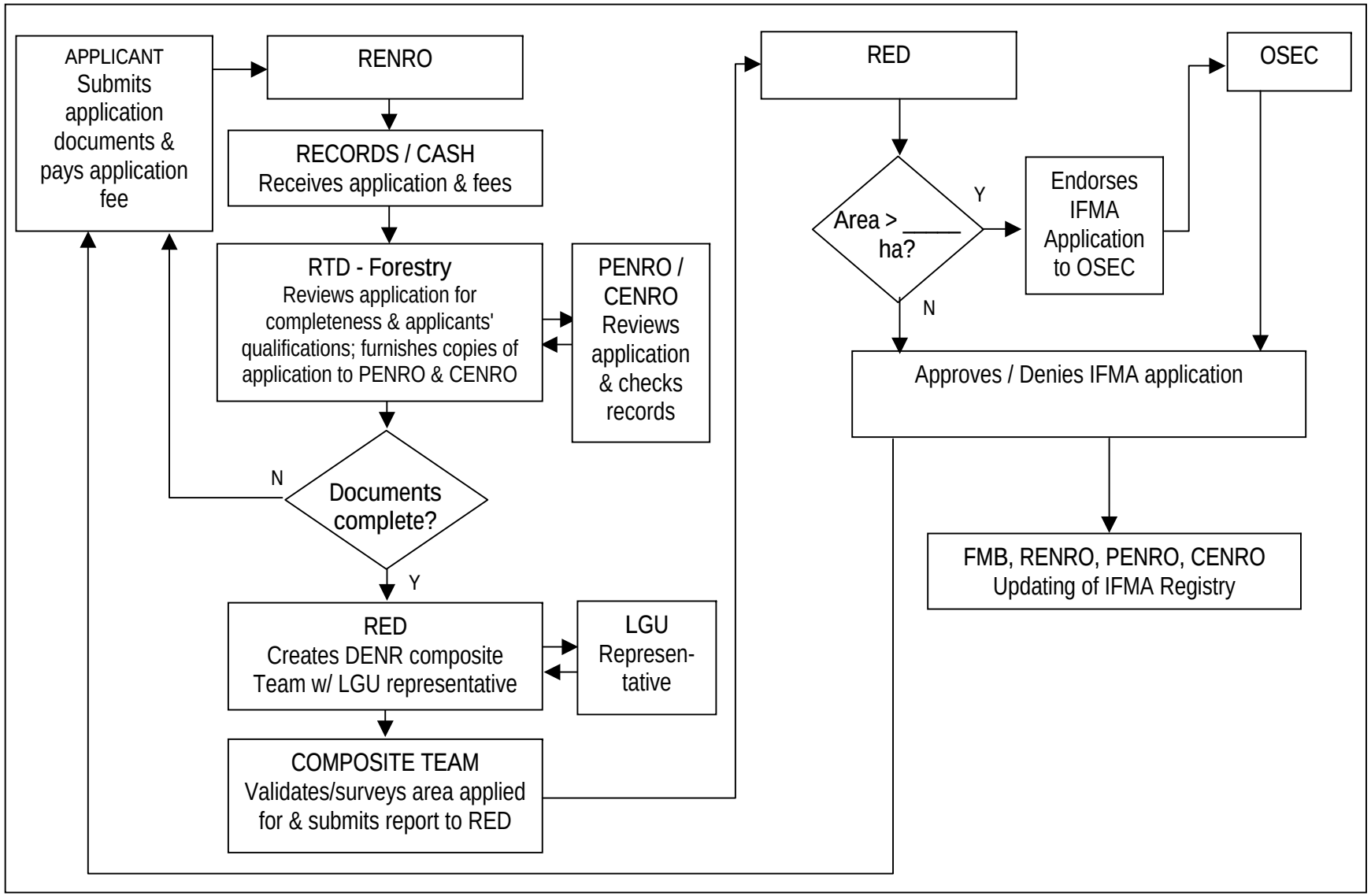


Figure 7. Proposed procedure for processing and approval of IFMA

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 Sos;
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. Sibucao, 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)	Section 19 - 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** Section 27 - 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)	Art. XII, Section 2 - "**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)	Section 4 – 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.)	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.)	Industrial Tree Plantation - 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 Section 6 - 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 Section 7 - DENR shall identify lands of the public domain, the biophysical features of which indicates

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
			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 Section 8 - areas available for ITO shall be granted through 25-year ITP Lease Section 13 - processing of applications: • 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: 300-500 ha - Asec for Operations 501-750 ha - USEC for Field Operations over 750 ha - Secretary Section 14 - within 12 months from issuance of ITPLA, lessee shall submit 25-yr CDMP Section 15 - nominal filing fee for ITPLA of P0.50/ha Section 16 - reduced payment for forest charges (25%) due on timber from ITP Section 26 - at least 30% of area should be developed within 3 years & 100% of area within 5 years after lease is granted 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. 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
DAO 91-42	1991	Revised regulations and guidelines governing the establishment and development of Industrial Forest Plantations (IFPs) (Sec. Fulgencio S. Factoran, Jr.)	Section 5 – potential IFMA areas identified, validated on ground, demarcated/ delineated on map, & classified as part of Permanent Forest Estate Section 6 – 2 types of IFMA areas: I – for purely plantation establishment II – for plantation development and management of natural forest combined Section 8 – awarding of areas is thru: • 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
			Section 9 – bidding & screening process; performance bond required Section 10 – issuance of IFMA: < 1000 ha – RED 1000-2000 ha – USEC-Field Operations > 2000 ha – DENR Secretary Section 11 – size of area: 100 to 20,000ha
DAO 92-16	1992	Addendum to DAO 42 which provides the Regulations and guidelines governing the establishment and development of IFPs (Sec. Victor O. Ramos)	PFDA – agreement entered into by & between DENR and a private land owner for the establishment & development of forest plantations within his/her private land • CENRO – accepts, processes & recommends applications for PFDA • RED – approving/issuing authority
DAO 93-60	1993	Revised regulations and guidelines governing the establishment and management of Industrial Forest Plantations (IFPs) and management of residual natural forests for production purposes (Sec. Angel C. Alcala)	Section 4 - Types of IFMA areas: • 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 Section 6 – size of area: 500 to 40,000 ha or up to size of TLA converted to IFMA Section 7 – RED identifies, evaluates suitability of land, demarcates on maps suitable & available areas for IFMA Section 8 – RED assisted by LGU notifies dependent communities of IFMA areas & acts on objections Section 9 – RED thru DENR field staff or FSO carries out resource inventory & prepares resource management plan for IFMA areas Section 11 – RED & DENR-CO maintain register of available areas for IFMA Section 13 – assignment of responsibilities: • 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 Section 16 - application fee: P0.50/ha & fraction thereof

Policy Issuance #	Year	Title / Subject (Issuing Official)	Highlights / Salient Provisions
			Section 18 – issuance of IFMA: < 2000 ha – RED 2000-5000 ha – USEC Field Operations > 5000 ha - Secretary Section 20 – responsibilities of IFMA holders: • submit every 5 years aerial photo/satellite imagery for areas >1000 ha; • IFMA holders can convert Degraded Residual Forest within their area to productive sate • responsible for operation & control of licenses & permits for harvesting NTFPs within IFMA area • payment of rentals, charges & performance bond (IFMA II) Section 34 – transitory provisions for conversion of ITPLA to IFMA
DAO 93-68	1993	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 (Sec. Angel C. Alcala)	Section 1 – expansion of incentives package for IFMA: • 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 Section 2 – complementary revisions: • 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	Temporarily suspending the implementation of the waiving of guarantee bond on IFMA pursuant to DAO 68, S-1993 (Sec. Angel C. Alcala)	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.
DAO 94-15	1994	Further amendments/ clarification to the provisions of DAO 68, series of 1993, Re: Additional incentives to IFP	Section 1 – performance guarantee bond as basis in award of IFMA is restored Section 2 – performance bond as basis in award of IFMA is revoked Section 3 – IFMA holders in good standing are entitled to annex additional areas to their IFMA except

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 Section 4 – 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)	Section 1 - lifting of suspension (dated June 22, 1994)on the processing & issuance of IFMA Section 2 - conflict of IFMA areas with other DENR projects are resolved by giving priority to these projects over IFMA Section 3 - provides procedural guidelines for processing & issuance of IFMA to avoid conflicts & submission of erroneous field reports • 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	Section 2 - gives priority to CBFM (EO 263), CADC (DAO 2-93), IPAS, SIFMA over IFMA in case of conflicts Section 5 - size of area: 500 to 20,000 ha; aggregate of IFMA areas by a holder does not exceed 40,000 ha Section 7 - 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
		inconsistent with provisions of this Order (Sec. Victor O. Ramos)	CDMP Section 8 - applications for TLA conversion or IFMA expansion are deemed as new applications & subject to pertinent requirements & procedures Sections 9,10, 11 - identification, evaluation & delimitation of potential IFMA areas: • 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 Section 14 - application fee: >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 Section 15 - processing of applications: (120 days) • 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 Section 16 - issuance of IFMA: • 10,000 ha & below - approval by Usec Field Operations with concurrence of Usec Envt & Planning & Usec Legal • above 10,000 ha - DENR Secretary Section 19 - salient responsibilities of IFMA holders: • 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
			Section 28 - **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
DAO 98-66	1998	Amendments to DAO 97-04 dated March 4, 1997, Re: Rules & regulations governing the Industrial Forest Management Program (Sec. Antonio H. Cerilles)	Section 7 of DAO 97-04 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 (Section 14-1 of DAO 97-04) Section 19.1 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
DAO 99-53	1999	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)	Section 6 - size of IFMA area: 500 to 40,000 ha (but can extend up to size of TLA at the time of conversion) Section 7 - DENR identifies potential areas, determines land use, validates on ground, along with LGUs consults dependent communities; LGUs indorses areas for approval by the RED Section 8 - Registry of Available IFMA areas at FMB, RED, PENRO, CENRO Section 9 - **automatic conversion of TLA into IFMA** allowed after proper evaluation Section 10 - application fees: P0.50/ha + survey fee of P50/ha & actual transport cost of survey team Section 11 - processing & approval of IFMA: • 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
			Section 12 - after IFMA is awarded, holder submits IEE; RED grants or denies ECC or may required EIS if needed Section 14 - salient responsibilities of IFMA holder: • 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 Section 20 - salient incentives: • 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 Section 21 - **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 • 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)	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: 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)	Section 9.2 of DAO 99-53 is amended - conditions under which **conversion of TLA** into IFMA can be allowed: • 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 Section 9.3 - size of area allowed for conversion may extend up to size of TLA subject to exclusion of the following: • 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 * Areas within CADC/T - free and prior informed consent should properly be obtained before filing of the application Section 9.4 - application requirements on conversion of TLA to IFMA shall be the same as those prescribed in section 10 of DAO 99-53
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	Section 3 - definition of terms: **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 **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) **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 **Other provisions still under discussion:** • 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

ANNEX A.2

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 263dated 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 $\leq$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 - < 100	100 - 500	Total
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	• DENR unable to carry out this task fully due to inadequate/insufficient funds and resources	• 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.
	• No systematic and credible database/ unavailability of latest forest resources information on the area	• DENR control maps should be regularly updated and latest forest information be made available through other units of DENR (i.e. NAMRIA)
	• No available forest land use plan in the regional offices of DENR	• Harmonization of plans with LGUs and other agencies with portions of forestlands where they have development activities, should be made by DENR.
	• Overlapping areas/conflicting claims on identified areas with LGUs, etc.	• Proper coordination should be done by DENR with LGUs, IPs, etc.
Application Requirements	• Difficulty in securing LGU endorsement causing delays in the processing of applications	• 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.
	• Existing policies do not specify how to determine financial capital of applicants	• Applicants should be properly screened. • Need to have standard bases/criteria or evaluation to be followed by all

AREA OF CONCERN	ISSUES/PROBLEMS	PROPOSALS
		regions. • Must present a banking guarantee to develop the area.
	• 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	• Fair and acceptable application fee should be instituted. • Harmonized fees for SIFMA and IFMA
	• Does not require an indicative Forest Management Plan for the area, only a sketch map of the area.	• 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	• 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.	• 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 ≤ 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.

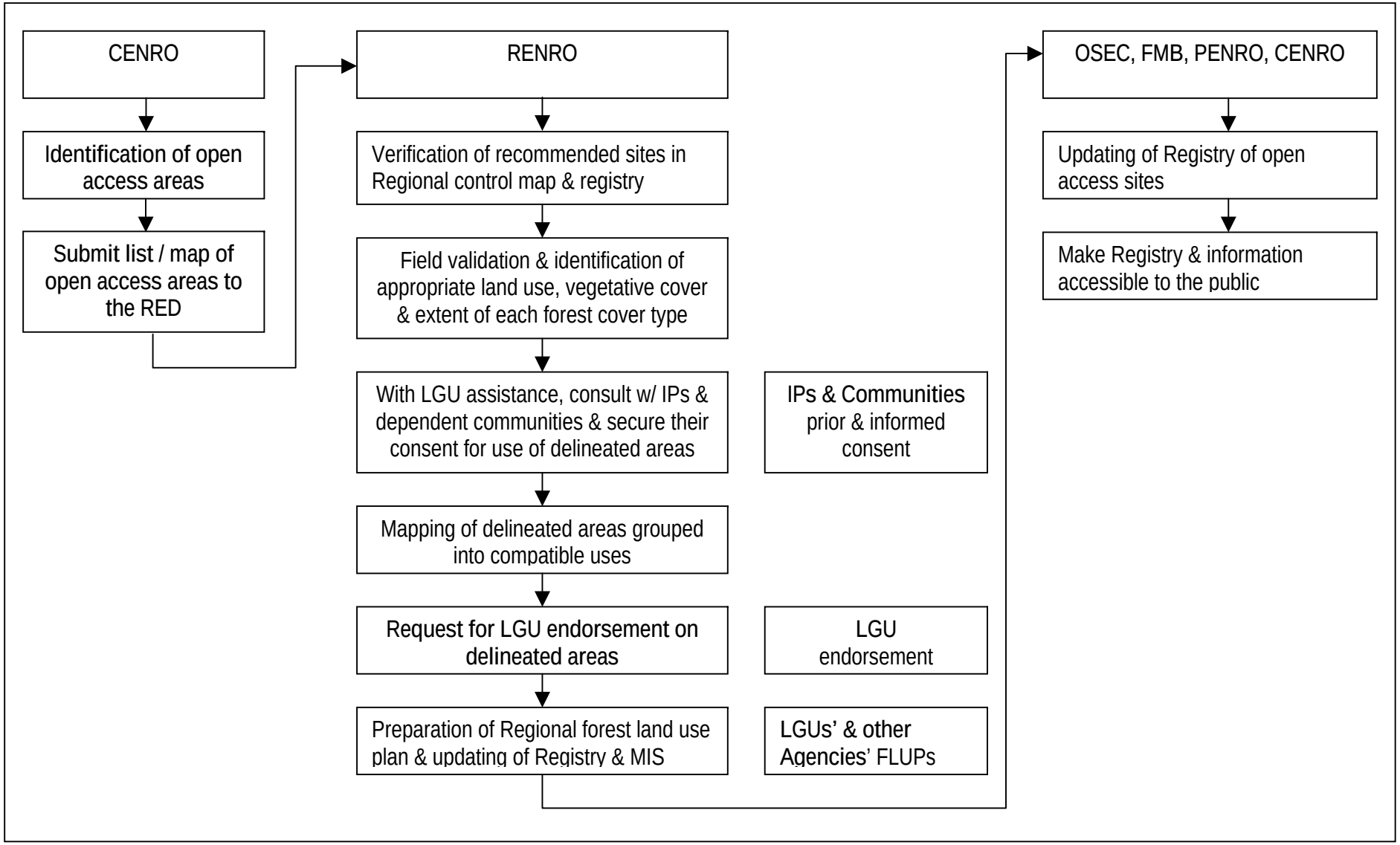


Figure 1. Proposed procedure for identification and approval of open access sites for various uses

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:

₱ 500	-- for applications covering 1 to 5 ha.
₱ 1000	-- for applications of over 5 to 10 ha.
₱ 5000	-- for applications of over 10 to 100 ha.
₱ 7500	-- for applications of over 100 to 300 ha.
₱ 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.

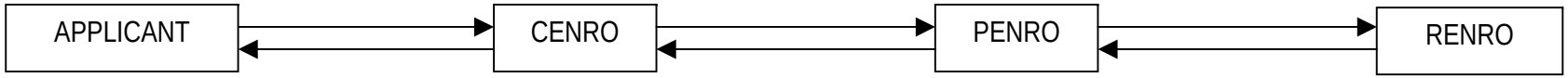
3.4 Processing and Approval of SIFMA

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 o 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 filed 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.



- Submits application with Complete requirements
- Pays application fee

- Accepts & processes application (On a 1st-come-1st-served basis)
- Checks completeness of application documents & qualification of applicant
- Verifies if applied area is available & within approved SIFMA site
- Conducts field inspection (10 days)
- Endorses and forwards all application documents to PENRO with his comments/recommendations
- If not in order, returns application to the applicant to complete the necessary requirements.

- Reviews and evaluates the SIFMA application (5 days)
- Prepares and approves the SIFMA with areas 1-10 hectares
- Forwards all SIFMA applications with an area of more than 10 hectares to 500 hectares to the RED for approval
- If not in order, issues notice denying the application, copies thereof shall be furnished the FMB, RED, CENRO & concerned LGU

- Reviews and evaluates the application documents, if in order, approves the SIFM Agreement (5 days)
- If not in order, issues a notice denying the application, copies thereof shall be furnished the FMB, PENRO, CENRO and the concerned LGU

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 ≤ 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.

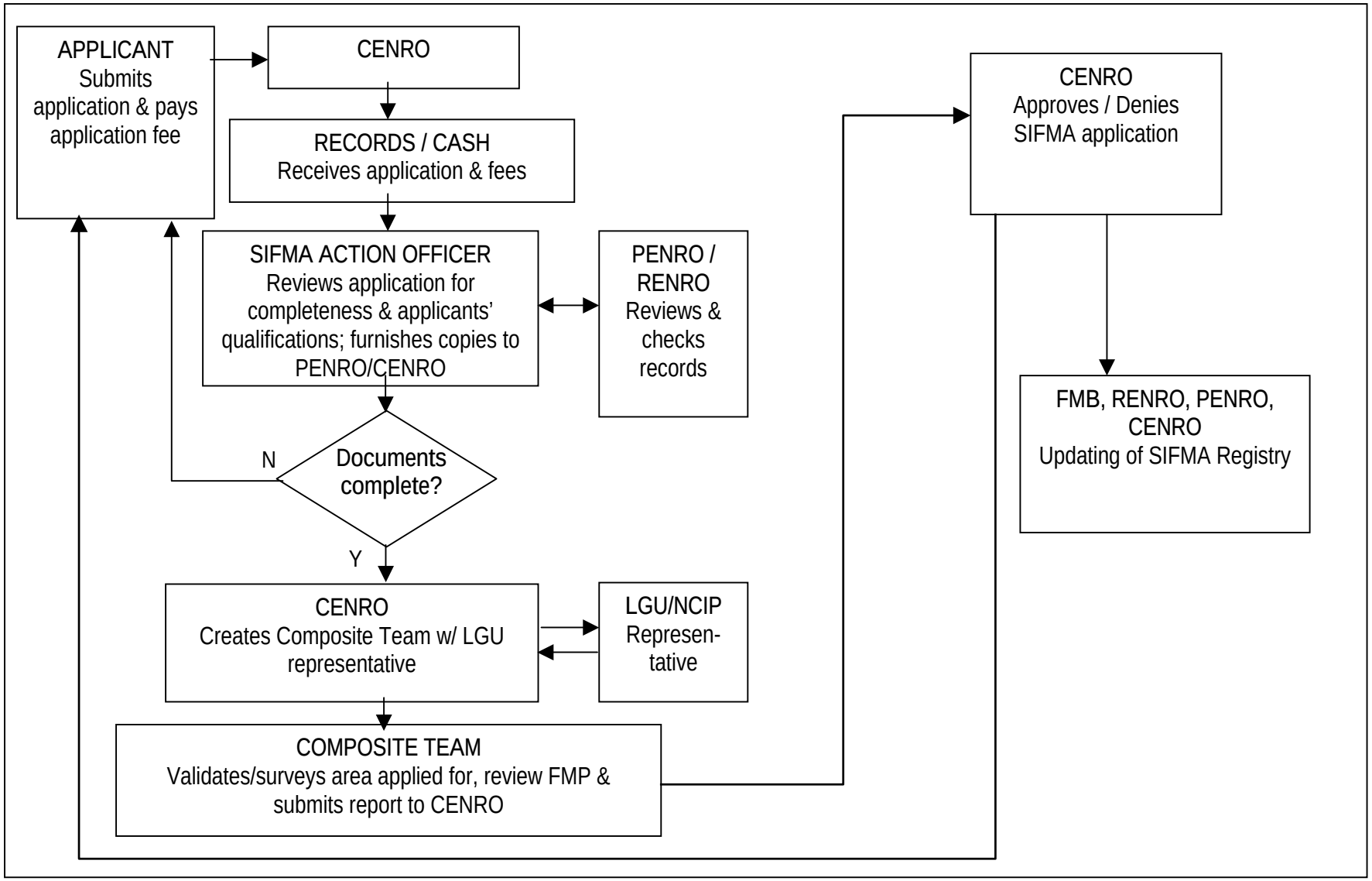


Figure 3. Proposed procedures for processing and approval of SIFMA (for areas ≤ 10 hectares)

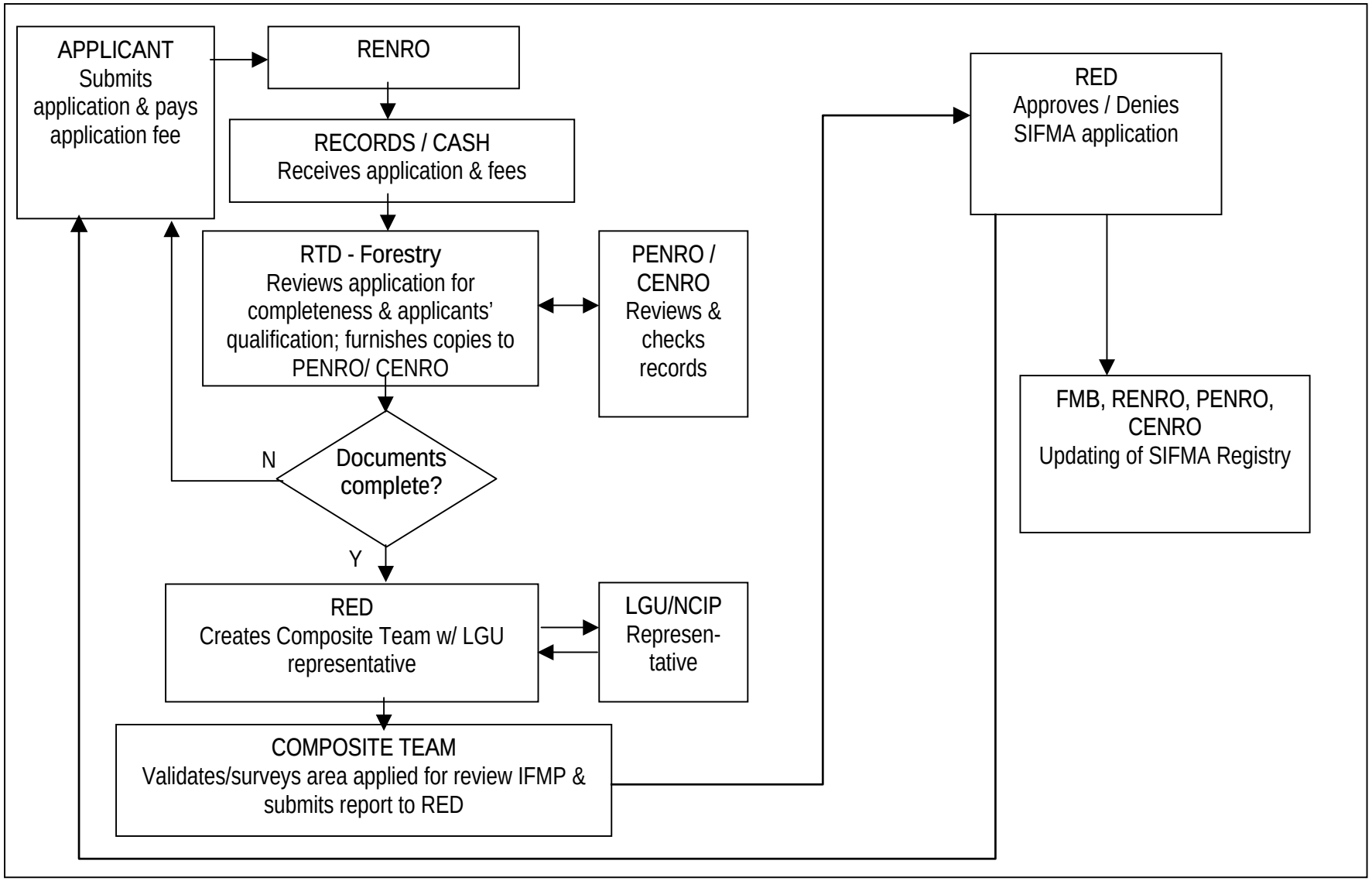


Figure 4. Proposed procedures for processing and approval of SIFMA (for areas > 10 hectares)

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 DENR0DILG-LGU Partnership on Devolved and Other Forest Management Functions.

ANNEX A.3

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	• No nationwide forest land use planning specifically on the identification of potential sites for SPLUMA and other forest management agreements	• Prioritize forest land use planning in consonance with LGU land us planning; maintain and update registry and MIS.	Operational
	• 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.	• Include as KRA of regional offices so that it becomes part of the annual budget.	Operational
	• No proper coordination between DENR and LGUs in the issuance of permits.	• Proper coordination with the concerned LGUs regarding the management of SPLUMA areas.	Operational
	• 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	• Need to propose a new DAO for SPLUMA	Policy
	• Most special land use areas were not fully utilized/developed	• 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
	• Application in first-come-first-served basis	• Competitive bidding shall be applied only in foreshore areas suitable for SPLUP/MA where the demand of such areas is high	Policy
Requirements of	• Inclusion in the list of	• 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	• Differing interpretation of policy statements leading to delays in processing and approval	• Re-training of DENR action officers on proper verification cross-checking of application documents	Operational
	• Difficulty in securing LGU endorsement causing delays in processing of applications for permits/leases	• 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
	• Regulation requiring a married applicant to get a written consent of the husband	• Non-inclusion of the regulation requiring a married woman applicant to get a written consent of the husband.	Policy
Processing and Approval	• Too many hierarchical levels involved in the processing of SPLUMA application causing delays and high transaction costs on the part of applicants	• Lessen levels of hierarchy: receipt, processing, evaluation, deliberation at the RENRO; field validation by composite team; deliberation by multi-sectoral group	Policy
	• Too centralized approval issuance of SPLUMA	• Decentralize by defining maximum area limits for approval at RED and OSEC levels and establish accountability mechanisms	Policy
	• Permittees not interested to convert their permits into leases	• 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	• Proliferation of illegal structures and business operations in foreshore areas.	• 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	• No standard/uniform policy on appraisal and valuation of foreshore lands	• 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.

Concerned Office	Responsibility
CENRO	Identification of Potential SPLUP/MA sites Thru table mapping & available information or existing Registry of Approved Sites
	Field verification of actual conditions of proposed SPLUP/MA sites
	Consultations with concerned LGUs, communities, IPs, other stakeholders in the proposed SPLUP/MA sites
	Request for LGU endorsement & IP/NCIP/ PO's prior & informed consent for use of proposed SPLUP/MA sites
LGU/NCIP	Endorsement/consent for use of proposed sites
CENRO	Recommend approval of proposed SPLUP/MA sites to RENRO
RENRO	Verification of availability of proposed sites in Regional control map & registry
	Approval of available sites for SPLUP/MA
DENR offices	Updating of Registry of Approved SPLUP/MA Sites

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

Kind	Maximum area in ha.
• 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.

Kind	Maximum area in ha.
• 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)

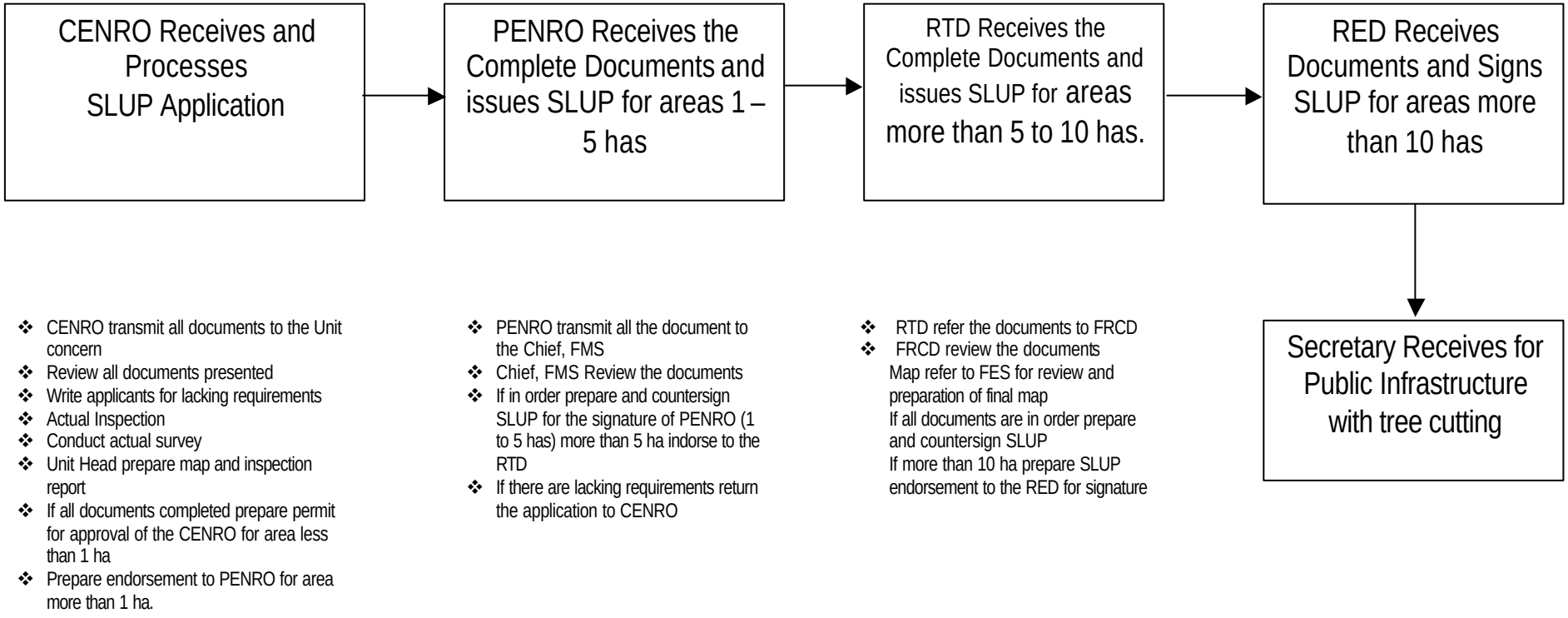
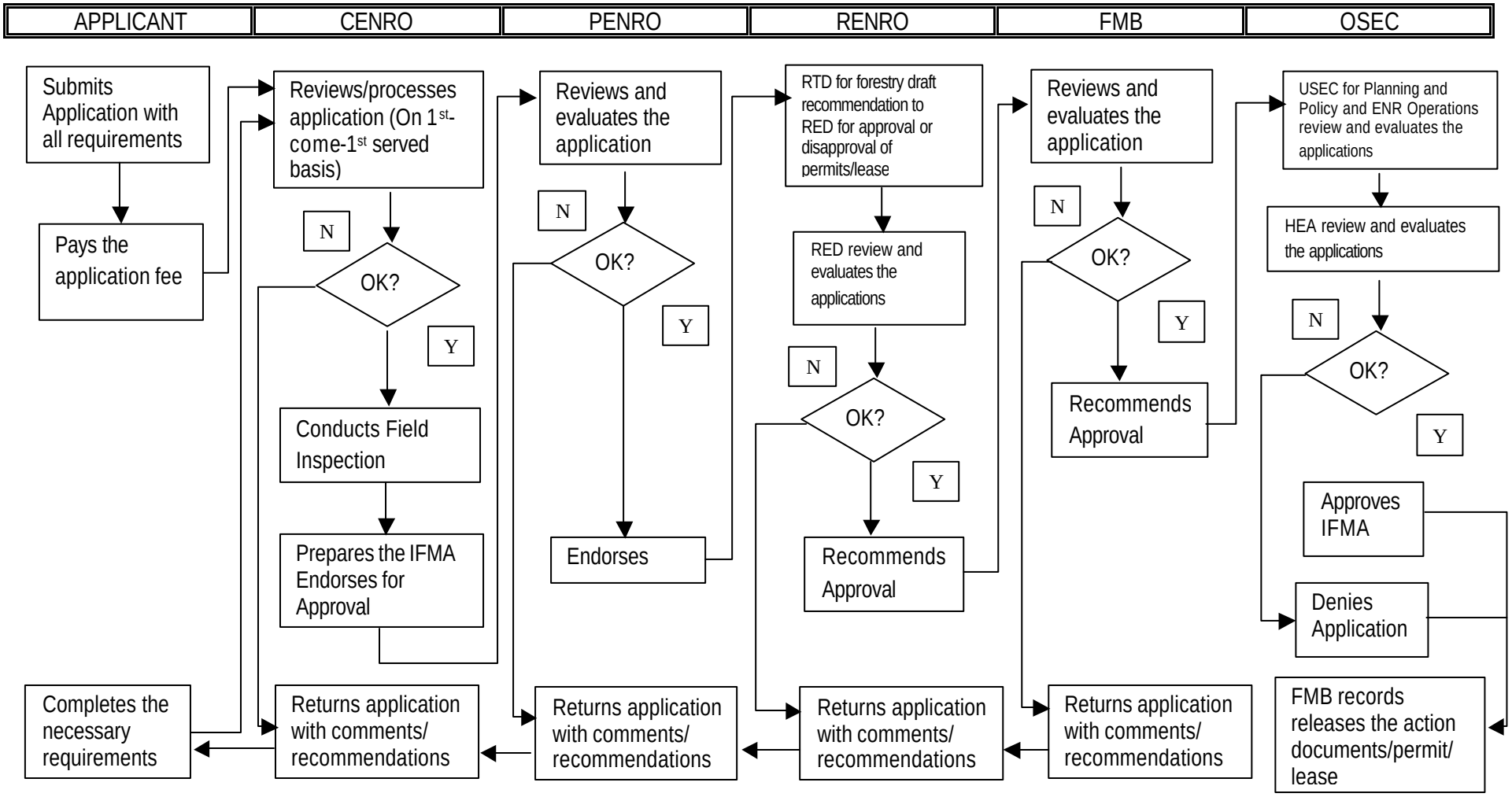


Figure 3. Existing Processing and Approval of SFUMA



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.

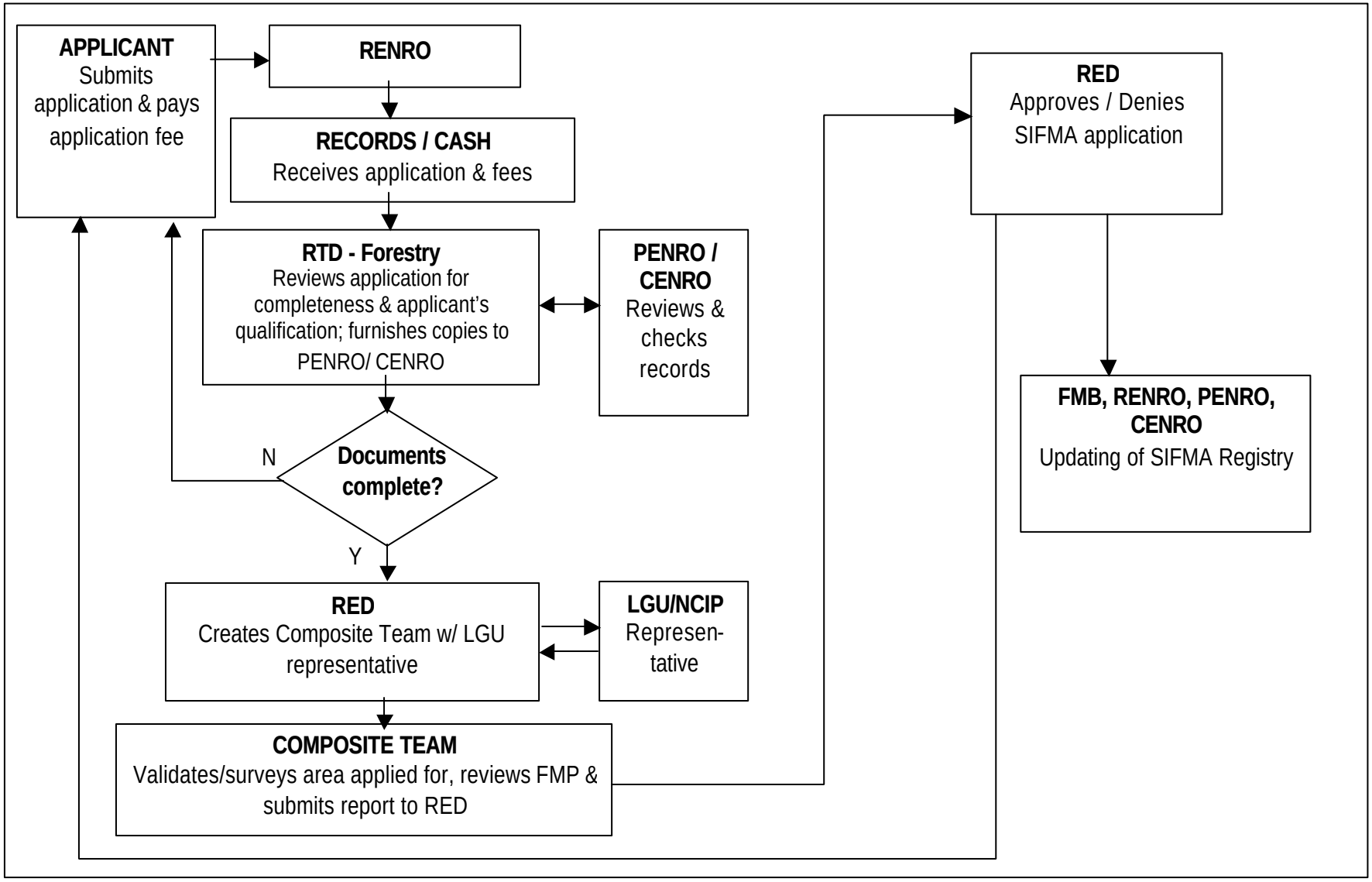
   This proposed procedure will decentralize the approval of some SPLUMAs from the Secretary to the RED. This move will unload the Secretary of some responsibilities. However, an accountability mechanism, transparency and participation should be established through the active involvement of various sectors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

2. **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 1941is 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 (Ist 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(1 997)	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, (1stDistrict)	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 (2nd 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 (1st 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 (5th 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 (6th 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 (1st District)	6.0	12-09-02	12-31-2027	P208,748.35	Existing
OLPLA No. 0017	Shipyard/Ship repair	FBM-A Babcok Marine, Inc.	Arpili, Balanban, Cebu (1st 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 (1st 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 (2nd District)	4.68	11-12-95	12-31-2020	P12,067.00	Existing
BELA No. 5	Bathing Establishment	Dennis Mendoza	Compostela, Cebu (5th District)	4.16	03-18-84	12-31-2004	P15,781.00 (1993)	Existing
OLPLA No.0013	ERAP	Alcordo International	Ronda, Cebu (2nd District)	3.8	11-24-99	12-31-2024	P6,673.00	Existing
CSS & RRW	Communicatio n Station Site and Road Right-of-Way	Philippine Long Distance Telephone Company	Cadulawan, Minglanilla, Cebu (1st 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 (6th 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 (6th District)	3.35	05-21-03	12-31-28	P44,837,00	Existing
Region XIII CARAGA								
CSS	Communicatio n 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 (1st District	1.63	05-10-99	12-31-2024	P300.00	Existing
TOTAL							P939,114.27	

AppendixTable 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	All forest lands may be made available for CSFUMA and other special uses except the following areas: ▪ 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. 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.	All forest lands may be made available for CSFUMA and other special uses except the following areas: ▪ 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. 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.
	Existing process of identifying an approval of available sites for SPLUMA • Identification of a potential SPLUMA site is only conducted when an applicant applies for it.	Proposed process of identifying and approval of available sites for SPLUMA **2. In the CENRO** • 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 & IP/NCIP/ PO's prior & informed consent for use of proposed SPLUP/MA sites • Recommend approval of proposed SPLUP/MA sites to RENRO **3. In the RENRO** • Verification of availability of proposed sites in Regional control map & registry • Approval of available sites for SPLUP/MA **4. Other DENR Offices** • Updating of Registry of Approved SPLUP/MA Sites
Qualification requirements for SIFMA applicants	**New 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**	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

	develop the given area	
Application requirements	**New Applicants (11)** 1. Duly accomplished & notarized application form (3 copies) 2. If applicant: 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 Region 7) 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: 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) » 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)	**A. First-come-first-served Basis:** 1. Duly accomplished application form 2. Payment of the following fees: A. First-come-first-served basis: ▪ Filing fee ▪ Inspection fee ▪ Oath fee ▪ Performance bond B. In Competitive Bidding: -- Bid deposit 3. Proofs of legitimacy/existence/ satisfactory performance a. For Individual applicant: ▪ Written permission from Head of Agency (for government employees) B. For corporation/Association/ Partnership/ Cooperative: ▪ 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 4. Proof of financial capability: ▪ 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: ▪ Detailed & scaled map ▪ Business Management Plan ▪ IEE/EIS report/CNC application B. Proposed Pre-qualification requirements of Prospective Bidders: 1. Proofs of legitimacy/existence/ satisfactory performance ▪ 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 the officers to file the application in behalf of the Corporation; ▪ 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; 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
Processing and approval of SPLUMA	**A. In the CENRO** 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 I 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. **B. In the PENRO** 1. Reviews and evaluates application together with the report of CENRO within 1 day. 2. Issues Special Use Permit for areas 1 ha to 5 ha within 2 days. 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 **C. In the RENRO (2 days)** 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 **D. In FMB.** 1. Reviews application and supporting documents within 1 day	**A. In the RENRO** 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. *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* 3. Conducts field validation/ inspection of the area by composite team (applicant, RENRO, PENRO,CENRO, concerned LGU, etc) 4. Reviews Business Management Plan. *If not in order and there are deficiencies, the applicant is required to revised the plan based on comments and suggestions/ recommendations.* 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. . **B. In the OSEC** 1. Final deliberation of the SPLUMA application (with tree cutting or earth moving

	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. **E. In the UFO** 1. Reviews application and endorsement from FMB within 2-5 days 2. Affixes initials on the permit/lease and map and/or endorses application to the OSEC thru the HEA within 2-3 days. **F. In the OSEC** 1. Reviews the application and the draft Special Land Use permit/lease. 2. Approves/affixes signature on the permit/lease and map within 22-10 days. 3. Returns the approved permit/lease to FMB for numbering and/or release within 1-2 days.	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 LGUs concerned.
Benefits of SPLUMA holders		1. Reduction of payment of the user's fee under the ff conditions: • 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 For maintaining the area at survival rate of at least 80% at the time of expiration of the SLUMA
Benefits of government from SPLUMA	1. Annual rental: For the first year rental : I 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 2. Income and real property taxes paid by the Holder 3. Employment generation 4. Environmental enhancement and protection	1. Payment of annual rental 2. Income and real property taxes paid by the Holder 3. Employment generation 4. Environmental enhancement and protection
Sanction and Penalties	Grounds for suspension/cancellation: **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.	Common grounds for suspension/ cancellation: 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

	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. The cancellations of the permit shall carry with it the forfeiture of the bond if any, to the government.	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 SPLUMA Holder	1. To prevent injury in the public forest. 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. 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	1. Delineate and mark on the ground the 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 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
Responsibilities of DENR	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 lease.	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 for development of the areas covered by the instrument 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	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.	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. The OSEC-UFO shall be responsible mainly for resolution of conflicts and actions on complaints and cases against DENR personnel or instrument holders.
Other Provisions	**Transfers and Sale Provisions:** 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 all such unpaid rentals previous to the approval of the transfer. 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.	Transfer and Sale Provisions: *1.* Upon the death of the agreement/permit holder: *Surviving heirs may succeed thereto; Provided they are willing to assume the obligation of the deceased and are capable of developing the area.* 2. Transfer and sale of lease is allowed only after 3 years from approval of the lease with the following conditions: • The transferor or vendor has no unpaid rental. *If he has any, the transferee or vendee should agree to settle all such unpaid rentals.* • 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. *3.* Transfer shall only be valid when approved by the Secretary or his/her duly authorized representatives. *Otherwise it shall be considered sufficient cause for the cancellation of the permit/lease.* **The document of transfer, conveyance or sale shall be notarized and copies forwarded to the FMB, RED, CENRO and concerned LGUs.**

ANNEX A.4

ANALYSIS, SIMPLICATION 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).

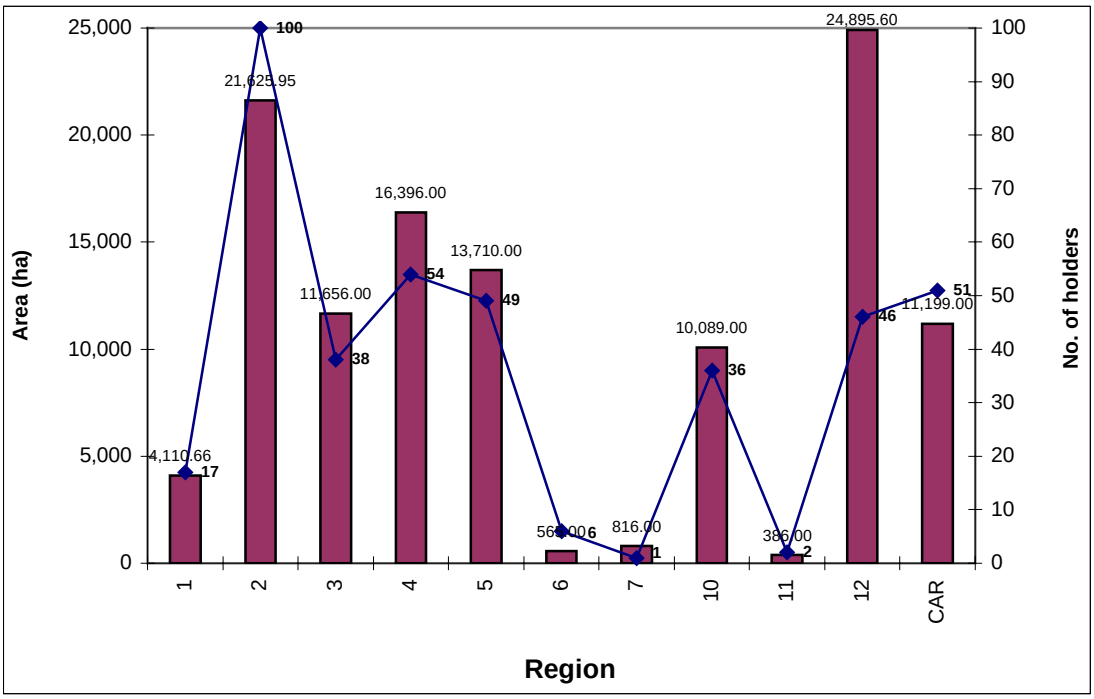


Figure 1. Existing Grazing Leases by Region as of March 2003

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 3rd district of Cagayan, particularly in Peñablanca and in the first and second districts of Isabela in the towns of Tumauini, Cabagan, Quirino, Magsaysay and Mallig.

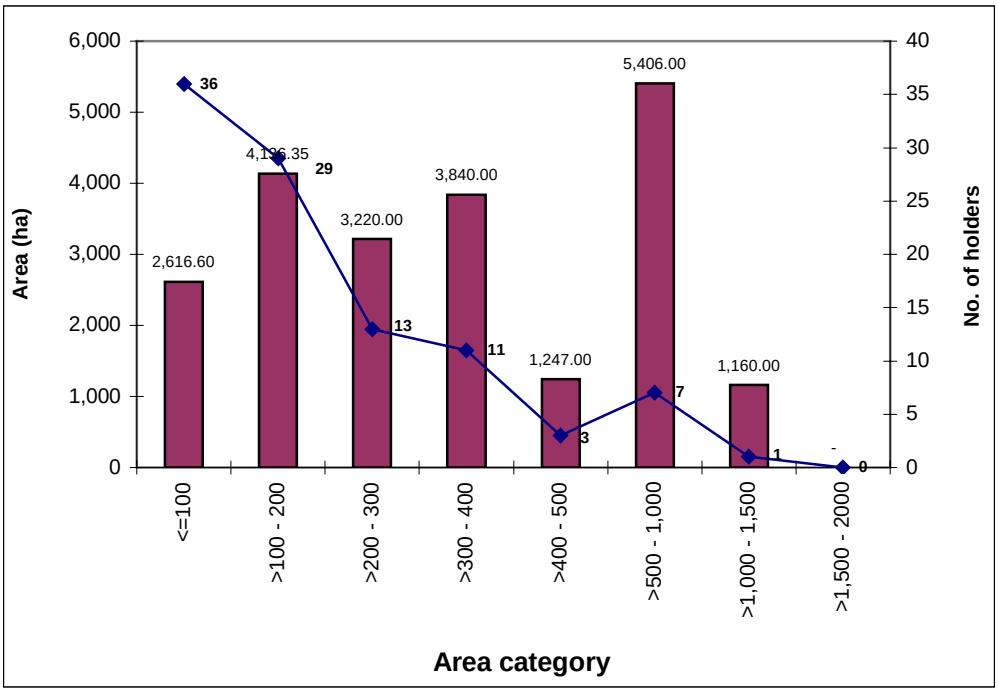


Figure 2. Profile of FLGMA Holders in Region 2.

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).

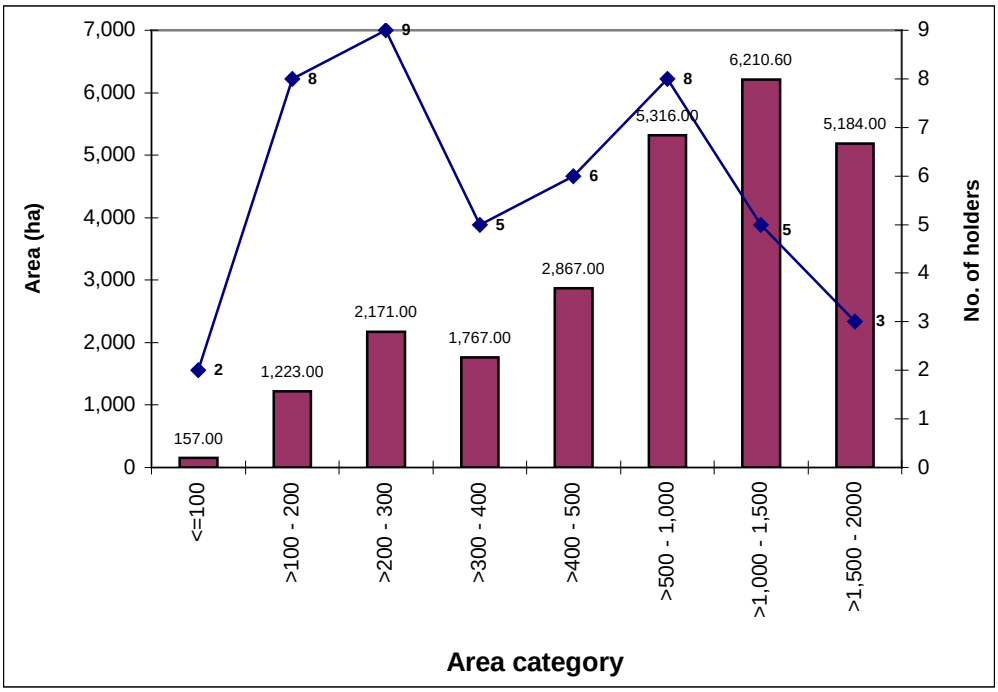


Figure 3. Profile FLGA Holders in Region 12.

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

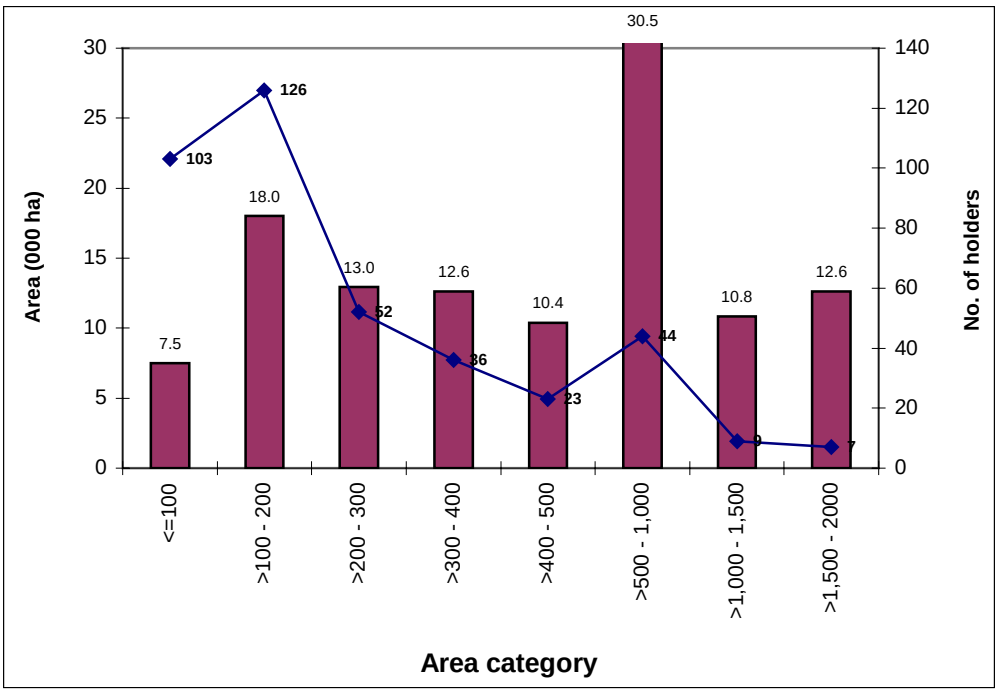


Figure 4. FLGMA Holders Nationwide by Area Category

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 two 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	• 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.	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	• Too many unnecessary and redundant requirements. • Too high inspection/survey fee • Too high bond deposit	.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	• 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	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	• 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	• 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 → provide legal assistance and active support in pursuing cases against claimants, squatters and other forest violators in their leased areas.	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	• An 89% reduction in government share/user's fee from the supposed P350.00/ha in 2002 to just P40.00/ha.	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	• 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 P500/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 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.

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 CENR 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 CENR 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
PROCESSING PROCEDURE AND APPROVAL OF FLGMA In the CENRO 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 In the PENRO 1. Evaluates the FLGMA application and the completeness of requirements 2. Endorses the application to RED, with recommendation; otherwise returns to CENRO In the RENRO 1. Evaluates the FLGMA application and the completeness of requirements 2. Endorses the application to RED, with recommendation; otherwise returns to CENRO In the UFO 1. Receives/records application 2. Refers to technical personnel 1. Refers to FMB In the FMB 1. Evaluates/reviews application 2. Refers FLGMP to ERDB for comments/signature of approval sheet In the ERDB 1. Evaluates/reviews application 2. Refers FLGMP to ERDB for comments/signature of approval sheet In FMB 1. Reviews/evaluates application and FLGMP; if application and the FLGMP are in order, endorses application for approval; otherwise returns to RED or applicant In the OSEC 1. ENRO/PRO evaluates/endorses application 2. Secretary approves/disapproves the application 3. If approved, returns to FMB for releasing	In the RENRO 1. *Accepts application requirements including fees on a first-come-first-served basis* 2. *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. .* 3. *Conducts field survey/assessment of the area by* composite team 4. *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.* 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-Yr. OP 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 25-year FLGMP and 5-year OP and signing of the approval sheet.* 8. *The RED approves the FLGMA agreement contract with areas ≤ 500 ha. Copies of the approved 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.* In the OSEC 1. *Final deliberation of the FLGMA application to be headed by the USEC for Field Operations,*

Existing Procedure	Proposed Procedure
	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). 2. *Secretary approves or disapproves the FLGMA based on the results of the final deliberation.* 3. *Furnishes copies of the approved FLGMA to the Regional Office (cc: RTD for Forestry, FRCD, PENRO and CENRO), FMB and LGUs concerned.*

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 $\leq$ 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'' 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.

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	▪ Pastural 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
DAO 99-36			
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 than50% 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 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	*DAO 99-36as 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 merely states the criteria for classifying forest lands into grazing lands.*	1. *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:* 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 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	• *Avoid legal encumbrances resulting from overlapping tenurial instrument/conflicting land claims* • *Reduction in processing time*

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
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 3. Expired / cancelled TLA areas which are suitable for grazing		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. 3. Expired / cancelled TLA areas which are suitable for grazing	
WHO MAY APPLY			
1. Citizens of the Philippines who are of legal age at the time of the filing of the application; 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 3. Financially and technically capable	Financial and technical capability is sufficiently measured in the application requirements	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			
1. Application form duly accomplished; 2. If applicant is a government employee, a written permission	• Too many unnecessary requirements that are redundant and difficult to secure. • Too high inspection/survey fee	1. Duly accomplished application form 2. Payment of fees/bonds/rentals: Application fee -- P10.00/ha Oath fee -- P30.00	• 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
from the Secretary 3. If the applicant is a naturalized Filipino citizen ➢ 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 5. If applicant is a partnership, 3 copies of its articles of partnership certified by the Securities and Exchange Commission; 6. If applicant is a corporation, 3 copies of: ➢ 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	and bond deposit	Inspection/survey fee – *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.* Bond deposit -- P75.00 /ha *and fraction thereof, 25% in cash and the remaining 75% in surety bond.* 3. Proofs of legitimacy/satisfactory performance: For corporation/ association/ partnership ➢ Certificate of good standing from Security and Exchange Commission (SEC) ➢ Its Articles of Incorporation ➢ Its By-Laws For cooperative – Certificate of good standing from Cooperative Development Authority (CDA) For government officials/employees – Written permission from Head of Agency 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. For partnership – 3 copies of its articles of partnership certified by the SEC If uses a name, style or trade name other than its true name – A Certificate of Registration with the Department of	• Clients/grazing holders will be better served.

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
Board of Directors, electing the present officers of the corporation, certified by the Corporate Secretary ➢ The minutes of the meeting of the Board of Directors indicating authority of the Officer to file the application in behalf of the corporation 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; 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; 9. Application fee of P10.00 for every hectare or fraction thereof; 10. Oath fee of P30.00 (if oath is administered by Forest Officer, pursuant to DAO 18, Series of 1993); 11. Inspection/survey fee of P300.00 / ha or fraction thereof; 12. Certification of the Barangay Captain, attested by the Municipal Mayor who have political		Trade and Industry (DTI) 4. Proof of financial capability: Capitalization (bank and/or cattle ownership at one head per five ha. or P2,000 per ha.) 5. Technical requirements: Five Year Operational Plan 25 Year Grazing Management Plan incorporating the IEE/EIA requirements Approved ECC ➢ Original and 10 blue print copies of the sketch of the area covered by the proposed FLGMA	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
jurisdiction over the sea as to the presence or absence of settlers/squatters/Ips; 13. Five-Year Operational Plan; 14. Twenty-five Year Grazing Mgt Plan; 15. Capitalization (bank and/or cattle ownership at one head per five ha orP2,000 per ha); 16. Bond Deposit cash or surety P500.00 / ha or fraction thereof; 17. Affidavit of the applicant that he is not a dummy of any person, group or 18. Affidavit of 2 disinterested persons that the applicant is not a dummy of any other person, group or corporation; 19. Certification from the Range Management Officer attested by the CENR Officer that the area is free from squatters or claim of IP and 20. Original and 10 blue print copies of the Sketch of the area covered by the Proposed Forest Land Grazing Management Agreement; 21. Initial Environmental Examination Environment IEE/ EIA/ECC			

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
PROCESSING PROCEDURE AND APPROVAL OF FLGMA			
In the CENRO 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 In the PENRO 1. Evaluates the FLGMA application and the completeness of requirements 2. Endorses the application to RED, with recommendation, otherwise returns to CENRO In the RENRO 1. Evaluates the FLGMA application and the completeness of requirements 2. Endorses the application to RED, with recommendation, otherwise	• *Too lengthy processing time because of many levels of the DENR hierarchy in which FLGMA application are processed and reviewed.* • *Unnecessary delay or withholding of approval of the FLGMP.* • *Submission and consequent acceptance of incomplete application requirements.* • *Insufficient capability of the DENR field offices in cross-checking application documents.* • *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.*	In the RENRO 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. *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.* 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 *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/*	• 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
returns to CENRO In the UFO 1. Receives / records application 2. Refers to technical personnel 3. Refers to FMB In the FMB 1. Evaluates / reviews application 2. Refers FLGMP to ERDB for comments/signature of approval sheet In the ERDB 1. Evaluates / reviews application 2. Refers FLGMP to FMB for comments/signature of approval sheet In FMB 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 In the OSEC 1. ENRO/PRO evaluates / endorses application		*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.* 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 ≤ 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
endorses application 2. Secretary approves / disapproves the application 3. If approved, returns to FMB for releasing		In the OSEC 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). 2. Secretary approves or disapproves the FLGMA based on the results of the final deliberation. 3. Furnishes copies of the approved FLGMA to the Regional Office (cc: RTD for Forestry, FRCD, PENRO and CENRO), FMB and LGUs concerned.	
RESPONSIBILITIES OF FLGMA HOLDERS			
1. Protect, develop and maintain the productivity of the area as indicated in the approved 5-YearOperational Plan (OP) and 25- Year Forest Land Grazing Management Plan (FLGMP). 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	• 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.	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	• 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
3. Boundaries of the area covered by the FLGMA shall not be altered or modified 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 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. 6. Grazing shall be confined to the leased area with slope of below 50% 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 8. Undertake pasture improvements equivalent to a minimum of 10% of the agreement area 9. Pay the prescribed government share per hectare or fraction there of based on the assessment		on the computed grazing capacity 5. Introduce/establish the necessary ranch facilities such as corrals, cattle shed, cluster saltboxes and etc. 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 7. Plant with appropriate forest trees portions of the area with a slope 50% and above within a maximum period of five years 8. Preserve trees found within a strip of 40 m wide on both sides of creeks, rivers, and streams 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 10. Undertake pasture improvements equivalent to a minimum of 10% of the agreement area 11. Graze only in area with slope of below 50% 12. Practice rotation grazing 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.	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
conducted by the Assessment Team. Payment is due on the first month of the succeeding year 10. Fence the peremeter 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 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. 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.		14. Do not sublease the area or any portion thereof and do not allow animals belonging to other people to graze in the area. 15. Not use communal forests, communal pastures and other forests reserves for special purposes even if found inside the area covered by the FLGMA 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. 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. 18. Pay the prescribed government share 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 20. Submit annual report to the CENR Office on all activities undertaken in the area	

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
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 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 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. 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. 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 18. Payment of cash bond in the			

Existing Regulatory Procedures	Gaps, Issues and Concerns	Proposed Regulatory Procedures	Possible Resulting Effect/Impact
amount of P500./ha or fraction thereof 19. Submit a 5 Year Operations Plan and a 25-Year Grazing Management Plan. 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 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			
RESPONSIBILITIES OF DENR			
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.	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. • Provide legal assistance and active support in pursuing cases against claimants , squatters and other forest violators in leased areas.	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,	• 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	• 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
for in DAO 99-36. Said reduction of government share takes effect after the assessment during the transitory period and thereafter 2. As per Pres. Gloria Macapagal-Arroyo's pronouncement in January 2002, reduction of government share to P40.oo per hectare.		provided for in Sec 27 (DAO 99-36) and Sec 4 (DAO 2000-23) is proposed deleted.	
BENEFITS AND INCENTIVES FOR THE GOVERNMENT			
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		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			
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 p ay the user's fee for two consecutive years; 5. Commits an act tending to influence a forest officer or to	• 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.	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	• 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
		amendments. 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.	
TRANSFER, SALE OR ASSIGNMENT PROVISIONS			
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. 1. With prior approval by the Secretary 2. Maybe allowed only after 3 years from approval thereof and only when it is shown that: 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		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. 1. Transfer, sale or assignment of lease area is allowed only after 3 years from approval of the agreement with the following conditions: • The transferor or vendor has no unpaid rental. *If he has any, the transferee or vendee should agree to settle all such unpaid rentals.* • 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
complying with the terms and conditions of the agreement; c) the transferee. vendee or assignee has all the qualifications and none of the disqualifications to hold an agreement; 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; e) the transfer, sale or assignment is not made to defraud creditors; and f) the transfer, sale or assignment is not being made for purposes of speculation. 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.		disqualifications to hold an agreement. • 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.	

ANNEX A.5

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)								
	Unknown	0 - 5	> 5 - 20	>20 - 50	>50 - 100	>100 - 500	500 - 1,000	>1,000 - 2,000	Total
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)							
	0 - 5	> 5 - 20	>20 - 50	>50 - 100	>100 - 500	500 - 1,000	>1,000 - 2,000	Total
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	• Too many application requirements	• With the deregulation policy, only a Registry of Private Forest Lands should be maintained.
	• Requirement of 100% forest inventory in the application	• Sampling intensity should be determined by the owners based on size and variability of the area
	• Difficulty in securing LGU endorsement	• This requirement should be deleted since the area is privately owned.

AREA OF CONCERN	ISSUES, GAPS AND COMMENTS	PPROPOSAL
	• Requiring PFDA applicants to secure ECC	• IEE/ECC should be required only when securing a cutting permit.
Processing and Approval	• Too many hierarchical levels involved in the processing of PFDA application causing delays and high transaction costs on the part of the applicants	• 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	• PFDA is not an investor-friendly instrument	• 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	• The suspension of all cutting permit for naturally grown timber species.	• 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	• Issuance of PFDA-Related Policies outdating PFDA	• 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 outdating 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 outdating 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 PFDAs 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.

Terminal Report

Simplified and Harmonized Forestry Regulatory Procedures
With funding support from The EcoGovernance Program-USAID
(Subcontract No. 4105-506-03P-03)

ANNEX B

COMMUNITY-BASED FOREST MANAGEMENT

FORESTRY DEVELOPMENT CENTER
College of Forestry and Natural Resources
University of the Philippines Los Baños

(Through the University of the Philippines Los Baños Foundation, Inc.)
College, Laguna 4031 Philippines

April 2004

TABLE OF CONTENTS

		Page
I.	Preparatory Activities	
	1. Establishment of institutional linkages and intensification of IEC	1
	2. Identification and delineation of CBFM sites	4
	3. Validation of CBFM participants	5
	4. PO formation	7
	5. Processing of CBFMA application	8
	6. issuance of the Certificate of Stewardship	12
II.	Planning for the Community Resource Management Framework and the Five-Year Work Plan	
	A. Community Resource Management Framework	
	1. CRMF Preparation	13
	2. Assistance to PO's training orientation	15
	3. Assistance to PO in determining forestlands and in preparing the resources plan	15
	4. Financing strategy and accessing resource funds	17
	5. Public consultation and ratification of CRMF	17
	6. Affirmation of the ratified of CRMF	18
	7. Other important uses of the affirmed CRMF	19
	B. Five-Year Work Plan (WP)	
	1. Preparation of the 5-Year Work Plan	20
	2. Ratification of the 5-Year Work Plan	23
	3. Important use of the affirmed 5-Year Work Plan	24
III.	Operationalizing the CRMF and the 5-Year Work Plan	24
IV.	Participatory Monitoring and Evaluation	26

LIST OF FIGURES

Figure Number		Page
1	Flowchart of activities in PO selection	6
2	Flowchart of application processing and Approval of CBFMA	9
3	Steps and procedures in the preparation and Affirmation of the community comprehensive Resource management framework (CRMF)	14
4	Steps and procedures in the preparation and Affirmation of the 5-Year Work Plan	21

TABLE OF CONTENTS

		Page
ANNEX B.	COMMUNITY-BASED FOREST MANAGEMENT	
ANNEX B.1	Analysis of the Regulatory Procedures on Community-Based Forest Management (CBFM)	B.1-1
	1.0 Overview	
	1.1 The CBFM Sub-Project Component	B.1-1
	1.2 Objectives	B.1-2
	1.3 Methodological Framework	B.1-4
	2.0 Analysis and Recommendations	B.1-4
	2.1 Integrated Policy Analysis	
	2.2 Policy Recommendations/Drafting of DAO No. 2003	
	3.0 Conclusion	B.1-5
	ATTACHMENT	
	Attachment A	B.1-7
	Attachment B	B.1-22
	Attachment C	B.1-32
	Attachment D	B.1-39
	Attachment E	B.1-40
ANNEX B.2	Draft Manual on Simplified and Harmonized CBFM Regulatory Procedures	

ANNEX B.1

ANALYSIS OF THE REGULATORY PROCEDURES ON COMMUNITY BASED FORESTRY MANAGEMENT (CBFM)

1.0 OVERVIEW

1.1 The CBFM Sub-Project Component

The report contains the summary result on the Community Based Forest Management (CBFM) sub-project component on the "Preparation of Manual on Forestry Regulatory Procedures." It has two major parts.

In this first part of the report is the brief analysis of the CBFM regulatory procedures. Specifically included are the sub-project component's objective, methodological framework in the analysis of the policy gaps, issues and concerns in CBFM regulatory procedures. Also discussed are the salient points raised during the series of consultation with various stakeholders on the "CBFM Implementing Rules and Regulations" or the Department Administrative Order (DAO) No. 96-29. The gaps, issues and concerns are presented in a matrix together with the proposed areas of recommendations for inclusion in the drafting of DAO No. 2003 - — on *"Strengthening the Implementation of the Community Based Forest Management (CBFM) Strategy*" and the intended resulting effect. This matrix was first presented to the Peoples Organizations (POs) in a national consultation held during the 2003 CBFM-PO Summit in Cebu City (Attachment A). Also discussed are the important provisions in the draft DAO No.2003 initially prepared by the study team in collaboration with the Department of Environment and Natural Resources -CBFM Forest Management Bureau (FMB) Division (Attachment B) and those which have been incorporated in the final draft of the administrative order as indorsed by the DENR Technical Working Group (TWG) for signature by the DENR Department Secretary Elizea S. Gozun (Attachment C).

The second part is presented on a separate draft output on "Manual on Simplified and Harmonized CBFM Regulatory Procedures." The draft manual is the end-result of the combined series of consultation with various stakeholders, review and analysis of the regulatory procedures on CBFM and consultative effort in drafting of DAO No. 2003 - on ""*Strengthening the Implementation of the Community Based Forest Management (CBFM) Strategy*"

1.2 Objectives

Specific for the CBFM sub-component of the project are the following objectives:

- To review and analyze the existing government policies in the implementation of CBFM;
- To document/determine issues and concerns/gaps in the existing CBFM regulatory procedures vis-à-vis its field implementation; and

- To recommend strategies and policy measures to simplify and harmonize CBFM regulatory procedures for enhanced and efficient CBFM implementation.

1.3 Methodological Framework

The project component team (Attachment D) employed the integrated policy analysis framework for the simplification and harmonization of CBFM regulatory procedures. Figure 1 presents the conceptual framework for the integrated policy analysis. It has two major phases, the *retrospective* or *Ex-Post* analysis and the *prospective* or *Ex-Ante* analysis. It is problem centered and concerned with the production and transformation of information after (*Ex-Post*) and before (*Ex-Ante*) policy actions have been taken. It focuses on the interrelationships of three elements: the CBFM forestry regulatory procedures, the stakeholders and the policy environment.

The *retrospective* policy analysis involves the identification of the gaps, issues and concerns and the consequences of implementing CBFM policies and programs. It involves the production and transformation of information to identify the key policy variables that maybe changed by policy makers to resolve problems, issues and concerns related to the issuance of CBFM tenure instruments and other regulatory procedures.

The analysis also involves the determination of the specific goals and objectives of policy makers and other stakeholders who affect and are affected by CBFM policies for the management of forestland resources. This included the sharing of perceptions and experiences among the stakeholders in the policy systems. In effect, the interrelationships between the policy system elements such as CBFM policies, stakeholders and policy environment surrounding the policy issues and concerns are determined and structured in order to identify the kind of interactions and interventions needed.

The *prospective* analysis synthesizes the information drawn from the *retrospective* analysis. The information serves as inputs for the formulation of policy recommendations. The proposed policies will embody the operating principles to attain the most desirable conditions in the management of CBFM forestland resources. The proposed schemes may take different forms such as the decentralization, devolution, deregulation, simplification and standardization of CBFM forest regulatory systems and procedures. These are consistent with the principles of good governance –transparency, accountability and participation (TAP). The application of the policies should result in the following: (a) clarity of CBFM regulatory steps and procedures; (b) clarity and agreement on shared responsibilities between and among different stakeholders; and (c) reduction of application requirements and processing time. These should reduce the processing costs for the participating Peoples Organizations (PO). Overall, these changes should enhance the efficiency of delivering the basic services to the participating POs.

Participatory monitoring and evaluation assess the various issues, problems and constraints in relation to CBFM implementation. The findings/results of the M&E would either result in improvement of recommended policies or policies that need further examination in the future. Thus the process may be iterative as it may either start with phase 1 analysis or with policy performance of phase 2 analysis.

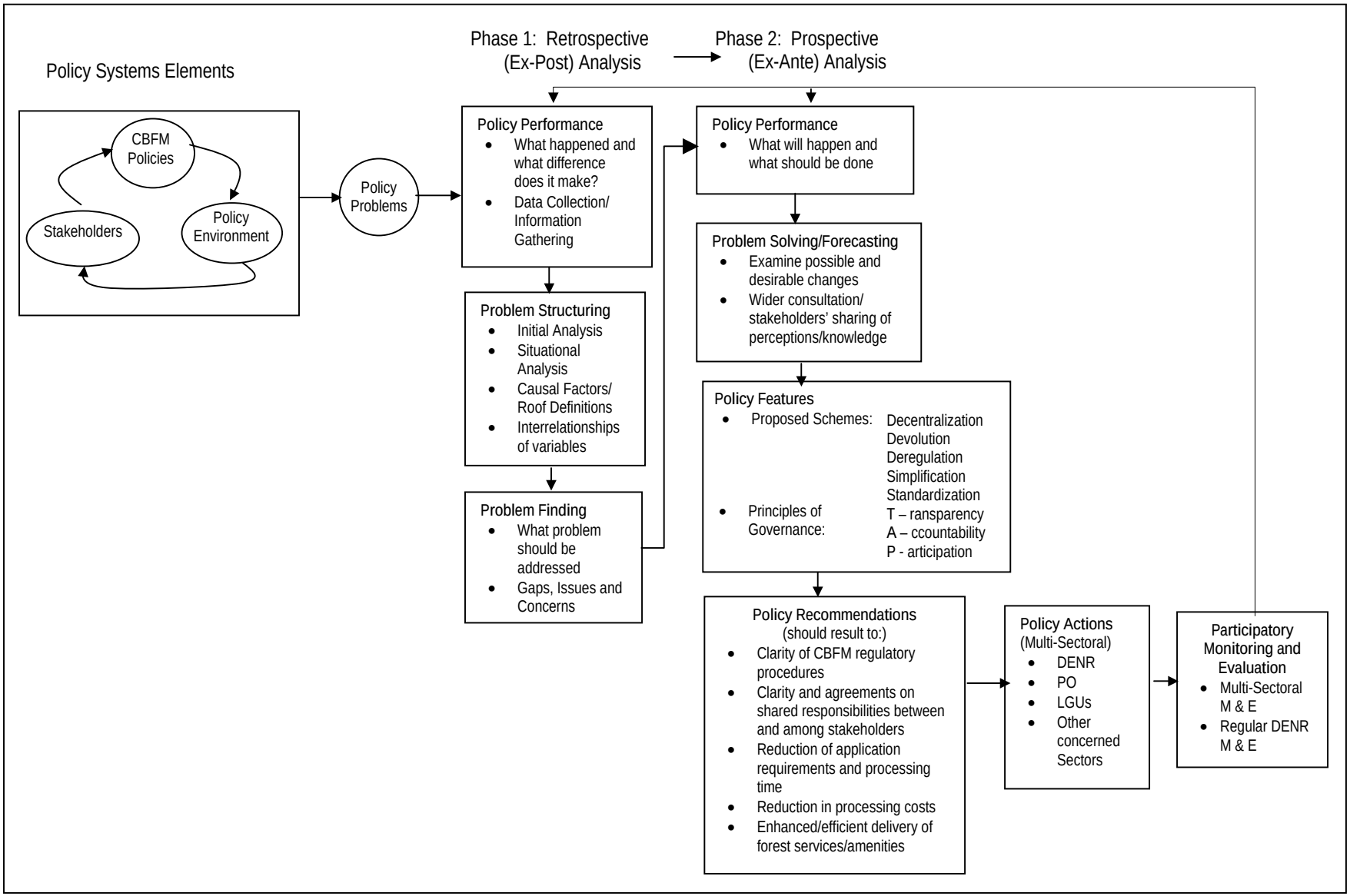


Figure 1. Integrated policy analysis framework for the simplification and harmonization of CBFM regulatory procedures.

2.0 ANALYSIS AND RECOMMENDATIONS

2.1 Integrated Policy Analysis

Attachment A summarizes the gaps, issues and concerns in the implementation of the CBFM regulatory procedures as contained in DAO 96-29 together with the proposed areas of recommendations or the key policy variables for action and inclusion in the drafting of DAO No.2003- on *"Strengthening the Implementation of the Community Based Forest Management (CBFM) Strategy."* Also in the matrix are the intended resulting effect in resolving the identified problems, issues and concerns related to CBFM regulatory procedures.

The prospective analysis based on the identified gaps, issues and concerns point to the kind of interactions and interventions needed in the implementation of the CBFM regulatory procedures. Three major groups of information were drawn from the analysis to serve as inputs in the formulation of policy recommendations. These are on:

1. *The need for development of strategies that emphasize inclusiveness and better governance to facilitate delivery of services and to execute CBFM policies in an accountable fashion through collaborative institutional undertakings.*

   This is prominent on the need to promote establishment of institutional linkages and intensive IEC campaign at the early stage of the preparatory activities, planning and implementation to the participatory monitoring and evaluation of the CBFM program implementation. Steps in this direction would entail establishment of long-term partnerships among different stakeholders to promote transparency, accountability, transfer of knowledge and solutions to problems that would in effect balance each and everyone's interests.

2. *The streamlining of processes and issuance of CBFM regulatory procedures and protective instruments to overcome problems, issues associated with that of increasing people's confidence, security on property rights and related needs.*

   This is exemplified in the proposed coordinative and simplified steps and procedures for the identification and delineation of CBFM sites, validation of the CBFM participants, processing and issuance of CBFMA and Certificate of Stewardship (CS) applications, affirmation of community resource management framework (CRMF) and 5 Year Work Plan.

   The proposed actions/strategies require for greater coordination and institutional foundations that are strong to perform specific key functions and to work on long-term partnerships based on mutually agreed terms and conditions with regards to the above CBFM regulatory procedures. Specifics are the presence of clear and delineated functions that would promote accountability, transparency, sharing of resources among and between program implementers.

   On the part of the participating POs, the benefits goes from clarity of their responsibilities, reduction of application requirements and processing time, elimination of possible political interventions in indorsing of applications, reduced processing costs. In the simplified preparation of the CRMF and 5 Yr Work Plan for instance, the POs: (1) need not prepare a separate resource utilization plan since it has been incorporated in the prior preparation of the affirmed CRMF; (2) would be able to use the CRMF as ICC for the issuance of Environmental Compliance Certificate (ECC); (3) need not hire an IEE preparer thereby eliminating costs on their part; (4) would be exempted from paying the ECC under DAO 98-43; and (5) would have flexibility to adjust CRMF based on SWOT

analysis. The POs will also enjoy the benefits of having reduced costs and time in preparation of 5 Yr WP instead of an AWP.

3. *Specific change in governance through deep inclusion and PO's participation with increase representation, voice in decision-making, transfer of knowledge and/or access to information and in safeguarding their interests from possible political intervention.*

These major institution-building effect at the POs level had been incorporated through the proposed intensive IEC campaigns in all stages of CBFM implementation and more importantly on clarity of existing steps and procedures and relevant policies pertaining to processing and application of CBFM regulatory instruments.

Accompanying this change in governance is the peoples' active involvement in decision making and policy formulation through: (1) participation of the POs in CBFM Workshops and meetings at various level; (2) issuance of the Certificate of stewardship (CS) at the PO's level; (30 sub-contracting activities for resource land use planning, conservation, development and management and utilization of resources in respective CBFM areas; and (4) participation in the monitoring and evaluation of CBFM implementation. Under these conditions, the people are provided with the opportunity to build their human and social capital necessary in accessing their rights and knowing of their responsibilities for efficient management of resources.

2.2 Policy Recommendations/Drafting of DAO No.2003 --

The analysis have been communicated to the concerned policy makers at the DENR through written reports and interactive communications. These consist of meetings, oral presentations of documented materials and participation in the drafting of the initial draft DAO No.2003 with the Forest Management Bureau – Community Based Forest Management Division. The initial draft of the administrative order went into a review process by the DENR technical working group (TWG) prior to its endorsement to the Department Secretary. The administrative order is now in its final form and had been submitted for signature by Secretary Elizea S. Gozun.

In this process of policy making, the important provisions from the initial draft have been translated and incorporated in the final draft for policy adoption and/or implementation. Attachment E summarizes the inputs generated from the initial draft of the administrative order that likewise serve as outputs in the final draft of the administrative order.

3.0 CONCLUSION

Institutional innovations on the utilization, conservation, development and management of the forest resources have long been a continuing challenge for the DENR. Many policies have been instituted through implementation of various national programs for the upland communities. Experiences indicate that implementation problems continue to emerge not only because of the need for specific new policies and guidelines but also to lessen institutional weaknesses or barriers associated with non-adoption of existing policies. In the case of the CBFM implementation, the challenge is to promote changes on existing CBFM regulatory procedures and to institute policy measures with collaborating institutions to perform key functions to strengthen the social fabric that underpins upland development.

Being national in scope the, DENR has inadequate internal resources to provide wider access to resources and to balance interests in ensuring forest goods and services. Additional coordinative institutional functions are required of this. Direct and/or facilitating policy negotiations at different levels or localities become a necessity. This is so important since it calls for maintaining balance between DENR's authority and giving other actors, e.g. different levels of local government units, peoples organizations and other interest groups to perform their critical functions in development strategies that emphasize inclusiveness, shared benefits, better governance and management of forest and natural resources

The clarification and simplification of CBFM regulatory procedures could be a tall order and a major policy change on the part of the DENR. As it tries to promote transparency, accountability and participation of different stakeholders it requires a new breed of forest resource management institutions. This new breed of institutions calls not just in building with existing policies and current efforts but of forging institutional reforms characterized with: (a) strong voice and representation from the POs; (b) high levels of cooperation and commitment among implementers; (c) established long-term partnerships in accountable and collaborative undertakings; (d) mutual and agreed sharing of costs and responsibilities; (e) efficient information flows and transparency to the interests of various stakeholders; and (f) participatory monitoring and evaluation installed at the mainstream of CBFM implementation.

Only after the above policy and institutional changes have been effected, evaluated and measured through policy performance analysis can we say that DAO No. 2003—on *"Strengthening the Implementation of the Community Based Forest Management (CBFM) Strategy"* contributed in shaping the policy environment necessary for the POs together with the different implementers to manage their resources effectively.

Attachment A

MATRIX ON SIMPLIFIED AND HARMONIZED CBFM REGULATORY PROCEDURES

Existing DAO 96-29 Implementing Rules and Regulations	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003 No. -"Strengthening the Implementation of CBFM Strategy"	RESULTING EFFECT
Article III Stages of CBFM Implementation Preparatory Stage		Chapter 1 Preparatory Activities in CBFM Implementation	
Section 1. IEC Campaigns		Section 1. Establishing Institutional Linkages and intensive IEC campaign	
1. DENR -LGUs, OGAs, NGOs/other other sectors in conduct of IEC 2. IEC: to inform, educate and get the support of all concerned sectors on CBFMP implementation 3. IEC: orientation and training of DENR and LGU personnel and leaders of the PO who shall be engaged in the implementation of CBFMP.	1. Limited joint undertakings and/or insufficient assistance 2. Delayed IEC activities due to lack of funds/logistics 3. Lack or absence of built-in budget for IEC implementation	1. Pursuant to DAO 96-29, Sec 1 & JMC 2003-01, Sec. 2& 3, DENR shall promote and support active participation of various agencies and organizations in CBFM implementation 2. PENR/CENR Officers link and conduct orientation among LGUs (barangay, municipall and provincial) on CBFM concepts. Principles, objectives and activities among others. 3. Jointly conduct intensive IEC campaign to inform, educate and get support of all concerned sectors 4. Continuing IEC campaign	1. Strengthened DAO 96-29 in the implementation of JMC-2003-01. 2. Specific guidelines to operationalize JMC-2003-01 Sections 1& 2 consequently formulated or developed at the field level. 3. LGU counterparts with clear understanding of CBFM Policies and its implementation. 4. Clarity and agreement on shared responsibilities between and among stakeholders 5. Ensure commitment of LGUs and other participating sectors on kind and specific assistance for CBFM implementation. 6. Stakeholders well aware of the status of CBFM implementation stages

Existing DAO 96-29 Implementing Rules and Regulations	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003 No. -"Strengthening the Implementation of CBFM Strategy"	RESULTING EFFECT
Article III Stages of CBFM Implementation Preparatory Stage		Chapter 1 Preparatory Activities in CBFM Implementation	
Sec.2. Establishing Institutional Linkages			
1. DENR work with LGUs, OGAs, NGOs, tribal councils to ensure community empowerment to initiate and achieve CBFMP objectives.	1. Not clear/insufficient understanding and/or ignore joint responsibilities under existing policies 2. Inadequate /limited LGU participation 3. Low priority given to CBFM fund allocation 4. Multi-sectoral establishment of linkages quite limited to LGUs 5. Inadequate PO preparation 6. Sustainability of activities largely influenced by termination of foreign CBFM assisted projects		
2. DENR promote and support active participation of the above and assist in enhancing their capacities to actively participate in and support the program			

Existing DAO	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003 No.	RESULTING EFFECT
Section 3. Identification of CBFMP areas			
1. Each CENRO and duly designated representative of the concerned LGU shall identify potential CBFMP areas. The CENRO and LGU shall validate the identified areas o the ground 2. The validated areas shall be indicated in a map of appropriate scale shall be forwarded to the RED for approval 3. The FMB shall be furnished with the approved map and all other documents for data base management and monitoring purposes 4. Upon approval of the CBFMP areas, the CENRO shall within 15 days, inform in writing the concerned LGUs and together with the CENRO conduct an information campaign to inform the public about the program.	1. CBFM sites not timely and properly surveyed/validated 2. Practice of ocular inspection rather than ground validation in absence of funds 3. Inaccurate base maps and information, e.g. CBFM sites in A&D lands 4.Conflicting claims/ unsettled overlapping of boundaries 5. Differences/gaps on knowledge of whose responsibilities to settle conflicting claims 6. POs not clear on role of collaborating LGU in identification of available areas for CBFM 7. Delayed application for CBFMA and/or CBFMA granted even with unresolved conflicting claims 8. Delayed in succeeding CRMF preparation, consultation, ratification and affirmation	1. DENR shall come up with control maps and registry indicating various DENR tenure instruments/ projects at the regional, provincial and municipal levels 2.Control maps/registry consistent with approved FLUPS/CLUPS/ watershed as planning unit. 3. Control maps and registry regularly updated and available for CBFM 4. Available areas made known to the community/posted in concerned LGU and DENR offices. 5.Continuing IEC on various CBFM stages as provided for in Sec.1 of proposed DAO 2003 specifying the implementation of DAO 96-29 on: Filing of complaints- Sec. 5 a, b, and c; Collaborative identification of CBFM areas- Sec.3	1. Clear delineation of areas applicable and/or available for varied DENR tenure instruments, specifically for CBFM areas. 2. Predetermined areas eliminate and/or reduces incidence of conflicting claims and disputes 3. POs get prior information on area they will apply to aid in their decision to participate in CBFMP 4. Clarity on collaborative roles of different participating implementers or stakeholders with continuing process of IEC 5. Ease/facilitate PO's application and issuance of CBFMA; preparation, ratification and affirmation of CRMF and succeeding activities.

P.O. Formation and Diagnostic Stage			
Sec.6. Application by the community participants			
1. Local communities, represented by existing organizations, or at least 10 residents or their barangay councils, may apply in writing to the concerned CENRO for participation in CBFMP 2. The application shall be supported by concerned barangay and municipal legislative councils, a brief socio-economic profile of the barangay and the number of expected participants Sec.7 Community appraisal and PO formation CENRO/LGU representatives shall cause the conduct of initial community appraisal, shall assist, if appropriate, with CO activities, and in establishment of a PO (if not existing) which shall be community-based and duly registered	1. Long delayed processing and approval of application 2. PO's lack of knowledge on provision of approving authority 3. Political intervention in CBFMA approval 4. Lack of logistics in PO formation	1. Sec.1 Continuing IEC campaign on DAO 96-29 Authority to approve and Sec.2 FMB in Article V Management of CBFMP and Sec. 2 General Provisions 2. Sec.5 Processing of CBFMA application (No.1 on DAO 2003-11-LGU endorsement in 15 days) 3. Operationalization Of JMC2003-01 on sharing of responsibilities and resources 4. Sec.3 Initial screening of applicants prior to PO formation @ Multi-sectoral Committee to appraise CBFM applicants @ Set of criteria for acceptance for prospective applicants @ Screens/ recommends formation of PO 5. Sec.4 CENRO-CBFM Coordinator, LGUand/or AO through CDA shall assist in formation of PO/accomplishing requirements and in registration. 6. Once registered the PO's applies for a CBFMA pursuant to Article III, Sec. 8 of DAO 96-29	1. POs clarified on CBFM policies on qualifications, application requirements, processing and approval of CBFMA application. 2. Incidence of possible constraints/political intervention eliminated through DAO 2003-11 3. Presence of clear and delineated functions, sharing of resources among and between implementers specifically the DENR and LGU counterparts. 4. Initial screening would result to high chances of getting high commitment and potential capabilities on the POs. 5. High chance for CBFM implementation to succeed and reduce costs on PO capability building

Existing DAO 96-29 Implementing Rules and Regulations	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003 No. -"Strengthening the Implementation of CBFM Strategy"	RESULTING EFFECT
Sec.8 Application for CBFMA		Sec.5 Processing of CBFMA application	
	1. LGU endorsement affected by politics 2. Confusion and disruption of activities on field implementers and POs to stop and continue implementation of guidelines on LGU endorsement. 3. CENRO-PMO lacked training of CBFM implementation 4. NCIP certification and free and prior in IP's area	1. Sec.1 Continuing IEC campaign on DAO 96-29 Authority to approve and Sec.2 FMB in Article V Management of CBFMP and Sec. 2 General Provisions 2. Reiteration of Sec.1No.1 on DAO 2003-11-LGU endorsement in 15 days) 3. Operationalization of JMC2003-01 on sharing of responsibilities and resources 4. Sec.5 DENR Regional Office and LGU provide assistance in NCIP certification/ precondition	1. POs clarified on CBFM policies on qualifications, application requirements, processing and approval of CBFMA application. 2. Incidence of possible constraints/political intervention eliminated through DAO 2003-11 3. Presence of clear and delineated functions, sharing of resources among and between implementers specifically the DENR and LGU counterparts
Sec. . Processing and Approval		Sec.5 Processing and approval of CBFMA	
1. CENRO checks, validates application (15 days upon receipt) 2. Recommends CBFMA application with an area of more than 500 ha up to 5,000 ha to PENRO for approval/ and RED all CBFMA application with an areas of more than 5,000 to 15,000 hectares 3. PENRO evaluates and approves CBFMA applications of more than 500 up to 5,000 ha.	1. Long delayed processing and approval of applications associated with on-ground validation and surveying of areas applied for. 2. Validation of CBFMA area applied primarily lies at the CENRO level. 3. Cases of POs given CBFMA even without undergoing/completing the Co activities	a. CENRO validates CBFMA applications with 500 and less hectares/ endorses applications with more than 500-5,000 hectares to the PENRO; b. PENRO validates CBFMA applications with 500 to 5,000 hectares and endorses applications with more than 5000-15,000 hectares to the PENRO; c. RENRO validates CBFMA applications with more than 5,000 hectares and endorses applications with more than 15,000 hectares to the USEC for Field Operations	1. Distribution of workloads, responsibilities and accountabilities in processing, validation, and approval /issuance of CBFMA application.

Existing DAO 96-29 Implementing Rules and Regulations	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003 No. -"Strengthening the Implementation of CBFM Strategy"	RESULTING EFFECT
Sec. . Processing and Approval		Sec.5 Processing and approval of CBFMA	
4. Recommends and forwards all CBFMA application for area of more than 5,000 up to 15, 000 ha to RED for approval Records and forwards processed CBFMA to CENRO 5. Perimeter survey - CENRO conducts perimeter survey and mapping by authorized surveyor 6. PENRO evaluates and approves CBFMA applications of more than 500 up to 5,000 ha. 7. Recommends and forwards all CBFMA application for area of more than 5,000 up to 15, 000 ha to RED for approval Records and forwards processed CBFMA to CENRO	1. There are CBFMA with no actual perimeter survey done due to lack of funds; actual survey conducted only during implementation stage. 2. Completion of perimeter survey has no specific time frame before CBFMA is awarded	1. The perimeter survey of the CBFM areas and completion time as follows: a. 500 and below – 5days b. >500 to 5,000 – 15 days c. >5,000 to 15,0000 – 20 days d. > 15,000 – 25 days	Perimeter survey that is conducted before the awarding of CBFMA minimizes potential claims/conflict.
Certificate of Stewardship Issuance		Sec 7. CS Issuance	
1. PO requests individual CS processing and issuance to CENRO 2. CENRO affirms CS application with < 3 ha 3. PENRO affirms application >3 ha and up to 5 ha for approval	Delayed processing of individual CS/perimeter survey, etc.	1. PO may issue CS based on actual census within CBFM area; applicant is a member of the PO. 2. PO submits list of CS issued to the CENRO for affirm ation. 3. DENR/LGU provides PO with technical/social assistance on CS issuance. 4. DENR monitors implementation of CS issuance	PO exercises authority/decision making on land use allocations within CBFM sites

Existing DAO 96-29 Implementing Rules and Regulations	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003 No. - "Strengthening the Implementation of CBFM Strategy"	RESULTING EFFECT
Planning Stage		Chapter 2 CBFM Planning Process	
Sec.9 Formulation of CRMF and MC 97-12 Sec. 4. Preparation of the CRMF		Sec.10 Preparation of the CRMF	
1. Technical and other assistance in CRMF formulation a. The PO may also call upon other government and non-government organizations for assistance. b. The PO may request the assistance of CENRO, LGUs concerned, Assisting Organizations and other government agencies for technical and other assistance in formulating the CRMF	1. . Logistics and assistance for POs/difficulties in preparation mainly a problem for the DENR staff 2. Delayed formulation of CRMF due to lack of funds 3. PMO not knowledgeable/ technically equip to conduct resource inventory 4. PO's limited technical capability and dependency on external assistance for voluminous paper works.	1. Specific and/or collaborative responsibilities in each of the concerned project implementers identified i.e.Nos.1-5 PO orientation to ratification of CRMF. 2. Within 30 days after the approval of the CBFMA, CRMF shall be prepared (multi-sectoral)	1. Prime responsibility of providing assistance to the POs by different implementers more explicit. 2. Clarity and agreement on shared responsibilities between and among POs and various implementers
2. Affirmation of CRMF		1.Sec.11 Affirmation of CRMF-	
	Vague/not clearly specified	1. LGU endorsement Sec.7 of JMC 2003-01	1. Clarity of CRMF steps and procedures
		2. Provision of copy of affirmed CRMF to PO	2. Clarity and agreement on shared responsibilities between and among POs and various implementers
		3. CRMF affirmed after lapse of 30 days if CENRO fails to act and notify in writing the PO	
		4. PO to proceed in implementation of CRMF after due notice to CENRO/proof of 30 days period lapsed	

Existing DAO 96-29 Implementing Rules and Regulations	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003 No. - "Strengthening the Implementation of CBFM Strategy"	RESULTING EFFECT
	1. CRMF to serve as requirement for ECC since the affirmed CRMF reflects environmental soundness	Sec.12. Affirmed CRMF and ECC issuance	
		a. Describes environmental impacts, mitigation and enhancement measures for activities to be undertaken in the area b. Basis for Issuance of ECC applied at the Regional EMB c. Affirmed CRMF review every 3 or 5 years including ECC compliance d. SWOT application in revision of CRMF components e. DAO 98-43 POs of CBFM projects exempted from payment of administrative fees in the issuance of ECC	1. CRMF as IEE to serve as basis for issuance of ECC reduces 2. Flexibility to adjust CRMF based on SWOT analysis 3. Cost of processing subsequent activities reduced /non-payment or costs for an IEE preparer. 4. Reduced costs due to exemption from payment of ECC under DAO 98-43.
Sec.11Annual Work Plan ;MC No.97-12 Sec. 5 and Annex 5.B Steps in the Formulation of AWP and RU Plan		Sec. 13. Three/Five Yr W Plan	
1. The operationalization of the CRMF and the RUP shall be embodied in an annual work plan (AWP) 2. The PO assisted by the CENRO shall prepare an AWP that will describe the POs/Ips activities and targets for implementing the CRMF or ADMP	1. PO's limited technical capability and dependency on external assistance for voluminous paper works 2. In consistent with Nos. 1-3 of Annex 5 B specifically enumerating the PMO and LGU counterpart in the said activities 3. AWP/RUP is on an annual basis, thus affecting the duration of utilization activities	1. 1.PO prepares 3/5 YR WP instead of AWP. 2. Plan annual activities and work targets of the PO for the period covered by the plan 3. Plan prepared during final quarter of the calendar year for affirmation by the CENR officer	1. Reduction of application requirements and processing time 2. Reduce processing costs for the participating POs

Existing DAO	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003	RESULTING EFFECT
	Vague/Not clearly specified	Sec.14Preparation of the 3/5 Yr Work Plan	1. Clarity of steps and procedures in WP preparation
		1. Specific and/or collaborative responsibilities in each of the concerned project implementers identified i.e.Nos.1-5 PO orientation to ratification of 3 0r 5 Yr. WP	2. Clarity and agreement on shared responsibilities between and among POs and various implementers
	Vague/Not clearly specified	Sec.15 Affirmation of 3-5Yr WP	1. Clarity of steps and procedures in WP affirmation
		1. LGU endorsement Sec.7 of JMC 2003-01	2. Clarity and agreement on shared responsibilities between and among POs and various implementers
		2. Provision of copy of affirmedWPto PO	
		3. WP affirmed after lapse of 30 days if CENRO fails to act and notify in writing the PO	
		4. PO to proceed in implementation of CRMF after due notice to CENRO/proof of 30 days period lapsed	
	Not specified/Vague	Sec.16 Affirmed 3/5 Yr WPlan	
		1. Once affirmed shall serve as PO's permits to utilize resources.	1. Cost of processing subsequent activities in previous DAO requirements reduced/securing of utilization permits.
		2. PO's exempted from getting all kinds of permits in utilization of different resource materials identified in 3/5 Yr WP	2. Reduce costs to incur in getting all kinds of utilization permits consistent with use of resources under CRMF and WP.

Existing DAO	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003	RESULTING EFFECT
Implementation Stage		Chapter 3 CBFM Implementation: Operationalizing the CRMF and 3/5 Year Work Plan	
Sec.13 Activities in the implementation stage		Sec.17 Development and Management of CBFM areas	
	Not specified/Vague	1. Development and Management of Production Forest 2. Development and Management of protection forest	1. Clarity in concepts of land use planning and application of appropriate forest management in production and protection forests. 2. Clarity and agreement on shared responsibilities between and among POs and various implementers
		Sec.18. Forest Protection and Conservation	
	Prevalence/frequent incidence of fire, cutting, threats in forest protection and conservation	1. PO primarily responsible in protection and conservation of natural resources within CBFMA coverage with assistance of DENR and LGUs.	1. Clarity and agreement on shared responsibilities between and among POs, DENR and LGUs on forest protection and conservation within and adjacent CBFM sites.
		2. Forest protection component of 3/5Yr WP Yr shall be put in place.	2. Incentives provided to motivate, provide protection and sort of security to the participating FENROs
		3. PO assistance to government in protection of adjacent forestlands/forest protection of the community	
		4. Deputization of FENRO by the DENR to selected PO members	
		5. Incentives- allowance, insurance legal assistance in cases of settling disputes on apprehension and confiscations.	

Existing DAO	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003	RESULTING EFFECT
		Sec.19Harvesting and Utilization	
	1. Timber inventory are "bloated" to ensure high ACC for PO 2. No check and balance in conduct of harvesting with that of timber inventory and tree marking 3. Granted ACC not fully utilized utilized due to limited funds; delayed ECC approval	1. Utilization of resources based on sound environmental, social and economic principles. 2. Harvesting of timber and non-timber resources shall strictly follow the Code of Practice for Forest Harvesting /contained and indicated in CRMF and 3/5 Yr WP 3. CENRO, LGU and PO and other concerned sectors shall jointly conduct timber inventory and tree marking 4. Related specific provisions contained in same section.	1. Clarity of steps and procedures in harvesting and utilization of timber and non-timber resources 2. Clarity and agreement on shared responsibilities between and among POs and various implementers 3. Transparency, accountability and multi-sectoral participation in inventory of resources and uses.
Responsibilities of instrument holders (DAO 2000-29, Sec. 6)		Section 20 Processing of Harvested Products	
1. Refrain from the use of heavy equipment such as bulldozers and the like as much as possible must employ labor intensive methods of harvesting.	Log waste utilization/ no plan on use of log wastes/need for market opportunities	1. CENRO shall encourage the community members to process non-timber forest products for added value and increased income.	1. Market links and livelihood development to provide added income/revenue for the POs
2. Develop and implement mechanisms for the rehabilitation and development of areas subjected to harvesting operations.		2. To maximize wood recovery, the PO may operate re-saw mill with a maximum flywheel diameter of 18" and blade size of 2 " width/other schemes consistent with DENR regulations and guidelines	

Existing DAO	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003	RESULTING EFFECT
Develop and implement equitable benefit-sharing arrangements among its members.	Confusing policy/not well understood yet	Sec.22 Production Sharing scheme from government owned plantations within CBFM areas	1. Defined sharing and distribution of benefits
		Sec.24 participation of POs in CBFM Workshops and Meetings	Enhanced PO's participation in decision making and policy formulation
		Sec. 25 PO's contract Services and Development Activities - site/power line structures that may be installed within the CBFMA area shall form part of the sub-contracting activity for the PO's additional sources of income.	1. Revenue for PO's activities 2. Rights and responsibilities within CBFMA area exercised by PO
		Chapter 4	
		Support Structures and Mechanisms to strengthen CBFM Implementation	
		Sec.26 Implementation of JMC N0.2003-01 in support of CBFM	1. Accelerated collboration, partnership, coordination and institutionalization of working relationships of DENR with LGUs
			2. Strengthened CBFM Implementation with enhanced working relationships with POs, DENR and LGUs.
		Sec. 27 Basic assistance and Support Services	
	1. Many POs are not ready to assume responsibility to assume extraction activities due to limited technical knowledge, capital for needed operations 2. Inadequate technical assistance with only few trained/original PMs remained/ PMOs in many instances need	1. Basic assistance and support services identified and enumerated. 2. Cost needed in the provision of the various CBFM unit's assistance shall be included at the CENRO, PENRO and RENRO's work and financial plans and the corresponding key result areas(KRAs)	1. PO is socially, economically and technically equipped as forest resource managers of the locality 2. Efficient and enhanced delivery of basic forestry services

Existing DAO	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003	RESULTING EFFECT
	be trained on their roles and responsibilities 3. Limited/no alternative market for high price of forest products		
		Chapter 5	
		Participatory Monitoring and Evaluation	
		Sec. 28. Multi-sectoral monitoring and Evaluation	
		1. Composite team/participatory mode of M&E conducted annually to assess various issues, problems and constraints/ M&E Project report highlights problems, opportunities and recommendation submitted by the CENRO to the FMB through proper channels.	1. Clarity on status of CBFM implementation and agreement on shared responsibilities between and among POs and various implementers. 2. Transparency, accountability and multi-sectoral participation in inventory of resources and uses.
		2. Regular Internal M&E system of DENR /Field personnel consulted on C&Is for inclusion in performance of job	
		Sec. 29 Monitoring and Documentation of Harvesting and Re-Sawmill Operations	
	1. Plans not carefully reviewed and evaluated/consistency of WP with CRMF/RUP	1. PO Federation shall also be involved.	1. Enhanced participation of the POs along with the other concerned sectors.
	2. Guidelines on priority or resource utilization not followed; almost all RUP are on plantation species and natural grown timber	2. Specific activities and responsibilities of concerned sectors identified in same section.	2. Transparency, accountability and multi-sectoral participation in monitoring and documentation of harvesting and re-saw mill operations

Existing DAO	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003	RESULTING EFFECT
	3. Inconsistency in RUP harvesting procedures 4.Need for multi-sectoral monitoring in harvesting activities for check and balance	3. Report submitted to the USED for Field Operations through FMB Director using CBFM Harvesting and Re-sawmill Operations Form	
		Sec. 30 Process Documentation of PO's Ecological, Economic, Social and Organizational Activities	
		2. Summary report on lessons learned, issues and concerns for use of regional and national steering committee meetings	1. Generated lessons issues and concerns serves as inputs for field implementers and policy makers for finding solutions on implementation problems, opportunity for adjustments and improvement of project management/refinement of CBFM policies.
		Chapter 6	
		Transitory, Penal and final Provisions	
		Sec.31 Transitory Provision	
	Not Specified	1. POs AWP affirmed by the CENRO-DENR before the issuance of the order shall continue operations based on existing AWP.	1. Flexibility on the part of POs and concerned sectors to prepare/modify succeeding 3 or 5 Yr. Work Plan.
		2. Provided after termination of the current AWP, the concerned PO shall prepare and submit the 3 Yr. WP as provided for under Chapter 2 Sec.14 of the Order.	

Existing DAO	GAPS, ISSUES & CONCERNS	PROPOSED DAO 2003	RESULTING EFFECT
		Sec.32 Penal Provision	
	Violations /misconduct in harvesting and related activities exists	1. Harvest and utilization of timber and non-timber forest products shall strictly follow the terms and conditions stipulated in the CBFMA, CRMF and 3/5Yr WP. 2. Harvesting and utilization operations in the CBFM areas shall be suspended for any violation hereof any of the provisions of the order 3. Perpetrators shall be penalized in accordance with Sec. 68 of PD 705 as amended	Penalizing perpetrators would 1. lessen illegal activities 2. apprehension would deter individual from violating the rules 3. contribute to the sustainability of forest resources
		Sec.33 Repealing Clause	
		1. Pertinent provisions o f DAO 96-29 and MC 97-12 and all other rules, regulations and issuances inconsistent to the order are amended accordingly.	
		Sec. 34 Separability Clause	
		1. In the event that any provision of the guidelines is declared unconstitutional or null and void, the validity of the other provisions shall not be impaired by such declaration.	
		Sec. 35 Effectivity	
		1. 15 days after its publication in a newspaper of general circulation and submission to the UP Law Center	

Attachment B

DENR ADMINISTRATIVE ORDER
No. 2003 –

SUBJECT: STRENGTHENING THE IMPLEMENTATION OF THE COMMUNITY BASED FOREST MANAGEMENT (CBFM) STRATEGY

Pursuant to Executive Order No. 263 dated July 19, 1995 adopting community-based forest management as the national strategy to ensure the sustainable development of the country's forestlands resources with implementing rules and regulations embodied in DENR Administrative Order 96-29; further, the Joint DENR-DILG Memorandum Circular JMC) No. 2003-01 aims to accelerate the collaboration, partnership, coordination, and institutionalization of the working relationships between DENR and the LGU i.e. to protect, develop, and manage forest land resources; to further improve the economic and social well being of forest communities; and to promote more active and transparent community participation through empowerment; and to simplify and harmonize regulatory procedures in the CBFM Program implementation; the following guidelines strengthening the implementation of the CBFM strategy are hereby promulgated.

CHAPTER 1

Preparatory Activities in CBFM Implementation

Section 1. Establishing Institutional Linkages and Intensive IEC Campaign. Pursuant to DAO 96-29, Sec 1 & 2 and JMC 2003-01, Sec 2 & 3, the DENR shall promote and support the active participation of various agencies and organizations in the implementation of the CBFM program. They shall jointly conduct intensive IEC campaign to inform, educate and get the support of all concerned sectors. The Provincial/Community Environment and Natural Resources Officer (PENRO/CENRO) shall conduct orientation among the local executives (barangay, municipal and provincial levels) on the CBFM concepts, principles objectives and activities, among others. A continuing IEC campaign shall be done to ensure that all stakeholders are well aware of the status of the CBFM implementation.

Sec. 2. Identification and selection of CBFM sites. DENR shall come up with control maps and registry, which would indicate the various DENR tenure instruments/projects at the region, province and municipal levels. These shall be regularly updated and available for CBFM implementation. The control maps and registry should be consistent with the approved Forest Land Use Plans (FLUPS) and the Comprehensive Land Use Plans (CLUPS) of the respective LGU as basis for watershed as planning unit. Available areas shall be made known to the community and shall be posted in the concerned LGU and DENR offices.

Based on the control maps and registry, the CENRO together with the LGU and PO shall validate, clearly delineate and demarcate on the ground the boundaries of the CBFM areas, which shall also be made known to all the interested community/people's organization applicants.

Sec. 3. Initial Screening of Applicants. The screening committee (local multi-sectoral committee) at the CENRO level composed of the DENR, LGU, other government agencies, NGO and other sectors concerned shall appraise

the interested applicants' or prospective participants' willingness and commitment, technical and financial capability, training needs and full understanding of the CBFMP, attitude towards environmental conservation, among others.

Establishment/formalization of the PO shall only proceed when the screening committee recommends the formation/formalization of the PO.

Sec. 4. PO Formation and Registration. The CENRO through the CBFM Coordinator and the LGU and/or the Assisting Organization (AO) through the Community Development Assistant (CDA) shall assist in the formation of the PO. The PO to be formed or an existing informal group shall be duly assisted in accomplishing the requirements and in their registration. Once registered, the PO applies for a CBFMA pursuant to Article III, Sec 8 of DAO 96-29.

Sec. 5. Processing of CBFMA Application.

1. The PO applicants shall seek individual and/or joint endorsement of their application from the respective LGU/s. As provided for in DAO 2003-11, the concerned LGU/s shall act on the CBFMA application within a period of 15 working days. Should the LGU fail to act on the CBFMA application filed within a period of 15 working days, the concerned DENR office shall process the CBFMA application.

   The DENR Regional Office and LGU concerned shall provide assistance to POs seeking NCIP certification/precondition pursuant to Sec 59 of Republic Act No. 8371 known as the Indigenous Peoples Rights Act of 1997.

2. The PO applicants shall submit the CBFMA application with complete requirements to the CENRO pursuant to Sec 8 of DAO 96-29 including the individual and/or joint endorsement of the respective LGU/s.

3. The CENRO validates the CBFMA applications with 500 and less hectares and endorses CBFMA applications with more than 500 to 5,000 hectares to the PENRO.

4. The PENRO validates CBFMA applications with more than 500 to 5,000 hectares and endorses CBFMA applications with more than 5,000 to 15,000 hectares to the Regional Executive Director.

5. The RENRO validates CBFMA applications with more than 5,000 to 15,000 hectares and endorses applications with more than 15,000 hectares to the USEC for Field Operations.

6. The perimeter survey of the proposed CBFM areas and their completion time are as follows:

CBFM Area (ha)	Processing Time
a) 500 and below	5 days
b) more than 500 to 5,000	15 days
c) more than 5,000 to 15,000	20 days
d) more than 15,000	25 days

The review committee as provided in DAO 96-29, Article III, Sec 8 shall within 15 days convene and discuss with the PO the terms and conditions embodied in the CBFMA.

Sec. 6. Signing and Approval of the CBFMA. The approving authorities and the corresponding CBFM areas are as follows:

Approving Authority	CBFM Area (ha)
a) Community Environment and Natural Resources Officer (CENRO)	500 and below
b) Provincial Environment and Natural Resources Officer (PENRO)	more than 500 to 5,000
c) Regional Executive Director (RED)	more than 5,000 to 15,000
d) Undersecretary (USEC) for Field Operations	more than 15,000

The approving authority awards the approved CBFMA to the PO and shall furnish the CENRO and the Forest Management Bureau a copy of the approved CBFMA.

Sec. 7. CS Issuance. The CBFM strategy recognizes the individual rights of occupancy through the granting of the certificate of stewardship (CS). The CS may be issued by the PO based on the census of actual forest occupants conducted, provided that the area is within the CBFM area applied for and the CS applicant is a regular member of the PO. The PO, through a resolution shall submit a list of CS issued to individual members to the CENRO for affirmation.

The DENR in collaboration with appropriate/concerned LGU shall provide the PO with the appropriate technical and social assistance to ensure the smooth implementation of the CS issuance. In addition, the DENR shall also monitor the strict implementation of the CS issuance.

CHAPTER 2

CBFM Planning Process

Sec. 8. Community Mapping and Land Use Planning. After the CBFMA had been awarded, the PO shall conduct community mapping. The CENRO, LGU and other concerned sectors shall assist the PO in the conduct of the community mapping as basis for land use planning. The mapping of the present community land use shall include an inventory of flora and fauna and the vegetative cover. The census of forest occupants and the corresponding areas occupied/tilled shall also be indicated in the community map. An inventory of the knowledge and skills of the community members including indigenous knowledge systems shall also be done. These activities would determine and assess existing potential resources of the community and land uses.

Sec. 9. Community Resource Management Framework (CRMF). The community land use map and the census of forest occupants shall be inputs in the preparation of the CRMF. The CRMF is a strategic plan of the community on how to manage and benefit from the forest resources on a sustainable basis. It describes the community's long-term vision, aspirations, commitments and strategies for the protection, rehabilitation, development and utilization of forest resources.

Sec. 10. Preparation of the CRMF. The CRMF is prepared within 30 days after the approval of the CBFMA. The steps and procedures in the preparation of the CRMF are as follows:

1. PO orientation/PO planning team's training on CRMF preparation. The CENRO-CBFM unit, LGU counterparts where there is an existing partnership or cooperation agreement and/or the assisting organization, shall provide the necessary PO orientation on CRMF preparation in consonance with DAO 96-29, MC 97-12 and JMC No. 2003-01. The Regional CBFM Head in coordination with the Human Resources Development shall conduct consultation on training needs and package training programs/courses to build and strengthen the capability of the PO. The LGU/s, Assisting Organization and NGO shall provide ways and means to the PO planning team's workshop.

2. PO Sectoral Planning Workshop

   a. Livelihood. Together with the Community Development Assistant (CDA), the LGU, assisting organization and NGO shall also provide supervision and guidance to the PO in identifying and setting up of upland livelihood enterprises.

   b. Assessment of existing land use and potential production. The CENRO through its Project Management Officer (PMO)/CBFM Unit shall serve as adviser and resource person in the Planning Team's assessment of existing and potential resource production system.

   c. Setting up of a framework for local market information system based on existing and potential markets. A market information/market specialist shall serve as adviser and specialist to the PO in the conduct of this activity.

   d. Participatory development of socioeconomic criteria and indicators (C&I) shall be formulated as possible application of DAO 2001-04 (Guidelines and Methodologies for Institutional and Project Benefit Assessment with that of the Criteria and Indicators for Sustainable Resource Use and Development).

3. Consolidation of PO sectoral plans into CRMF. The plan shall consist of the following:

   a. Basic information on PO and forest community applied for

      1) PO's organizational structure

      2) Forest community socioeconomic profile

      3) Description of physical location

      4) Perceived constraints, problems and challenges in the CBFM implementation

   b. Strategic Resource Management Plan. This plan shall contain the PO's vision, mission, goals and objectives, and physical development goals and objectives for indicative forest management strategies. Specifically, this will include how the PO envisions resource use, allocation and/or extraction. Based on the participatory C&I developed by the PO as indicated in Sec 10, the PO's performance in the physical and land use activities shall be monitored and assessed. These are inputs in the analysis of the socio-physical and environmental impacts in relation to the objectives and principles of sustainable resource use and management. The appropriate mitigation and enhancement measures shall be incorporated in the plan.

c. Financing strategy and accessing resource funds. The financing strategy and accessing of resource funds and the proposed marketing strategies would cover the wider aspect of attaining financial viability and increased economic activities through livelihood and the present or potential economic activities.

4. Strategizing for financing of CRMF. The PO with the assistance of the DENR, LGU, AO and concerned organizations shall do linkages with market and funding institutions.

5. Public Consultation and Ratification of CRMF. The CRMF draft shall be written in the community's own dialect and discussed in a public consultation organized by the PO with the assistance of the concerned CENRO, LGU, and/or assisting organization. After the consultation, the ratified CRMF may be translated to another language/dialect by the CDO/CDA and/or AO.

Sec. 11. Affirmation of CRMF. The ratified CRMF shall be endorsed by the concerned LGU as provided for in Sec 7 of JMC 2003-01 prior to its affirmation by the CENRO to confirm that it has been prepared in a participatory manner. The affirmation of the CRMF by the CENR Officer shall be deemed as the approval of the plan and a confirmation of DENR's active involvement in the preparation thereof, and a proof of the DENR's commitment to support the PO in the implementation of the plan.

A copy of the affirmed CRMF shall be provided to the concerned municipal/provincial LGU, CENRO, PENRO, Regional Office, FMB/CBFM and the PO for their reference and as basis of support and assistance. The affirmed CRMF shall further be subject to the validation by the PENRO and the RED.

The CRMF submitted by the PO shall be considered affirmed after the lapse of 30 days if the CENRO fails to act and accordingly notify in writing the PO concerned. In such a case, the PO shall show proof of the application's date of submission and that the 30 days period had already lapsed. After giving due notice to the CENRO, the PO may proceed to implement the activities in the CRMF.

Sec. 12. Affirmed CRMF and ECC Issuance. The CRMF once affirmed shall also serve as the Initial Environmental Examination (IEE) for CBFM, which describes the environmental impacts of and mitigation and enhancement measures for activities to be undertaken in the area. The affirmed CRMF shall be made as basis for the issuance of Environmental Compliance Certificate (ECC) and applied at the Regional Environmental Management Bureau. The affirmed CRMF shall likewise be reviewed every three years including the ECC compliance. The strengths, weaknesses, opportunities and threats (SWOT) of the different components shall be used in the revision of the CRMF.

Pursuant to DAO 98-43, dated June 24, 1998, the POs of CBFM projects are exempted from the payment of administrative fees in the issuance of the ECC.

Sec. 13. Three/Five-Year Work Plan. The PO with the assistance of the concerned sectors shall prepare a three/five–year work plan (3-Yr WP) that is consistent with the affirmed CRMF instead of an Annual Work Plan (AWP). The 3/5–Yr WP shall be the sole document containing the detailed strategies, activities and targets for three/five years on protection, rehabilitation, development and resource utilization, organizational strengthening, financing, marketing and enterprise development, among others. The Plan shall include the annual activities and work targets of the PO for the period covered by the plan and shall be prepared during the final quarter of the calendar year for affirmation by the CENR Officer.

Sec. 14. Preparation of the 3/5-Year Work Plan. The steps and procedures in the preparation of the 3/5-Yr WP are as follows:

1. PO orientation/PO Planning Team's training on the 3/5-Yr WP. The CENRO-CBFM units, LGU counterpart where there is an existing partnership or cooperation agreement and/or the AO shall provide the necessary PO

orientation on CRMF preparation in consonance with DAO 96-29, MC 97-12 and JMC No. 2003-01. The Regional CBFM Head in coordination with the Human Resources Development shall conduct consultation on training needs and package training programs/courses to build and strengthen the capability of the PO. The LGUs, AO and NGO shall provide ways and means in the PO planning team's workshop.

2. Identification of sectoral priority activities and targets. The PO Planning Team and Officers shall provide ways and means in the identification of sectoral priority activities and targets with the supervision and guidance from the CENRO-CBFM Units or PMO, LGU counterparts and/or AO. The Planning Team shall receive full guidance and active involvement from the CENRO-PMO in the technical description of the resources to be used either for production, protection, harvesting and utilization purposes.

3. Consolidation of PO sectoral plans into a 3/5-Yr WP. The resource utilization in the 3/5-Yr WP shall indicate the forest resources/products to be utilized, approximate area of the activity (may be presented thru a map), approximate quantity of resources to be utilized, methods of resource use for non-extractive or harvesting purposes, planned development or rehabilitation of extracted resources and marketing of resource services or products. The consolidated sectoral 3/5-Yr WP shall undergo a review and final assessment by the PMO-CENRO, AO, PO leaders/planning team and LGU counterpart prior to its ratification.

4. Ratification of 3/5-Yr WP. The 3/5-Yr WP shall be discussed and ratified in a general assembly meeting or in special meeting called for the matter. Thee activity shall be organized by the PO with the assistance of the concerned CENRO, LGU, and/or assisting organization

Sec.15. Affirmation of 3/5-Year Work Plan. The ratified CRMF shall be endorsed by the concerned LGU as provided for in Sec 7 of JMC 2003-01 prior to its affirmation by the CENRO to confirm it has been prepared in a participatory manner. The affirmation of the 3/5-Yr WP by the CENR Officer shall be deemed as an approval of the plan and a confirmation of the DENR's active involvement in its preparation and the proof of the DENR's commitment to support the PO in the implementation of the plan.

A copy of the affirmed 3/5-Yr WP shall be provided to the concerned municipal/provincial LGU, CENRO, PENRO, Regional Office, FMB-CBFM and the PO for their reference and as basis of their support and assistance.

The 3/5-Yr WP submitted by the PO shall be considered affirmed after the lapse of 30 days if the CENRO fails to act and accordingly notify in writing the PO concerned. In such a case, the PO shall show proof of the application's date of submission and that 30 days period had already lapsed. After giving due notice to the CENRO, the PO shall proceed to implement the activities in the 3/5-Yr WP.

Sec. 16. Affirmed 3/5-Year Work Plan. The 3/5–Yr WP once affirmed shall serve as the PO's permit to utilize the resources pursuant to Sec 1, Rationale, MC No.97-12. The PO shall be exempted from getting all kinds of permits e.g. rattan cutting permit (RCC), IAOP in the utilization of different resource materials identified in the 3/5-Yr WP.

CHAPTER 3

CBFM Implementation : Operationalizing the CRMF and the Three-Year Work Plan

Sec. 17. Development and Management of CBFM Areas. Land use planning shall be an important component of the CRMF. The appropriate land use and forest management systems in the production forest and protection forest shall be determined by the PO with the assistance of the DENR to ensure the sustainability and stability in the CBFM areas.

1. Development and Management of Production Forest. The production forest shall be established in areas with a slope of 50% and below. The forest management systems will include the plantation establishment in open areas and application of silvicultural programs such as timber stand improvement (TSI), assisted natural regeneration (ANR) and other silvicultural schemes in adequately stocked areas. The agro-forestry, mix planting of agricultural crops, fruit and forest trees shall be done in areas identified to be suitable for agriculture.

   Plantations established within the CBFM projects shall be registered at the CENRO having jurisdiction over the area using the Application Form for CBFM Forest Plantation Ownership (Annex D), after which, a corresponding Certificate of CBFM Plantation Ownership should be issued to the PO (Annex E).

   Resource and suitability assessment shall be conducted with the assistance of the DENR prior to the establishment of the plantations. This shall be done to ensure that the PO shall produce good quality seedlings, forest and fruit trees for their agroforestry, forest plantation establishment and enrichment planting activities.

2. Development and Management of Protection Forest. The protection forest covers areas 50% and above in slope. The forest management systems in the protection forest include among others, the planting of appropriate species in open spaces, application of silvicultural treatment and biodiversity conservation.

Sec. 18. Forest Protection and Conservation. The PO, with assistance from the DENR and the LGU, shall be primarily responsible for the protection and conservation of the natural resources within the coverage of the CBFMA. The forest protection component of the CRMF and the 3/5-Yr WP shall be put in place wherein the PO shall protect the CBFM area to the fullest, free it from illegal cutting and/or extraction, no cutting along gullies, steep slopes, river channels and other identified critical areas.

The PO shall likewise assist the government in the protection of adjacent forestlands and take active part in the forest protection activies. In order for the PO members to have legal authority e.g. to apprehend illegal loggers/cutters and confiscate illegally cut timber, the DENR shall deputize selected PO members as forest environment and natural resources officers (FENROs). The PO deputized FENROs shall be given incentives in the performance of their duties. This may be in form of allowance and insurance benefit with appropriations provided by the DENR and LGU counterpart. Protection as well as legal assistance shall be provided to the deputized FENROs whenever necessary in cases of settling disputes dealing with apprehension of individuals and confiscation of illegally cut timber.

Sec. 19. Harvesting and Utilization. Utilization of resources shall be based on sound environmental, social and economic principles. Harvesting of timber and non-timber forest products in the CBFM area shall strictly follow the Code of Practice for Forest Harvesting likewise contained and indicated in the CRMF and 3/5-Yr WP.

The CENRO, LGU, PO and other concerned sectors prior to harvesting activities shall jointly conduct timber inventory and tree marking. The list that indicates the tree number, species, diameter, merchantable height and volume shall be the basis for the PO's allowable cut embodied in the 3/5-Yr WP. Quantity and type of non-timber forest products to be gathered shall follow what has been indicated in the 3/5-Yr WP. In case where there are available markets, the PO shall be encouraged to utilize stumps, twigs, and branches to maximize wood recovery in CBFM plantation areas.

Harvesting of non-timber and timber resources within the natural resources should be consistent with the CRMF and shall be confined only in areas identified as production forest. The volume to be harvested shall be based on the capability of the PO and shall be limited to the annual allowable cut (ACC) as stipulated in the affirmed 3/5-Yr WP. The determination and computation of the ACC shall be based on the formula provided for in the Code of Harvesting Practices in CBFM areas. Timber and non-timber forest products harvested from natural forest shall be subject to

the payment of corresponding forest charges, in consonance with existing regulations and guidelines. Extraction of forest products outside of the identified production forest shall be strictly prohibited.

Sec. 20. Processing of Harvested Products. The concerned CENRO shall encourage the community members to process non-timber forest products like rattan and bamboo into handicrafts, furniture and novelty items for added value and increased income. To maximize wood recovery from the plantation areas and production forests from CBFM projects, the PO may operate a re-sawmill with a maximum flywheel diameter of 18" and blade size of 2 " width or may adopt other schemes consistent with DENR's regulations and guidelines. Provided that, only timber legitimately harvested from the CBFM projects shall be allowed as raw materials from the re-sawmill operation of the PO.

Sec. 21. Transport of Forest Products Harvested from CBFM Areas. The transport of all forest products which includes logs, lumber, flitches, rattan and bamboo harvested from plantation areas in CBFM projects shall be supported by a duly accomplished CBFM Self Monitoring Form (SMF, Annex F). The transport of forest products harvested from natural grown forest shall also be supported by a Certificate of Origin (CO) issued by the concerned CENRO under DAO 7 series of 1994.

Sec. 22. Production Sharing Scheme from Government-owned Plantations within CBFM Areas. All forest products harvested from forest plantation established with government funds or plantation established by former TLAs shall be subjected to a sharing agreement as provided for under existing regulations and guidelines. The share of the government shall be collected by the CENRO and deposited in the accredited bank of the government. All collections shall accrue to the National Treasury.

Sec. 23. Support to the PO's Development Activities. A percentage of the proceeds in the harvesting operations shall be used for development activities and/or livelihood projects as indicated in the PO's development plan or CRMF.

Sec. 24. Participation of POs in CBFM Workshops and Meetings. The PO/forest communities represented by the officers of the National PO Federation shall be part of the review and enhancement of CBFM policies. They shall be encouraged to participate in related CBFM workshops and meetings to share their lessons and experiences in the implementation of the CBFM strategy.

Sec. 25. PO's Contract Services and Development Activities. The PO may enter into contracts with private and government entities or individuals for the development of portions, or the entire CBFM area, as provided for and in accordance with existing regulations and guidelines. Contracting can be in the form of development which involves the establishment of plantations, livestock production, eco-tourism and other developmental activities and services including utilization of forest resources and associated activities such as road construction, major and minor transport, processing and marketing of forest products, as contained in the CRMF and 3/5-Yr WP. Cell site/power line structures that maybe installed within the CBFMA areas shall form part of the sub-contracting activity for the PO's additional source of income.

CHAPTER 4

Support Structures and Mechanisms to Strengthen CBFM Implementation

Sec. 26. Implementation of JMC No. 2003-01 in Support of CBFM. As embodied in the Joint DENR-DILG Memorandum Circular No. 2003-01, the DENR and the DILG realize the need for the involvement of the LGUs in managing forestland resources in line with existing laws. The strengthening and institutionalizing of DENR-DILG-LGU partnership on devolved and other forest management functions is envisioned to provide a very significant contribution to strengthen the current CBFM implementation.

The JMC has specific provisions on the intended operationalization and institutionalization of the DENR-DILG-LGU National Steering Committee; operationalization and institutionalization of DILG-DENR partnerships at the field level; identification and delineation of priority concerns in operationalizing such partnerships; documentation of forest management projects that will be devolved to the LGUs and other forest areas to be placed under co-management; the instruments and mechanisms for the said partnerships and collaboration; reiteration of LGU participation in the issuance of tenure instruments and permits under Section 9.3 of JMC 98-01; deputization of LGU Officials as ENR Officers and enjoining the LGU to provide funds to make devolution, partnership and co-management effective; and additional guidelines to strengthen partnerships and provision on administrative sanctions.

Sec. 27. Basic Assistance and Support Services. The CBFM Unit at the CENRO, PENRO and Regional levels in coordination with the concerned LGU shall be responsible for delivering the necessary assistance and support services to forest communities in their efforts to fulfill their roles as managers of the CBFM project. Such assistance and support shall include but not limited to the following: basic technical services, PO capability building, provision of access to financial and credit facilities and development of linkages with NGOs, GOs, stakeholders and interest groups for livelihood, market and enterprise development as well as legal assistance necessary in the conduct of forest protection activities.

The cost needed in the provision of the various CBFM units' assistance shall be included in the CENRO, PENRO and RENRO's work and financial plans and the corresponding annual key result areas (KRA).

CHAPTER 5

Participatory Monitoring and Evaluation

Sec. 28. Multi-Sectoral Monitoring and Evaluation. A participatory mode of monitoring and evaluation through a composite team shall be conducted annually to assess the various issues, problems and constraints related to the development and strengthening of the CBFM implementation. The composite team shall include representatives from the CBFM Regional Office, PENRO, CENRO, LGU, AOs/NGOs and other concern sectors. The M&E project report, which highlights the problems, opportunities and recommendations shall be submitted by the CENRO to the Forest Management Bureau (FMB) through proper channels.

In addition to the multi-sectoral M&E, the concerned CENRO, PENRO and RENRO shall conduct regular monitoring and evaluation. The field personnel shall be consulted on the kind of criteria and indicators that will be included in the performance of their job as part of the internal monitoring and evaluation system of the DENR.

Sec. 29. Monitoring and Documentation of Harvesting and Re-Sawmill Operations. In CBFM areas where the POs undertake resource utilization, their harvesting and re-sawmill operations shall be monitored and documented by the CENRO concerned. The PO Federation shall also be involved in these activities. These shall include among others, the following:

1. Control, record and monitor the volume of planted/naturally growing trees harvested, re-sawn and transported from the CBFM projects;

2. Conduct monthly check/verification of the volume of lumber or outputs of the re-sawmill operations against the volume of raw material inputs;

3. The Regional Office/PENRO to check and verify the operations at least once a month to ensure that the raw materials for the operation of the re-sawmill are those harvested from the CBFM plantations and/or natural production forest.

   A report shall be submitted to the USEC for Field Operations through the FMB Director using the CBFM Harvesting and Re-sawmill operations Form A. (Annex G). The same shall be incorporated in the CBFM Information System submitted quarterly to the Central Office.

   The CBFM Unit within the CENRO shall assist the PO in facilitating the needed requirements for harvesting. They shall be responsible in keeping a Registry Book reflecting all the information contained in the Registration Form. The Registry Book shall serve as database to reflect information as to the extent of harvesting and utilization activities in plantations and production forests within CBFM areas.

Sec. 30. Process Documentation of the PO's Ecological, Economic, Social and Organizational Activities. The assigned CDA/project site leader shall document the PO's entire activities and outputs pertaining to their organizational, social and economic development activities and the corresponding influence or impact towards the promotion of sustainable resource use and development. Lessons learned and issues and concerns shall be translated into a summary report on a quarterly basis for submission and discussion during the regional and national steering committee meetings. These are necessary inputs for field implementers and policy makers to finding solutions on implementation problems, opportunity for adjustments and improvement of project management and refinement of CBFM policies.

CHAPTER 6

Transitory, Penal and Final Provisions

Sec. 31. Transitory Provision. The PO's AWP affirmed by the CENRO-DENR before the issuance of this Order shall continue their operations based on the existing AWP. Provided that, after the termination of the current AWP, the concerned PO shall prepare and submit the 3-Yr WP as provided for under Chapter 2, Sec 14 of this Order.

Sec. 32. Penal Provision. The harvest and utilization of timber and non-timber forest products shall strictly follow the terms and conditions stipulated in the CBFMA, CRMF and 3-Yr WP. The harvesting and utilization operations in the CBFM areas shall be suspended for any violation hereof and any of the provisions of this Order and the perpetrators penalized in accordance with Section 68 of PD 705, as amended, and other existing laws, rules and regulations.

Sec. 33. Repealing Clause. The pertinent provisions of DAO 96-29 and MC 97-12 and all other rules, regulations and issuances inconsistent herewith are hereby amended accordingly.

Sec. 34. Separability Clause. In the event that any provision of these guidelines is declared unconstitutional or null and void, the validity of the other provisions shall not be impaired by such declaration.

Sec. 35. Effectivity. This order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and submission to the UP Law Center.

ELISEA G. GOZUN
Secretary

Attachment C

DENR ADMINISTRATIVE ORDER
No. 2003 –

SUBJECT: STRENGTHENING THE IMPLEMENTATION OF THE COMMUNITY BASED FOREST MANAGEMENT (CBFM) STRATEGY

Pursuant to Executive Order No. 263 dated July 19, 1995, *(Adopting Community-Based Forest Management As The National Strategy To Ensure The Sustainable Development Of The Country's Forestlands Resources And Providing Mechanisms For its Implementation);* DENR Administrative Order 96-29, *(Rules and Regulations for the Implementation of Executive Order 263, Otherwise Known as the Community-Based Forest Management Strategy)*; DENR Memorandum Circular 97-13, *(Adopting the DENR Strategic Action Plan for Community-Based Forest Management);* the Joint DENR-DILG Memorandum Circular (JMC) No. 2003-01, *(Strengthening and Institutionalizing the DENR-DILG-LGU Partnership on Devolved and Other Forest Management Functions)*, and to reinforce, simplify and harmonize the processes in the implementation of programs and projects supporting the Community-Based Forest Management Strategy, the following additional guidelines and procedures are hereby promulgated.

CHAPTER 1

Preparatory Activities in CBFM Implementation

Section 1. Establishing Institutional Linkages and Intensifying IEC in Support of CBFM. Pursuant to Sec. 1 and 2, Article III of DAO 96-29, and Sec. 2 and 3 of JMC 2003-01, the DENR shall promote and support the active participation of various agencies and organizations in the implementation of CBFM. All DENR units involved in the implementation of CBFM-related programs and projects are mandated to give highest priority in establishing and consolidating partnerships among agencies and organizations, both public and private.

The DENR Provincial and Community Environment and Natural Resources Offices (PENRO/CENRO) shall undertake a continuing systematic orientation for local government executives (barangay, municipal and provincial levels), local units of relevant national government agencies, civil society organizations, academic institutions, and financing organizations on the CBFM concepts, principles, objectives, processes and activities, among others. The partnerships that evolve through this process are strongly encouraged to expand the coverage and scope of IEC campaigns for CBFM by jointly undertaking such campaigns.

Sec. 2. Identification and delineation of CBFM sites. DENR field offices shall maintain and continuously update control maps and associated registries indicating therein the various ENR projects and tenure instruments over forestlands in their jurisdiction. These control maps and registries shall be harmonized with the Comprehensive Land Use Plans (CLUPS) of the respective LGUs. These maps and registries shall be open to the public.

Based on the control maps and registry, the PENRO shall make a preliminary map delineation of forest management units based on watershed/sub-watershed physical boundaries. These preliminary delineation maps shall be presented to the Provincial and Municipal Working Groups organized to operationalize the partnership and devolution of forest management functions[1] to serve as reference for the work of these working groups. These maps shall likewise be used as reference material in the IEC work to promote CBFM participation.

[1] See Joint DENR-DILG Memorandum Circulars 98-01 and 2003-01

The forest management units so delineated shall be the basis for determining the metes and bounds of discrete areas to be eventually handed over to the respective CBFM POs, whose membership shall be exclusive to those directly dependent on the land and forest resources within that management unit.

Sec. 3. Validation of CBFM Participants. The multisectoral group at the local level composed of the DENR, LGU, other government agencies, NGO and other sectors concerned shall be involved in the validation of CBFM participants. In areas where there are existing POs, the following are the qualifications[2]:

a) Members shall be Filipino citizens;
b) Members may either be:

- Actually tilling portions of the area to be awarded;
- Traditionally utilizing the resources for all or substantial portion of their livelihood;
- Actually residing within or adjacent but are developing portions of the areas to be awarded.

In areas where there is no existing PO, the CBFM Coordinator shall facilitate its formation with members in accordance with the above qualifications. Formation of the PO shall only proceed when the multisectoral group has validated the CBFM participants.

Sec. 4. PO Formation. The CENRO through the CBFM Coordinator and the LGU, the provincial, municipal, city technical working group on co-management/partnership[3] and/or the Assisting Organization (AO) shall assist in the formation of the PO pursuant to the requirements outline in Section 8, Article III of DAO 96-29. The PO to be formed or an existing informal group shall be duly assisted in accomplishing the requirements and in their registration. Once the PO is registered, the Community Based forest Management Agreement shall then be consummated.

Sec. 5. Processing of CBFMA Application.

1. The DENR-DILG-LGU working group shall seek individual and/or joint endorsement of the application from the respective LGU/s. As provided for in DAO 2003-11, the concerned LGU/s shall act on the CBFMA application within a period of 15 working days. Should the LGU fail to act on the CBFMA application filed within a period of 15 working days, the concerned DENR office shall process the CBFMA application.

   The DENR Regional Office and LGU concerned shall provide assistance to POs seeking NCIP certification/precondition pursuant to Sec 59 of Republic Act No. 8371 known as the Indigenous Peoples Rights Act of 1997.

2. The PO applicants shall submit the CBFMA application with complete requirements to the CENRO pursuant to Sec 8 of DAO 96-29.

3. A map which shall form part of the CBFMA shall be prepared based on the preliminary delineation provided for in section 2 hereof. A more precised map shall be prepared based on actual ground survey which shall be done in the course of its implementation.

4. The CENRO reviews the CBFMA applications with 500 and less hectares and endorses CBFMA applications with more than 500 to 5,000 hectares to the PENRO.

[2] Sec 1 Article 2 of DAO 96-29
[3] Joint DENR- DILG Memorandum Circular No. 98-01

5. The PENRO reviews the CBFMA applications with more than 500 to 5,000 hectares and endorses CBFMA applications with more than 5,000 to 15,000 hectares to the Regional Executive Director.

6. The DENR Regional Office reviews the CBFMA applications with more than 5,000 to 15,000 hectares and endorses applications with more than 15,000 hectares to the USEC for Field Operations.

The review committee as provided in Sec. 8, Article III of DAO 96-29, shall within 15 days convene and discuss with the PO the terms and conditions embodied in the CBFMA.

Sec. 6. Signing of the CBFMA. The signatories and the corresponding CBFM areas are as follows:

Signatories	CBFM Area (ha)
a) Community Environment and Natural Resources Officer (CENRO)	500 and below
b) Provincial Environment and Natural Resources Officer (PENRO)	More than 500 to 5,000
c) Regional Executive Director (RED)	More than 5,000 to 15,000
d) Undersecretary (USEC) for Field Operations	More than 15,000

The concerned DENR Official awards the CBFMA to the PO and shall furnish the CENRO, PENRO, Regional Office, and the Forest Management Bureau a copy of the approved CBFMA.

Sec. 7. CS Issuance. The CBFM strategy recognizes the individual rights of occupancy through the granting of the certificate of stewardship (CS). The CS may be issued by the PO based on the census of actual forest occupants conducted, provided that the area is within the CBFM area applied for and the CS applicant is a regular member of the PO. The PO, through a resolution shall submit a list of CS issued to individual members to the CENRO for affirmation. This repeals Sections 3.3 and 3.4 of DAO No. 98-45

The DENR in collaboration with appropriate/concerned LGU shall provide the PO with the appropriate technical and social assistance to ensure the smooth implementation of the CS issuance. In addition, the DENR shall also monitor the strict implementation of the CS issuance.

CHAPTER 2

CBFM Planning Process

Sec. 8. Community Resource Management Framework (CRMF). The CRMF is a strategic plan of the community on how to manage and benefit from the forest resources on a sustainable basis. It describes the community's long-term vision, aspirations, commitments and strategies for the protection, rehabilitation, development and utilization of forest resources.

The CRMF is prepared within 30 days after the approval of the CBFMA. The steps and procedures (Annex A) in the preparation of the CRMF are as follows:

1. PO orientation/PO planning team's training on CRMF preparation. The CENRO-CBFM unit, LGU counterparts where there is an existing partnership or cooperation agreement and/or the assisting organization, shall provide the necessary PO orientation on CRMF preparation in consonance with DAO 96-29, MC 97-12 and JMC No. 2003-01. The Regional CBFM Head in coordination with the Human Resources Development shall conduct consultation on training needs and package training programs/courses to build and strengthen the capability of

the PO. The LGU/s, Assisting Organization and NGO shall provide ways and means to the PO planning team's workshop.

2. Defining the Vision, Mission Goals, Objectives. The CRMF shall contain the PO's vision, mission, goals and objectives, and physical development goals and objectives for indicative forest management strategies.

3. Determination of the Components of Forestlands and Resources Plan

   a. Livelihood. Together with the Community Development Assistant (CDA), the LGU, assisting organization and NGO shall also provide supervision and guidance to the PO in identifying and setting up of upland livelihood enterprises.

   b. Assessment of existing and potential land uses within the CBFM area. The CENRO through its Project Management Officer (PMO)/CBFM Unit shall serve as adviser and resource person in the Planning Team's assessment of existing and potential land uses as well as appropriate resource production systems.

   c. Setting up of a framework for local market information system based on existing and potential markets. A market information/market specialist shall serve as adviser and specialist to the PO in the conduct of this activity.

   d. Participatory development of socioeconomic criteria and indicators (C&I) shall be formulated as possible application of DAO 2001-04 (Guidelines and Methodologies for Institutional and Project Benefit Assessment with that of the Criteria and Indicators for Sustainable Resource Use and Development).

4. Financing strategy and accessing resource funds. The financing strategy and accessing of resource funds and the proposed marketing strategies would cover the wider aspect of attaining financial viability and increased economic activities through livelihood and the present or potential economic activities.

5. Strategizing for financing of CRMF. The PO with the assistance of the DENR, LGU, AO and concerned organizations shall do linkages with market and funding institutions.

6. Public Consultation and Ratification of CRMF. The CRMF draft shall be written in the community's own dialect and discussed in a public consultation organized by the PO with the assistance of the concerned CENRO, LGU, and/or assisting organization. After the consultation, the ratified CRMF may be translated to another language/dialect by the CDO/CDA and/or AO.

Sec. 9. Affirmation of CRMF. The ratified CRMF shall be endorsed by the concerned LGU as provided for in Sec 7 of JMC 2003-01 prior to its affirmation by the CENRO to confirm that it has been prepared in a participatory manner. The affirmation of the CRMF by the CENR Officer shall be deemed as the approval of the plan and a confirmation of DENR's active involvement in the preparation thereof, and a proof of the DENR's commitment to support the PO in the implementation of the plan. (Annex B)

A copy of the affirmed CRMF shall be provided to the concerned municipal/provincial LGU, CENRO, PENRO, Regional Office, FMB/CBFM and the PO for their reference and as basis of support and assistance.

The CRMF submitted by the PO shall be considered affirmed after the lapse of 30 days if the CENRO fails to act and accordingly notify in writing the PO concerned. In such a case, the PO shall show proof of the application's date of submission and that the 30 days period had already lapsed. After giving due notice to the CENRO, the PO may proceed to implement the activities in the CRMF.

Sec. 10. Affirmed CRMF and ECC Issuance. The CRMF once affirmed shall also serve as the Initial Environmental Examination (IEE) for CBFM, which describes the environmental impacts of and mitigation and enhancement measures for activities to be undertaken in the area. The affirmed CRMF shall be made as basis for the issuance of Environmental Compliance Certificate (ECC) and applied at the Regional Environmental Management Bureau. The affirmed CRMF shall likewise be reviewed every five years including the ECC compliance. The strengths, weaknesses, opportunities and threats (SWOT) of the different components shall be used in the revision of the CRMF.

Pursuant to DAO 98-43, dated June 24, 1998, the POs of CBFM projects are exempted from the payment of administrative fees in the issuance of the ECC.

Sec. 11. Five-Year Work Plan. The PO with the assistance of the concerned sectors shall prepare a five–year work plan (5-Yr WP) that is consistent with the affirmed CRMF instead of an Annual Work Plan (AWP). The 5–Yr WP shall be the sole document containing the detailed strategies, activities and targets for five years on protection, rehabilitation, development and resource utilization, organizational strengthening, financing, marketing and enterprise development, among others. The Plan shall include the annual activities and work targets of the PO for the period covered by the plan and shall be prepared during the final quarter of the calendar year for affirmation by the CENR Officer.

Sec. 12. Preparation of the 5-Year Work Plan. The steps and procedures (Annex C) in the preparation of the 5-Yr WP are as follows:

1. PO orientation/PO Planning Team's training on the 5-Yr WP. The CENRO-CBFM units, LGU counterpart where there is an existing partnership or cooperation agreement and/or the AO shall provide the necessary PO orientation on CRMF preparation in consonance with DAO 96-29, MC 97-12 and JMC No. 2003-01. The Regional CBFM Head in coordination with the Human Resources Development shall conduct consultation on training needs and package training programs/courses to build and strengthen the capability of the PO. The LGUs, AO and NGO shall provide ways and means in the PO planning team's workshop.

2. Preparation of the Five - Year WP. The PO shall identify their priority activities and targets. The PO Planning Team and Officers shall provide ways and means in the identification of priority activities and targets with the supervision and guidance from the CENRO-CBFM Units or PMO, LGU counterparts and/or AO.

3. Ratification of 5-Yr WP. The 5-Yr WP shall be discussed and ratified in a general assembly meeting or in special meeting called for the matter. The activity shall be organized by the PO with the assistance of the concerned CENRO, LGU, and/or assisting organization

Sec.13. Affirmation of 5-Year Work Plan. The ratified WP shall be endorsed by the local chief executives of the concerned LGU as provided for in Sec 7 of JMC 2003-01 prior to its affirmation by the CENRO to confirm it has been prepared in a participatory manner. The affirmation of the 5-Yr WP by the CENR Officer shall be deemed as an approval of the plan and a confirmation of the DENR's active involvement in its preparation and the proof of the DENR's commitment to support the PO in the implementation of the plan. (Annex D)

A copy of the affirmed 5-Yr WP shall be provided to the concerned municipal/provincial LGU, CENRO, PENRO, Regional Office and the PO for their reference and as basis of their support and assistance.

The 5-Yr WP submitted by the PO shall be considered affirmed after the lapse of 30 days if the CENRO fails to act and accordingly notify in writing the PO concerned. In such a case, the PO shall proceed to implement the activities in the 5-Yr WP.

The 5–Yr WP once affirmed shall serve as the PO's guide for the development and utilization of the resources therein.

CHAPTER 3

CBFM Implementation : Operationalizing the CRMF and the Five-Year Work Plan

Sec. 14. Development and Management of CBFM Areas. The development and management of CBFM areas shall be in conformity with the CRMF. The appropriate land use and forest management systems in the production forest and protection forest shall be determined by the PO with the assistance of the DENR to ensure the sustainability and stability in the CBFM areas.

The management and development activities in the CBFM areas shall include plantation establishment in open areas and application of silvicultural programs such as timber stand improvement (TSI), assisted natural regeneration (ANR), other silvicultural schemes in adequately stocked areas and biodiversity conservation. The agro-forestry, mix planting of agricultural crops, fruit and forest trees shall be done in areas identified to be suitable for agriculture.

Sec. 15. Forest Protection and Conservation. The PO, with assistance from the DENR and the LGU, shall be primarily responsible for the protection and conservation of the natural resources within the coverage of the CBFMA. The protection forest identified by the community shall be protected from illegal cutting and/or extraction. Likewise, no cutting along gullies, steep slopes, river channels and other identified critical areas shall be observed as part of the PO s forest protection activity.

The PO shall likewise assist the government in the protection of adjacent forestlands and take active part in the forest protection activities. In order for the PO members to have legal authority e.g. to apprehend illegal loggers/cutters and confiscate illegally cut timber, the DENR shall deputize selected PO members as environment and natural resources officers (ENROs). The deputized ENROs shall exercise their duties in accordance with DAO No. 98-09.

Sec. 16. Harvesting, Processing and Transport of Forest Products in CBFM Areas. Harvesting, processing and transport of forest products in CBFM areas shall be in accordance with existing rules and regulations.

Sec. 17. Production Sharing Scheme from Government-owned Plantations within CBFM Areas. All forest products harvested from forest plantation established with government funds or plantation established by former TLAs shall be subjected to a sharing agreement in accordance with DAO No.98-42.

Sec. 18. PO's Contract Services and Development Activities. The PO may enter into contracts with private and government entities or individuals for the development of portions, or the entire CBFM area, as provided for and in accordance with MC No 98-08.

CHAPTER 4

Participatory Monitoring and Evaluation

Sec. 19. Multi-Sectoral Monitoring and Evaluation. A participatory mode of monitoring and evaluation through a composite team shall be conducted annually based on critical activities to assess the various issues, problems and constraints related to the development and strengthening of the CBFM implementation. The composite team shall include representatives from the CBFM Regional Office, PENRO, CENRO, LGU, AOs/NGOs and other concerned sectors. The M&E project report, which highlights the problems, opportunities and recommendations shall be submitted by the CENRO to the Forest Management Bureau (FMB) through proper channels.

In addition to the multi-sectoral M&E, the concerned CENRO, PENRO and Regional Office shall conduct regular monitoring and evaluation. The field personnel shall be consulted on the kind of criteria and indicators that will be included in the performance of their job as part of the internal monitoring and evaluation system of the DENR.

Monitoring should be activity focused, the results of which shall be the basis in determining the nature and scope of assistance to be provided.

Sec. 20. Process Documentation of the PO's Ecological, Economic, Social and Organizational Activities. The assigned CDA/project site leader shall document the PO's entire activities and outputs pertaining to their organizational, social and economic development activities and the corresponding influence or impact towards the promotion of sustainable resource use and development. Lessons learned and issues and concerns shall be translated into a summary report on a quarterly basis for submission and discussion during the regional and national steering committee meetings. These are necessary inputs for field implementers and policy makers to finding solutions on implementation problems, opportunity for adjustments and improvement of project management and refinement of CBFM policies.

Sec. 21. Support to CBFM Implementation. The costs needed to operationalize the POs CRMF shall be included in the CENRO, PENRO and the Region s Work and Financial Plans as part of the DENR s major final output (formerly key result area or KRA). Objectively verifiable indicators of the different activities shall likewise be identified as basis of the monitoring and evaluation.

CHAPTER 5

Transitory, Penal and Final Provisions

Sec. 22. Transitory Provision. The PO's AWP affirmed by the CENRO-DENR before the issuance of this Order shall continue their operations based on the existing AWP. Provided that, after the termination of the current AWP, the concerned PO shall prepare and submit the 5-Yr WP as provided for under Chapter 2, Sec 11 of this Order.

Sec. 23. Penal Provision. The harvest and utilization of timber and non-timber forest products shall strictly follow the terms and conditions stipulated in the CBFMA, CRMF and 5-Yr WP. The harvesting and utilization operations in the CBFM areas shall be suspended for any violation hereof and any of the provisions of this Order and the perpetrators penalized in accordance with Section 68 of PD 705, as amended, and other existing laws, rules and regulations.

Sec. 24. Repealing Clause. The pertinent provisions of DAO 96-29 and MC 97-12 and all other rules, regulations and issuances inconsistent herewith are hereby amended accordingly.

Sec. 25. Separability Clause. In the event that any provision of these guidelines is declared unconstitutional or null and void, the validity of the other provisions shall not be impaired by such declaration.

Sec. 26. Effectivity. This order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and submission to the National Registry Center.

ELISEA G. GOZUN
Secretary

Attachment D

CBFM Sub-Project Component Team

Team Leader : FE K. MALLION
M.S. Applied Socio and Anthropology

Team Members: EUMELIA B. CORPUZ
M.S. Forestry

LEONITO A. DONOSO
Ph.D. Forestry (units)

ARESNA B. PALACPAC
Ph.D. Development Communication

Attachment E

MATRIX ON DRAFT DAO NO. 2003 FDC-FMB-CBFMD & DENR-TWG VERSIONS

DAO No. 2003-- FDC-FMB-CBFM Draft (Proposed)	DAO No.2003- DENR-TWG Draft (for signature of the DENR Secretary)	Remarks/Items Included or Revise in DENR-TWG Draft
Chapter 1 Preparatory Activities in CBFM Implementation	Chapter 1 Preparatory Activities in CBFM Implementation	▪ The same title.
Section 1. Establishing Institutional Linkages and Intensive IEC Campaign	Section 1. Establishing Institutional Linkages & Intensifying IEC in support of CBFM	▪ DENR to promote and support active participation of various agencies and participation in CBFM implementation ▪ Intensive conduct of IEC campaign/orientation to all sectors concerned ▪ Continuing and joint IEC undertaking
Sec. 2. Identification and Selection of CBFM sites	Sec. 2.Identification and Delineation of CBFM sites	▪ Prepare/ use of control maps on DENR tenure instruments/projects within jurisdiction ▪ Control maps/associated registries harmonized with CLUPs ▪ Regular updating of maps/registries ▪ Maps for CBFM/PO's reference/ IEC works
Sec.3. Initial Screening of Applicants	Sec.3. Validation of CBFM Participants	▪ Use of word Validation instead of Initial Screening ▪ Multi-sectoral (MC) group to conduct validation ▪ Validation however is limited to existing qualification requirements not on the additional traits of the applicants as provided in first paragraph of the proposed draft. ▪ Formation of PO only to proceed after the MC has validated the CBFM participants based on the existing qualifications and not on the additional PO traits specified in the proposed draft.
Sec.4. PO Formation and Registration	Sec.4. PO Formation	▪ In case of LGU assistance to PO formation, the LGUs were specified into the provincial, municipal, city technical working group on co-management/partnership based on DENR-DILG MC No.98-01). ▪ In the case of AO assistance to PO formation, assistance through the CDA was deleted.
Sec.5. Processing of CBFMA Application	Sec.5. Processing of CBFMA Application	The same except that in: ▪ No.1 procedure " instead of the PO applicants, it was replaced with the DENR-DILG-LGU Working Group shall be responsible to seek individual and/or joint endorsement of the application from the respective LGUs. ▪ INos. 3, 4 and 5 the word validates was changed into reviews. ▪ No. 6 pertaining on perimeter surveying and completion time was deleted.

DAO No. 2003-- FDC-FMB-CBFM Draft (Proposed)	DAO No.2003- DENR-TWG Draft (for signature of the DENR Secretary)	Remarks/Items Included or Revise in DENR-TWG Draft
Sec.6. Signing and Approval of the CBFMA	Sec.6. Signing of the CBFMA	▪ CBFMA copies must also be provided to the PENRO and Regional Office.
Sec.7. CS Issuance	Sec.7. CS Issuance	▪ The same
Chapter 2 CBFM Planning Process	Chapter 2 CBFM Planning Process	▪ The same title
Sec.8. Community Mapping and Land Use Planning	*Section Deleted*	
Sec.9. Community Resource Management Framework (CRMF)	Sec.8. Community Resource Management Framework (CRMF)	▪ The same except for the first sentence in the proposed draft deleted.
Sec.10. Preparation of the CRMF	*Section/Items merged in Sec.8.*	▪ No.1 PO orientation/Planning teams' training on CRMF preparation tem the same ▪ NO.2. PO sectoral Planning Workshop changed into Determination of the Components of Forestlands and Resources Plan but items a to d retained/the same as in proposed draft. ▪ Item Nos. 2, 4, 5 and 6 of final draft the same as in proposed draft.
Sec.11. Affirmation of CRMF	Sec.9. Affirmation of CRMF	▪ The same
Sec.12. Affirmed CRMF and ECC Issuance	Sec.10. Affirmed CRMF and ECC Issuance	▪ The same except that in final draft CRMF shall be reviewed every five years not three years
Sec. 13. Three/Five – Year Work Plan	Sec.11. Five –Year Work Plan	▪ The same except that in final draft it was five- year work plan instead of three/five years.
Sec.14. Preparation of the 3/5-Year Work Plan	Sec.12. Preparation of the 5-Year Work Plan	▪ The same except that: (a.)In final draft it was five-year work plan instead of three/five years; (b.) Nos. 2 and 3 (Identification of sectoral priority activities and targets/Consolidation of PO sectoral plans into a 3/5 Yr WP) of proposed draft merged as item No.3 Preparation of the 5 – Yr WP in the final draft.. ▪ Nos. 1 and 4 in proposed draft the same in the final draft.
Sec. 15. Affirmation of the 3/5 – Year Work Plan	Sec.13. Affirmation of the 5 – Year Work Plan	▪ The same except that in final draft it was five- year work plan instead of three/five years.
Sec.16. Affirmed 3/5 – Year Work Plan	*Section/Items merged in Sec.13.*	▪ In first sentence, the words shall serve as permit to utilize the resources pursuant to Sec. 1, Rationale, MC No.97-12 were deleted and replaced instead of shall serve as guide for the development and utilization of the resources therein. ▪ The second sentence in the proposed draft (PO's exemption from getting all kinds of permit, e.g. RCC

DAO No. 2003-- FDC-FMB-CBFM Draft (Proposed)	DAO No.2003- DENR-TWG Draft (for signature of the DENR Secretary)	Remarks/Items Included or Revise in DENR-TWG Draft
		etc.) was deleted in the final draft.
Chapter 3 CBFM Implementation: Operationalizing the CRMF and 3/5 – Year Work Plan	Chapter 3 CBFM Implementation: Operationalizing the CRMF and 3/5 – Year Work Plan	▪ The same title
Sec. 17. Development and Management of CRMF Areas	Sec. 14. Development and Management of CRMF Areas	▪ The first sentence in the proposed draft was replaced with "The development and management of CBFM areas shall be in conformity with the CRMF." ▪ Paragraphs 2 and 3 in No. 1 item in the proposed draft were deleted. ▪ No.2 item in the proposed draft was deleted.
Sec. 18. Forest Protection and Conservation	Sec.15. Forest Protection and Conservation	▪ The proposed "forest environment and natural resources officers (FENROs) was replaced with environment and natural resources officers (ENROs). ▪ Last three (3) sentences("specified forms of incentives and protection benefits) in 2nd paragraph were deleted.
Sec. 19. Harvesting and Utilization	Sec. 16. Harvesting, Processing and Transport of forest products in CBFM Areas.	▪ Specifics provided for in Sections. 19, 20 and 21 of the proposed draft were deleted and replaced with " Harvesting, processing and transport of forest products in CBFM areas shall be in accordance with existing rules and regulations"
Sec.20. Processing of Harvested Products	*Section/Items merged in Sec.16.*	
Sec. 21. Transport of Harvested Products	*Section/Items merged in Sec.16.*	
Sec. 22. Production Sharing Scheme from Government-owned Plantations within CBFM Areas	Sec. 17. Production Sharing Scheme from Government-owned Plantations within CBFM Areas	▪ Specifics provided for in Section 22 of the proposed draft were deleted and replaced with reference to sharing agreement in accordance with DAO No.98-42
Sec. 23. Support to the PO's Development Activities	*Section deleted*	▪ Specifics provided for in Sec.23 of the proposed draft were deleted.
Sec. 24. Participation of POs in CBFM Workshops and Meetings	*Section deleted*	▪ Specifics provided for in Sec.24 of the proposed draft were deleted
Sec.25. POs Contract Services and Development Activities	Sec.18. POs Contract Services and Development Activities	▪ Specifics provided for in Section 25 of the proposed draft were deleted and replaced with reference to and in accordance with MC No.98-08.
Chapter 4 Support	*Chapter Deleted*	

DAO No. 2003-- FDC-FMB-CBFM Draft (Proposed)	DAO No.2003- DENR-TWG Draft (for signature of the DENR Secretary)	Remarks/Items Included or Revise in DENR-TWG Draft
Structures and Mechanisms to strengthen CBFM Implementation	*(Sections deleted and/or /merged in succeeding chapter)*	
Sec. 26. Implementation of JMC No.2003-01 in support of CBFM	*Section deleted*	▪ Summarized provisions on JMC No.2003-01 in support of CBFM were deleted
Sec. 27. Basic Assistance and Support Services	*Selected Item merged in Sec. 21.*	▪ First paragraph of the proposed Sec. 27 was deleted. ▪ Second paragraph of the proposed Sec. 27 was incorporated/merged in Sec. 21.
Chapter 5 Participatory Monitoring and Evaluation	Chapter 4 Participatory Monitoring and Evaluation	
Sec. 28. Multi-Sectoral Monitoring and Evaluation	Sec. 19. Multi-Sectoral Monitoring and Evaluation	▪ The same for paragraph Nos. 1 and 2. ▪ Additional paragraph as in Monitoring shouls be activity focused, the results of which shall be the basis in determining the nature and scope of assistance to be provided."
Sec. 29. Monitoring and Documentation of Harvesting and Re-Sawmill Operations	*Section deleted*	▪ Specifics provided for in Section 22 of the proposed draft were deleted, i.e. PO Federation involvement in monitoring and documentation of harvesting and re-sawmill operations and examples of their involvement
Sec.30. Process Documentation of the PO's Ecological, Economic, Social and Organizational Activities	Sec.20. Process Documentation of the PO's Ecological, Economic, Social and Organizational Activities	▪ The same
	Sec. 21 Support to CBFM Implementation	
Chapter 6. Transitory, Penal and Final Provisions	Chapter 5. Transitory, Penal and Final Provisions	▪ The same title
Sec. 31 Transitory Provision	Sec. 22 Transitory Provision	▪ The same
Sec. 32. Penal Provision	Sec. 23. Penal Provision	▪ The same
Sec. 33 Repealing Clause	Sec. 24. Repealing Clause	▪ The same
Sec. 34. Separability Clause	Sec. 25. Separability Clause	▪ The same
Sec. 35. Effectivity	Sec. 26. Effectivity	▪ The same

Terminal Report

Simplified and Harmonized Forestry Regulatory Procedures

With funding support from The EcoGovernance Program-USAID
(Subcontract No. 4105-506-03P-03)

ANNEX C
FOREST RESOURCE UTILIZATION PERMITS

FORESTRY DEVELOPMENT CENTER
College of Forestry and Natural Resources
University of the Philippines Los Baños

(Through the University of the Philippines Los Baños Foundation, Inc.)
College, Laguna 4031 Philippines

April 2004

TABLE OF CONTENTS

			Page
ANNEX C	SIMPLIFIED / HARMONIZED FOREST RESOURCE UTILIZATION PERMITS		
C.1	An Analysis of Wood Processing Plants Permitting System (WPPP)		
1.0	Introduction		C.1-1
2.0	Policies on Wood Processing Plants		C.1-1
2.1	Tenure		C.1-3
2.2	Levels of Approval		C.1-3
2.3	Application Requirements		C.1-12
2.4	Fees and Charges		C.1-13
2.5	WPPP Monitoring		C.1-13
3.0	An Analysis of Existing WPPP Policies		C.1-14
3.1	Tenure Issues		C.1-14
3.2	Further Simplification of Requirements		C.1-14
3.3	Policy Instability		C.1-16
3.4	Decentralizing WPPP Approval		C.1-16
3.5	Lack of Participation and Transparency in WPPP Monitoring and Evaluation		C.1-19
4.0	Summary and Recommendations		C.1-19
Attachment A			
Attachment B			
C.2	Analysis of Wood Recovery Permitting System (WRP)		
1.0	Introduction		C.2-1
2.0	Policies Related to WRP		C.2-1
3.0	Processing and Approval of Permits		C.2-2
3.1	Qualified Applicants		C.2-2
3.2	Application Requirements		C.2-3
3.3	Permit Processing		C.2-3
3.4	Fees and Forest Charges		C.2-4

4.0 Monitoring and Evaluation System C.2-10
5.0 Analysis of WRP policies C.2-10
5.1 Lack of Stakeholders Participation C.2-10
5.2 Lack of Transparency C.2-11
5.3 Lack of Accountability C.2-11
6.0 Recommendations C.2-12
7.0 Summary C.2-14
Attachment A
Attachment B

C.3 Analysis of Private Land Timber Permit/Special Private Land Timber Permit
1.0 Introduction C.3-1
2.0 Policies Related to PLTP/SPLTP C.3-1
2.1 Qualified Applicants C.3-12
2.2 Application Requirements C.3-12
2.3 Processing and Approval C.3-13
2.4 Tenure C.3-19
2.5 Monitoring C.3-19
3.0 Analysis of the PLTP/SPLTP policies C.3-19
3.1 Limited Sectoral Participation C.3-20
3.2 Transparency, Issue/s C.3-21
3.3 Accountability Issue C.3-21
4.0 Recommendations C.3-21

C.4 Integrated Annual/Five-Year Operations Plan
1.0 Overview C.4-1
2.0 Policy Basis for Submission and Approval of the Operations Plan C.4-1
3.0 Existing TLA and IFMA Holders C.4-1
4.0 Analysis of OP Regulatory Procedures C.4-2
4.1 Identification and Approval of Sites C.4-3
4.2 Qualification Requirements of Applicants/OP Preparers C.4-3
4.3 Application Requirements C.4-4

4.4 Processing and Approval of OP C.4-4
4.5 Responsibilities of OP Holders C.4-7

C.5 Analysis of Regulatory Procedures on Rattan Cutting Contracts/Permits (RCC)
1.0 Introduction C.5-1
2.0 Evolution of Policies on Rattan Resources C.5-1
3.0 Analysis of Current Policy C.5-2
3.1. Equal Access to Resources C.5-2
3.2 Simplification of Requirements C.5-3
3.3 Equity C.5-7
3.4 Decentralization C.5-7
3.5 Accountability C.5-7
3.5.1 DENR C.5-7
3.5.2 Permittee C.5-8
4.0 Recommendation C.5-8

TABLE OF CONTENTS

			Page
ANNEX C	SIMPLIFIED/HARMONIZED FOREST RESOURCE UTILIZATION PERMITS		
C.1	*An Analysis of Wood Processing Plants Permitting System (WPPP)*		
1.0	Introduction		C.1-1
2.0	Policies on Wood Processing Plants		C.1-1
2.1	Tenure		C.1-3
2.2	Levels of Approval		C.1-3
2.3	Application Requirements		C.1-12
2.4	Fees and Charges		C.1-13
2.5	WPPP Monitoring		C.1-13
3.0	An Analysis of Existing WPPP Policies		C.1-14
3.1	Tenure Issues		C.1-14
3.2	Further Simplification of Requirements		C.1-14
3.3	Policy Instability		C.1-16
3.4	Decentralizing WPPP Approval		C.1-16
3.5	Lack of Participation and Transparency in WPPP Monitoring and Evaluation		C.1-19
4.0	Summary and Recommendations		C.1-19
Attachment A			
Attachment B			
C.2	*Analysis of Wood Recovery Permitting System (WRP)*		
1.0	Introduction		C.2-1
2.0	Policies Related to WRP		C.2-1
3.0	Processing and Approval of Permits		C.2-2
3.1	Qualified Applicants		C.2-2
3.2	Application Requirements		C.2-3
3.3	Permit Processing		C.2-3
3.4	Fees and Forest Charges		C.2-4
4.0	Monitoring and Evaluation System		C.2-10

5.0 Analysis of WRP policies C.2-10
5.1 Lack of Stakeholders Participation C.2-10
5.2 Lack of Transparency C.2-11
5.3 Lack of Accountability C.2-11
6.0 Recommendations C.2-12
7.0 Summary C.2-14
Attachment A
Attachment B

C.3 *Analysis of Private Land Timber Permit/Special Private Land Timber Permit*
1.0 Introduction C.3-1
2.0 Policies Related to PLTP/SPLTP C.3-1
2.1 Qualified Applicants C.3-12
2.2 Application Requirements C.3-12
2.3 Processing and Approval C.3-13
2.4 Tenure C.3-19
2.5 Monitoring C.3-19
3.0 Analysis of the PLTP/SPLTP policies C.3-19
3.1 Limited Sectoral Participation C.3-20
3.2 Transparency, Issue/s C.3-21
3.3 Accountability Issue C.3-21
4.0 Recommendations C.-21

C.4 *Integrated Annual/Five-Year Operations Plan*
1.0 Overview C.4-1
2.0 Policy Basis for Submission and Approval of the Operations Plan C.4-1
3.0 Existing TLA and IFMA Holders C.4-1
4.0 Analysis of OP Regulatory Procedures C.4-2
4.1 Identification and Approval of Sites C.4-3
4.2 Qualification Requirements of Applicants/OP Preparers C.4-3
4.3 Applicant Requirements C.4-4

4.4 Processing and Approval of OP C.4-4
4.5 Responsibilities of OP Holders C.4-7

C.5 *Analysis of Regulatory Procedures on Rattan Cutting Contracts/Permits(RCC)*
1.0 Introduction C.5-1
2.0 Evolution of Policies on Rattan Resources C.5-1
3.0 Analysis of Current Policy C.5-2
3.1. Equal Access to Resources C.5-2
3.2 Simplification of Requirements C.5-3
3.3 Equity C.5-7
3.4 Decentralization C.5-7
3.5 Accountability C.5-7
3.5.1 DENR C.5-7
3.5.2 Permittee C.5-8
4.0 Recommendation C.5-8

AN ANALYSIS OF WOOD PROCESSING PLANTS PERMITTING SYSTEM

1.0. INTRODUCTION

Wood Processing Plants Permit (WPPP) is one of the utilization permits issued by the Department of Environment and Natural Resources (DENR) purposely to rationalize the wood industry and promote its growth by regulating the establishment/installation and operation of wood processing plants in the country. Wood processing plant is a combination of machines or set-up used for the treatment of poles and piles; and the conversion of logs and other wood materials into lumber, paper board, pulp, paper or other finished wood products. The Philippine Forestry statistics revealed that there were 403 WPPPs issued in 1971 composed of regular sawmills (349), veneer plants (19) and plywood plants (35). In 2001, a total of 214 WPPPs were issued, composed of 44 regular sawmills, 124 mini-sawmills, 19 veneer plants and 27 plywood plants (Table 1 and Figure 1). The forty-four (44) regular sawmills in 2001 have a daily rated capacity of 2,119 cubic meters and log requirement of 777 thousand. The 27 operating plywood plants and 19 veneer plants had a combined daily rated capacity of 2,756 cubic meter. Most of these plywood and veneer plants are located in Butuan City and Agusan del Norte (Phil. Forestry Statistics, 2001).

From 1989 to 2001, the number of WPPS for regular sawmills and plywood plants dropped from 171 to 44 and 48 to 27, respectively. The production capacity of sawmill and plywood also has been going down at an average rate of 8.7% per annum for sawmill and 3% per annum for plywood from 1989 to 2002 (FMB, 2003). The wood processing plants' production capacities have been going down due to the unavailability of local raw materials. Those actively involved in the wood industry have characterized it as experiencing serious decline. Figure 1 presents the performance profile of the wood industry from 1971 to 2001.

The industry association believes that most wood processing plants are now antiquated or obsolete. In order to improve efficiency of wood processing facilities and to make the outputs more competitive, processing facilities need to be replaced or re-tooled. However, the policy and supply environments of the forest industry are not conducive to undertake investments to replace or re- tool. Investments in the primary wood based sector of the industry are only geared towards maintenance of existing operations due to the prevailing uncertainties and risks involved. Some of the limiting factors to major investments are: uncertain and unstable policy environment which continue to affect the industry level and weakens confidence of investors; Insecure long term availability of raw materials (including major changes in size, quality of materials) and shortage or absence of low interest, long term funds for equipment modernization, upgrading and forest development programs (NRMP Report, 1992)

2.0. POLICIES ON WOOD PROCESSING PLANTS

Wood processing plants operate on approved Wood Processing Plant Permits (WPPP) under various policy issuances (Table 2). The most recent policies being used are Memorandum Order (MAO) No. 50, Series of 1986 which is the regulation governing the issuance of permit and DENR Administrative Order No. 41 signed by the DENR Secretary last Sept. 2003 which amends certain provisions of MAO No. 50, S-1986. These policies apply to all owners and

operators of existing wood processing plants established prior to issuance of MAO No. 50, S-1986; holders of IFMA, CBFMA, TLA and other tenurial instruments and other citizens of the Philippines/entities who can comply with the constitutional provisions on corporate law. Owners of two or more wood processing plants which are independently operated in separate locations shall file individual applications for each wood processing plants.

Table 1. Wood Processing Plants in the Philippine (1971-2001)

Year	Wood Processing Plants				Total
	Regular Sawmill	Mini-Sawmill	Veneer Plants	Plywood Plants	
1971	349	-	19	35	403
1972	355	-	18	31	404
1973	370	-	18	31	419
1974	355	-	18	31	404
1975	408	-	18	31	457
1976	325	-	24	33	382
1977	341	-	23	32	392
1978	357	-	23	33	413
1979	227	-	23	33	283
1980	209	-	23	33	265
1981	182	-	23	33	238
1982	190	-	11	35	236
1983	195	-	8	35	238
1984	189	-	6	38	233
1985	174	-	7	38	219
1986	169	-	8	38	215
1987	180	-	11	39	230
1988	190	-	12	45	247
1989	171	-	17	48	236
1990	152	-	15	45	212
1991	150	125	14	42	331
1992	122	157	13	42	334
1993	95	151	13	45	304
1994	93	-	6	40	139
1995	78	-	6	31	115
1996	61	-	7	32	100
1997	85	-	14	34	133
1998	55	59	19	33	166
1999	51	66	19	31	167
2000	45	-	19	30	94
2001	44	124	19	27	214

2.1 Tenure

The tenure of WPP permit shall be co-terminus with the forestry tenurial instruments issued such as CBFMA, IFMA, SIFMA and TLA for applicants who are holders of such forestry tenurial instrument, provided that the wood production from such forestry projects is the primary input to the processing plant. For applicants who are not holders of forestry tenurial instrument, the permit shall have a duration of three (3) years, renewable every three years thereafter, provided that the annual permit fee shall be duly paid.

2.2 Levels of Approval

Under MAO 50, S-1 (Attachment A) approval of WPP permits will be at the DENR Secretary's level while its renewal shall be approved by the Regional Executive Director concerned. In DAO 2003-41 (Attachment B) which is the recent WPPP policy signed by the DENR Secretary, WPP permits shall be approved by the Regional Executive Director including its renewal. The process/levels of approval of WPP is shown in Figure 2.

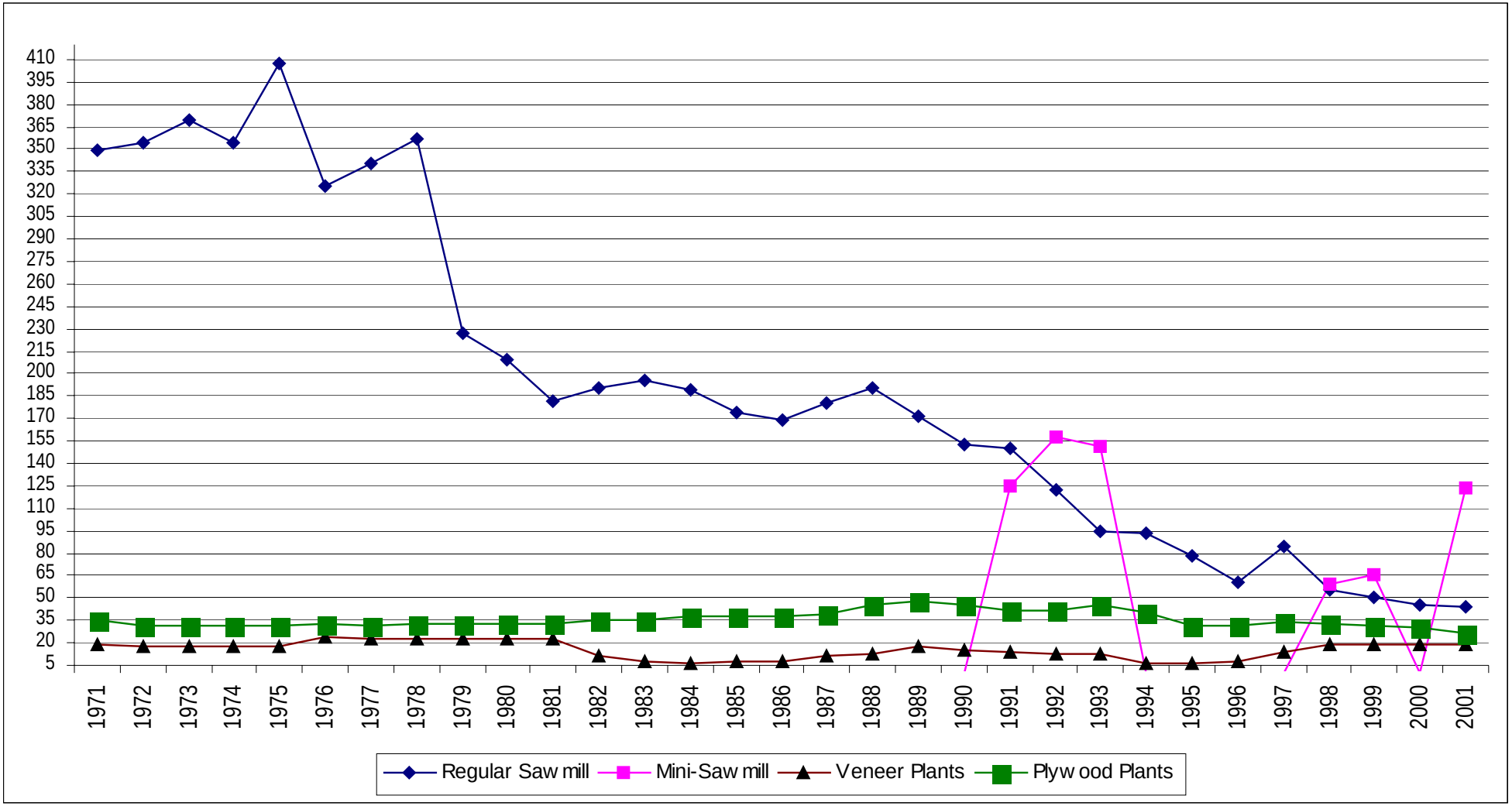


Figure 1. Number of wood processing plants from 1971-2001.

Source: Forestry Statistics, FMB-DENR

Table 2. Policy Issuances related to Wood Processing Plants Permits.

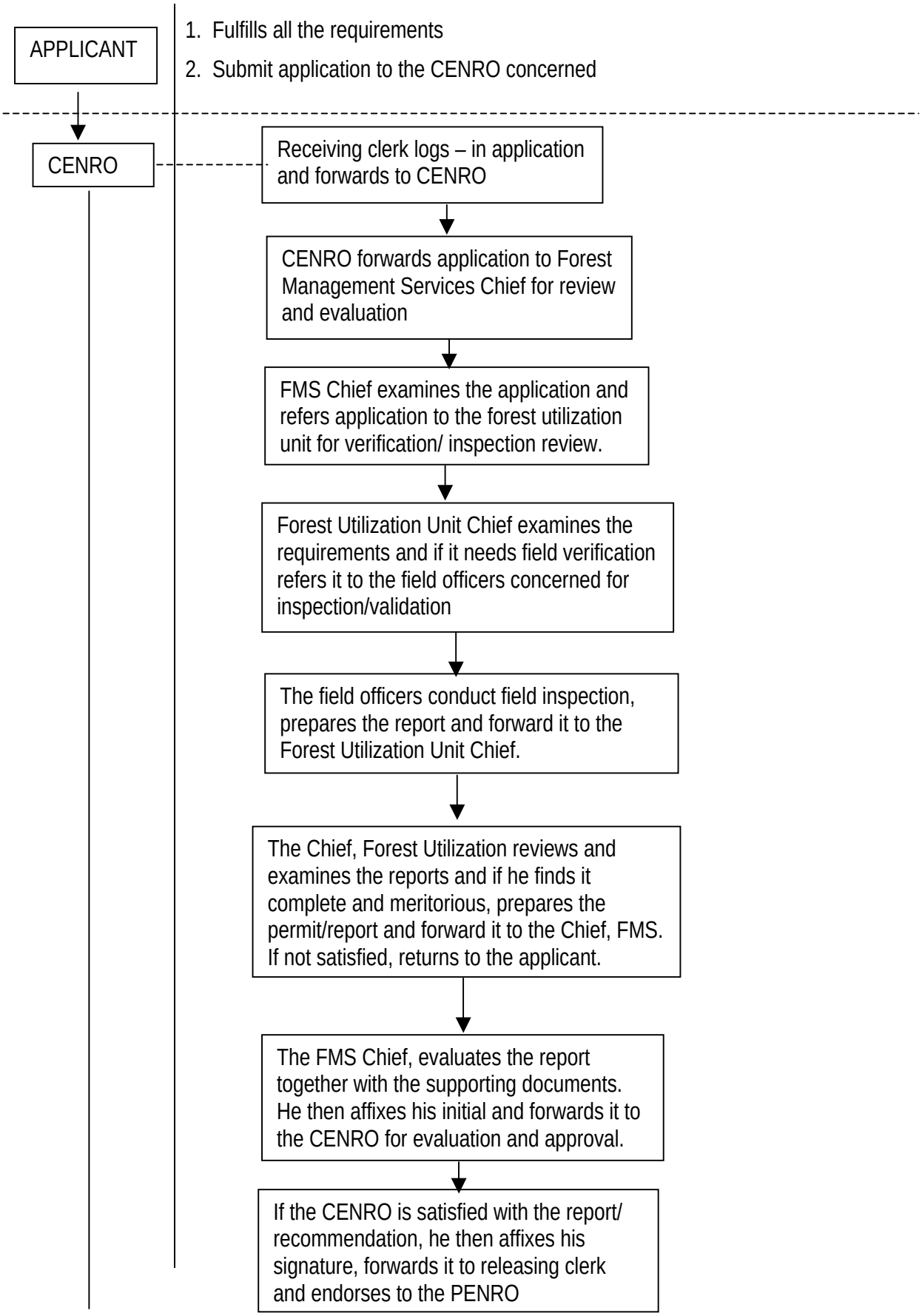
Policy	Year	Title	Highlights/Salient Provisions
R.A. 460	1950	An Act Regulating the Operations of Sawmills Requiring Operators of Sawmills to obtain from the Director of Forestry permits for the Operation of such sawmills and providing penalties for violations thereof	Operation of Sawmill • Secure a permit from the Director of Forestry • Approval of permit of the Secretary of Agriculture and Natural Resources • Source of adequate supply of timber for the sawmill Any person, association or corporation who violates this act in sawmill operations shall be punished by a fine of not less than one thousand and not more than ten thousand pesos
Forestry Memo Order No. 19	1964	Policy on the Issuance of Sawmill Permits (Apolonio F. Rivera)	• Application for original and renewal of permits must be filed at least 60 days before the operation and 60 days before the expiration of permit to give ample time for the central office of Forestry to process the application and supporting papers
P.D. 705.	1975	Regulation of Timber Utilization in all other classes of lands and wood processing plants Diffusion of Benefits	Sec. 39 – The establishment and operation of saw-mills and other wood processing plants, shall be regulated in order to prevent them from being used as shelters for excessive and unauthorized harvest in forest lands and shall not therefore be allowed except through license agreement, license, lease or permit. Sec. 58 – The privilege to utilize. Exploit, occupy or to conduct any activity therein, or to establish and operate wood processing plants shall be qualified and deserving applicants as possible.
PD 1559 Amending PD 705	1978	License Agreement, License Lease or Permit (Pres. Ferdinand E. Marcos) Rationalization of Wood Industry	Sec. 20 - No person may utilize, exploit, occupy, posses establish, install, add and operate any wood or forest products processing plant, unless he had been authorized to do under a lease agreement. Sec. 30 – No expansion or integration of existing processing no establishment of new processing plant shall be allowed unless environmental consideration is taken into account and adequate raw materials supply on a sustained-yield basis is assured.

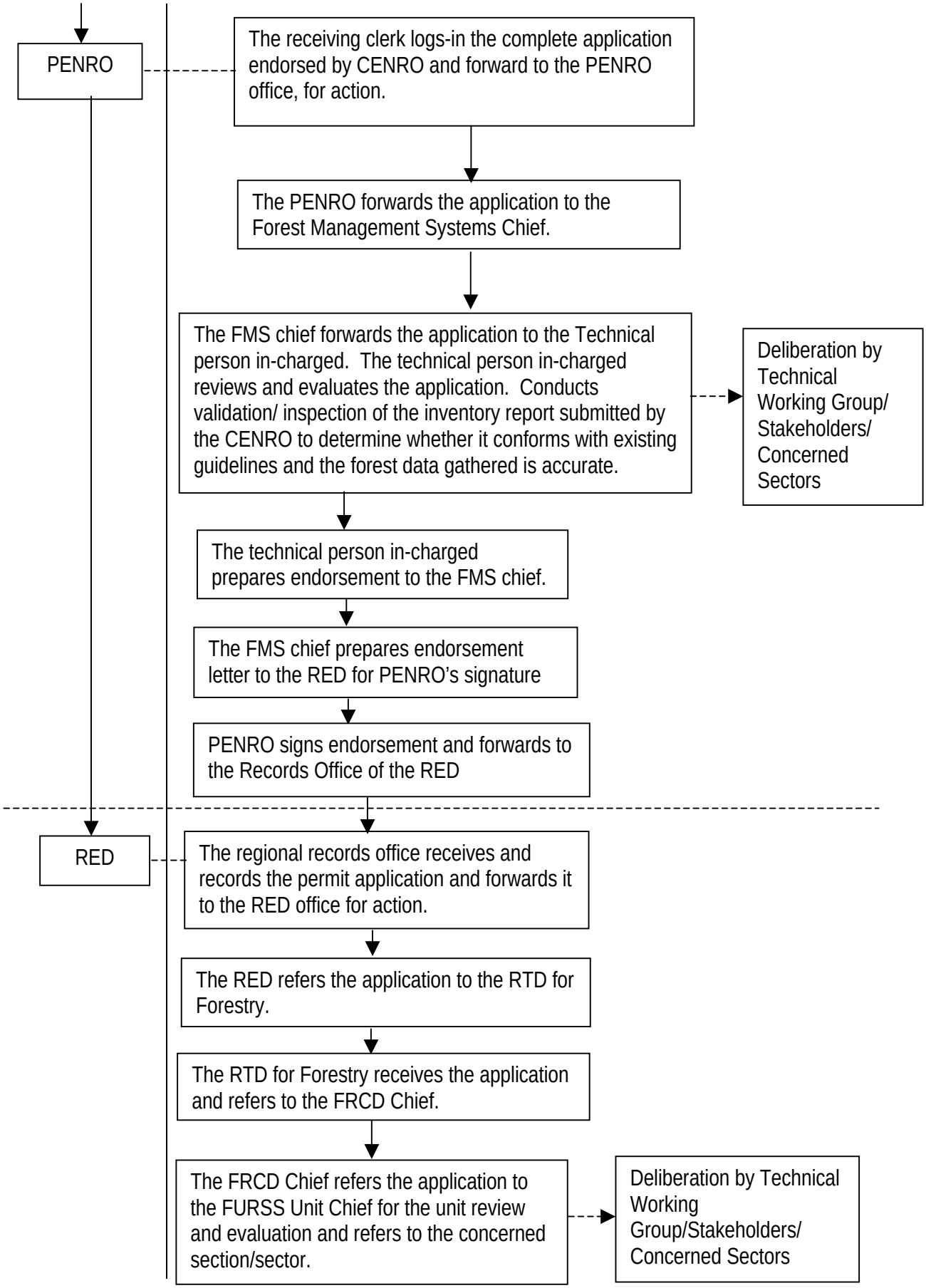
Policy	Year	Title	Highlights/Salient Provisions
			• Permittees without processing plants shall jointly adopt any feasible scheme or schemes for approval of the MNR. • All processing plant existing, to be expanded, to be integrated or to be established shall obtain operating permits from BFD. • MNR Head may cancel, suspend or phase-out all inefficient, wasteful, uneconomical or perenially short in raw material wood or forest products processing plants which are not responsive to rationalization program of the government.
MNR Administrative Order No. 50	1986	Integrated Regulations on the Establishment and Operations of Wood Processing Plants (*Sec. Ernesto M. Maceda*)	• Owners and operators of existing wood processing plants, citizens of the Philippines, corporations or associations which owned at least sixty percentum of the capital may apply. • All applications shall be filed with the field office of the BFD/MNR where the wood processing plant is located. • Application Requirement • Common ω For Private corporation, partnership or association: ♦ Articles of incorporations, partnership ♦ Authorization issued by the corporations, partnership or association ♦ Application fee ♦ Forestry Bond ♦ Location and Clearance from the Ministry of Human Settlements ♦ Pollution Clearance ♦ IEE ♦ Evidence of ownership of machineries (for new application) ♦ Business plan (for new application) ♦ Project feasibility study (for new application) ♦ Authority to establish (for new application)

Policy	Year	Title	Highlights/Salient Provisions
			Authority to establish new, acquire or to expand existing wood processing plants may be issued by the Minister upon the recommendation of the Director that the proposed project is in accordance with the wood rationalization program. Permit to operate wood processing plant is issued by the Minister after the evaluation of application. Any owner or operator of wood processing plant who is found to have violated any of the provisions of this order shall be penalized in accordance with existing applicable laws, rules and regulations. Section 6 – Application requirements
DAO No. 38	1992	Prescribing Conditions for the Operating of Sawmills and Mini-sawmills (*Sec. Ricardo M. Umali*)	Permit to operate shall be given to sawmills and mini-sawmills with assured sources of raw materials equivalent to 100% of its log requirement. Processing of raw materials other than sawmill wastes, tops and branches shall be considered on outright violation of this order.
DAO 8	1994	Additional Requirement in the Issuance of New Sawmill Permits and Certificates of Registration as Lumber Dealers, Including Renewals thereof (*Sec. Angel C. Alcala*)	Additional Requirements: • Log supply contract of the following ω An existing TLA ω IFMA ω PLTP/SPLTP ω Exporter of logs from a foreign country
DAO 41	2003	Amending certain provisions of Ministry Administrative Order No. 50 dated November 19, 1986 (Integrated Regulation on the Establishment and Operations of Wood Processing Plants) *Sec. Elisea G. Gozun*	Sec. 2 – Definition of Wood Processing Plant Sec. 6 – Application requirement • Duly accomplished application form with notation by authorized DENR collection officer on the official receipt number and date of payment • Certificates of Registration of Articles of incorporation, partnership or corporation • For individual persons, document reflecting proof of Filipino Citizenship such as Birth Certificate or Certificate of Naturalization

Policy	Year	Title	Highlights/Salient Provisions
			• ECC or CNC, as the case may be, issued by EMB pursuant to DAO 96-37 • Sworn state of application declaring the source of wood raw materials, supported by certified documents such as but not limited to supply contracts or other appropriate proof of availability and legitimacy of wood source • In case the WPPP is to be located in/or already located in public forest land, the application for special land use permit and processing plant permit will be processed simultaneously. The duration of SLUP shall be co-terminus with the duration of the processing permit. Sec. 10 – Tenure • Permit to establish and operate WPP shall be co-terminus with the forestry tenurial instrument issued such as CBFMA, IFMA, SIFMA and TLA if the applicant is also a holder of such forestry tenurial instrument, provided that the wood production from such forestry projects is the primary input in the processing plant and not holders of forestry tenurial instrument. • Duration of permit shall be three (3) years, renewable every three years. Sec. 11 and 12 – The authority to establish and permit to operate shall be combined into a single permit to establish and operate WPP. This same permit shall be issued for authority to acquire new equipment and expand existing WPP. The permit and renewal to establish and operate WPP shall be approve by the Regional Executive Director.

Figure 2. Flow Chart of Wood Processing Plant Permit Application (MAO 86-50)




PENRO
The receiving clerk logs-in the complete application endorsed by CENRO and forward to the PENRO office, for action.
The PENRO forwards the application to the Forest Management Systems Chief.
The FMS chief forwards the application to the Technical person in-charged. The technical person in-charged reviews and evaluates the application. Conducts validation/ inspection of the inventory report submitted by the CENRO to determine whether it conforms with existing guidelines and the forest data gathered is accurate.
Deliberation by Technical Working Group/ Stakeholders/ Concerned Sectors
The technical person in-charged prepares endorsement to the FMS chief.
The FMS chief prepares endorsement letter to the RED for PENRO's signature
PENRO signs endorsement and forwards to the Records Office of the RED
RED
The regional records office receives and records the permit application and forwards it to the RED office for action.
The RED refers the application to the RTD for Forestry.
The RTD for Forestry receives the application and refers to the FRCD Chief.
The FRCD Chief refers the application to the FURSS Unit Chief for the unit review and evaluation and refers to the concerned section/sector.
Deliberation by Technical Working Group/Stakeholders/ Concerned Sectors

The concerned section collates comments, evaluates and reviews the completeness of the requirements.

If satisfied
- Prepares order of payment
- Prepares permit
- Forwards their action/decision to the FRCD

If not satisfied
- Returns application for appropriate action to the concerned ENRO

The FRUSS Chief forwards the application to the FRCD Chief

The FRCD Chief forwards to the RTD for Forestry for endorsement to the RED

The RTD for Forestry forwards the endorsement permit to the RED for signature

♦ The RED affixes his signature to the endorsement letter and forwards the application to the DENR Secretary

OFFICE OF THE DENR SECRETARY

The records office receives and logs-in application and forwards to the OSEC

The OSEC forwards application to the Undersecretary for Field Operations

The USEC for Field Operations forwards the application to the concerned Bureaus like FMB or PAWB

Forest Management Bureau → (Next page)

The FMB forwards their decision to the USEC for field operations

USEC for Field Operations forwards application to the Technical Staff for review. In case the area applied or permit has some problem, conflict, etc. a technical review committee will be created to conduct consultation.

2.3 Application Requirements

In MAO 50 – 86, a total of 11 requirements were needed for WPPP application but this was reduced to six (6) in DAO 2003-41. The six (6) application requirements are the following :

1. Duly accomplished application form with notation by authorized DENR collection officer on the Official Receipt number and date of payment of the application fee.
2. Certificate of Registration of Articles of Incorporation, Partnership or Cooperation, as the case may be.
3. For individual persons, document reflecting proof of Filipino citizenship such as Birth Certificate or Certificate of Naturalization
4. Environmental compliance Certificate or Certificate of Non-Coverage, as the case may be, issued by the Environmental Management Bureau pursuant to DAO 96-37

5. Sworn statement of the application declaring the source of wood raw materials, supported by certified document such as, but not limited to, supply contracts, or other appropriate proof of availability and legitimacy of wood source.
6. In case the Wood Processing Plant is to be located in/or already located in public forest land, the application for Special land use Permit and processing plant permit will be processed simultaneously. The duration of the Special Land Use Permit shall be co-terminus with the duration of the processing plant permit.

2.4 Fees and Charges

The fees and charges for WPP permit issuance is based on MAO 50, S-1986. Accordingly, the application fee is P500 per application and the annual permit fee is based on daily rated capacity of the WPP. For regular sawmill, mini-sawmill, re-sawmill such as those with daily rated capacity of 24 cu.m. the annual permit fee is P750.00; 24 cu.m. to 47 cu.m P900.00 and for ALR (annual log requirement) above 47m^3, P1,000.00. For veneer and plywood plants and other wood-based panel plants, the annual permit fee is based on annual log requirement as shown below:

Annual Log requirement (cu.m.)		Annual Permit Fee (P)
Below 4,000 .	- P	1,400.00
4,000 – 7,999	-	1,800.00
8,000 – 11,999	-	2,000.00
12,000 – 15,999	-	2,800.00
16,000 – 19,999	-	3,400.00
20,000 – 29,999	-	3,950.00
30,000 – 39,999	-	4,500.00
40,000 – 49,999	-	5,650.00
50,000 – 99,999	-	7,000.00
100,000 and above	-	8,500.00

The annual permit fee for wood treating plants and other wood processing plants are P3,000.00 and P1,000.00, respectively. Aside from an application fee and annual permit fee, a performance bond of P600.00/cu.m. based on daily rated capacity but not less than P10,000.00 is also a requirement for all WPP permits issuance. The performance bond can be forfeited for any reasons like non-compliance or violation and can be refunded upon request of permittee if the permit is surrendered to the Secretary.

2.5 WPPP Monitoring

The CENRO concerned through his Forest Officers shall closely monitor and inspect the Registry Book and daily trimmer tally including other records of sales and disposal of lumber and other wood products of the wood processing plants. In this way, the permittee shall strictly maintain a Registry Book and file copies of purchase order showing log/lumber or other raw materials purchased in chronological order with the following information: species, volume, official receipts number in which the total charges and other fees were paid. A monthly production report of the WPP shall be submitted to the RED thru proper channels.

3.0. AN ANALYSIS OF EXISTING WPPP POLICIES

The implementation of the WPPP was and continues to be a focus of attention by the FMB-DENR and wood processing plants stakeholders. The issues involved in WPPP implementation range from the technical issues of wood processing plants establishments to the socio-politico-legal issues associated with permit issuance, tenure, monitoring and sources of raw materials. WPPP policies are considered by most permittees as extremely restrictive, confusing and without focus, bureaucratic and/or extremely regulatory.

3.1. Tenure Issues

The existing WPPP policies provide that the permit to establish and operate wood processing plants shall be co-terminus with the forestry tenurial instruments issued such as CBFMA, IFMA, SIFMA and TLA if the applicant is also the holder of such forestry tenurial instrument, provided that the wood production from such forestry projects is the primary input to the processing plant. For applicants who are not holders of forestry tenurial instrument, the permit issued shall have a duration of three (3) years, renewable every three years thereafter. WPP permittees do not question the duration of the first category of permit applicants. To them, the 25 years duration is enough security to their investment. However, in the case of applicants who are not holder of existing forestry tenurial instruments they find the three year period very short considering the high investment cost required. Accordingly, this is one of the dominant constraints to investment and the long term development programs by wood processing industry. The short duration of the permit greatly influences the efficiency of their operation and raises great concern on the stability and growth of their business. They consider this as a very risky venture and uncertain situation where the permit applicants are at the mercy of the DENR after three (3) years of operation.

Additionally, the 3 year period is considered very short in relation to the investment that they are providing. For a business to progress, they should have security of tenure that is commensurate to their investment. Considering that the equipment and maintenance cost are very expensive, it is necessary to provide enough time for the investor to recover the investment. Most of the interviewed wood processors suggested a longer period of time for the tenure, preferably, 10 years which will significantly reduce transaction costs associated with permit renewals and at the same time provide stability to their operation.

As a safeguard on the part of the government, the operation of the permittee may be suspended or cancelled if the firm violates certain provisions of his agreement. These means that the agreement should be clear on what would constitute violations, at the same time this will require a regular monitoring. A regular monitoring will be undertaken to assess compliance of the permit holder on the provisions of his agreement. The permittees are willing to be monitored regularly. But to promote transparency, accountability and stakeholders participation, it is suggested that the monitoring team be composed of multi-sectoral representatives. The report of monitoring team should indicate whether the permit holder violated the provision on his agreement for responsible processing of forest products. This would now, become the basis for suspension or cancellation of operation depending on the gravity of the violation.

3.2 Further Simplification of Requirements

DAO 2003-41 has significantly reduced the application requirements for permit to establish and operate wood processing plants. From 11 requirements under MAO 50-86 the new DAO has

reduced it to six (6) [Table 3). The removal of location clearance, pollution clearance, business plan, feasibility study in the application requirements is particularly appreciated. However, most of the permittees interviewed complained of high transaction cost in securing Environmental Compliance Certificate (ECC) and Certificate of Non- Coverage (CNC). In fact, pollution clearance and location clearance are still part of the requirements for securing ECC. The issuance of ECC process is a very tedious process involving a lot of consultations. The applicant usually engages the services of a consultancy firm or an NGO to secure the ECC and in most cases the cost would range from P50,000.00 to P500,000.00 depending on the size and area of the plant. What is more painful is that once the ECC is issued the DENR requires new rounds of consultations with the different stakeholders in the processing of the permit. This is an added cost on the part of the permittees which together with the other costs associated with the follow-ups in various offices would constitute roughly from P80,000.00 to P150,000.00 up to the Regional level. The permittees are suggesting that since the ECC has undergone extensive public consultations, this should no longer be repeated in the processing of WPP permits. Additionally, while the law requires an ECC for industries such as wood processing plants, there is a need to simplify the requirements and procedures for the issuance of ECC.

Securing a Certificate of Non-Coverage (CNC) is another issue. Why is there a need to secure a CNC from the EMB? This also constitutes another layer of delay and costs on the part of WPPP applicants. This could be avoided by specifying clearly the types of plants that will no longer need an ECC so that they don't have to go to EMB and instead submit directly their application to the concerned CENRO. The CENRO concerned should have clear guidelines in determining WPPP applications that will not require an ECC. The EMB should now issue the list of industries or applications that need an ECC. Only those applications not in the list will require a CNC. This will promote transparency and reduce opportunities for corruption.

Table 3. Comparison of the application requirements of MAO 50-86 and DAO 2003-41.

MAO 50 – 86	DAO 2003-41
1. Articles of Incorporation, Partnership or Association as the case may be, duly certified by the Securities and Exchange Commission; 2. Authorization issued by the Corporation, Partnership or Association in favor of the person signing the application; 3. Application fee; 4. Forestry bond; 5. Locational clearance from the Ministry of Human Settlements; 6. Pollution clearance from the National Pollution Control; 7. Initial Environmental Examination (for new application) 8. Evidence of ownership of machineries (for new application);	• Duly accomplished form with notation by authorized DENR collection officer on the Official Receipt number and date of payment of the application fee; • Certificate of Registration of Articles of Incorporation, Partnership or Cooperation, as the case may be; • For individual persons, document reflecting proof of Filipino citizenship such as Birth Certificate or Certificate of Naturalization; • Environmental Compliance Certificate or Certificate of Non-Coverage, as the case may be, issued by the Environmental Management Bureau pursuant to DAO 96-37; • Sworn statement of the application declaring the source of wood raw materials, supported by certified

MAO 50 – 86	DAO 2003-41
9. Business Plan (for new application); 10. Project Feasibility Study (for new application); and 11. Authority to establish (for new application).	materials, supported by certified document such as, but not limited to, supply contracts, or other appropriate proof of availability and legitimacy of wood source; • In case the Wood Processing Plant is to be located in/or already located in public forest land, the application for Special Land Use Permit and processing plant permit will be processed simultaneously. The duration of the Special Land Use Permit shall be co-terminus with the duration of the processing plant permit.

3.3. Policy Instability

Wood processors also complain of unstable policies which have great implications in their operation. Application requirements vary from one region to another. While MAO 50 – 86 and DAO 2003-41 , has specific provisions on the required documents for application of WPPP, some regional offices still ask for additional requirements such as pictures of the processing plants, inspection reports, etc. While this may be necessary and easy to comply with, they nevertheless cause delay in the processing of the permit. If these are clearly stated in the policy, the applicants would have easily complied without the need for going back to their offices.

The frequent suspension of utilization permits also has greatly affected the operations of wood processing plants. It creates an uncertain condition in the business sector because of the possibility that the wood processing plants could cease operation for would be lack of raw materials. As a result the business sector could not expand their operation and are hesitant to invest because they could not properly project their production.

3.4. Decentralizing WPPP Approval

Under MAO 50-86 the approval of new WPP permits is lodged in the Secretary of the DENR. Before a permit is issued under this scheme it would require steps (Fig. 2). According to the permittees, it would take about 6 months to 2 years before a permit is signed.

DAO 2003-41 has delegated the authority to issue permit to install/establish and operate WPP to the Regional Executive Directors (RED). Under this procedure, before a permit is issued it would require 24 steps. The permittees appreciated this move of the DENR because this significantly reduced the time period within which a permit is signed.

In both policies, an examination of the procedure in which WPP permit applications are processed would indicate that there are duplications in the role of the CENRO and PENRO in the processing of the application. Both review the application, conduct validation and field verification and endorse application to the RED.

The processing of permit applications could be significantly facilitated if applications will no be longer evaluated at the PENRO level (Fig. 3). This will also significantly reduce the transaction cost associated with following up the application. The PENRO may be furnished a copy of the application for their information. This way, the CENRO will be strictly accountable in the endorsement of the application to the RED and any misrepresentation in the validation/inspection report, the CENRO will be held liable.

A major role that the PENRO could play is in terms of monitoring the performance of WPPP holders. They should take the lead in organizing a multi-sectoral monitoring team on the performance of the permittees.

Recently, there is a move to revert back the authority to issue WPP permit to the Secretary of the DENR. While there may be strong reasons for these, it is highly recommended that the current policy delegating authority to the RED should be maintained. Doing otherwise will highlight the policy uncertainties as perceived in the wood industry not to mention the additional transaction costs involved in terms of following up the applications in Manila and in terms of the time delay in the issuance of the permit. The least that could be done is to conduct consultations with permit holders and interested investors in the wood industry in the fields

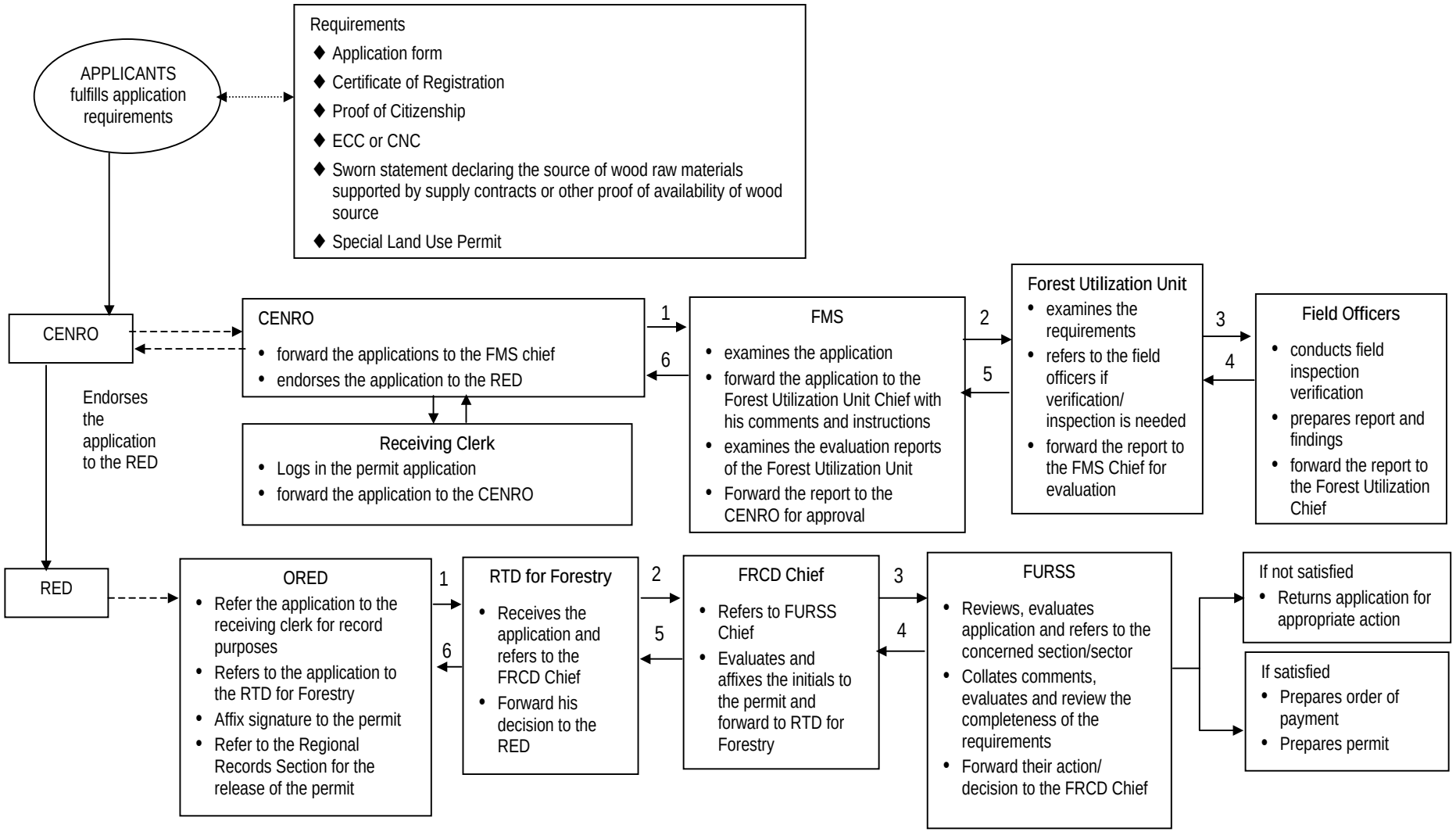


Figure 3. Proposed Flowchart of WPP Processing and approval

3.5. Lack of Participation and Transparency in WPPP Monitoring and Evaluation

Under current regulation, the monitoring and evaluation of WPPP is mainly undertaken by the CENRO through his Forest Officers. The involvement of other concerned sectors like LGUs, NGOs, POs and others is not mandated in existing DENR policies. There are regions that have initiated the multisectoral monitoring, unfortunately these depends on the initiative of field offices. This has to be formulated as a national policy to promote multisectoral participation and transparency in the implementation of conditions indicated in the permit. This way, WPP permittees will be more cautious with their operations since they are held accountable to the general public. At the same time, the business environment for the investors will be more conducive since this practice will promote predictability in their operation. Investors will be motivated to perform consistent with good practices and existing policies because they will be assured by performing well the multisectoral monitoring team will continue to recommend the continuance of the operation of their processing plants. They will no longer be concerned that any time their permit will be suspended or cancelled or their operations delayed because the decision will not come from a single agency but is a result of a multisectoral evaluation.

4.0 SUMMARY and RECOMMENDATIONS

In summary, the following specific recommendations are forwarded to resuscitate the ailing wood processing industry:

1. Provide longer period of tenure, preferably 10 years for applicants who are not holders of forestry tenurial instrument. DAO 2003-41, provides a permit duration of three (3) years only, renewable every three (3) years. The 10 year tenure will reduce transaction costs associated with permit renewals, and provide the investor enough time to recover their investment and stability to their operation.

2. Study the possibility of further simplifying the requirements and processes in the issuance of ECC. At the same time, public consultations should no longer be required in the processing of WPPP since this is already undertaken during the process of securing ECC. Environmental Management Bureau (EMB) should also issue a list of wood processing plants that will no longer need an ECC so that the process of securing a Certificate of Non-Coverage will no longer be required for those plants included in the list.

3. Standardization of the WPPP requirements and procedure at all regional levels.

4. Decentralization of WPPP approval to the Regional Executive Director.

5. Mutlisectoral monitoring and evaluation of WPPP implementation to promote participation and transparency.

Attachment A

MNR ADMINISTRATIVE ORDER
NO. 50-86
November 11, 1986

SUBJECT : Integrated Regulations on the Establishment and Operations of Wood Processing Plants

Pursuant to Republic Act No. 460 and the pertinent provisions of Presidential Decree No. 705, as amended, the following regulations governing the issuance of permits to establish and operate wood processing plants are hereby promulgated.

CHAPTER I
BASIC POLICY AND DEFINITION OF TERMS

SECTION 1. Basic Policy — It is the policy of the state to rationalize the wood industry by regulating, among others, the establishment, location and operation of wood processing plants in the country.

SECTION 2. Definition of Terms — For the purpose of this Order, the following terms shall mean:

2.1 Minister — shall refer to the Minister of Natural Resources appointed by the President;

2.2 Agency — refers to the Ministry of Natural Resources including the various Bureaus under it;

2.3 Wood Processing Plant — a mechanical device, machine, combination of machines or set-up used for the treatment of poles and piles or conversion of logs and other wood raw materials into lumber, veneer, plywood, wall board, blackboard, paperboard, pulp, paper, or other finished wood products;

2.4 Plywood Plant — a primary wood processing plant used to convert logs into panels made of alternating cross veneer layers, held together by an adhesive. Basic machineries include peeling/slicing machinery, dryers, cold/hot press, and finishing machines.

2.5 Veneer Plant — a primary wood processing plant used to convert logs into standard-size sheets either by peeling or slicing.

2.6 Blackboard/Fiberboard/Particleboard and other Wood Based Panel Plants — are processing plants producing panels of 4 ft. by 8 ft./5 by 10 ft./2 by 4 ft. sizes from wood in the form of low-quality logs, lumber strips, logging and processing wastes using natural or chemical binders, pressure and heat.

2.7 Sawmill — a wood processing plant used for the conversion of logs/timber into lumber, which includes band or circular resaws with carriage that are operated as independent units for resawing/ripping of lumber, slabs and other wood wastes into desired dimensions and forms and ore not accessories to the head rig.

2.8 Resawmill — a sawmill, regardless of capacity, without a log carriage or rails used in ripping resizing large pieces of rough lumber. cd asia

2.9 Wood Treating Plant — a mechanical or other set-up used to impregnate or coat wood with chemicals in pressure or immersion tanks to increase the service life of wood.

2.10 Annual Log Requirement — the volume of log input needed to sustain the operation of a sawmill at full or attainable capacity for a period of one year.

2.11 Attainable Capacity — the average volume of output that the mill can normally produce in one shift of 8 hours and estimated at 80% of the daily rate capacity, or as determined by the Agency.

2.12 Daily Rated Capacity — the maximum volume of output that a mill can produce in one shift of 8 hours based on the actual performance of the machinery/equipment, sometimes referred to as true rated capacity.

2.13 Daily Registered Capacity — the maximum volume of output that a mill can produce in one shift of 8 hours based on the machinery/equipment manufacturer's specifications.

2.14 Flitch — a portion of a log hewn or sawn on two or more sides with a thickness of over 15 centimeters (6 inches) and intended for remanufacture into lumber or veneer.

2.15 Log — a merchantable piece of wood having a minimum length of 1.5 meters and an average diameter of at least 15 centimeters.

2.16 Log Core — the central portion of a log left in the process of producing veneer sheets with the use of a rotary lathe.

2.17 Log End — a form of wood waste generated in the process of bucking logs into desired lengths.

2.18 Logging Waste — wood residues generated in the course of normal logging operations. This includes tree tops, branches, stumps, trimmings, and knocked down trees not within the definition of mercantile logs.

2.19 Log Carriage — a movable platform, manually or mechanically operated, on which a log or timber to be fed to the head rig/head saw or a pony rig is loaded and controlled.

2.20 Rough Lumber — the product of a log manufactured by sawing with a thickness of not more than 15 centimeters (6 inches) and has not been subjected to further pre-finishing operations.

2.21 Processing Waste — wood residues generated in the process of converting wood materials into goods for consumption or commerce.

This includes sawdust, slabs, edgings, log cores, trimmings, clippings, product rejects, shavings and sander dust.

2.22 Sawkerf — the width of wood removed by the sawteeth while sawing.

2.23 Sawmill, Mini — a stationary sawmill equipped with a log carriage or a portable mill equipped with rails where the head rig moves for sawing, with a daily rated capacity of less than 10,000 board feet.

2.24 Sawmill, Portable — a type of sawmill, regardless of capacity which can be dismantled, transported and reassembled with relative ease. This type of mill can either be circular or band.

2.25 Sawmill, Regular — a sawmill equipped with a log carriage or with rails on which the head rig runs with a daily rated capacity of at least 10,000 board feet.

2.26 Timber, Manufactured — all timber other than round and squared timber. It includes logs longitudinally sawn into pieces even if only to facilitate transporting and hauling. It also includes, besides all sawn products, all timber hewn or otherwise worked to approximate its finished form, such as house posts, ship keels, mine props, crossties, railroad sleepers, trolley poles, table tops, and other similar commodities.

2.27 Timber, Squared — timber squared with an axe or other similar mechanical or hand tools in the forest and which, from the size of the pieces and the character of the wood, is obviously unfit for use in that form.

2.28 Woodwastes — the collective term for logging and processing wastes.

CHAPTER II
APPLICATION

SECTION 3. Who May Apply — Owners and operators of existing wood processing plants, whether with back-up concessions or covered by a feasible tie-up scheme pursuant to Section 30 of PD 705, as amended, or citizens of the Philippines, or corporations or associations at least sixty percentum of the capital of which is owned by such citizens, or qualified Government Agencies and entities as determined by the Minister, may apply for and be granted a Wood Processing Plant Permit; Provided, that, owners of two or more wood processing plants which are independent operated in separate locations shall file individual applications for each wood processing plants.

SECTION 4. Where to File the Application — All applications shall be filed with the Field Office of the BFD/MNR who has jurisdiction over the area where the wood processing plant is located.

SECTION 5. When Application is Considered Filed — Application is considered filed on the date of receipt of the latest communication containing information necessary for action on the application.

SECTION 6. Application Requirements — The following documents/supporting papers shall be submitted together with the duly accomplished application form in order that the application can be given due course:

6.1 Common

In case of private corporation, partnership or association, the following shall be submitted:

6.1.1 Articles of Incorporation, Partnership or Association as the case may be, duly certified by the Securities and Exchange Commission;

6.1.2 Authorization issued by the Corporation, Partnership or Association in favor of the person signing the application;

6.1.3 Application fee;

6.1.4 Forestry bond;

6.1.5 Locational clearance from the Ministry of Human Settlements;

6.1.6 Pollution clearance from the National Pollution Control Commission;

6.1.7 Initial Environmental Examination (for new application);

6.1.8 Evidence of ownership of machineries (for new application);

6.1.9 Business Plan (for new application);

6.1.10. Project Feasibility Study (for new application); and

6.1.11. Authority to establish (for new application).

Provided, that, in case of government-controlled corporation/agencies, authorization issued by the corporation/agency in favor of the person signing the application shall be submitted in addition to requirements 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 6.1.9, and 6.1.12; Provided, further, that requirements 6.1.5, 6.1.6, 6.1.7 and 6.1.9 shall not be required for resaw and portable mills.

6.2 Specific

6.2.1 New Permits to Operate

6.2.1.1 For new application of regular sawmill.

6.2.1.1.1 An Equity Participation Agreement with an existing licensee or any feasible scheme(s) subject to the approval by the Minister, if applicant is not a timber licensee.

6.2.1.2 Mini-sawmill

If applicant is not a timber license/permit holder or has no approved feasible scheme, a supply contract within a tree plantation owner or timber licensee/permittee in the case of logging/processing wastes to be approved by the Minister or his authorized representative.

6.2.1.3 Resawmill

6.2.1.3.1 Lumber Supply Contract with a legitimate sawmill operator duly approved by the Minister or his authorized representative.

6.2.1.3.2 Copy of Certificate of Registration as Lumber Dealer.

6.2.1.4 Plywood/Veneer Plant

Copy of timber license if applicant is a timber concession holder or an approved EPA with an existing timber licensee or other schemes for existing plants. Henceforth, new application for plywood and veneer plants shall be limited to timber concession holders only.

6.2.1.5 Particle board, Fiberboard, Blackboard Plants and other Wood Based Panel Plants.

An approved feasible tie-up scheme with an existing timber licensee if applicant is not a timber licensee.

6.2.1.6 Pulp & Paper Mills

A copy of timber licenses or tree plantation permit if applicant is a timber licensee or an approved feasible tie-up scheme with existing timber license/and/or other sources.

6.2.1.7 Wood Treating Plant

Proof of supply of raw materials from existing legitimate timber concession.

6.2.2 Renewal

6.2.2.1 For renewal of permit to operate a wood processing plant.

In lieu of an Equity Participation Agreement, where required, the applicant may submit a long term Marketing Agreement with undertaking or proof that 40% of its production is exported and/or a long term Timber Processing Agreement.

SECTION 7. False Statement — The making of false statement in the application or material omission or alteration of facts in said application shall be sufficient cause for the disapproval of such application. Any permit granted on the basis of an application found later to contain false statement or material omissions or alterations may be cancelled, without prejudice on the part of the Government to prosecute the guilty party under the Revised Penal Code.

CHAPTER III
FEES AND BONDS

SECTION 8. Schedule of Fees and Bonds — The following fees and bonds shall be collected of each application:

8.1 Application Fee
8.1.1 Regular and Mini-sawmill P250.00
8.1.2 Resawmill 100.00

8.2 Annual Permit Fee — Annual permit fees shall be collected based on the following schedules:
8.2.1 Regular, Mini-sawmill & Resawmill

Daily Rated Capacity	Annual Permit Fee
Below 10,000 bd. ft. (Below 24 cubic meters)	P750.00
10,000 - 19,999 bd. ft. (above 24 m/3 but not more than 47 m/3)	900.00
20,000 bd. ft. & above (above 48 cubic meters)	1,000.00

8.2.2 Veneer/Plywood Plants

Annual Log Requirement Annual

(in cubic meters)		Permit Fee
Less than 4,000		P500.00
4,000 - 7,999	650.00	
8,000 - 11,999	800.00	
12,000 - 15,999		1,000.00
16,000 - 19,999		1,200.00
20,000 - 29,999		1,400.00
30,000 - 39,999		1,600.00
40,000 - 49,999		2,000.00
50,000 - 99,999		2,500.00
100,000 & above		3,000.00

8.2.3 Wood Based Panel Plants.

All Wood based panel plants operated independently from the primary wood Processing Plant shall pay an annual permit of P1,000.00

8.2.4 Wood Treating Plant

All wood treating plants operated as independent units shall pay an annual fee of P1,000.00

8.3 Bond — The cash bond required for Wood Processing Plant Permit shall be P212.00 per cubic meter or fraction thereof or P500.00 per thousand board feet or fraction thereof; based on registered capacity which in no case shall not be less than P5,000.00; Provided, that a surety bond executed by an accredited bonding establishment acceptable to the MNR may be posted to cover the required cash bond, the amount of which shall be increased by 25%.

8.4 Forfeiture of Bond — The bond filed pursuant to the provisions of this Order shall be forfeited for any of the following reasons:

8.4.1 Non-compliance with any of the terms and conditions embodied in the permit;
8.4.2 For violation of pertinent forestry laws and regulations; and
8.4.3 For misleading or fraudulent statement made in the application, or omission for pertinent facts from said application.

8.5 Refund of Cash Bond — Cash bond may be refunded upon request of permittee and the permit is surrendered to the Minister provided that no violation has been committed against the terms and conditions of the permit, against forest laws, and regulations, or if the permit has expired without any violation committed by the permittee.

CHAPTER IV
ISSUANCE AND TENURE OF PERMITS

SECTION 9. Wood Processing Plants that may be issued Operating Permit.

1. Sawmill — Only a sawmill whose headsaw has a sawkerf not exceeding three (3) millimeters may be issued a permit to operate; Provided, that, this limitation shall not apply to sawmills established or proposed to be established in remote areas, or those needed to service the handicraft and small scale industries; Provided, further, that owners or operators thereof shall seek exemption from the Minister, Provided; finally, that remote areas shall be construed as localities where there are no regular sawmills within economic distance as determined by the Minister or his authorized representative.
2. Mini-Sawmill — Shall be issued upon submission of proofs of existence and availability of logging wastes and/or presence of a tree plantation within economic distance of mill site.

3. Resaw Permit — Shall be issued to holders of lumber dealers permit provided that said resaw is without carriage and shall be used solely in resawing heavy lumber or resizing lumber to further specifications/dimensions descrued in the market.
4. Plywood/Veneer Plants — Operating permits shall be limited to holders of timber concessions, provided that for plants already existing before the effectivity of this Order shall be given operating permits upon submission of proofs of sustained supply of raw materials.
5. Blackboard/Fiberboard/Particleboard and other Wood Based Panel Plants — Separate operating permits shall be issued to other wood based panel operated as independent units and are not part of an integrated plywood/veneer plant provided proof of a sustained supply of raw material is submitted.
6. Wood Treating Plants — Operating permits shall be issued upon submission of proofs of sustained supply of raw materials to warrant its operation.

SECTION 10. Tenure — Wood Processing Plant Permit issued to holders of existing timber license agreements, timber licenses, or permits in consonance with these regulations shall be co-terminus with their timber license agreements, timber licenses or permit. On the other hand, Wood Processing Plant Permits issued to non-timber license holders but with approved Equity Participation Agreement or any feasible scheme pursuant to Section 30, of PD 705, as amended, may be granted a permit not exceeding two (2) years. Permits that may be issued to operators other than the above shall have a duration of not more than one (1) year.

SECTION 11. Authority to Establish New, Acquire or to Expand Existing Wood Processing Plants. — Authority to establish new Wood Processing Plants may be issued by the Minister upon the recommendation of the Director after ascertaining that the proposed project is in accordance with the wood industry rationalization program; Provided, however, that the authority to acquire or to expand existing wood processing plants was issued by the Minister.

SECTION 12. Permit to Operate — A Wood Processing Plant Permit may be issued only after the application has been evaluated and the Minister is satisfied that the issuance of such permit will not be prejudicial to public interest.

CHAPTER V
CONDITIONS OF PERMIT

SECTION 13. Common Provisions —

13.1 The permittee shall display on the premises of his mill in a prominent place exposed to public view his wood processing plant permit.
13.2 The permittee shall strive to maintain regular operation and to attain at least 80% of the mill's rated capacity.
13.3 Stoppage of operation lasting more than two days due to breakage or repair of any part of equipment and other causes like labor strikes, typhoon and similar calamities, shall be reported immediately to the Minister through proper channels.
13.4 The permittee shall maintain a Registry Book showing the log/lumber or other raw materials purchased in chronological order with the following information: a) species; b) volume of cubic meters; c) number of Official Receipt under which the forest charges and other fees were paid. The Registry Book and other records of sales and disposals of lumber and wood products shall at all times be made ready for inspection by forest officers.
13.5 A monthly production report shall be submitted to the Minister through proper channels.
13.6 The permittee shall issue commercial sales invoice for every sale of lumber/wood products made.
13.7 The permittee shall be held liable for the payment of forest charges and other required government charges including surcharges, due on any logs, manufactured or squared timber or lumber products processed in their mills without proper documentation based on existing forest laws and regulations or lumber manufactured in excess of the utilization of the mill without prejudice on the part of the government to impose additional penalties commensurate thereto.

13.8 No additional machinery/equipment to increase the plant capacity and/or recovery shall be installed unless priorly authorized by the Minister.

13.9 Mill wastes shall as mush as possible be utilized or disposed of in accordance with National Pollution Control Commission rules and regulations.

13.10 The permittee shall adopt measures to safeguard the health of his employees and workers following national guidelines.

SECTION 14. Specific Provisions —

14.1 Sawmills — Sawmills with TLA, short term timber permit or approved feasible scheme.

14.1.1. In the case of sawmill operators with TLA's, their permit shall be co-terminus with the TLA subject to the conditions that they pay regularly the annual permit fee and update the surety bond accordingly.

14.1.2. In the case of sawmill with feasible scheme, the permittee shall comply with the conditions set in the approved Equity Participation Agreement scheme within the prescribed period otherwise the permit shall be rendered null and void.

14.2 Mini-sawmill without TLA, timber license/permit or feasible scheme.

14.2.1. Shall be allowed to process logs coming from tree plantations and woodwastes only.

14.3 Resaw

14.3.1. Only rough lumber and heavy slabs shall be allowed to be milled.

14.3.2. The use of a log carriage, either mechanically or manually operated is strictly prohibited.

14.4 Plywood/Veneer Plants — Plywood/veneer plants with back-up timber concessions shall be issued permits co-terminus with their timber license provided that annual permit fees and bonds shall be updated annually provided that processing plants without timber concessions but were existing before the effectivity of this Order shall have operating permits co-terminus with the duration of their agreement with their respective supplier.

14.5 Blackboard/Fiberboard/Particleboard and other Wood Based Panel Plants — Wood based panel plants that are not part of an integrated primary wood processing plant and are operated independently shall be issued permits co-terminus with the duration and tenure of their supply from a legitimate timber licensee.

14.6 Wood Treating Plants — shall be issued permits co-terminus with the tenure/duration of their supply with a legitimate timber license holder. cdtai

CHAPTER VI
PENAL PROVISIONS

SECTION 15. Penal Provisions — Any owner or operator of a Wood Processing Plant who is found to have violated any of the provisions of this Order or the terms and conditions of the permit, shall be penalized in accordance with existing applicable laws, rules and regulations.

CHAPTER VII
IMPLEMENTING CIRCULAR, REPEALING CLAUSE AND EFFECTIVITY

SECTION 16. Issuance of Implementing Circulars and Instructions — The Director, Bureau of Forest Development is hereby authorized to issue circulars and instructions as may be necessary for the effective implementation of this Order.

SECTION 17. Repealing Clause — All existing Orders, Circulars, Memoranda, Instructions or Provisions which are inconsistent herewith are hereby repealed or amended accordingly.

SECTION 18. Effectivity — This Order shall take effect immediately.

ERNESTO M. MACEDA
Minister

RECOMMENDED BY:
CRISOSTOMO M. CORPIN
OIC, Administrator
WIDA

Attachment B

DENR Administrative Order
No. 2003-41

SUBJECT: Amending certain provisions of Ministry Administrative Order No. 50, dated November 19, 1986 (Integrated Regulation on the Establishment and Operations of Wood Processing Plants).

In order to rationalize the wood industry and promote its growth, certain provisions of Section 2, Chapter I, the entire provision of Section 6, Chapter II and certain provisions of Section 10, 11 and 12 of Chapter IV of MAO 50 are hereby amended as follows:

"Section 2. Definition of Terms

Wood processing Plant – a mechanical device, machine, combination of machines or set-up used for the treatment of wood poles and piles, or for the conversion of logs and other wood raw materials into lumber, veneer, plywood, wall board, block board wood-cement board, paper board, pulp, paper, wood chips, or for the processing of other finished wood products."

"Section 6. Application requirements:

6.1 Duly accomplished application form with notation by authorized DENR collection officer on the Official Receipt number and date of payment of the application fee.

6.2 Certificate of Registration of Articles of Incorporation, Partnership or Cooperation, as the case may be.

6.3 For individual persons, document reflecting proof of Filipino citizenship such as Birth Certificate or Certificate of Naturalization.

6.4 Environmental Compliance Certificate or Certificate of Non-Coverage, as the case may be, issued by the Environmental Management Bureau pursuant to DAO 96-37.

6.5 Sworn statement of the applicant of declaring the source of wood raw materials, supported by certified documents such as, but not limited to, supply contract, or other appropriate proof of availability and legitimacy of wood source.

6.6 In case the Wood Processing Plant is to be located in/or already located in public forest land, the application for Special Land Use Permit and processing plant permit will be processed simultaneously. The duration of the Special Land Use Permit shall be co-terminus with the of the processing plant permit."

"Section 10. Tenure

The Permit to Establish and Operate Wood Processing Plant referred to in section 11 and 12 below shall be co-terminus with the forestry tenurial instruments issued such as CBFMA, IFMA, SIFMA, and TLA if the applicant is also the holder of such forestry tenurial instrument, provided, that the wood production from such forestry projects is the prinmary input to the processing plant. For applicants who are not holders of forestry tenurial insturment, the permit issued shall have a duration of three (3) years, renewable every three years thereafter, provided that the annual permit fee shall be duly paid."

"Section 11 and 12. Authority to Establish and Permit to Operate Wood processing Plant.

The Authority to Establish and the Permit to Operate shall be combined into a single Permit to Establish and Operate Wood Processing Plant. This same permit shall also be issued for authority to acquire new equipment and to expand existing wood processing plants.

The Permit to Establish and Operate Wood Processing Plant, including renewal to operate, shall be approved by the Regional Executive Director."

Repealing Clause. All other provision of MAO 50 series 1986 shall remain valid with full force and effect.

Effectivity. This Order shall take effect 15 days after publication in a newspaper of general circulation and upon acknowledgement of the UP Law Center.

(SGD) ELISEA G. GOZUN
Secretary

ANALYSIS OF WOOD RECOVERY PERMITTING SYSTEM

1.0. INTRODUCTION

It is the policy of the Philippine government to encourage maximum and wise utilization of forest resources. To minimize waste of forest resources brought about by typhoons, floods, and other natural calamities including those illegally cut, the gathering, transporting and disposing of the damaged wood materials have been encouraged through wood recovery. The DENR allows the orderly recovery and disposition of retrievable wood materials found within forestlands, alienable and disposable lands, private lands and along rivers, stream, oceans and other bodies of water. The retrievable wood materials include abandoned logs, drifted logs, sunken logs, uprooted and fire/typhoon-damaged trees, tree stumps, tops and branches. These retrievable wood materials may be utilized for the manufacture of lumber and other wood products.

The gathering/collection and utilization of the retrievable wood materials may be undertaken through the issuance of a Wood Recovery Permit (WRP). The WRP is a permit issued by the DENR through DAO 2000-78 (Annex A). The permit is issued for wood materials which are from naturally grown trees in forestlands, A and D and private lands and those of planted species found in forestland. These logs and wood materials should be free from adverse claim. No WRP shall be issued covering NIPAS areas.

On May 7, 2003 the DENR Secretary issued a memorandum indefinitely suspending the issuance of WRP at the national level. It has come to the attention of the DENR that abuses have been committed in the issuance of WRP. The WRP has been used as a convenient cover or front for illegal logging activities that contributed significantly to the further diminution of our existing forest cover (DENR Memorandum, 2003). WRPs were found to be issued at the same date and at the same place to as many as twenty individuals at 5 cubic meter per permit (Tumaliuan, 2002).

2.0. POLICIES RELATED TO WRP

Table 1 shows the evolution of policies related to WRP. Presidential Decree No. 705 stipulated that any person cutting, collecting or removing timber or other forest products from any forest lands, alienable and disposable lands or private lands without any authority under license agreement, lease, license or permit shall be guilty of qualified theft. This was further elaborated in the provisions of the 1983 Letter of Instruction (LOI) No. 1311 mandating the issuance of salvage permit for timber and other forest products to the Minister of Natural Resources. Priority given to local government units through their respective Sanggunians, to support their infrastructure project. Under BFD Administrative Order No. 2-84, the guidelines governing the issuance of tree recovery permits involving naturally grown trees were issued. This is pursuant to PD 705 and LOI 1311 and in compliance with instructions of the President of the Philippines. On November 27, 2000, DENR Administrative Order No. 2000-78 was issued. This policy governs the regulations in the recovery and disposition of abandoned logs, drifted logs, sunken logs, uprooted and fire/typhoon damaged trees, tree stumps, tops and branches. Through this policy, the DENR allowed the orderly recovery and disposition of retrievable wood materials found within forestlands, alienable and disposable lands, private lands and along rivers,

streams, oceans and other bodies of water. These retrievable wood materials may be utilized through the issuance of WRP.

Table 1. Wood Recovery Permit Policy Issuances

Policy	Year	Title	Highlights/Salient Provisions
P.D. 705	1975		
Sec. 68		Cutting, gathering and/or collecting timber or other forest products without license	Any person who shall cut, gather, collect, or remove timber or other forest products from any forest lands or timber from alienable and disposable public lands, or private lands without any authority under license agreement, lease, license or permit: shall be guilty of qualified theft as defined and punished under Articles 309 and 310 of the Revised Penal Code:
Letter of Instruction No. 1311	1983	Giving to local government units in the issuance of Salvage Permits for Timber and Other Forest Products	In the issuance of salvage permit for timber and other forest products, the Minister of Natural Resources shall give priority to local government units through their respective Sanggunians, to support their infrastructure project and for KKK-supported or oriented projects.
BFD Administrative Order No. 2-84	1984	Guidelines governing the issuance of Tree Recovery Permits involving naturally grown trees	Pursuant to the pertinent provision of P.D. 705, as amended, and LOI No. 1311, and in compliance with the 06 April 1984, instructions of the President, guidelines governing the issuance of tree recovery permits over forest and private lands for the cutting, gathering, transporting and disposing naturally grown trees therefrom were promulgated.
DAO No. 2000-78	2000	Regulations in the recovery and disposition on abandoned logs, drifted logs, sunken logs, uprooted and fire/typhoon damaged trees, tree stumps and branches	Pursuant to P.D. 705, as amended, and Executive Order 192 dated June 10, 1987 and in order that abandoned logs, drifted logs, sunken logs, uprooted and fire typhoon damaged trees, trees stumps, tops and branches, hereinafter referred to as retrievable wood materials may be utilized for the manufacture of lumber and other finished wood products, regulations were promulgated.

3.0 PROCESSING AND APPROVAL OF PERMITS

3.1. Qualified Applicants

The applicants qualified for WRP as stated in DAO 2000-78 are: the Natural Resources Development Corporation (NRDC); the Local Government Units (LGUs); Filipino citizens of legal age; and partnerships, associations, cooperatives or corporations.

The order or priority in the issuance of WRP is shown in Table 2.

Table 2. Priority applicants for each type of retrievable wood materials.

Type of Retrievable Wood Materials	Priority Applicants
♦ Fire/typhoon damaged and uprooted trees, tree stumps, tops and branches in public lands	1. Holder of tenurial instruments 2. NRDC 3. LGU 4. Filipino Citizen/corporation
♦ Fire/typhoon damaged and uprooted trees, tree stumps, tops and branches in private lands	1. Lot/land Owner 2. NRDC 3. LGU
♦ Abandoned logs	1. NRDC 2. LGU 3. Filipino Citizen/corporation
♦ Sunken and Drifted logs	1. Finder of the retrievable wood 2. NRDC 3. LGU 4. Filipino Citizen/corporation

3.2. Application Requirements

Pursuant to DAO 2000-78 dated November 7, 2000 the requirements in the recovery and disposition of abandoned logs, drifted logs, sunken logs, uprooted and fire/typhoon damaged trees, tree stumps, tops and branches are the following:

1. Duly accomplished application form. The application form shall indicate therein the relevant information, such as type of retrievable wood materials, estimated number of trees/logs and volume, accessibility of the area where the wood materials are located duly supported with a sketch map, and pictorials to show proof thereof.

2. Receipt of payment of application fee in accordance with DAO No. 18, Series of 1993.

3. In case such wood materials are located within private lands, a waiver from the owner or claimant expressing his/her disinterest to recover subject logs and authorizing the applicant to recover and dispose the same shall be secured.

4. The CENR Office expense in the conduct of inventory of wood materials will be refunded by the party concerned subject to existing rules and regulations.

3.3. Permit Processing

Under DAO 2000 – 78 the processing and approval of the application for WRP on the volume scaled/inventoried shall be undertaken in accordance with the level of authority and tenure as prescribed in DAO 2000-78. Applications for WRP shall be filed with the CENR Office concerned. The CENRO concerned, upon learning of the existence of retrievable materials, shall conduct or cause the conduct of 100 % inventory of these wood materials. These wood materials will be chronologically numbered, photographed and indicated in a sketch map. The scaling of logs and felled trees, tree stumps, tops and branches including the determination of

defects shall be in accordance with the regulations on scaling prescribed under DAO 87-80 (Annex B).

From the CENRO, the application will be forwarded to the Provincial Environment and Natural Resources Office (PENRO), then to the Office of the Regional Executive Director (RED) and/ or to the DENR Secretary, as the case may be. For each level, comments and recommendations are specified. WRP shall be issued by the following DENR officials with the corresponding timber volume and period of effectivity.

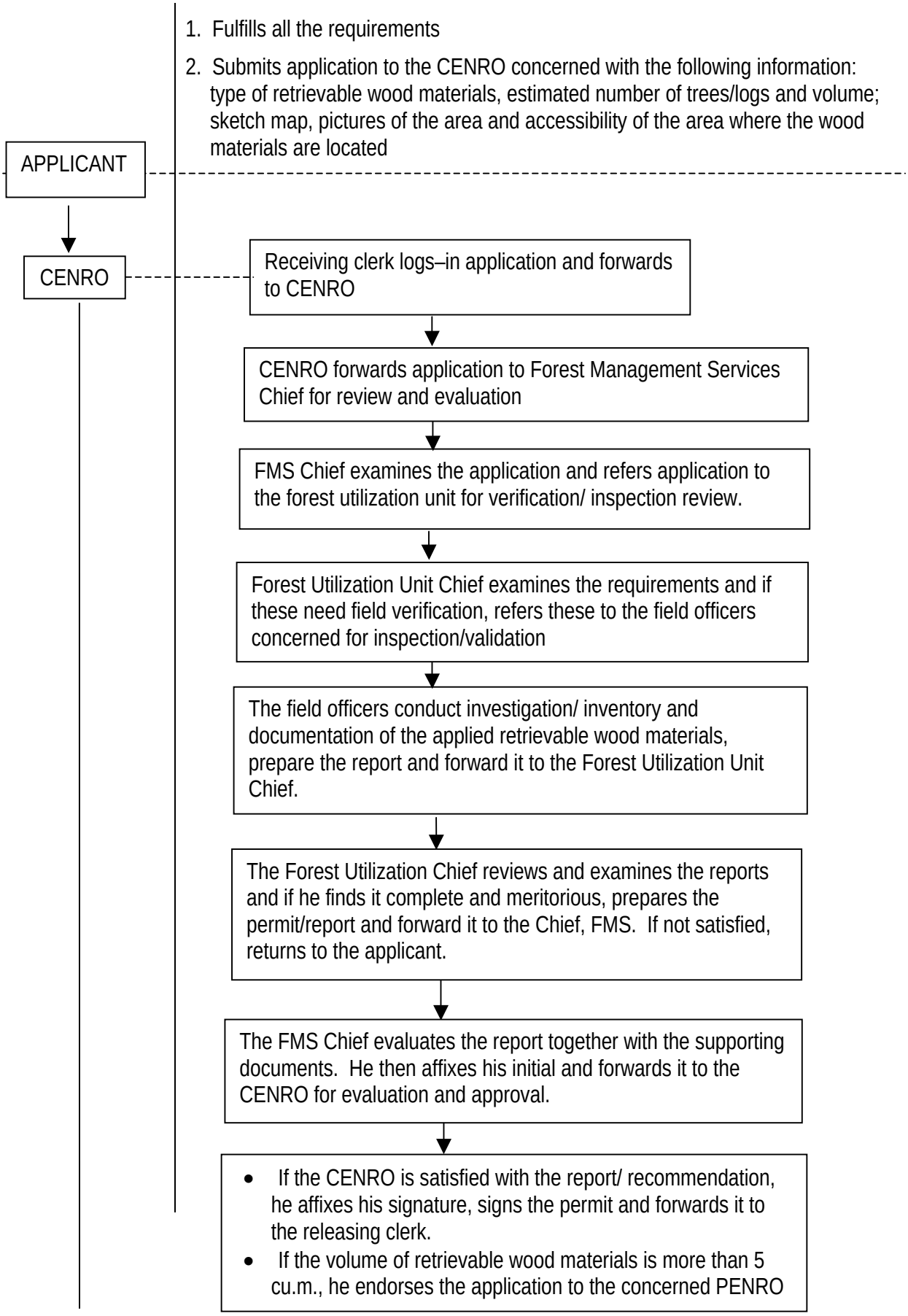
Authorized Official	Net Volume	Permit Effectivity
CENRO	5 cu.m. and less	One-month
PENRO	5 to 15 cu.m.	Two-months
RED	15 to 30 cu.m	Three months
Secretary	More than 30 cu.m.	Four months to one year

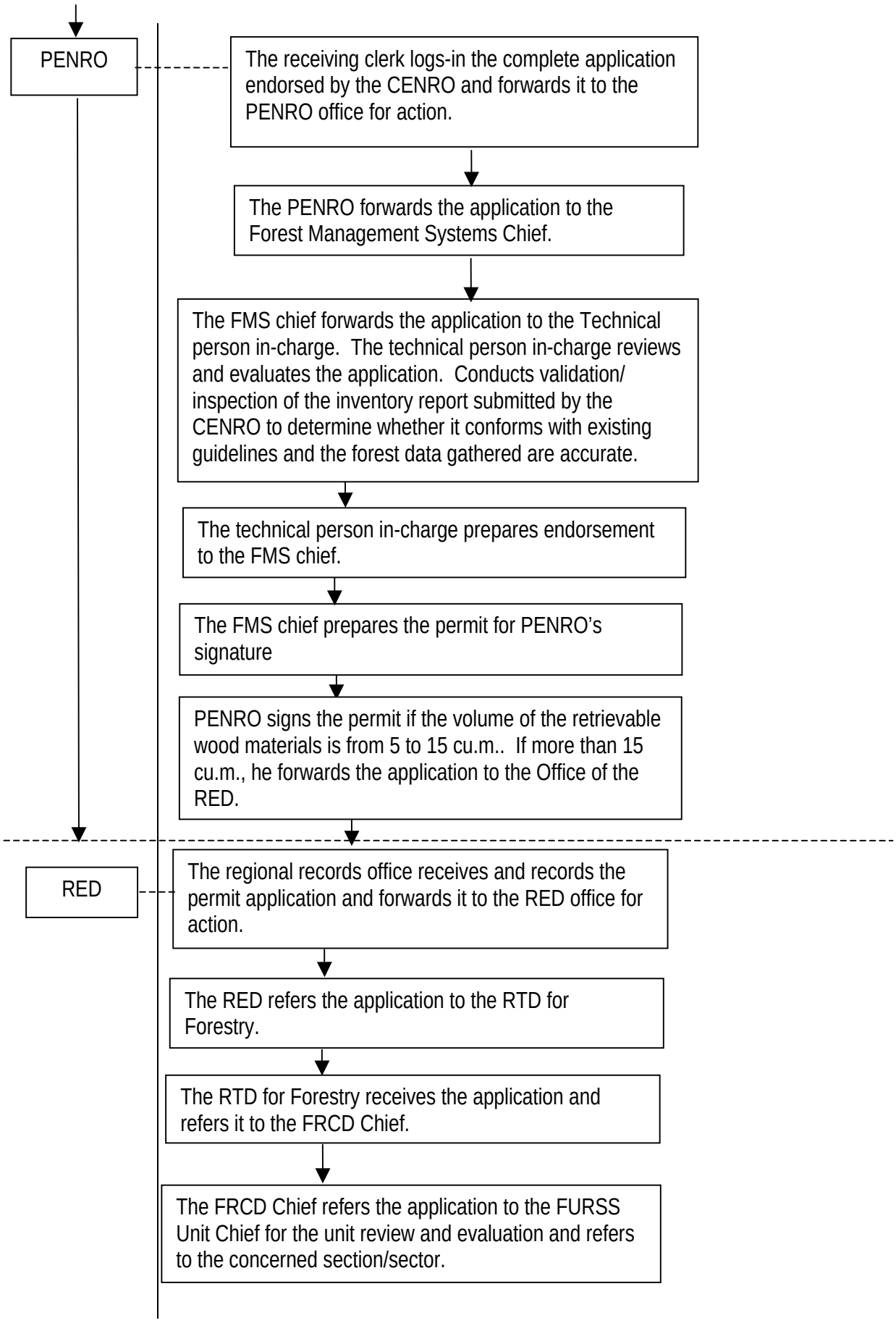
The current processing and approval of WRP is presented in Figure 1.

3.4. Fees and Forest Charges

The fees and forest charges are based on existing rules and regulations provided for under DAO 18-1993 and RA 7161, respectively. The fees and forest charges of the retrievable wood materials from naturally grown trees shall be paid by the permittee/licensee to the CENRO concerned. After paying the prescribed forest charges, the necessary documents for the transport of the recovered wood materials shall be secured from the concerned CENRO.

Figure 1. Flow Chart of Wood Recovery Permit Application




PENRO
The receiving clerk logs-in the complete application endorsed by the CENRO and forwards it to the PENRO office for action.
The PENRO forwards the application to the Forest Management Systems Chief.
The FMS chief forwards the application to the Technical person in-charge. The technical person in-charge reviews and evaluates the application. Conducts validation/ inspection of the inventory report submitted by the CENRO to determine whether it conforms with existing guidelines and the forest data gathered are accurate.
The technical person in-charge prepares endorsement to the FMS chief.
The FMS chief prepares the permit for PENRO's signature
PENRO signs the permit if the volume of the retrievable wood materials is from 5 to 15 cu.m.. If more than 15 cu.m., he forwards the application to the Office of the RED.
RED
The regional records office receives and records the permit application and forwards it to the RED office for action.
The RED refers the application to the RTD for Forestry.
The RTD for Forestry receives the application and refers it to the FRCD Chief.
The FRCD Chief refers the application to the FURSS Unit Chief for the unit review and evaluation and refers to the concerned section/sector.

The concerned section collates comments, evaluates and reviews the completeness of the requirements.

If satisfied
- Prepares order of payment
- Prepares permit
- Forwards their action/ decision to the FRCD Chief

If not satisfied
- Returns application for appropriate action to the concerned ENRO

The FRUSS Chief forwards the application to the FRCD Chief and affixes his initials on the permit

The FRCD Chief forwards it to the RTD for Forestry for appropriate action

The RTD for Forestry forwards the permit to the RED for signature

- ♦ The RED affixes his signature to the endorsement letter and forwards it to the Regional Office records section for the release of the permit.
- ♦ The RED endorses the application to the OSEC if the volume of retrievable wood materials >30m^3

OFFICE OF THE DENR SECRETARY

The records office receives and logs-in application and forwards to the OSEC

The OSEC forwards application to the Undersecretary for Field Operations

The USEC for Field Operations forwards the application to the concerned bureaus such as the FMB or PAWB

Forest Management Bureau (please see page 8)

The FMB forwards their decision to the USEC for field operations

USEC for Field Operations forwards application to the Technical Staff for review. In case the area applied or permit has some problems, conflicts, etc. a technical review committee will be created to conduct consultation.

↓

The technical staff/Technical Review Committee forwards their recommendation and endorsement to the USEC for Field Operations

↓

The USEC for Field Operations affixes his signature to the endorsement letter and forwards it to the OSEC. In case the issues are not settled, the USEC for Field Operations returns the application to the Regional Office concerned

↓

The OSEC forwards the application to the Head Executive Assistance for final review

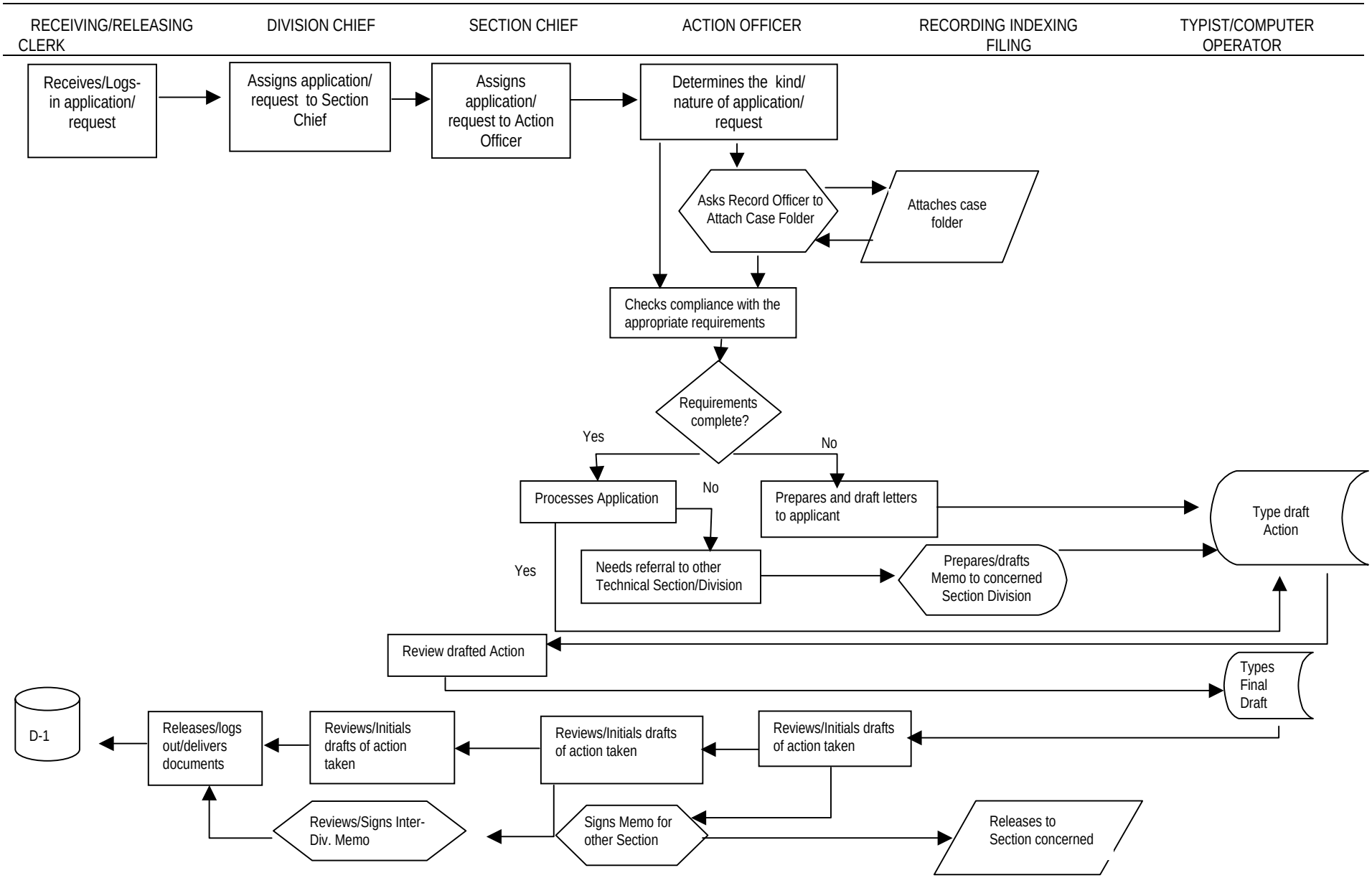
↓

The Head Executive Assistant reviews the document and forwards to the OSEC for signature

↓

The Secretary affixes his/her signature to the permit and forwards to the Records Office for release to the Regional Office concerned

GENERAL FLOWCHART OF PERMIT PROCESSING, FMB



4.0. MONITORING AND EVALUATION SYSTEM

The recovery operations of the retrievable materials shall be closely monitored and supervised by the CENR officer concerned or through his/her duly authorized representative. The post recovery validation/inspection of the area shall be undertaken and shall involve the participation of representatives from the local government unit and the Multi-Sectoral Forest Protection Committee (MSFPC). The terminal report shall be submitted within fifteen (15) days after expiry of the wood recovery permit. The report shall contain the summary of forest products recovered/harvested and disposed, pertinent CTOs issued and official receipts of payments of forest charges, and compliance and/or violations to the terms and conditions to the permit with corresponding comments and recommendations.

5.0 ANALYSIS OF WRP POLICIES

The basic issue raised against the WRP is that it has become a vehicle for illegal cutting activities. Those interviewed alleged that this permitting system has been abused. Most of the WRP issuances are allegedly for the recovery of abandoned logs. According to them, those logs are perhaps deliberately felled and left in the area so that the perpetrator can request WRP after some time.

Since data on WRP issuances are not centralized, there was difficulty in gathering basic information for analysis of WRP issuances. However, the key informant interviews conducted in the different offices of the DENR provide insights on the nature of abuse of WRP policies. RED Tumaliuan of DENR Region 13 reported in his paper entitled "Issues and Concerns in the Issuance and Monitoring of Permits in Natural Forest: CARAGA Experience" that most of the WRPs in Region 13 were issued by the CENRO. Apparently, most of the request for WRPs are for volumes 5 cu.m. and below, where the CENRO is authorized to issue the permit under DAO 2000-78. These observations indicate that there is a deliberate attempt to limit the volume requested for WRP within the authority of the CENRO. This is understandable because based on the interviews among the permittees, it is easier to get the permit at the CENRO. This is very obvious since the CENRO is accessible and the period of processing is significantly shortened, not to mention the lesser cost involved in terms of follow-ups.

The question however is "why are there allegations of abuse in the issuance of WRPs?" As pointed out under a Memorandum of the DENR Secretary dated May 7, 2003, the issuance of WRP has effectively served as a convenient cover or front for illegal logging activities that contributed significantly to the further diminution of our existing forest cover. An analysis of the wood recovery permit system indicate that indeed, this policy is prone to abuse because of the lack of transparency and participation of local stakeholders in the issuance of permits, and consequently, the lack of accountability on the part of the issuing authority and the permittee. These elements of transparency, participation and accountability are necessary ingredients for good governance.

5.1. Lack of Stakeholders Participation

Under the existing policy on WRP, upon receipt of applications for WRP the CENR office concerned shall conduct a 100% inventory of wood materials for recovery. These wood materials will be chronologically numbered, photographed and indicated in a sketch map. The

scaling procedure is supposed to follow the regulations on scaling prescribed in DAO 87-80. Depending on the volume the application may be approved by the CENRO, the PENRO, the RED or the DENR Secretary. As the application goes to the approving authority, comments and recommendations are specified in each office where the application passes.

An examination of the WRP policy indicates that the entire process of issuing the permit from investigation, inventory and scaling the retrievable wood materials to the signing of the permit is manily done by the DENR. The procedure is apparently very technical but it lacks the participation of other stakeholders in key stages of the processing system. For instance, the determination of the existence of retrievable wood materials and the inventory of the same should be done jointly with other sectors such as the LGUs, NGOs, media groups, Peoples Organizations, and other interested groups. This is crucial in determining whether indeed the materials applied for a permit are genuinely covered by the WRP policy including the volume and the kind of retrievable wood materials. By involving other sectors in the key stages of permit processing, it will minimize if not totally eliminate the practice of using WRP for logs that are actually illegally cut.

5.2. Lack of Transparency

The limited or lack of participation of other key stakeholders in the issuance of WRP implies that the other sectors in the locality have no way of knowing the permit applicants, the permits granted and whether the materials applied for permitting are genuinely retrievable wood materials. Clearly, there is no transparency in the way WRPs are issued. In fact, allegations of abuse in the issuance of WRPs are only reflective of the absence of transparency.

The lack of participation of other sectors in the determination of whether the materials applied for WRP are genuinely recoverable materials has greatly reinforced non-transparency in the issuance of the permit. While the current policy allows the involvement of representatives of local government units and multi-sectoral forest protection committee (MFPC) in the post recovery validation/inspection, this practice is rarely implemented, according to those interviewed key informants. This is to be expected. Since they are never involved in the processing of the permit, there is no way for them to demand for the monitoring and validation of the recovery operation because they do not know who were issued the permits in the first place. The end result is that post recovery validation and monitoring is never implemented.

5.3. Lack of Accountability

Because of the lack of participation in permit processing and the absence of transparency mechanism, the issuing DENR officials and the permittee are not held accountable to the general public. Since only the DENR officials are involved in the issuance and processing of permits, the permittees are accountable only to them. They do not consider the interest of the other sectors because these sectors are not involved in the processing of the permit, as well as in its monitoring. Likewise, the provisions of the permit, such as its allowable activities and limitations, are not known to the general public.

The absence of transparency mechanism has also resulted in the lack of check and balances on the part of the DENR. The current WRP policy has vested full control to the DENR officials in terms of determining whether recoverable wood materials exist, the volume of the recoverable wood materials, issuance and processing of permits, monitoring of recovery operations and even the issuance of other necessary permits such as permit to transport.

Because of this situation, the concerned DENR offices are held accountable only by their superiors. They are not concerned about the general public since, the latter does not have information on their decisions and actions.

6.0 RECOMMENDATIONS

To prevent the abuse of WRP as a cover up for illegal cutting activities, there is a need to integrate participation, transparency and accountability in the processing and issuance of permit, as well as in the monitoring and validation of recovery operations at the same time, the process may be simplified to promote responsible recovery by wood materials. The following specific recommendations are proposed:

1). The inspection, inventory and scaling of retrievable wood materials must be done by the Multi-Sectoral Forest Protection Committee, the LGUs, and other interested groups.

2). Posting of the inspection results and inventory in conspicuous public places such as the municipal hall, DENR offices, etc.

3). Permit application should be endorsed by the concerned barangay and municipal LGUs consistent with the DENR-DILG Joint Memorandum Circular 2003-01.

4). Mandatory monitoring and evaluation of the recovery operation by the MFPC.

5). Provide for stiff sanctions to the issuing officers for irregular issuance of WRPs. They should be held administratively liable without prejudice to the filing of criminal offense for perjury of public documents.

6). Provide for stiff sanctions to the issuing officers for irregular issuance of WRPs. They should be held administratively liable without prejudice to the filing of criminal offense for perjury of public documents.

7). Conduct study which shall determine the annual wood requirements of an average industry utilizing retrievable wood materials.

8). Discourage retrieval of illegally felled and abandoned logs.

9). Study how much wood is made available by typhoon, natural calamities, etc.

10). During the regional consultations it was also recommended that the provision on priority applicants for each type of retrievable wood materials as provided in DAO 2000-78 be deleted. Instead, the finders of the wood materials should be given priority except when the materials are found in private lands and forest lands covered with tenured instruments, in which case, the land owner of tenure holder shall have the priority.

11). Posting of approved WRP providing information on the names of the permittees, the allowable volume to be recovered, location of the retrievable wood materials and the date of expiration of said permit.

Considering these recommendations, the following procedure is suggested for the issuance of WRP.

Step 1 Filing of application by finders/applicants of retrievable wood materials

Step 2. Referral of the application to the concerned LGU for the latter's endorsement/comments.

Step 3. Immediately after the LGU endorsement is received, an inventory of retrievable wood materials should be undertaken by the MFPC, together with the LGU representative and interested individual/groups.

Step 4. CENRO to advertise availability of retrievable wood materials. The available wood materials will be published and posted in public places.

Step 5. Processing and approval of WRP

Step 6. Posting of approved WRP

In step 1, the proponent applies for a permit to the concerned CENRO using prescribed application forms indicating therein location, number of retrievable wood materials, sketch map, including pictures. A barangay clearance should also be attached.

The second step is to secure the endorsement of the municipal LGUs. The CENRO, upon receiving the application, shall refer the application to the municipal LGU for their review, comment and endorsement. The municipal LGU should submit their comment or endorsement within 15 days, consistent with the DENR-DILG Joint Memorandum Circular No. 2003-01, otherwise it will be assumed that they do not interpose objections to the application.

Once the LGU endorsement is received, the CENRO shall organize the MFPC field verification team, which will conduct field verification and inventory of the retrievable wood materials (Step 3). The scaling procedures shall be in accordance with the regulations prescribed under DAO 87-80. No WRP should be processed without the MFPC field verification/inspection and inventory report signed by at least two-thirds of the members of the said committee.

The MFPC verification/inspection team shall submit their report to the CENRO within 5 days upon completion of the inventory with a copy furnished to the municipal LGU. The result should be posted in conspicuous places to inform the public of the existence of retrievable wood materials. If there is anybody objecting the utilization of the same he/she should file his/her complaint to the concerned CENRO within 5 days. (Step 4).

In case there are no complaints received on the application, the CENRO will proceed with the processing and issuance of the WRP. However, because of improved transparency, accountability and public participation in the issuance of WRPs it is recommended that the level of CENRO approval should be increased from 5 cu.m. or less to 15 cu.m. or less. This was the clamor of the permittees and the DENR during regional consultations because 5 cu.m. limit is too small for community livelihood. The proposed levels of authority in the WRP approval is as follows:

AUTHORIZED OFFICIAL	NET VOLUME OF RETRIEVABLE WOOD MATERIALS	PERMIT EFFECTIVITY
CENRO	15 cu.m. or less	Two-months
PENRO	15 to 30 cu.m.	Three months
RENRO	30 cu.m. and more	Four months and above

Once the WRP is issued, it should be posted in the DENR offices and municipal hall.

It will be noted that in the proposal, the participants to the regional consultations recommended that the approval should no longer be elevated to the DENR Secretary because doing so is too costly on the part of permittees.

7.0. SUMMARY

Wood Recovery Permit is designed to encourage maximize and wise utilization of forest resources and to minimize waste brought about by typhoon, flood and other natural calamities including those illegally cut trees. As such, it should not provide an opportunity for abuse or be used as cover-up for illegal cutting activities. By its nature, it is not a forest development or rehabilitation activity, thus, it should be highly regulated. The process therefore must strictly follow procedures which promote transparency and participation in the issuance of WRPs that should lead to the accountability of the issuing officers and the permit holder.

Attachment A

DENR Administrative Order
No. 2000 – 78
November 07, 2000

SUBJECT : Regulations in the Recovery and Disposition of Abandoned Logs, Drifted Logs, Sunken Logs, Uprooted and Fire/Typhoon Damaged Trees, Tree Stumps, Tops and Branches.

Pursuant to P.D. 705, as amended and Executive Order 192 dated June 10, 1987 and in order that abandoned logs, drifted logs, sunken logs, uprooted and fire/typhoon damaged trees, tree stumps, tops and branches, hereinafter referred to as retrievable wood materials, may be utilized for the manufacture of lumber and other finished wood products, the following regulations are hereby promulgated for the information and guidance of all concerned:

SECTION 1. *Government Policy* - It is the policy of the government to encourage maximum and wise utilization of forest resources. Towards this end, the DENR shall allow the orderly recovery and disposition of retrievable wood materials found within forestlands, alienable or disposable lands, private lands and along rivers, stream, oceans and other bodies of water.

Sec. 2 *Definition of Terms* - For purpose of this Order, the terms listed hereunder are to be understood and interpreted as follows:

2.1 Abandoned Logs - logs left within forestlands, alienable and disposable lands and private lands, whose owners or claimants can not be identified.

2.2 Drifted Logs - logs that are washed out by floods and/or water currents.

2.3 Fire Damaged Trees - trees damaged by forest fires, that are either dead or living but with a nil chance of survival.

2.4 Private lands - land(s) covered by either administrative or juridical titles such as Free Patent, Homestead and Sales Patent, and Torrens Titles obtained under the Land Registration Act (Act No. 46, as amended), or under the Public Land Law (Commonwealth Act No. 141). Certificate of Land Ownership Award (CLOA) covering certified A and D lands issued to farmer-beneficiaries under the Comprehensive Agrarian Reform Program (CARP) or the Republic Act No. 6657 (R.A. 6657) shall be included in areas that can be applied for.

2.5 Sunken Logs - logs found at the bottom of a river/stream, sea cove and other bodies of water.

2.6 Typhoon Damaged Trees - trees whose tops, branches and trunks were blown away or destroyed by strong wind that are either dead or living but with nil chance of survival.

2.7 Uprooted Trees - trees that were blown down due to natural causes, the roots of which are exposed above the ground and have a nil chance of survival. 2.8 Wood Recovery Permit - a permit issued by the DENR to gather/retrieve and dispose abandoned logs, drifted logs, sunken logs, uprooted and fire/typhoon damaged trees, tree stumps, tops and branches.

Sec. 3 *Scope and Coverage* - The recovery and disposition of retrievable wood materials may be allowed subject to the following:

3.1 The retrievable wood materials are from naturally grown trees in forestlands, A and D, and private lands and those of planted species found within forestland; and

3.2 These logs and other wood materials are free from adverse claim.

Provided, that no Wood Recovery Permit shall be issued covering the NIPAS areas.

Sec. 4 *Issuance of Wood Recovery Permit*

4.1 *Qualified Applicants* - The following may apply for a wood recovery permit:

4.1.1 The Natural Resources Development Corporation (NRDC);
4.1.2 The Local Government Units (LGUs) having territorial jurisdiction over the retrievable wood materials;
4.1.3 Filipino citizens of legal age; and
4.1.4 Partnership, associations, cooperatives or corporations.

The order of priority in the issuance of permit is shown hereunder:

TYPE OF RETRIEVABLE WOOD MATERIALS	PRIORITY APPLICANTS
1. Fire/typhoon damaged and uprooted trees, tree stumps, tops and branches in public lands.	1.Holder of tenurial instruments 2.NRDC 3.LGU 4.Filipino citizen/corporation
2. Fire/typhoon, damage and uprooted trees, tree stumps, tops and branches in private lands.	1. Lot/land owner 2. NRDC 3. LGU
3. Abandoned logs	1. NRDC 2. LGU 3. Filipino citizen/corporation
4. Sunken and drifted logs	1. Finder of the retrievable wood materials 2. NRDC 3. LGU 4. Filipino citizen/corporation.

4.2 *Procedures*

4.2.1 **Filing and Evaluation of Application for Wood Recovery Permit** - Applications for wood recovery permit shall be filed with the Community Environment and Natural Resources (CENR) Office concerned. The wood recovery permit shall be issued by the following DENR officials with the corresponding timber volume and period of effectivity.

AUTHORIZED OFFICIAL	NET VOLUME *(Cu. m.)*	PERMIT EFFECTIVITY
CENRO	Five (5) and less	one month
PENRO	More than five (5) to fifteen (15)	two months
RED	More than fifteen(15) to thirty (30)	three months
SECRETARY	More than thirty (30)	four months to one year

The application shall be forwarded to the Provincial Environment and Natural Resources (PENR) Office, Office of the Regional Executive Director (RED) and/or the Secretary, as the case may be, with their comments and recommendations. Applications for the Secretary's approval shall be coursed through the Forest Management Bureau (FMB) Director for further evaluation. In case of LGU's, their applications shall be accompanied with the bill of materials and building plan of the structures to be built.

4.2.2 Conduct of Timber Inventory - The CENR Office concerned upon learning of the existence of retrievable wood materials shall conduct or cause the conduct of 100% inventory of these wood materials. They shall be chronologically numbered, photographed and indicated in a sketch map. The CENR Office shall also collect other relevant data such as log finder, lot owner and location, in the case of a private land where these wood materials are located, and accessibility of the area where these retrievable wood materials are found. The scaling of logs and felled trees, tree stumps, tops, and branches including the determination of natural defects shall be in accordance with the regulations on scaling prescribed under DAO 87-80. For typhoon and fire damaged standing trees that are to be recovered, the applicable volume equation/table for standing trees shall be used and a stand and stock table shall be prepared.

Provided, that, where the applicant is not the NRDC, the applicant shall cause the conduct of the inventory with the close supervision of a forester from the CENR Office concerned. Provided, further, on the basis of inventory report, NRDC may waive its right on the recoverable wood materials so that other interested and qualified applicants may be considered in undertaking the recovery operations.

4.2.3 Inventory Expenses - The CENR Office expenses in the conduct of inventory of wood materials to be recovered by NRDC shall be charged/refunded by NRDC which amount shall be taken from the gross sales of the retrieved wood materials, while those to be recovered by other persons and entities other than NRDC will be refunded by the party concerned subject to existing rules and regulations

Sec. 5 *Terms and Conditions* - The terms and conditions of a Wood Recovery Permit are as follows:

5.1 A wood recovery permit may be extended, if necessary, and/or may be terminated once the authorized timber volume is exhausted;

5.2 The wood recovery permit holders may be allowed to rehabilitate abandoned logging roads, but prohibited from constructing new roads within forestlands and cutting of standing trees;

5.3 The permittee shall only be allowed to gather/recover the inventoried and marked logs/timber trees by the CENR Office concerned;

5.4 The permittee shall secure the necessary transport and other related documents before the retrieved wood materials are sold to the buyers/users thereof and/or wood processing plants.

Sec. 6 *Supervision of the Recovery Operation* – The recovery operations of the retrievable wood materials shall beclosely supervised by the CENR Officer concerned or through his/her duly authorized representative.

Sec. 7 *Payment of Forest Charges* - Pursuant to R.A. 7161 and existing forestry regulations, forest charges of the retrieved wood materials from naturally grown trees shall be paid by the permittee/licensee to the CENRO concerned; after which, the necessary documents for the transport of the recovered logs shall be issued by the said CENRO.

Sec. 8 *Suspension and/or Cancellation of the Permit* –Any violation or non-compliance with the terms and conditions of the Wood Recovery Permit and other pertinent forestry laws, rules and regulations shall be sufficient ground for the suspension and/or cancellation of the permit without prejudice to the filing of appropriate criminal and administrative charges.

Sec. 9 *Profit Sharing* - The share from the net revenue derived by NRDC from the logs/timber recovery operation shall be 50% for NRDC and 50% for DENR.

Sec. 10 *Separability Clause* If any clause, sentence, section or provision of these implementing rules and regulations is held or declared to be unconstitutional or invalid by a competent.187 court, the remaining parts of these implementing rules and regulations shall not be affected thereby.

Sec. 11 *Repealing Clause* - All order, rules and regulations inconsistent with this Order are hereby repealed or modified accordingly.

Sec. 12 *Effectivity* - This Order shall take effect immediately upon acknowledgement by the UP Law Center and fifteen (15) days after its publication in two (2) newspapers of general circulation.

(Sgd.) ANTONIO H. CERILLES
Secretary
Publication:

Malaya - December 16, 2000
Manila Standard - December 16, 2000

Attachment B

DENR Administrative Order
No. 80
December 28, 1987

SUBJECT : Regulations Governing the Measurement, Assessment and Payment of Forest Charges on Timber and Other Forest Products

Pursuant to the provisions of Executive Order No. 192 dated June 10, 1987, Presidential Decree No. 705, as amended, Batas Pambansa Bilang 83, and the second paragraph of Section 22 of Executive Order No. 273, dated July 25, 1987, the following rules and regulations governing the measurement, assessment and payment of forest charges on timber and other forest products are hereby promulgated for the guidance of all concerned.

Section 1. Definition of Terms. — For purposes of these regulations, the following definition of terms are hereby adopted:

1.1 Chipwood — wood materials used for conversion into chips for the manufacture of paper, chipboard, fibreboard, hardboard, and other wood-based fibre products.

1.2 Destination — the place where the forest products are discharged either for processing/manufacturing or for transshipment.

1.3 Firewood/Fuelwood — wood materials utilized for domestic, industrial or commercial energy generation

1.4 Forest Products — shall mean timber, pulpwood, firewood, bark, tree top, resin, gum, wood oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands.

1.5 Log — any section of the bole, or of a large branch of a felled tree after cross-cutting.

1.6 Logging Wastes — wood materials or residues generated during logging operation such as log trims, tree tops, branches, buttresses, culls, and the like. cdt

1.7 Manufactured Timber — pieces of sawn wood produced, from pipe round timber, the sawing of which was done without the benefit of scaling. This includes pieces of wood commonly known as flitches.

1.8 Pulpwood — any wood of whatever form or size commercially used for pulp-making.

1.9 Reshipment — the transport of forest products from point of origin to a specific destination as appearing in the Certificate of Origin.

1.10 Squared Timber — a large piece of wood produced from one round timber using any mechanical tools, the conversion of which was done without the benefit of scaling of the said round timber.

1.11 Timber — a piece of wood within an average diameter of at least 15 centimeters and a length of at least 1.5 meter, except all mangrove species which is all cases shall be considered as timber regardless of size.

1.12 Transshipment — the transport of forest products from point of origin passing through different loading points before reaching the final destination as appearing in the Certificate of Origin.

Section 2. Classification of Timber

2.1 Timber — is further sub-classified into four (4) categories in accordance with existing Forestry Administrative Order No. 32-1, as follows:

2.1.1 First Group

Akle
Akleng-parang
Afu
Almaciga
Almon
Amugis
Apitong
Aranga
Bagtikan
Bakan
Balu
Banaba
Bansalagin
Banuyo
Batikuling
Batitinan
Betis
Bitanghol
Bitaog
Balong-eta
Cana-fistula
Dagang
Dangula or Sasalit
Dao
Dungon
Dungon-late
Duyok-duyok
Ebony
Gisok
Gisok-gisok
Guijo
Igem
Ipil
Kaburo
Kalamansanai
Kalantas
Kaliot
Kamagong
Kamuning
Kulilisiau
Lanete
Lanutan
Liusin
Lokinai
Lumbayao
Lumbayao-bato
Magasusu
Mahogany
Makaasim
Malaanonang
Malabunga
Malakadios
Malakauayan
Malugai
Malaguijo
Mangkono
Manggachapui
Manggasinoro
Maranggo
Margapali
Matang-usa
Mayapis
Molave
Narek
Narig
Narra
Nato
Palosapis
Pagatpat
Pahutan
Piagao
Pine, Benguet
Red Lauan
Sangilo
Saplungan
Sudiang
Supa
Tabau
Tabigui
Tangile
Tambulian
Teak
Tiaong
Urung
White Lauan
Yakal

2.1.2 Second Group

Agoho
Agoho del Norte
Alupag
Alupag-Amo
Bagras
Batete
Batino
Bayok
Binggas
Dita
Kamatog
Anubing
Katmon
Katmon-kalabau
Kayugalu
Kubi
Lamio
Lanipau
Loktob
Malabatino
Malabayabas
Malakatmon
Manggis
Mangkas
Mapilig
Marabitaog
Oak
Pamitaogen
Phil. Chestnut
Pili
Raintree (Acacia)
Taba
Tamayuan
Tanglin
Tiga
Toog
Tukang-kalau
Yemane

2.1.3 Third Group

Amayan
Anislag
Antipolo
Api-api
Bakauan
Balakat
Gugas
Marang
Kaatoan-bangkal
Kalingag
Kalumpit
Kansulud
Miau
Moluccan sau or falcata
Nangka
Pototan
Sakat

Balikbikan	Kato	Salakin
Balobo	Kayatau	Salingkugi
Bangkal	Kuling-manuk	Sandit
Balukanag	Lago	Santol
Bayanti	Lamog	Tanghas
Busaing	Langarai	Tangal
Bogo	Malakamias	Talisai
Bolon	Malapinggan	Talisai-gubat
Bulala	Malapapaya	Taluto
Bulog	Malasaging	Tinaang-lantai
Dalinsi	Malatumbaga	Tuai
Gisihan	Malamata	Unik

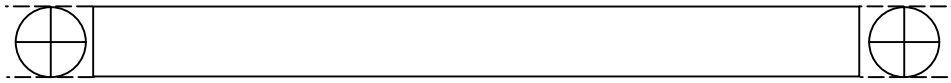
2.1.4 Fourth Group — the fourth group shall include all species not included in any of the other groups.

Section 3. Measurement.

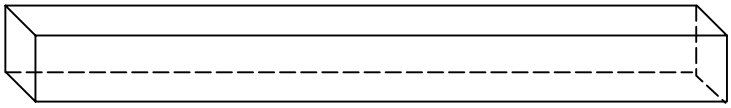
3.1 Mode of Measurement — All forest products shall be measured by scaling using the metric system and following the standard procedure of this Order.

3.1.1 Round Timber — The volume of all around timber including pulpwood and chipwood, shall be ascertained by multiplying the average cross section of both ends of the timber or the cross section thereof at half the length (midpoint), as the case may be, exclusive of the bark (underbark), by the length of the timber. For practical purposes, the average cross section of the timber shall be determined on the basis of the average diameters at both ends regardless of length. Diameter values shall be expressed in whole, odd or even centimeters; fractions over half centimeter shall be counted up and fractions less than half shall be ignored. Lengths shall be measured to the nearest whole decimeter value; over half decimeter shall be counted up while less than half shall be ignored.

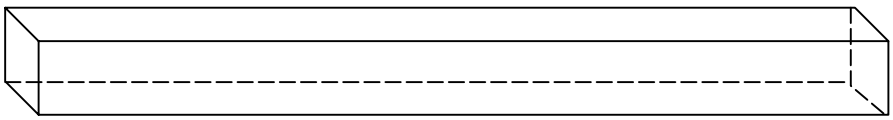
If a timber in the round, cut under license is measured and manifested by authorized forest officers, the Director of the Forest Management Bureau (FMB) shall make due allowance for rot and cavities, or other natural defects but from any decision of the FMB Director in this respect, an appeal shall lie to the Secretary of Environment and Natural Resources (DENR) whose decision shall be final. The manifest of timber cut by licensees operating sawmills and other wood processing plants in or near the forest, shall be attested to by authorized forest officers whenever practicable.



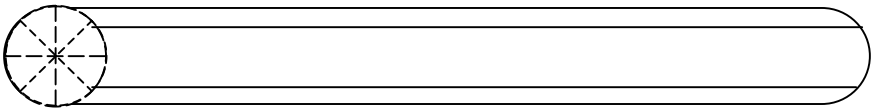
3.1.2 Manufactured Timber — The thickness and width of squared timber are measured in even or odd centimeters. The Length of manufactured timber is measured in the same manner as the length of round timber is measured. For purposes of computing the tax base upon which the forest charges are to be levied, the 100% loss in manufacturing should be added back to the volume.



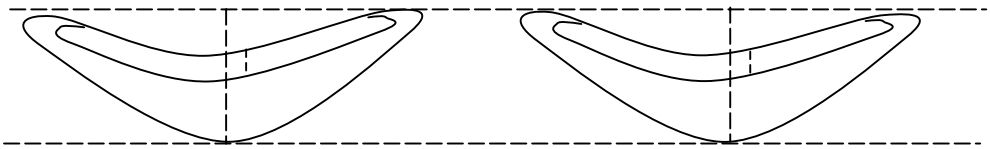
3.1.3 Squared Timber — The volume of squared timber shall be ascertained by multiplying the average of the cross section measured by the length. The volume so ascertained represents only 60% of the round timber. For purposes of computing the tax base upon which the forest charges is to be levied, the 40% loss in squaring should be added back to the volume of the squared timber as above determined; Provided, however, that if squared timber cut under license is measured and manifested by forest officers, the FMB Director shall make due allowance for rot and cavities or other natural defects, but from any decision of the FMB Director in this respect, an appeal shall lie to the DENR Secretary whose decision shall be final. The privilege of manifesting timber after squaring shall, however, be granted only to licensees who have squared their timber in the forest with the ax and intend to take it to the market in this form.



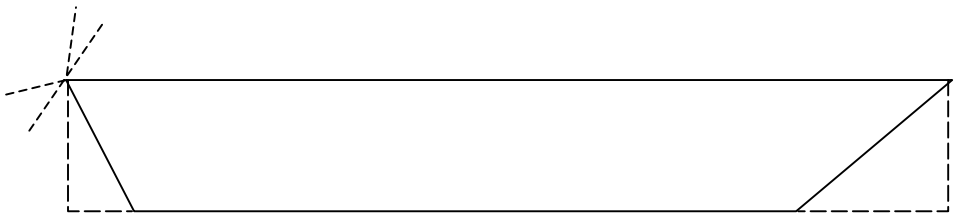
3.1.4 Octagonal Timber — In computing the volume of approximately octagonal timber (four sides being hewn and the other four unhewn), the average diameter connecting the two pairs of opposite unhewn sides of the small end shall be used.



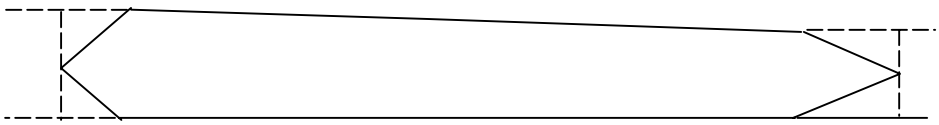
3.1.5 Banca — In measuring a banca for assessment, the diameter shall be determined by drawing a line from the highest point on the stem to the highest point on the bow and measuring from this line to the bottom of the banca provided that the diameter thus measured is not less than the beam of the banca, otherwise, the beam shall be taken as the diameter of the timber from which the banca was made.



3.1.6 Pointed Timber — In computing the volume of a piece of timber which comes to a point of nearly to a point at one end, the average diameter will be used instead of the diameter of the small end, if the diameter of the small end is less than, or equal to, one-half of the diameter of the large end.



3.1.7 Nosed or Sniped Timber or Otherwise Irregular Cut — Butt timber with deep undercuts shall be measured for length from point midway between the extreme end of the undercut and the saw cut line. In case of nosed or sniped timber the full length shall be taken.



3.1.8 Firewood/Fuelwood — The volume of firewood/fuelwood shall be ascertained by first measuring the stack volume (talaksan/stere) of the firewood/fuelwood billets, thence, convert the stack volume of one (1) cubic meter (1m x 1m x 1m) to its solid volume by multiplying stack volume by the factor 4/5 or 80% which shall be the basis for the forest charges. However, weight scaling may be authorized with the use of a certified weighbridge after a weight to volume factor has been established and validated and approved for use by the Secretary of Environment and Natural Resources upon recommendation of the Director of Forest Management Bureau. cd asia

3.1.9 In any commercial sale of timber in the local market, the timber shall be measured only in accordance with the provisions of this section. In cases where deductions are to be made from the total volume of the timber to provide for sapwood, rot, cavities or other natural defects, such deductions shall be limited only to the extent of actual defects of the timber and shall not include such parts thereof as may otherwise be found of commercial value. For purposes of these regulations, "other natural defects" shall be limited only to brash center and rot.

3.2 Place of Measurement — All forest products shall be measured by duly authorized Department personnel in the cutting area whenever feasible or other specific places designated by the Regional Executive Director concerned.

Section 4. Forest Products Assessment. — All timber and other forest products shall be assessed by DENR Scalers or duly authorized forest officers after the measurement thereof, and the same shall be manifested in an auxiliary invoice (DENR Form No. _____ for timber and DENR Form No. ____ for minor forest products) which shall be the basis for the collection of forest charges.

4.1 Timber — Before cut timber are manifested in the prescribed invoice, the same shall be marked in the following manner:

4.1.1 Round Timber — Soon after topping or bucking and before and removal from the cutting area, the timber licensee concerned shall, under the supervision of the DENR forest officer either by painting/chiseling place at one end stamp prominently his duly registered private log marker including the following:

a. Set-up number where the timber were cut;
b. Tree number;
c. Log number;

4.1.2 Squared and Manufactured Timber — The following markings shall be painted on one end:

a. Registered Private Log marked;
b. Set-up number;
c. Serial number;

After the timber marking is done, the DENR Scaler or duly authorized forest officer shall scale the timber and stamp on each end his official marking hatchet. After which he shall prepare the auxiliary invoice and submit the same to the Community Environment and Natural Resources Officer (CENRO) concerned, together with the scale sheets and demand letter for approval.

These auxiliary invoices are accountable forms, printed in quintuplicate, serially numbered and bound in book form. The auxiliary invoices shall be distributed as follows:

Original	-	Region Executive Director
Duplicate	-	Permanent file of the licensee/permittee
Triplicate	-	Retained by the CENRO
Quintuplicate	-	For licensee/permittee to accompany/shipment
Quadruplicate	-	Forwarded to the PENRO

Section 5. Rates of Charges on Forest Products — There shall be collected charges on the following forest products:

5.1 Timber — On each cubic meter of timber cut in forest land in the Philippines, whether removed therefrom or not:

5.1.1 On timber in the first and second groups — Thirty pesos (P30.00);

5.1.2 On timber in the third and fourth groups — not including firewood - Fifteen Pesos (P15.00);

5.1.3 On branches and other recoverable wood wastes of timber such as timber ends, tops and stumps, regardless of group classification, when used as fuelwood or raw materials for the manufacture of finished wood products - Two Pesos (P2.00)

5.2 Firewood — On each cubic meter of firewood cut in forest land, except all mangrove species - Two pesos (P2.00)

5.3 Minor Forest Products — Tax base and rates of charges on forest products:

PRODUCTS	UNIT	ACTUAL MARKET VALUE	FOREST CHARGES
Anahaw leaves or palma grava leaves	100 leaves	P30.00	P3.00
Anahaw trunk			
Bamboo from public forest	100 pieces	300.00	30.00
Barks of cutch (dry)	100 pieces	50.00	5.00
Barks of cutch (green)	100 pieces	25.00	2.50
Beeswax	100 kilograms	360.00	36.00
Beeswax, refined	100 kilograms	720.00	72.00
Birds nest & staghorn ferns			
Boho or cana-boho (Spanish-Filipino) bolo, boho lumanpau, bokaui, Tagalog, Bagakan, Bagakai (Visayan), Bulu, Bolo (Visayan) (Iloco) Gras (Bicol)	100 pieces	500.00	50.00
Buri (dried & rolled in bundles)	100 pieces	60.00	6.00
Buri (green leaves attached to the stem)	100 pieces	12.00	1.20
Buri fiber	1 piece	30.00	3.00
Cabo-negro	100 kilograms	30.00	3.00
Cunela or cinnamon bark	100 kilograms	100.00	10.00
Charcoal (carbon vegetal)	Cubic meter	100.00	10.00
Kamagsa	100 kilograms	36.00	3.60
Diliman, nito and other vines	100 kilograms	100.00	10.00
Dipterocarp resins (balao, etc.)	100 kilograms	100.00	10.00
Doluru	Cubic meter	120.00	12.00
Dyebark (nigue)	100 kilograms	120.00	12.00
Dyebark (sibucan)	100 kilograms	12.00	1.20
Gogo bark	100 kilograms	120.00	12.00
Guta-percha	100 kilograms	420.00	42.00
Hingiw	100 kilograms	24.00	2.40

Honey syrup, unfined	Liter	50.00	5.00
Lumbang or Baguilumbang nuts (husked)	100 kilograms	60.00	6.00
Lumbang or Baguilumbang nuts (unhusked)	100 kilograms	30.00	3.00
Manila copal (Almaciga resin)	100 kilograms	250.00	25.00
Manila elimi (pili resin)	100 kilograms	120.00	12.00
Nipa leaves - 1,000 shingles or less than 1.5 meters in length)	400 kilograms	210.00	21.00
Nipa sap	1,000 liters	3.60	.36
Olco resin (balao) liter	3.00	.03	
Orchids (waling-waling, butterfly, etc.)	piece		3.00
Round table tops mftd. from buttresses of trees of first group:			
a. 50 cm. in diameter or less	1 table top	30.00	3.00
b. 100 cm. in diameter or less	1 table top	30.00	3.00
c. 150 cm. in diameter or less	1 table top	60.00	6.00
d. over 150 cm. in diameter	1 table top	90.00	9.00
Round table tops mftd. from buttresses of trees of the second group of lower:			
a. 50 cm. in diameter or less	1 table top	15.00	1.50
b. 100 cm. in diameter or less	1 table top	30.00	3.00
c. 150 cm. in diameter or less	1 table top	60.00	6.00
d. over 150 cm. in diameter	1 table top	90.00	9.00
Salago bark (clean)	100 kilograms	42.50	4.25
Split rattan	100 kilograms	500.00	50.00
Unsplit rattan (2 cm or less in diameter	1,000 linear meters	300.00	30.00
Unsplit rattan (over 2 cm in diameter)	1,000 linear meters	750.00	75.00
Tan bark (cascalotes) other than Tangal	100 kilograms	120.00	12.00
Tangal bark for tuba drink	100 kilograms	150.00	15.00
Tree ferns	Whole tree	15.00	1.50

The market value of the various forest products on which forest charges may thus be collected shall be determined annually by assessment of the FMB Director and to be approved by the DENR Secretary, the same to be published for the information of the public in the Official Gazette or in two daily newspapers of national circulation, and posted in a conspicuous place in the municipal building of a municipality concerned.

Section 6. Payment of Forest Charges. — The charges of forest products herein imposed shall be payable at the time of the removal from or utilization of the same within the concession area.

However, where the prepayment of forest charges at the point of origin would result in undue hardship to the concessionaire or licensee, forest products under auxiliary invoices may be removed from the cutting area without prepayment, conditioned upon filing of a forestry bond with the DENR in the form and amount and with such sureties as the DENR Secretary may require conditioned upon the payment of forest charges at the point of destination or at such time and place as the Secretary may direct. In such case, the forest charges shall be due and payable as follows:

6.1 When Timber or Other Forest Products are Intended for Export. — In no case shall customs collector allow a timber and/or forest products to be loaded without being shown a Certificate issued by the CENRO or the Regional Executive Director of the region where the cutting area of such timber is located or where the forest products were gathered and removed.

For this purpose, the shipper-concessionaire shall pay all charges due on such timber and/or forest products to be exported before loading on board a vessel. The CENRO or Regional Executive Director concerned shall issue the required Certificate only after ascertaining that the auxiliary invoices are properly prepared and that the forest charges due on such declaration were actually collected.

6.2 When Timber and Other Forest Products are to be Removed for Domestic Sales — The forest charges shall be due and payable within thirty (30) days from removal thereof at the cutting area, or where the forest products were gathered; Provided, that such date or removal shall in no case be beyond thirty (30) days when the products were cut, gathered and removed.

The amount of the surety bond which may be filed by a licensee pursuant to and under the conditions set forth in the next preceding sub-section, shall be equal to the estimated forest charges due within one calendar quarter based on the annual allowable cut granted in the license, and that all additional cuts granted shall be covered with additional bonds before cutting the same; Provided, that, the minimum amount of the surety bond shall not be less than TEN THOUSAND PESOS (P10,000.00). All shipments of forest products shipped under bond must be accompanied with an authentic copy of the letter of approval of the said bond by the DENR Secretary or his duly authorized representative. The mere filing of a forestry bond with the DENR without the corresponding approval thereof is deemed without bond.

Copies of the letter of approval of a forestry bond must be furnished to the CENRO at the point of origin, Provincial Environment and Natural Resources Officer (PENRO) and the corresponding Regional Executive Director who have jurisdiction of the municipality of origin.

Section 7. Penalties. — The licensee/concessionaire shall be liable to the following penalties for any violation hereof, without prejudice to the imposition of other penalties under existing laws:

7.1 For Illegal Cutting — When forest products are unlawfully cut or gathered without license/permit issued by the DENR Secretary the same shall be subject to confiscation including the tools/implements and conveyances used in the commission of the offense without prejudice to the filing of criminal complaint against the offender. In addition thereto a 300% surcharge shall be imposed thereof.

7.2 Forest Products Without Auxiliary Invoice — When forest products are lawfully cut under license/permit but transported without auxiliary invoice, there shall be added to the forest charges an amount equal to fifty per centum (50%) of the forest charges due.

7.3 Discharge of Forest Products Without Permit — When forest products are discharged from boat, truck or other means of transportation without the proper discharge permit issued by the CENRO or his duly authorized representative at point of discharge, there shall be added to the forest charges an amount equal to fifty per centum (50%) of the forest charges due.

7.4 For Late Payment of Forest Charges — In case the forest charges are not paid within the prescribed period not due to willful neglect, there shall be added thereat a surcharge of twenty five per centum (25%) of the tax due, the increment to be a part of the tax and the entire unpaid amount shall be subject to interest at the rate of twenty per centum (20%) per annum.

In all cases, the amount so added shall be collected in the same manner and as part of the forest charges, as the case may be.

7.5 Any person who fails or refuses to remit to the proper authorities said forest charges collectible pursuant to the provisions of this Order, or who delays, obstructs or prevents the same, or who orders, causes or effects the transfer or diversion of funds for purposes other than those specified in this Order, for each such offense shall, upon conviction, be punished by a fine of not exceeding ONE HUNDRED THOUSAND PESOS (P100,000.00) and/or imprisonment for a period of not exceeding six (6) years in the discretion of the court. If the offender is a government official or employee, he shall, in addition, be dismissed from the service with prejudice to reinstatement and with disqualification from holding any effective or appointive office.

If the offender is a corporation, partnership or association, the Officers and Directors thereof shall be liable.

Section 8. Transitory Provision. — All uncollected forest charges payable and due as of December 31, 1987 shall continue to be collected by the Bureau of Internal Revenue.

Section 9. Repealing Clause. — BIR Revenue Regulations No. 2-81 dated November 18, 1980 and all other orders, rules and regulations, circulars and memoranda which are inconsistent herewith are hereby repealed or amended accordingly.

Section 10. Date of Effectivity. — This Order shall take effect January 1, 1988.

FULGENCIO S. FACTORAN, JR.
Secretary

Recommending Approval:

CIRILO B. SERNA
Director

ANALYSIS OF PRIVATE LAND TIMBER PERMIT/ SPECIAL PRIVATE LAND TIMBER PERMIT

1.0 INTRODUCTION

Private Land Timber Permit (PLTP) is a permit issued to a landowner for the cutting, gathering and utilization of naturally-grown trees in private lands while Special Land Timber Permit (SPLTP) is issued to a land-owner for the cutting, gathering and utilization of premium hardwood species including Benguet Pine, both planted and naturally-grown trees. PLTP and SPLTP are issued by the DENR in recognition of private land owners right to cut, gather, transport, dispose and/or utilize naturally-grown trees or parts thereof or planted premium tree species inside titled private lands. Only the owner of a private land may qualify to apply for, and be granted, a PLTP/SPLTP.

Under DAO 87-78, DAO 46-92 and DAO 2000-21, naturally grown trees are any naturally occurring or growing trees with woody stem, regardless of size and economic utility or end-use, including the parts thereof such as stumps, tops and branches. The premium species include: Akle (*Albizia acle*), Banuyo (*Wallaceodendron celebicum)*, Bolong-eta (*Diospyros pilosanthera*), Kalantas (*Toona calantas*), Lumbayao (*Heritiera javanica)*, Sangilo (*Pistacia chinesis*), Tindalo (*Afzelia rhomboidea*), Almaciga (*Agathis philippinensis*), Batikuling (*Litsea leytensis*), Dao (*Dracontomelon dao*), Kamagong (*Diospyros discolor*), Manggis (*Koompassia excelsa*), Supa (*Sindora supa*), Apanit (*Mastixia philippinensis*), Betis (*Madhuca betis*), Ipil (*Instsia bijuga*), Lanete (*Wrightia pubescens spp. laniti*), Molave (*Vitex parviflora*), Teak (*Tectona grandis*), Narra (*Pterocarpus indicus, forma indicus*) and Ebony (*Diospyros ferrea*).

Naturally grown timber cut from private lands under PLTP/SPLTP shall be subject to the payment of forest charges pursuant to RA 7161. Applicant for PLTP/SPLTP shall submit application requirements of his/her intention(s) to cut and utilize the trees found therein. According to the interviewed permittees, there are too many documents, clearances and plans that are required by the DENR which gives them the impression that the Department is too restrictive when it comes to utilization of trees within private land. Others said that the PLTP and SPLTP become “front of illegal cutting of trees”. In this regard, there is a need to evaluate and review the policies in the issuance of PLTPs.

2.0 POLICIES RELATED TO PLTP/SPLTP

The different policies related to PLTP/SPLTP are presented in Table 1. The rules and regulations governing the cutting and disposition of timber in private lands are derived from sections 39 and 68 of the Revised Forestry Code (Presidential Decree No. 705). The policy states that any person who shall cut, gather, collect or remove timber or any forest products from any forest land or timber from alienable and disposable public lands, or from private lands without any authority under a license agreement, lease, license or permit, shall be guilty of qualified theft. Following this policy, MNR Administrative Order No. 3 was issued in 1981 where regulations on the issuance of private land timber permit and private land planted tree permit were specified in Sections 2 and 10, respectively. Subsequently, BFD Circular No. 3 was issued in 1983 which provided the guidelines

on the inventory, cutting, transporting and disposition of naturally growing timber inside private lands. To facilitate the processing of applications and issuance of permits to cut trees planted and naturally growing inside private lands, BFD Circular no. 12 was also issued in 1984.

In 1990, DENR Administrative Order No. 26 was issued amending DAO No. 88-86 which covers the guidelines governing the issuance of PLTP. DAO 90-26, provided the prescribed rules on the deregulation of tree harvesting, transporting and sale of firewood, pulpwood or timber planted in private lands. Under this policy, a permit is no longer needed in cutting planted trees within private lands except those belonging to premium species. In 1991, the DENR Secretary issued a memorandum to all Regional Executive Directors (REDs) regarding additional provisions on the terms and conditions of PLTPs/SPLTPs. The interim rates of forest charges and authority in the issuance of PLTP are stipulated in DAOs 91-56 and 92-53, respectively.

The most recent policy on PLTP/SPLTP was issued in CY 2000 through DAO no. 2000-21 (Attachment A). This policy provides the revised guidelines in the issuance of PLTP/SPLTP. It states that no person, association or corporation shall cut, gather, transport, dispose and/or utilize naturally grown trees or parts thereof and planted premium tree species, inside titled private lands unless authorized to do so under a PLTP/SPLTP issued by the DENR Secretary or his/her duly representative.

Table 1. Policy issuances related to PLTP/SPLTP.

Policy	Year	Title	Highlights/Salient Provisions
PD 705	1975	Revising Presidential Decree No. 389 otherwise known as the Forestry Reform Code of the Philippines	
Section 39		Regulation of Timber Utilization in all other classes of Lands and of Wood Processing Plants	The utilization of timber in alienable and disposable lands, private lands, civil reservations, and all lands containing standing or felled timber, including those under the jurisdiction of other government agencies, and the establishment and operation of sawmills and other wood processing plants, shall be regulated in order to prevent them from being used as shelters for excessive and unauthorized harvests in forest lands, and shall not therefore be allowed except through a license agreement.
		Cutting, Gathering and/or Collecting Timber or Other Products Without License (Pres. Ferdinand E. Marcos)	Any person who shall cut, gather, collect or remove timber or forest products from any forest land, or timber from alienable and disposable public lands, or from private lands without any authority under a license agreement, lease, license or permit, shall be guilty of qualified theft as defined and punished under Articles 309 and 310 of the Revised Penal Code: Provided, that in the case of partnership, association or corporation, the officers who ordered the cutting, gathering or collecting shall be liable, and if such officers are aliens they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.
MNR Administrative Order No. 3	1981	Regulations governing the cutting, gathering, disposition and utilization of trees, timber and other wood products inside titled private lands (Minister Jose J. Leido , Jr)	Section 2 . Private Land Timber Permit No person shall cut, gather, transport, dispose, and utilize naturally growing trees or parts thereof inside titled private lands unless authorized to do so under a private land timber permit issued by the Minister of Natural Resources, upon the recommendation of the Director of Forest Development. Section 10. Private Land Planted Tree Permit The cutting, gathering, disposition and utilization of artificially grown or planted tree inside titled private lands shall be covered by a private land planted tree

Policy	Year	Title	Highlights/Salient Provisions
			permit issued by the Director of Forest Development to ensure that the wood products so cut and gathered come from the private lands under permit and not from other sources.
BFD Circular No. 3	1983	Guidelines on the inventory, cutting, transporting and disposition of naturally growing timber inside private lands (Director Edmundo V. Cortes)	Pursuant to Section 19 of MNR Adm. Order No. 3 Series of 1981. Timber Inventory • Only forest officers who are BSF degree holders and occupying at least forester's items or professional registered foresters contracted or employed by the applicant and accredited by the Director of Forest Development are qualified to undertake the required timber inventory at 100% intensity. • The inventory report duly subscribed and sworn to, shall be submitted to the District Forester concerned within ten (10) days from the date of completion of the field inventory work and shall be accompanied by: original tally sheet, stand stock table, sketch map, survey returns, duly attested photographs of the first and last trees showing the numbers marked thereon, and of the panoramic view of the forested portions inventories. Cutting, transporting and disposition • Clear-cutting shall be allowed only on areas below 18% slope except in Mindanao unless authorized by the President. Areas over 18% slope shall be selectively logged, or if public interest so requires, cutting shall not be allowed. • Before transporting the logs from the cutting area, the permittee shall be required to place his private log mark and designated in his permit on each end of the logs, including the tree number and log number.
BFD Circular No. 12	1984	Additional guidelines governing the processing of applications for permits to cut trees inside private lands (Director Edmundo V. Cortes)	• The processing of applications and issuance of permits to cut trees planted inside private lands shall be in accordance with the provisions of BFD Circular No. 8-81 and BFD Circular No. 8-1, Series of 1983. • The acceptance of applications to cut naturally growing trees inside private lands shall be processed in consonance with the provisions of MNR Administrative Order No. 3, Series of 1981, as implemented by BFD

Policy	Year	Title	Highlights/Salient Provisions	
			Circular No. 3 Series of 1983 provided that a detailed develoment plan is submitted and other requirements called for under existing regulations have been properly complied with.	
Memorandum from USEC for Field Operations	1988	Proposed Internal Guidelines as to Duration and/or Expiration of Private Land Timber Permit (PLTP) Director Victor O. Ramos	Proposed standardized duration and/or expiration	
			Volume (m)	Duration/Expiration
			1 - 30 cu.m.	35 days
			31 - 50 cu.m.	50 days
			51 - 70 cu.m.	60 days
			71 - 100 cu.m.	90 days
			101 - 200 cu.m.	120 days
			201 - 300 cu.m.	150 days
			301 - 500 cu.m.	6 months
			501 - 650 cu.m.	7 months
			651 - 750 cu.m.	8 months
			751 - 850 cu.m.	9 months
			851 - 950 cu.m.	10 months
			951 - 1000 cu.m.	11 months
			1001 - up cu.m.	1 year
DENR Administrative Order No. 121	1989	Lifting of the moratorium and prescribing additional guidelines governing the issuance of Private Land Timber Permits (Secretary Fulgencio S. Factoran)	The PLTP shall be issued only to the landowners themselves, no middlemen/timber traders even with special powers of attorney from landowners maybe issued said permit. These guidelines shall not cover the cutting, transport and disposition of Almaciga as well as Narra and other premium hardwood species listed under DAO No. 78-1987. Authority to issue PLTP CENRO – up to 5 cu.m. per applicant per year PENRO – up to 15 cu.m. per applicant per year RED – up to 50 cu.m. per applicant per year USEC for Operations, up to 250 cu.m. per applicant per year USEC for Operations, up to 1,000 cu.m. per applicant per year SECRETARY – above 1,000 cu.m.	

Policy	Year	Title	Highlights/Salient Provisions
			A PLTP applicant with a proposed harvestable volume of more than 200 cu.m. shall submit the following additional requirements: - Location and technical description of the land - A duly notarized sworn statement that the trees are subject of 100% inventory conducted in his private land - Timber harvesting schedule, transport and marketing plan - Initial Environmental Examination - Environmental fee – P30.00/ cu.m. –allowable cut – 15 cu.m. P130.00/cu.m. > 15 cu.m. (DAO No. 39-1988).
Memorandum Circular No. 22	1990	Cutting. transport and disposition of premium species inside private lands (Secretary Fulgencio S. Factoran)	Section 3.4 of DAO 78-1987 which allows the cutting of premium species with authority from the Secretary is amended. Before issuing the permit to the landowners, there are conditions to be complied with like: - Certification that the species is not rare and endangered in the locality; - P250 fee/cu.m. - Planting 5 forest trees or fruit trees for every tree cut; and - Having Special Private Land Timber Permit
DENR Administrative Order No. 86	1990	Additional guiidelines governing the issuance of Private Land Timber Permit as Provided by DENR Administrative Order No. 121, as amended. (Sec. Fulgencio S. Factoran)	Submission of a stream/riverbank reforestation plan duly budgeted and mapped shall be required prior to the approval of the Private Land Timber Permit.
DENR Administrative Order No. 26	1990	Amendment of DAO 88-86, Prescribing Rules on the Deregulation of Tree Harvesting, Transporting and Sale of Firewood, Pulpwood or Timber Planted in Private Lands (Sec. Fulgencion S. Factoran)	No permit is needed in cutting planted trees within private lands except those belonging to premium species under DAO No. 78 of 1987, provided that there is a certification from the CENRO that the forest products came from titled or tax declared A & D lands.
DENR Administrative Order No. 79	1990	Amendment toDAO 90-26, Amending Further DAO 88-86. Prescribing Rules	In consonance with MAO 4 of 1987 which lifted the restriction in the harvesting, transporting and sale of firewood, pulpwood or timber produced from Ipil-ipil

Policy	Year	Title	Highlights/Salient Provisions
		on the Deregulation of Tree Harvesting, Transporting and Sale of Fuelwood, Pulpwood or Timber Planted in Private Lands (Sec. Fulgencio S. Factoran)	(Leucaena *spp*.) and Falcatta (*Albizza falcataria)* is amended to include all other tree species except Benguet pine. Benguet pines within private lands be covered by a Private Land Timber Permit (PLTP) in consonance with DAO 121 of 1989.
Memorandum to ALL RED From the Secretary	1991	Additional Provision on the terms and Conditions of PLTPs and SPLTPs (Sec. Fulgencion S. Factoran)	In order to monitor effectively the disposition of logs and/or lumber produced under Private Land Timber Permits and/or Special Private Land Timber Permits (PLTPs/SPLTPs), all such logs and/or lumber shall only be sold or transported within the province where the PLTP/SPLTP area is located. Violation of this provision by the holders of said permits may cause seizure/confiscation of their logs/lumber and cancellation of their permits.
DENR Administrative Order No. 56	1991	Interim Rates of Forest Charges Pursuant to RA 7161 (Sec. Fulgencio S. Factoran)	Listing of the forest charges' new rates of naturally growing timber and other forest products cut or gathered from forest lands, A & D lands, and private lands.
DENR Memorandum Circular No. 19	1992	Lifting the suspension on the issuance/processing of Private Land Timber Permit (PLTP) (Sec. Angel C Alcala).	Additional conditions: • The provision of DENR Adm. Order No. 121. Series of 1989 and DENR Memorandum No. 22 Series of 1990 shall be strictly followed and observed by all concerned. • Naturally grown timber cut from private lands under PLTP shall be subject to the payment of forest charges pursuant to Republic Act 7161 as implemented by DENR Adm.Order No. 56, Series of 1991. • Submit comprehensive plan if the area will be cleared for development; building plan including the bill of materials,if the timber will be used for housing purposes. • Timber inventory at 100% intensity shall be udertaken by a team headed by a Registered forester.
DENR Administrative Order No. 53	1992	Authority for the Issuance of PLTP	The authority to issue PLTP:authoritty PLTP up to 50 cu.m. per applicant per year is hereby vested on the Regional Executive Director. The authority of the PENRO to issue PLTP up to 15 cu.m., and of the CENRO up to 5 cu.m. per

Policy	Year	Title	Highlights/Salient Provisions
		(Secretary Angel C. Alcala)	applicant per year is hereby suspended. Their (PENRO's and CENRO's) authority to issue PLTP will be exercised by the RED.
DENR Memo Circular No.18	1992	Addendum to DENR Memorandum Circular 19-92 Lifting the suspension on the Issuance/Processing of Private Land timber Permit (PLTP) (Secretary Angel C. Alcala)	With LGUs participation, the additional requirements before issuance of PLTP are: • Certification from barangay captain that the area has natural growth trees; and • Clearance from the office of the Mayor interposing no objection in the cutting of trees.
Memorandum from the Secretary	1993	Directing the Office of the Regional Executive Director, DENR Region IV To allow the PENRO and the CENROs of the Province of Palawan to issue Private Land Timber Permits (PLTPs) to qualified applicants (Secretary Angel C. Alcala)	Allowing the PENRO and CENRO in the province of Palawan to issue PLTP subject to forestry rules and regulations. They should submit monthly report(s) and list(s) of issuances to the RED.
DENR Memo Circular No. 18	1993	Addendum to DENR Memorandum Circular 19-92 Lifting the Suspension on the Issuance/Processing of Private Land Timber Permit (PLTP) (Secretary Angel C. Alcala)	With LGUs participation, the additional requirements before issuance of PLTP are: • Certification from the barangay captain that the area has natural growth trees • Clearance from the office of the Mayor interposing no objection in the cutting of trees.
DENR Memorandum Circular No. 9	1994	Additional Requirements on the Processing/Issuance of Private Land Timber Permit (Secretary Angel C. Alcala)	No new Private Land/Special Private Land Timber Permit, including the renewal thereof shall be issued/granted unless endorsed by the Governor of the Province where the area is located. As part of the conditions stipulated in the PLTP, an authority secured from the Regional Executive Director concerned that the timber harvested shall be milled/processed by a nearby sawmill with a valid and subsisting permit.
DENR Memorandum No. 16	1994	Lifting the Prohibition on the Transport of Timber/Lumber Cut Within Private Land Timber Permit (PLTP/SPLTP) Areas Outside the Province of Origin	The prohibition on the transport of timber cut within Private Land Timber Permit/Special Private Land Timber Permit (PLTP/SPLTP) in areas outside the province of origin is lifted provided the following conditions are followed:

Policy	Year	Title	Highlights/Salient Provisions
		(Secretary Angel C. Alcala)	• The movement of timber/lumber shall be accompanied by the required transport documents together with a certification from the concerned Multi-Sectoral Forest Protection Committee that the forest products are cleared for transport or shipment. • In CENROs where there are existing Multi-Sectoral Forest Protection committee under the ENR-SECAL Program, the same may be used for this purpose. The monitoring work of the multi-sectoral committee shall be in addition to the regular work being done by DENR personnel. In CENROs where the Multi-Sectoral Forest Protection Committee have yet to be created the certification that the forest products are cleared for transport or shipment shall be incorporated in the certifications to be issued by the Barangay Captain and Mayor as per DENR Memorandum Order Circular No. 18 Series of 1993.
DENR Memorandum Order No. 25	1994	Suspension of Logging and Issuance of Private Land timber Permits in the Province of Saranggani (Acting Secretary Ben S. Malayang III)	All logging operations including the movement of logs, and the issuance of new, or renewal of, Private Land Timber Permits in the Province of Saranggani are suspended. The RED shall prepare and submit to the Secretary within ten (10) days upon receipt hereof of a Plan of Implementation which shall include, among other things, the active participation of the local Multi-Sectoral Forest Protection Committee in the effective execution of the plan. He is likewise ordered to submit a bi-weekly status report on the implementation and compliance with this Order.
DENR Memo Circular No. 10	1995	Additional Guidelines in the Issuance and Processing of PLTP/SPLTP	The suspension on the issuance/processing of PLTP/SPLTP in areas/provinces where a logging ban/moratorium is in effect is lifted subject to the following conditions: • Submission by applicant of clearance from the Barangay Captain and Municipal/City Mayor; • Timber produced from PLTP/SPLTP shall be used only for personal use, government infrastructure project or cottage industries in the province; • No logs/lumber shall be transported outside the province where the PLTP/SPLTP is located, unless authorized by the Secretary on a case-to-case basis;

Policy	Year	Title	Highlights/Salient Provisions
			• Monitoring in the cutting and transport of logs/lumber shall be done using procedures concurred in by the Provincial and Regional Multisectoral Forest Protection Committee; and • Forest charges shall be paid to transport the forest products. The PLTP/SPLTP in areas covered by the logging ban/moratorium shall be issued only by the Secretary or his duly authorized representative as the case may be.
DENR Memorandum Circular No. 15	1995	Inclusion of Areas Covered by Certificate of Land Ownership Award (CLOA) in the Issuance of Private Land Timber Permit (PLTP) (Sec. Angel C. Alcala)	Areas covered by Certificate of Land Ownership Award (CLOA) is included in the issuance of PLTP subject to the following additional conditions: • Compliance to DENR Adm. Order No. 121, Series of 1989, DENR Memorandum Order No. 22, Series of 1990, DENR Memorandum Circular No. 19, Series of 1992 and DENR Adm. Order No. 53, Series of 1992 • No issuance of PLTP in areas covered by CLOA • Applicants for PLTP in areas covered by CLOA must submit a permit/ clearance from the local office (Municipal Agrarian Reform or MARO) of the Department of Agrarian Reform (DAR) of his/her intention(s) to cut and utilize the trees found therein; and • Regardless of the total harvestable volume and number, the area under this Order shall be subjected to an Initial Environmental Examination to determine the environmental impact of the cutting to be underaken thereat. The same shall be verified by a Registered Forester of the CENRO Office concerned and who in turn shall submit comments and/or recommendations On the matter to the Regional Executive Director (RED) concerned, thru Channel under oath, within one week after verification has been made.
DENR Memorandum Order No. 98-16	1998	Interim Guidelines for the Issuance of Cutting Permits for Private Land Timber Permits (PLTP) and Special Private Land Timber Permits (SPLTP) (Sec. Antonio H. Cerilles)	All cutting permit applications under the PLTP and SPLTP shall be processed and approved at the DENR Central Office units subject to the volume limit as enumerated below: • Application for cutting permits covering up to 200 cu.m. per applicant per year shall be approved by the Undersecretary for Field Operations • Application for cutting permits covering more than 200 cu.m. per applicant per year shall be approved by the Secretary.

Policy	Year	Title	Highlights/Salient Provisions
DENR Administrative Order No. 21	2000	Revised Guidelines in the Issuance of Private Land Timber Permit/Special Private Land timber Permits/(PLTP/SPLTP) (Sec. Antonio H. Cerilles)	No person, association or corporation shall cut, gather, transport, dispose and/or utilize naturally grown trees or parts thereof of planted premium tree species, inside title private lands unless authorized to do so under a PLTP/SPLTP issued by the Secretary of DENR or his/her authorized representative. The applicants who wish to cut, gather and harvest naturally grown trees or parts thereof within titled private lands are required to submit to the concerned DENR Office an Initial Environmental Examination (IEE) which shall be made as basis for the issuance of an ECC. A 100% inventory shall be undertaken by a Registered Forester(s) over the area where the trees/forest resources are located. The CENRO and LGU representative concerned shall validate the submitted inventory report and submit their finding and recommendations to the issuing authorities through channels. All cutting permit applications under SPLTP shall be issued by the RED for avoume not exceeing ten (10) cu.m., and by the DENR Secretary, for A volume in excess of ten (10) cu.m. In the case of PLTP, approval of A volume not exceeding fifty (50) cu.m. shall be vested on the Regional Executive Directors while A volume more than (50) cu.m. shall be approved by the DENR Secretary.. DENR officials found issuing defective certificate of origin and other transport documents required in this Order shall be subject to suspension without prejudice to the imposition of other penalties as may be warranted by extent Civil Service rules and regulations.

Qualified Applicants

Any person, association or corporation who is an owner(s) of a private land may qualify to apply for, and be granted, a PLTP/SPLTP. Private lands as defined in DAO 2000-21 are lands covered by either administrative or judicial titles such as free patent, homestead and sales patent and torrens titles obtained under the Land Registration Act No. 496 or under the Public Land Law (Commonwealth Act No. 141), Certificate of Land Ownership Award (CLOA) covering certified A and D lands issued to farmer-beneficiaries under the Comprehensive Agrarian Reform Program (CARP) or Republic Act No. 6657. Realty tax declaration shall not be accepted as proof of ownership for PLTP/SPLTP applications.

Application Requirements

Under DAO 2000-21, the following requirements shall be submitted by a PLTP/SPLTP applicant:

1. Letter of application
2. Authenticated copy of land title/CLOA with approved sketch map of the area applied for;
3. Development Plan, if application covers ten (10) hectares or larger with at least 50% of the area covered with forest trees;
4. Endorsement from any of the following LGU officials; a) Barangay Chairman, b) Municipal/City Mayor, or c) Provincial Governor;
5. Endorsement by local agrarian reform officer for areas covered by CLOA;
6. Inventory fee based on existing regulations.
7. Environmental Impact Assessment/Initial Environmental Examination (EIA/IEE) as basis for the issuance of Environmental Compliance Certificate (ECC)
8. A 100% timber inventory undertaken by a Registered Forester(s) over the area where the trees/forest resources are located. The said inventory shall be in accordance with the following guidelines:

    8.1 Prepare map of the subject area at appropriate scale where relevant information shall be indicated e.g. soil cover, river/stream, slope class, etc.

    8.2 Before the inventory is done, at least one corner of the titled lot shall be tied up to the nearest forest zone corner and/or BLLM which shall be indicated on the map;

    8.3 The forester(s) shall measure the diameter at breast height (dbh) and/or above buttress (dab) and merchantable height/length of the trees in the lot to the nearest centimeter and meter, respectively;

    8.4 All the tallied trees shall be numbered consecutively and charted on the map stated in item 8.1 hereof. Moreover, the FIRST and LAST trees tallied shall be photograph as well as the panoramic view of the subject titled lot;

8.5 The volume of each tallied trees shall be computed based on the equation for standing trees applicable for the locality. The stand and stock table shall be prepared by species and species group (I.e. premium species, common hardwoods, construction and furniture woods, light hardwoods, and lesser used/lesser known species (LUS/LKS); and

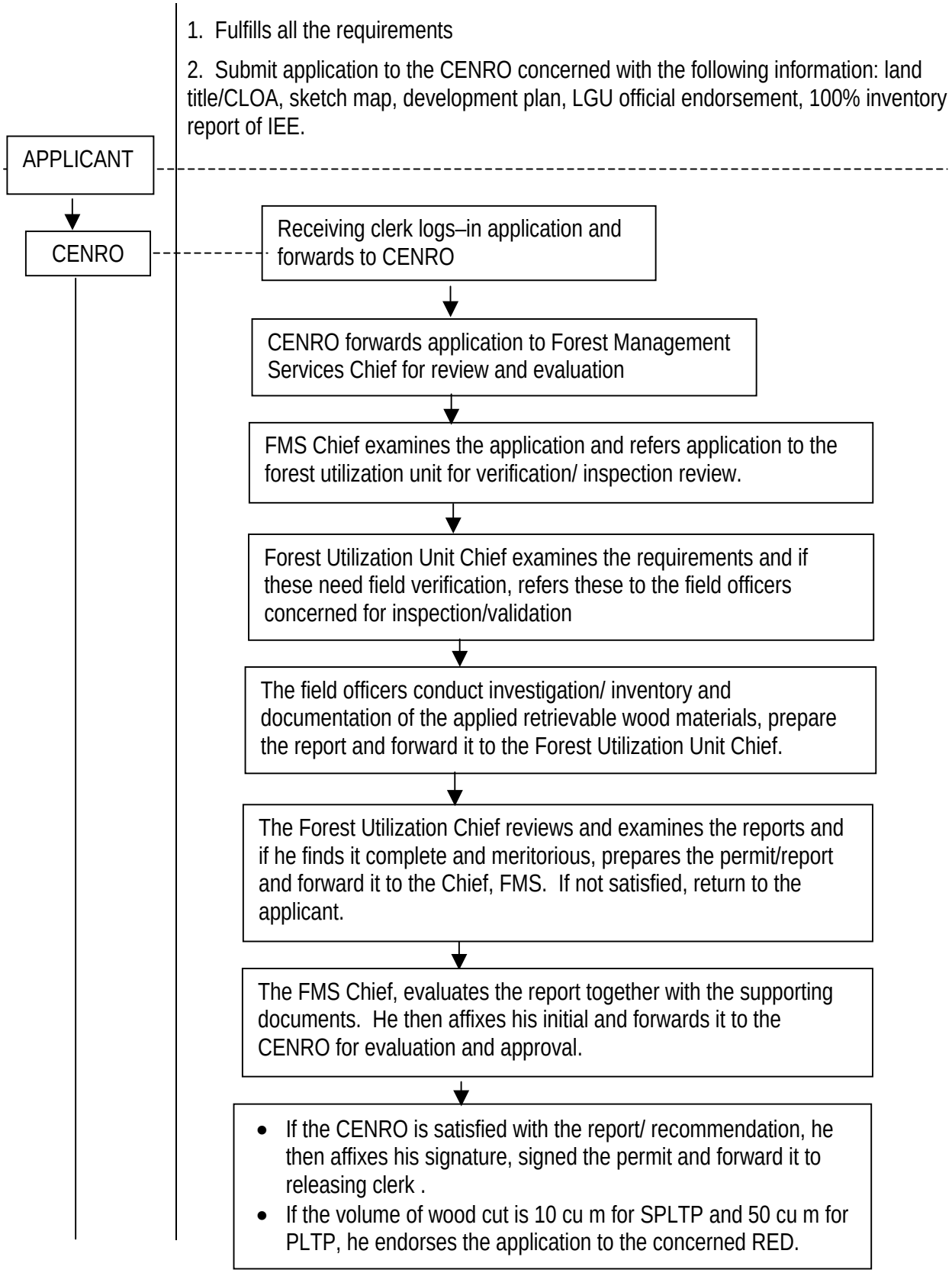
8.6 The timber inventory report must be subscribed and sworn to by all the forest officers who conducted the same. All documents required hereto shall be attached to the report (e.g. original tally sheets, photographs, tree charting, etc.).

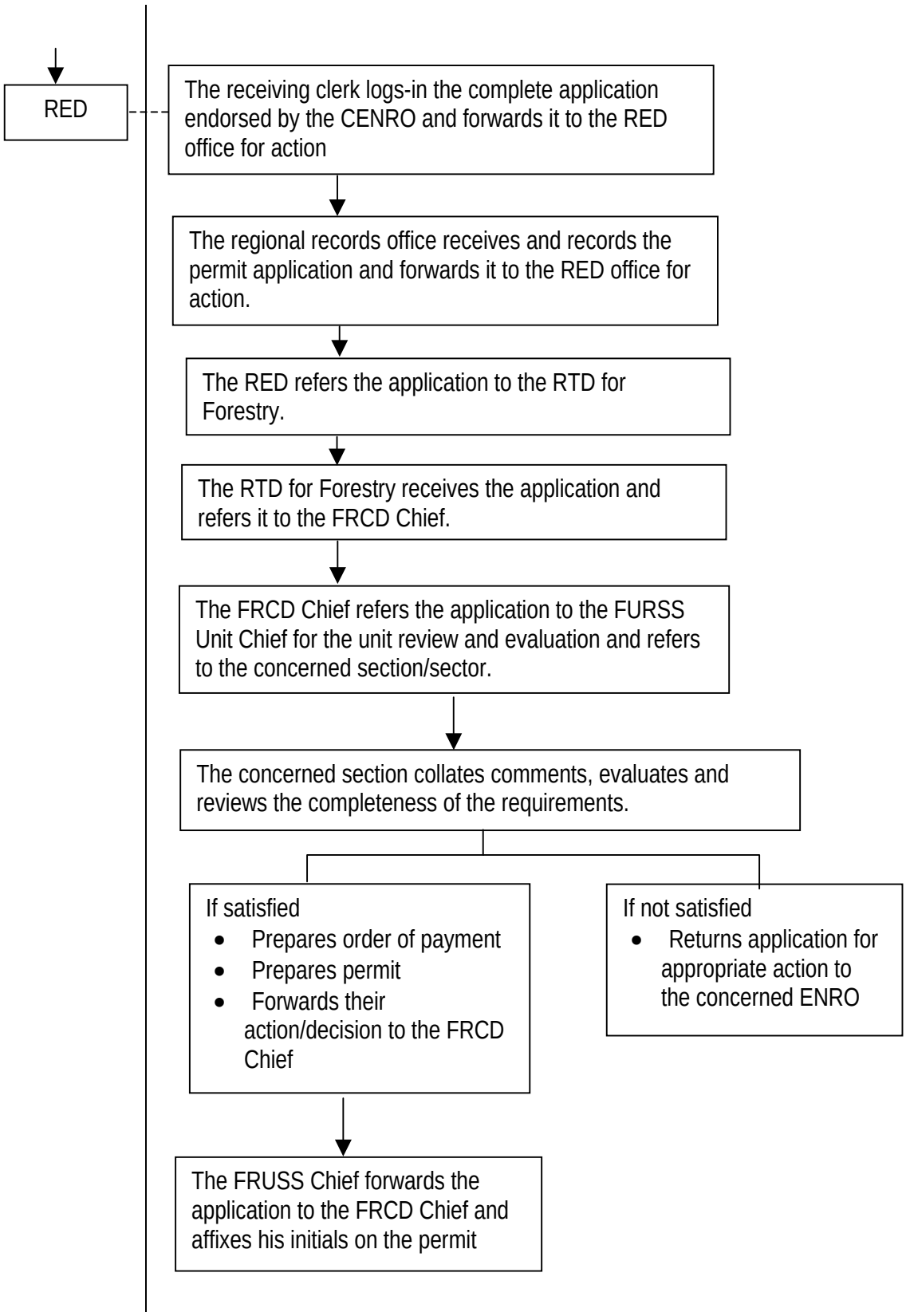
Processing and Approval

Applications for PLTP/SPLTP shall be submitted to the concerned CENRO. The CENRO and LGU representative concerned shall validate the submitted inventory report and submit their findings and recommendations to the issuing authorities through channels. The CENRO shall verify the status of the A and D or forest land applied for PLTP/SPLTP prior to the conduct of timber inventory.

All cutting permit applications under SPLTP shall be issued by the RED for volume not exceeding (10) cubic meters and the DENR Secretary for volume in excess of ten (10) cubic meters. In the case of PLTP, approval of volume not exceeding fifty (50) cubic meters shall be vested on the RED, while volume more than fifty (50) cubic meters shall be approved by the DENR Secretary. Figure 1, shows the existing levels of approval of PLTP/SPLTP.

Figure 1. Flow Chart of PLTP/SPLTP Application




RED
The receiving clerk logs-in the complete application endorsed by the CENRO and forwards it to the RED office for action
The regional records office receives and records the permit application and forwards it to the RED office for action.
The RED refers the application to the RTD for Forestry.
The RTD for Forestry receives the application and refers it to the FRCD Chief.
The FRCD Chief refers the application to the FURSS Unit Chief for the unit review and evaluation and refers to the concerned section/sector.
The concerned section collates comments, evaluates and reviews the completeness of the requirements.
If satisfied
• Prepares order of payment
• Prepares permit
• Forwards their action/decision to the FRCD Chief
If not satisfied
• Returns application for appropriate action to the concerned ENRO
The FRUSS Chief forwards the application to the FRCD Chief and affixes his initials on the permit

OFFICE OF THE DENR SECRETARY

The FRCD Chief forwards it to the RTD for Forestry for appropriate action

The RTD for Forestry forwards the permit to the RED for signature

- The RED signs the permit for SPLTP if the volume of wood is 10 cu m and for PLTP if the volume is 50 cu m and forwards it to the Regional Office records section for the release of the permit.
- The RED endorses the application to the OSEC if the volume retrievable wood materials

The records office receives and logs-in application and forwards to the OSEC

The OSEC forwards application to the Undersecretary for Field Operations

The USEC for Field Operations forwards the application to the concerned bureaus such as the FMB or PAWB

Forest Management Bureau (Please see page 18)

The FMB forwards their decision to the USEC for field operations

USEC for Field Operations forwards application to the Technical Staff for review. In case the area applied or permit has some problems, conflicts, etc., a technical review committee will be created to conduct consultation.

↓

The technical staff/Technical Review Committee forwards their recommendation and endorsement to the USEC for Field Operations

↓

The USEC for Field Operations affixes his signature to the endorsement letter and forwards it to the OSEC. In case the issues are not settled, the USEC for Field Operations returns the application to the Regional Office concerned

↓

The OSEC forwards the application to the Head Executive Assistance for final review

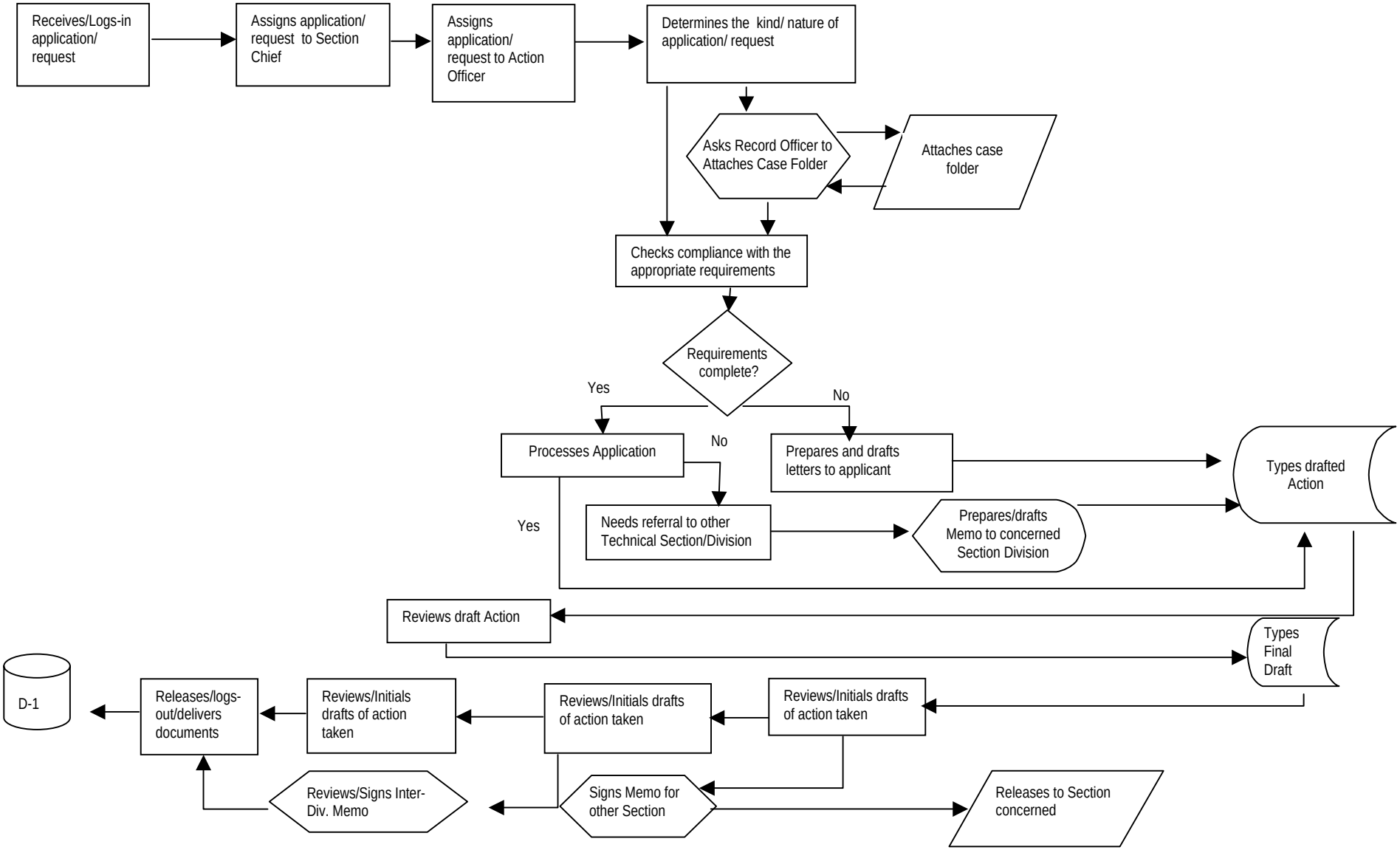
↓

The Head Executive Assistant reviews the document and forwards to the OSEC for signature

↓

The Secretary affixes his/her signature to the permit and forward to the Records Office for releases it to the Regional Office concerned

Private Land Timber Permit/Special Private Land Timber Permit



PLTP - Private Land Timber Permit
WPPP – Wood Processing Plant Permit AS

Figure . General Flowchart of Permit Processing, FMB.

Tenure

The tenure of PLTP/SPLTP is dependent upon the allowable cut granted but does not exceed one year at any one time. Extension is allowed for similar period. Also, only one (1) permit shall be issued over the titled property within a period of one (1) year. Table 2 presents the PLTP/SPLTP duration/tenure base on volume granted.

Table 2. Duration of PLTP?SPLTP based on volume granted.

Volume	Duration/Tenure
1-50 cu.m	50 days
51-70cu.m	60 days
101-200cu.m	120 days
201-300cu.m	150 days
301-500cu.m	6 months
501-650cu.m	7 months
651-750cu.m.	8 months
751-850 cu.m.	9 months
851-950 cu.m.	10 months
951-1000cu.m.	11 months
1001-up cu.m.	1 year

Monitoring

Monitoring in the cutting and transport of forest products from PLTP/SPLTP areas shall be conducted by the CENRO concerned and a representative from the Multi-Sectoral Forest Protection Committee and/or the Local Government Unit (LGU) concerned. The CENRO and LGU representatives concerned shall conduct post-harvest inventory of stumps after the expiration of the permit and a report submitted to the RED concerned. A copy of the same report is furnished to the Forest Management Bureau (FMB).

3.0 ANALYSIS OF THE PLTP/SPLTP POLICIES

The issues raised against PLTP/SPLTP are the following: 1) too many requirements in the application; 2) the length of time of processing and approval of the permit is too long, and 3) serves as fronts/cover for illegal cutting activities. The permittees interviewed asked why the DENR regulates the cutting of their trees in their private lands when in fact, it is titled and they have the right to do anything inside their property. At the same time, there are allegations that the PLTP and SPLTP have been abused and used as cover-up for illegal cutting activities. Existing monitoring and verification reports indicate that some permittees cut more than their allowable volume, and they cut outside their private land. These illegal practices are facilitated by deliberately over-estimating the volume of timber in the inventory report or by reporting the existence of naturally grown trees in private lands when in fact there are no more trees growing in the said property. According to them, this can be easily done through the connivance between the DENR staff and the private land owner which sometimes include LGU officials. This public perception cannot be

avoided because the process by which the PLTP and SPLTP permits are issued lacks the transparency, participation and accountability elements. Under existing policies, the verification of the private land, the inventory of trees within said land, and the processing and approval of permit is monopolized by the DENR with limited participation from the LGU and registered Forester(s).

Limited Sectoral Participation

The processing of PLTP/SPLTP permits starts with the applicant filing the application request or application form at the CENRO, followed by the verification of the titled property, inventory of the standing trees and finally, the processing and issuance of the permit. The field verification of the titled property and inventory are very crucial because they establish the existence of the private property and whether indeed, there are still naturally growing trees within said property which warrant the issuance of PLTP/SPTLP permits. Under existing guidelines, the determination of this situation is mainly undertaken by the DENR. DAO 2000-21 allows limited participation of professional Forester(s) and the LGUs by requiring a 100% inventory to be undertaken by a registered Forester on the area applied for which the CENRO and LGU representative concerned validate. The sectoral representation however, is not sufficient to prevent connivance. More sectors should be involved in the process of validating the inventory reports conducted by a professional Forester, which forms part of the application. With only the CENRO and LGU representatives validating the inventory, the applicant could still easily make illegal deals to get the permit. Worst, the verification of the boundaries of the private lands is only determined by the CENRO concerned.

Because of limited participatory mechanism in the verification of the titled property and the inventory of standing trees, the verification reports are usually questionned and are prone to public suspicion. Thus, it has been reported that some areas applied for PLTP/SPLTP are in fact devoid of standing trees. There are also allegations that timber inventory reports are highly bloated and the cutting of trees is undertaken outside the private property and, in most cases, in adjacent forest lands.

Transparency Issue/s

With very limited sectoral participation in the field verification, transparency to information is also sacrificed. The general public has no way of getting information whether the subject private property genuinely exists and whether the inventory of standing trees is correct. At the same time, the existing DENR guidelines do not have mechanisms where the public would know who are given the permit – what volume they are allowed to cut and when the permit would expire. This is very important because only if there is transparency in information and in decision-making would the public be motivated to be vigilant in monitoring the activities of the permit holder. If the permit holder, the DENR, Foresters, LGU and everybody are aware and have access to information and to decisions made, the applicants will become more cautious in providing data in their application form as well in preparing their validation reports. This situation will minimize, if not totally eliminate, connivance among the applicant, the professional Foresters, the LGU and the DENR in the provision of false information and reports including the granting of permits to unqualified applicants. Thus, transparency would ensure responsible application, responsible reports and responsible issuance of permits.

Accountability Issue

Multi-sectoral participation and transparency in information and decision-making should lead to accountable permit holders and DENR officials. However, since the current guidelines only allow very limited sectoral participation since there are no mechanism to promote transparency in the issuance of the permit, the permit applicants are not held responsible to the general public. At the same time, since the DENR officials and applicants are aware that there are no mechanisms whereby the public has access to their decision and their actions, they become irresponsible in providing information in their applications, in preparing validation reports and in the issuance of permits. The over-all result is that the applicants become accountable only to the issuing authority and its staff and do not care about public accountability. This bridge corruption. DAO 2000-21 provides for MFPC participation in the monitoring of the permittees operation, but this is rarely done since the permit has already been issued and the MFPC is not aware of the permit being issued. Thus, it cannot assert its role because it can only be mobilized if the CENRO organizes the monitoring team.

4.0 RECOMMENDATIONS

The issues raised during field interviews with key informants are the following: 1) too many requirements, 2) the length of time of processing and approval of the permit is too long and 3) its serves as front of illegal cutting activities.

The clamor specifically among the permit holders is that the requirements for getting the permit should be lessened and the procedure simplified. However, the researchers believe that the main issue that should be resolved is how to prevent the PLTP/SPLTP from being used as cover-up in illegal cutting activities. The purpose of the policy is to promote responsible utilization of naturally grown trees in private lands in recognition of their rights over the said property.

But the State also has the obligation to ensure that in allowing private individuals to utilize naturally grown trees in private lands, this is not abused and used as cover-up for illegal cutting activities. The permit issued being extraction-oriented must be highly regulated to discourage it from being abused.

To prevent the PLTP/SPLTP from being used as cover-up in illegal cutting activities, the permit applicant and the issuing official of the DENR must be conscious that their actions and decisions are easily known to the general public and therefore they should be accountable to them.

The following recommendations therefore are proposed so that sectoral participation, transparency and accountability are integrated in the guidelines for the processing and issuance of PLTP/SPLTP permits.

1. The verification/inspection of the private land boundaries and the naturally grown trees in the said property must be done by the Multi-Sectoral Forest Protection Committee including other interested individuals/groups and LGUs.

2. Posting of the verification/inspection results in conspicuous public places such as the municipal hall, DENR offices, etc.

3. Permit application should be endorsed by the concerned barangay and municipal LGUs with DENR-DILG Joint Memorandum Circular 2003-01.

4. Mandatory monitoring and evaluation by the MFPC

5. Provide stiff sanctions to the issuing officers for irregular issuance of PLTP/SPLTP. They should be held administratively liable without prejudice to the filing of criminal offense for perjury of public documents

6. Posting of approved PLTP/SPLTP in DENR offices.

Considering these recommendations, the following procedure is suggested for the issuance of PLTP/SPLTP

Step 1. Filing of application by interested private land owners with all required documents.

Step 2. Referral of the application to the concerned barangay/municipal LGU for the latter's endorsement/comments

Step 3. Immediately after the LGU endorsement is received, the verification of the titled property and inventory should be undertaken by the standing timber team, CENRO, together with the MFPC team and including LGU representative.

Step 4. Posting of the result of the verification team

Step 5. Processing and issuance of Wood Recover Permit. Following the prescribed levels of approval in DAO 2000-21.

Step 6. Posting of approved PLTP/SPLTP permits and monitoring of their operations by the MFPC

The first step is for the private land owner to apply for a permit to the concerned CENRO using the prescribed application forms together with the inventory report conducted by a registered Forester and other documents as stated in DAO 2000-21. A barangay clearance should also be attached to the application.

The second step is to secure the endorsement of the municipal LGUs. The CENRO, upon receiving the application for PLTP/SPLTP shall refer the application to the municipal LGU for their review, comments and endorsement. The municipal LGU shall submit their comments or endorsement within 15 days, consistent with DENR-DILG Joint Memorandum Circular No. 2003-01, otherwise, it will be assumed that they do not interpose objections to the application.

Once the LGUs endorsement is received, the CENRO shall organize the MFPC field verification team who shall conduct the verification/inspection of private land boundaries and standing trees in the said property. No PLTP/SPLTP shall be processed without the MFPC field verification/inspection report signed by at least two-thirds of the members of the said committee.

The MFPC verification/inspection team shall submit their report to the CENRO within 5 days upon completion of the investigation with copy furnished to the municipal LGU. The result shall be posted in conspicuous places to inform the general public of the PLTP/SPLTP application. In case there is anybody objecting the PLTP/SPLTP application, should file their complaint to the concerned CENRO within 5 days.

In case there are no complaints received on the application, the CENRO will proceed with the processing and issuance of the PLTP/SPLTP following the prescribed levels of approval.

Once the PLTP and SPLTP are issued, the approved PLTP/SPLTP should be posted in DENR offices and municipal hall.

Attachment A

DENR Administrative Order
No. 2000- 21
February 28, 2000

SUBJECT : Revised Guidelines In The Issuance Of Private Land Timber Permit/Special Private Land Timber Permit (PLTP/SPLTP).

Pursuant to P.D. 705 as amended, E.O. 192 and in consonance with the policy of the State towards the sustainable development of natural resources as well as the recognition of the rights of private landowners, and consistent with the agricultural development program of the government and in order to supplement the source of log requirement of the wood industry, revised guidelines in the issuance of Private Land Timber Permit are hereby promulgated for the information and guidance of all concerned.

SECTION 1. Definitions - For the purpose of this Order, the terms enumerated hereunder shall be defined as follows:

a) Private Land Timber Permit (PLTP) - a permit issued to a landowner for the cutting, gathering and utilization of naturally-grown trees in private lands.

b) Special Private Land Timber Permit (SPLTP) - a permit issued to a landowner specifically for the cutting, gathering and utilization of premium hardwood species including Benguet pine, both planted and naturally -grown trees.

c) Private Lands - land(s) covered by either administrative or juridical Titles such as Free Patent, Homestead and Sales Patent, and Torrens Titles obtained under the Land Registration Act (Act No. 496, as amended), or under the Public Land Law (Commonwealth Act No. 141), Certificate of Land Ownership Award (CLOA) covering certified A and D lands issued to farmer-beneficiaries under the Comprehensive Agrarian Reform Program (CARP) or the Republic Act No. 6657 (R.A. 6657) shall be included in areas that can be applied for PLTP/SPLTP. Realty tax declaration, by itself, shall not be acceptable as proof of ownership, for purposes of PLTP/SPLTP applications.

d) Naturally grown tree - any naturally occurring or growing tree with woody stem, regardless of size and economic utility or end-use, including the parts thereof such as stumps, tops and branches.

e) Forest Charge - a levy being imposed by the government on each cubic meter of timber cut, the amount of which is specified in the implementing rules and regulations of R.A. 7161.

f) Premium hardwood species - tree species listed as such under pertinent rules and regulations.

g) Planted tree - any artificially grown/planted tree with a woody stem, regardless of age, size and economic utility or end-use.

SEC. 2 Private Land Timber Permit/Special Private Land Timber Permit (PLTP/SPLTP) - No person, association or corporation shall cut, gather, transport, dispose and/or utilize naturally grown trees or parts thereof or planted premium tree species, inside titled private lands unless authorized to do so under a PLTP/SPLTP issued by the Secretary, DENR or his/her authorized representative.

SEC. 3. Persons qualified for a permit - Only the owner of a private land defined under this Order may qualify to apply for and be granted a PLTP/SPLTP.

SEC. 4. Application requirement - The following requirements shall be submitted by applicants for PLTP/SPLTP:

4.1 Letter of Application;
4.2 Authenticated copy of land title/C LOA with approved sketch map of the area applied for;
4.3 Development Plan, if Application covers ten (10) hectares or larger with at least 50% of the area covered with forest trees;
4.4 Endorsement from any of the following LGU officials; a) Barangay Chairman, b) Municipal/City Mayor, or c) Provincial, Governor;
4.5 Endorsement by local agrarian reform officer for areas covered by CLOA; and
4.6 Inventory fee based on existing. regulations.

SEC. 5 Environmental Impact Assessment (EIA) – The applicants to cut, gather and harvest naturally grown trees or parts thereof within titled private lands are required to submit to the concerned DENR Office an Initial Environmental Examination (IEE) which shall be made as basis for the issuance of an ECC.

SEC. 6. Timber Inventory - In addition to the application requirements stipulated in Sec. 4 hereof, a 100% inventory shall be undertaken by Registered Forester(s) over the area where the trees/forest resources are located. The said inventory shall be in accordance with the following guidelines:

6.1 Prepare a map of the subject area at appropriate scale where relevant information shall be indicated e.g. soil cover, river/stream, slope class, etc.;
6.2 Before the inventory is done, at least one corner of the titled lot shall be tied up to the nearest forest zone corner and/or BLLM which shall be indicated on the map;
6.3 The forester(s) shall measure the diameter at breast height (dbh) and/or above buttressed (dab) and merchantable height/length of the trees in the lot to the nearest centimeter and meter, respectively;
6.4 All the tallied trees shall be numbered consecutively and charted on the map stated in item 6.1 hereof. Moreover, the FIRST and LAST trees tallied shall be photographed as well as the panoramic view of the subject titled lot;
6.5 The volume of each tallied trees shall be computed based from the equation for standing trees applicable for the locality. The stand and stock tables shall be prepared by species and species group (i.e. premium species, common hardwoods, construction and furniture woods, light hardwoods, and lesser used/lesser known species (LUS/LKS); and
6.6 The timber inventory report must be subscribed and sworn to by all the forest officers who conducted the same, All documents required hereto shall be attached to the report (e.g. original tally sheets, photographs, tree charting, etc.).

The CENRO and LGU representative concerned shall validate the submitted inventory report and submit their findings and recommendations to the issuing authorities through channels. Likewise, the CENRO shall verify the status of the land (A and D or forest land) applied for PLTP/SPLTP prior to the conduct of timber inventory.

SEC. 7 Issuing Authority All cutting permit applications under SPLTP shall be issued by the RED for volume not exceeding ten (10) cubic meters and Secretary, DENR for volume in excess of ten (10) cubic meters. In the case of PLTP, approval of volume not exceeding fifty (50) cubic meters shall be vested on the Regional Executive Directors while volume more than fifty (50) cubic meters shall be approved by the Secretary, DENR.

SEC. 8 Tenure The tenure of the PLTP/SPLTP shall be dependent upon the allowable cut granted following the schedule provided below but shall not exceed one (1) year at any one time. Provided that only one (1) permit shall be issued over the titled property within a period of one (1) year. Provided, further, that extension of the permit may be allowed for a similar period.

VOLUME			DURATION/TENURE
1	-	50 cu.m.	50 days
51	-	70 cu.m.	60 days
71	-	100 cu.m.	90 days
101	-	200 cu.m.	120 days
201	-	300 cu.m.	150 days
301	-	500 cu.m.	6 months
501	-	650 cu.m.	7 months
651	-	750 cu.m.	8 months
751	-	850 cu.m.	9 months
851	-	950 cu.m.	10 months
951	-	1000 cu.m.	11 months
1001	-	up cu.m.	1 year

SEC. 9 Payment of Forest Charges All naturally grown trees cut inside private lands shall be subject to payment of forest charges pursuant to R.A. 7161 and its implementing rules and regulations.

SEC. 10 Disposition - In order to augment the raw material requirements of wood-based industries in the province or region, the RED concerned in coordination with the local officer of the Department of Trade and Industry (DTI) may recommend to the Secretary, DENR, to retain a portion up to 50 percent (50%) of the volume allowed to be cut by the PLTP/SPLTP permittee.

SEC. 11. Transport Requirements - The transport of wood materials shall be accompanied by the following:

11.1 For logs/lumber, original copies of:
- 11.1.1 Certificate of Origin
- 11.1.2 Tally Sheets
- 11.1.3 Auxiliary Invoice
- 11.1.4 Official Receipt of Payment of Forest Charges

11.2 For finished products, original copy of Delivery receipt/sales invoice accompanied by tally sheets.

SEC. 12. Prohibitions - The cutting and/or transport of naturally grown trees under PLTP/SPLTP shall be subject to the following limitations:

12.1 No cutting of trees within 20 meters on both sides of the road unless such trees have been determined to pose danger to life and property.
12.2 No cutting of trees on a strip 20 meters wide on both sides of creeks or rivers bordering or traversing private land, for stream bank protection. Provided that in case said 20-meter strip is bereft of trees, the same shall be reforested by the permittee.
12.3 In areas covered by the logging ban/moratorium, no round log or lumber shall be transported outside the province where the PLTP/SPLTP is located unless authorized by the Secretary, DENR.
12.4 Selective cutting shall be undertaken in areas 18% in slope or greater.

SEC. 13 Monitoring - The cutting and transport of timber products from PLTP/SPLTP shall be subject to the following conditions:

13.1 Monitoring in the cutting and transport of forest products from PLTP/SPLTP areas shall be conducted by CENRO concerned and a representative of the Multi- Sectoral Forest Protection Committee and/or Local Government Unit concerned.
13.2 The CENRO and LGU representatives concerned shall conduct post harvest inventory of stumps after the expiration of the permit and a report submitted to the RED concerned, copy furnished FMB.

SEC. 14. Penal Provisions Any log/lumber or finished wood products covered by these regulations which are transported without the prescribed documents shall be considered illegal and, therefore, subject to confiscation in favor of the government and shall be disposed in accordance with laws, rules and regulations governing the matter.

DENR Officials found issuing defective certificate of origin and other transport documents required in this Order shall be subject to suspension without prejudice to the imposition of other penalties as may be warranted by extant Civil Service laws, rules and regulations.

SEC. 15. Repealing Clause - All orders, circulars and/or instructions inconsistent herewith are hereby repeated and/or modified accordingly.

SEC. 16. Effectivity - This Order shall take effect immediately upon the acknowledgement by the UP Law Center and fifteen (15) days after publication in at least two (2) newspapers of general circulation.

(Sgd.) ANTONIO H. CERILLES
Secretary
Published at:
MANILA STANDARD March 22, 2000
MALAYA March 22, 2000

INTEGRATED ANNUAL/FIVE-YEAR OPERATIONS PLAN

1.0 OVERVIEW

The Operations Plan (OP) is a short-term plan showing the programs and activities of the Timber License Agreement (TLA) or Integrated Forest Management Agreement (IFMA) holder for an annual or five-year period. The major programs and activities that should be included in the OP are the logging, cut disposition, planting, silvicultural treatment, protection, community services, and forest research programs. The plan should contain the approaches or strategies on how to implement the said programs to achieve the desired long-term and immediate goals or objectives.

The Operations Plan has to be approved by DENR before any cutting, utilization, planting or other operations can be implemented by the TLA or IFMA holder. However, approval of the OP is contingent on the approval by the DENR of the long-term Forest or Timber Management Plan for TLAs or the Comprehensive Development and Management Plan (CDMP) for IFMA holders. Issuance by DENR of the corresponding Environmental Clearance Certificate (ECC) is also a requirement prior to approval of the OP.

2.0 POLICY BASIS FOR SUBMISSION AND APPROVAL OF THE OPERATIONS PLAN

The Operations Plan is anchored on the basic policy for the licensing system on the utilization, exploitation, occupation or possession of forestlands and/or forest resources as provided for in PD 705. In BFD Circular 48-83, Series of 1983, holders of commercial timber license, lease or permit were required to submit General (long term) Plan for Timber Stand Improvement and Annual TSI Operations Plan. In 1985, WIDA Circular 01-85 was issued to provide guidelines for the required Integrated Annual Operations Plan for timber license holders. This was amended by DAO 79-87 whereby submission of IAOP was assigned to the RED in lieu of the DENR reorganization and absorption of WIDA functions by DENR. DAO 17-92 required holders of TLA and other agreements to submit aerial photographs of the area covered by the license, lease, or agreement in 1992 and every five years thereafter.

DENR Memorandum Circular 04-96 issued further instructions for the IAOP that integrated all the requirements including the aerial photo coverage of the area, the medium term forest management plan or CDMP, corresponding ECC, and payment of financial obligations by the TLA/IFMA holder. Another Memorandum was later issued in January 15, 2001 by then Secretary Cerilles adopting the 5-year OP in lieu of the IAOP.

3.0 Existing TLA and IFMA Holders

Forestry statistics (PFS 2001) show 18 existing TLAs with an area of 813,949 ha and an annual allowable cut of 92,122 cu m (Table 1). No new TLAs are being issued and all those existing will be expiring in the coming years. However, TLAs with satisfactory performance are allowed to convert to IFMA before the date of expiry according to the guidelines in DAO 99-53 as amended by DAO 2003-21.

The Forest Land Use Division of DENR-FMB reports some 200 IFMA holders have been issued as of 2002 with an aggregate area of 807,532 ha.

The OP is required from TLA, IFMA and other development programs and it has to be approved by DENR before the holders can implement any of the development and utilization activities indicated in the plan.

Table 1. Existing TLA and IFMA holders by region: 2001and 2002 (area in hectares, AAC in cu m)

REGION	TLA *			IFMA **	
	No.	Area	AAC	No.	Area
CAR	1	74,500	-	1	13,658
1				9	9,054
2	3	85,466	16,284	17	35,400
3				24	110,896
4	2	72,800	-	10	56,560
6				6	8,684
7				7	4,912
8				7	4,099
9	2	67,705	8,765	31	74,196
10				5	42,102
11				31	79,130
12	1	60,420	-	24	38,527
13	7	410,143	67,073	28	330,313
ARMM	2	42,915	-		
Total	18	813,949	92,122	200	807,532

* Source: 2001 Philippine Forestry Statistics, DENR-FMB
** Source: Forest Land Use Division, DENR-FMB (as of 2002)

4.0 ANALYSIS OF OP REGULATORY PROCEDURES

The main objective of the policy on Approved Operations Plan is sustainable forest management by regulating the commercial extraction and utilization of timber and other forest products in areas covered by TLA, TPSA, IFMA and similar instruments. This objective is in line with basic policies of the State regarding a balanced and healthy environment and social equity in the access to natural resources and to income from the extraction and utilization of natural resources including the country's forestlands and forest resources.

The OP contains a more detailed discussion of the programs indicated in the approved long-term forest or timber management plans for TLAs and TPSAs or the comprehensive development and management plans for IFMAs. The OP includes the technical, financial and management approaches or strategies on how to achieve the long-term goals and immediate objectives of the instrument holder. The required OP has to be submitted to the RED and approved by the DENR Secretary before the conduct of logging and other forestry operations within the areas covered by such instruments. The OP could cover annual or five-year plan of activities depending on the approval of the long-term plan and issuance of ECC by the DENR.

The major issues and concerns on the OP regulations are operational in nature, particularly on the requirements, processing and approval of the OP, and on the monitoring of activities of the holder.

a. Identification and approval of sites

The holder identifies the various blocks for logging, planting and maintenance, forest protection and other activities for each year. These are indicated in the operations map for validation and approval by the DENR.

b. Qualification requirements of applicants / OP preparers

Only holders of commercial timber licenses such as TLA, TPSA, IFMA, and similar instruments issued by the DENR Secretary or his authorized representative(s) are required to submit the OP. DENR Memorandum Circular No. 96-04 requires that the OP has to be prepared by registered professional forester(s) employed or hired by the license holder, in conformity with Republic Act No. 6239 and Presidential Decree No. 331. Preparation of the OP may be done in collaboration with foresters in the concerned CENRO.

Hence, the foresters who prepare the OP are accountable for any lapses that may be found in the submitted OP.

c. Application requirements

DENR Memorandum Order No. 96-10 lists the following requirements before the OP can be approved:

1. A complete aerial photo-coverage of the area under license has been submitted to the Secretary pursuant to DAO No. 92-17 (conduct and submission of Aerial Photography by holders of Timber License Agreements and the different programs and projects of the (DENR) and its implementing guidelines);
2. As an incentive for TLA/IFMA holders who have matured plantation tree species which they intend to harvest, a separate IAOP covering the same shall be submitted, processed, and approved even without the required aerial photograph, PROVIDED, however, that no naturally grown tree shall be included in preparation of said plan.
3. Whenever applicable, the required Medium Term Forest Management Plan or a Comprehensive Forest Management and Development Plan has been submitted;

4. The area programmed for logging operations (APLO) is inside residual forest under the Block I category;
5. A timber inventory of at least 20% intensity covering the area(s) programmed for logging has been undertaken jointly by the licensee and the CENRO personnel and the corresponding report, under oath, has been submitted;
6. The licensee has no pending forestry accounts;
7. The reforestation and timber stand improvement obligations of the licensee for the preceding year(s) have been satisfactorily complied with;
8. License holders have fully filed checklist EIA and has received, after due review, an Environmental Compliance Certificate for its operations; and
9. Additional Considerations – For ease of supervision, administration and monitoring, the following additional features and/or practices be observed.

- Operations maps drawn to a convenient scale shall be gridded using the UTM system;
- Corners of the areas planned for operations (logging, reforestation, TSI) shall be located on the ground using accurate surveying instruments, preferably GPS instrument; and
- A one-meter strip along the perimeter of the planned cutting coupes shall be established and all trees 15 cm dbh and larger within the said strip shall be marked with three (3) bands using visible enamel paint.

Respondents of the key informant interviews have no problem with the above requirements except for the submission of complete aerial photograph of the area not only once but every after five years reckoned from 1992 or when the agreement was first issued (DAO 99-53). Holders with large contiguous areas (more than 10,000 ha) may be able to secure the said aerial photos but it is too expensive and difficult to obtain by holders with smaller areas and not contiguous with other holders.

Since the major objective of the required aerial photos is to determine the extent and area of the vegetative cover, the DENR could instead provide this through the NAMRIA as a technical service to DENR clientele. DENR can explore other ways of determining forest cover on a regular basis and scrap the requirement of aerial photos from instrument holders.

d. Processing and approval of OP

The existing procedure is for the holder to submit the OP to the RED through the CENRO for review and evaluation before it is forwarded to the PENRO again for review and evaluation. The RED also reviews and evaluates the OP before it is forwarded to the OSEC where it is forwarded to FMB for further review and evaluation. The OSEC then issues instructions to the concerned RED based on the FMB Director's recommendations.

Existing policies require the OP to be submitted at least three months before the cutting year or before the cutting operation starts. It is assumed that processing and approval of the OP should not take more than three months in time for the holder to start logging operations. However, according to the key informants, it took them almost 8 months to 1 year to get the final approval of their OP.

So, to reduce the processing time, a simplified procedure is hereby recommended as summarized in Table 2 and shown in Figure 1.

The proposed simplified procedure is for the OP to be submitted to the RENRO. The RED forwards a copy of the operations map with stand and stock table to the FMB for checking and verification of data. The RED convenes the Regional Technical Review Committee with representatives of the licensee, CENRO, PENRO, Multi-sectoral Forest Protection Committee, concerned LGUs, NGOs, and other sectors. Based on the RTRC recommendations, the RED returns the OP to the Holder to incorporate the corrections/modifications or the RED forwards the OP to the OSEC. The OSEC forwards the OP to the FMB for evaluation and the FMB Director returns the OP to the OSEC with corresponding recommendations. The OSEC then issues instructions to the concerned RED and the RED amends, denies or approves and releases the OP and furnishes copies to the concerned offices.

Table 2. Existing and proposed simplified procedures/steps for OP processing and approval

Responsible Office	Existing Procedures / Steps	Simplified Procedures / Steps
1. Applicant	• Prepares the plan and fulfills all the requirements for IAOP application • Submits to the CENRO seven copies of the OP at least 3 months before the start of logging operation	• Prepares the plan and fulfills all the requirements for OP application • Submits to the RED seven copies of the OP at least 3 months before the start of logging operation, • Submits a copy of the OP along with the IEE checklist to the Regional EMB office • Whenever necessary, revises the Plan to incorporate the corrections/modifications recommended by the RED through the RTRC
2. CENRO level	• Forwards to FMB Director a copy of the TLA map showing the vegetative cover or the areas programmed for forestry operations together with certified copy of timber stand & stock table for checking/verification based on aerial photographs • Reviews the Plan, together with representatives of the licensee & other concerned parties (LGUs, NGOs, Multi-Sectoral Forest Protection Committee) • Forwards the Plan to the PENRO after making the necessary corrections/modifications	• Whenever instructed by the RED, validates the data & information presented in the Plan & forwards the findings to the RED • Attends the RTRC deliberations on the Plan

Responsible Office	Existing Procedures / Steps	Simplified Procedures / Steps
3. PENRO level	• Causes the review & evaluation of the Plan together with representatives of the licensee & other concerned parties • When necessary, validates the data & information presented in the Plan • Forwards the Plan to the RED, together with his comments & recommendations	• Whenever instructed by the RED, validates the data & information presented in the Plan & forwards the findings to the RED • Attends the RTRC deliberations on the Plan
4. RENRO level	• Convenes the Regional Technical Review Committee, together with representatives from the licensee & other concerned parties, to review and evaluate the Plan; • The RTRC, based on the review and evaluation, shall prepare the final plan after incorporating the corrections/modifications, if any, and forward the same to the FMB; • The RED, taking into consideration the observation and/or instruction of the SENR, shall amend, deny, approve and release the IAOP furnishing a copy thereof to the Director, FMB and the SENR for information and reference.	• Forwards to the FMB Director a copy of the OP map showing the vegetative cover of the area programmed for forestry operations • Whenever necessary, instructs the concerned PENRO & CENRO personnel to validate the data and information presented in the Plan • Convenes the Regional Technical Review Committee to review and evaluate the Plan, together with representatives of the licensee & other concerned parties (LGUs, NGOs, Multi-Sectoral Forest Protection Committee), CENRO, PENRO, RENRO & EMB representatives • Based on the RTRC review & evaluation of the Plan, the RED asks the Holder to incorporate the corrections/modifications, if any, then forwards the Plan to the OSEC • The RED, based on the observations and/or instructions of the SENR, shall amend, deny, approve and release the OP furnishing a copy thereof to the FMB Director & the SENR for information and reference
5. EMB	•	• Reviews & evaluates the OP & IEE checklist • Attends RTRC deliberations on the OP & IEE • Forwards recommendations for ECC approval to SENR

Responsible Office	Existing Procedures / Steps	Simplified Procedures / Steps
6. FMB	• Causes the verification of the status & forest condition of the area programmed for operations using the aerial photographs covering the subject area • Checks & evaluates the timber inventory, & reconcile with the IAOP endorsement of the Regional Office, & summarize the same for the SENR	• Records and files the submitted map and timber inventory report by the CENRO • Checks and evaluates the timber inventory, and reconciles with the OP endorsement of the Regional Office and summarizes the same for SENR & forwards to the OSEC
7. OSEC	• Upon receipt of the evaluation & action papers from the FMB Director, issues instructions to the FMB Director & concerned RED	• Upon receipt of the evaluation & action papers from the FMB Director, SENR issues instructions to the FMB Director & concerned RED; approves the ECC

e. Responsibilities of OP holders

The OP holders shall be allowed to conduct cutting, gathering and utilization activities within the area covered by the Plan. The OP holders are required to observe and adhere to the prescribed reporting forms and guidelines set by the DENR.

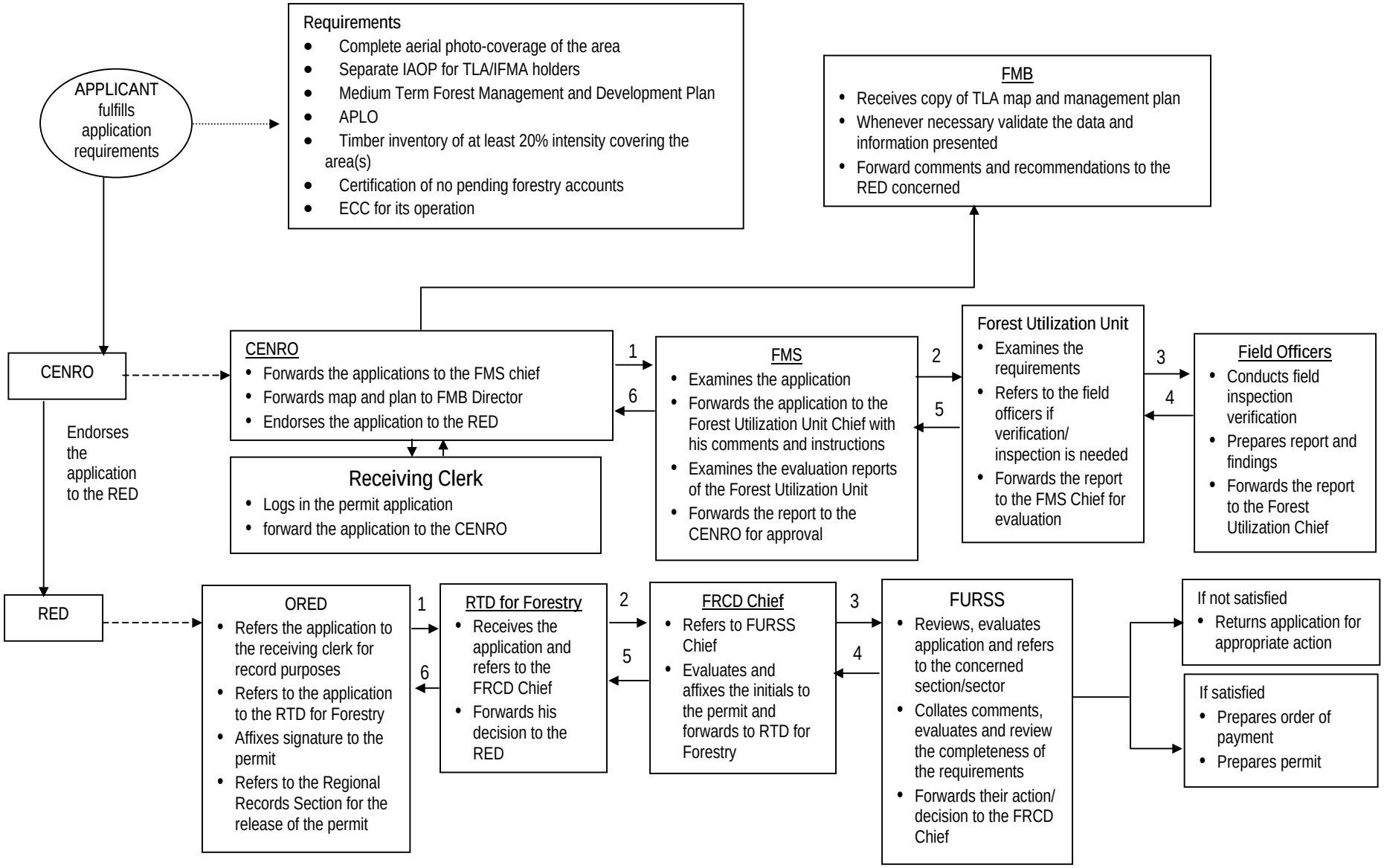
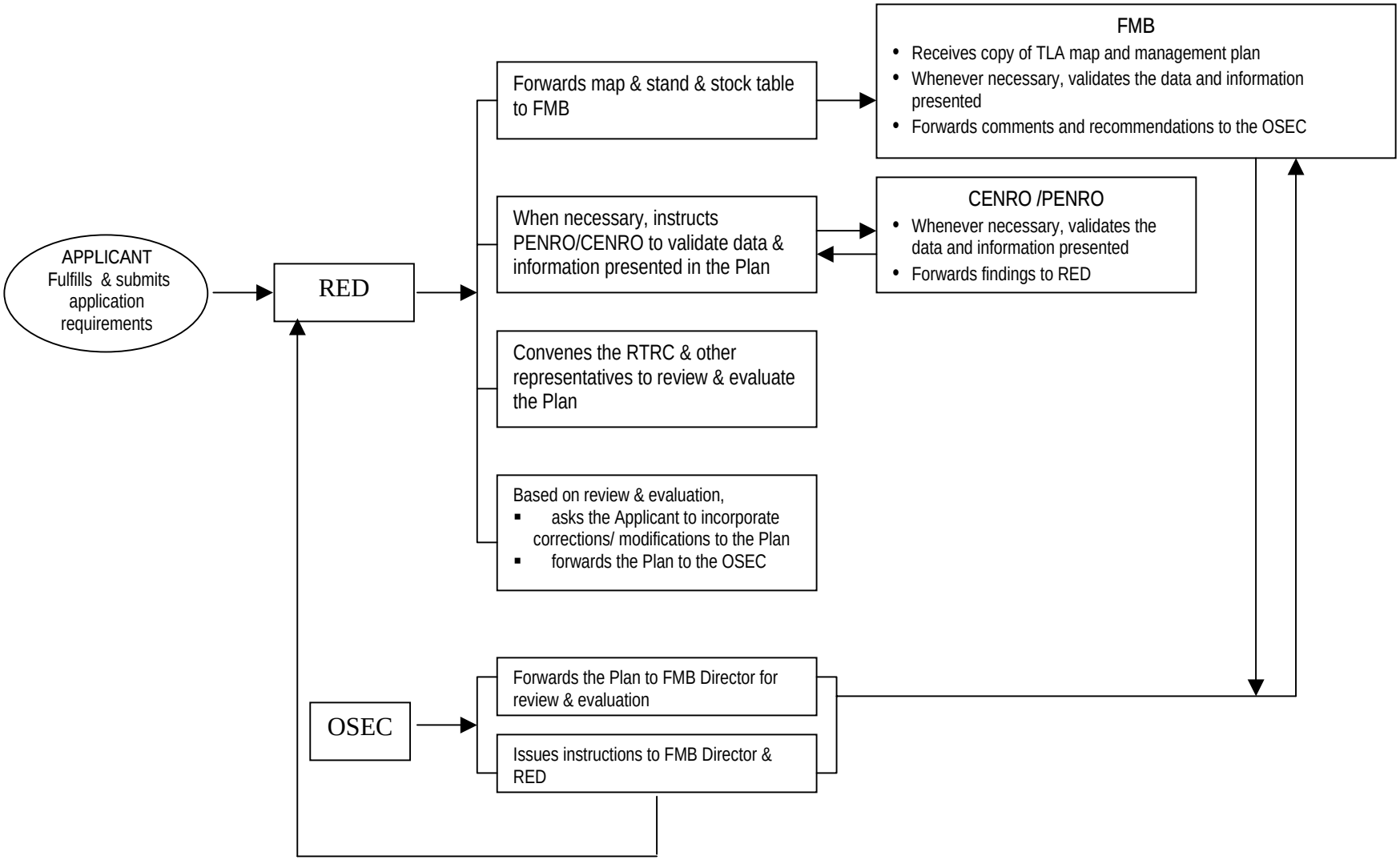


Figure 1. Simplified flow chart for OP processing and approval


APPLICANT
Fulfills & submits application requirements
RED
Forwards map & stand & stock table to FMB
When necessary, instructs PENRO/CENRO to validate data & information presented in the Plan
Convenes the RTRC & other representatives to review & evaluate the Plan
Based on review & evaluation,
asks the Applicant to incorporate corrections/ modifications to the Plan
forwards the Plan to the OSEC
FMB
Receives copy of TLA map and management plan
Whenever necessary, validates the data and information presented
Forwards comments and recommendations to the OSEC
CENRO /PENRO
Whenever necessary, validates the data and information presented
Forwards findings to RED
OSEC
Forwards the Plan to FMB Director for review & evaluation
Issues instructions to FMB Director & RED

References

BFD Circular 48-83. Guidelines for the preparation of the general (long term) plan for timber stand improvement (TSI) for the period 1984-1993, the annual TSI operations plan and of the standard reporting forms for working units.

DAO 79-87. Amendment of certain provisions of WIDA Circular No. 1-96, Series of 1985, Re: Prescribing guidelines in the preparation, submission and approval of Integrated Annual Operations Plan for timber license holders.

DAO 80-87. Regulations governing the measurement, assessment and payment of forest charges on timber and other forest products.

DAO 17-92. Conduct and submission of aerial photography by holders of Timber License Agreements and the different programs and projects of the DENR.

DAO 28-93. Conduct of residual forest inventory in areas logged by active TLA holders within their operable second growth forests.

DAO 97-18. Supplementing guidelines for Environmental Impact Assessment of forestry projects.

DENR Memorandum dated January 15, 2003. Adopting the regular five-year Operations Plan in lieu of the Integrated Annual Operations Plan for TLA or IFMA holders with approved long-term forest or timber management plan and/or comprehensive forest management and development plan.

DENR Memo Circular 04-96. Additional instructions in the preparation, submission, review and approval of Integrated Annual Operations Plan.

DENR Memo Order 96-10. Processing or 1996 IAOPs.

DENR Memo Order No. 96-16. Validity period of approved IAOP for CV 1996.

Philippine Forestry Statistics. 2001. Forest Management Bureau, Department of Environment and Natural Resources, Quezon City, Philippines.

Presidential Decree No. 705. Revised Forestry Code of the Philippines

WIDA Circular 01-85. Prescribing guidelines in the preparation, submission and approval of Integrated Annual Operations Plan for timber license holders.

Analysis of Rattan Cutting Contract Policy

RATTAN RESOURCES

1.0 INTRODUCTION

Next to timber, rattans are considered important forest products because of its significant contribution not only to the Philippines' foreign exchange earnings but also to employment generation in areas where rattan industries are located. As of 1985, foreign exchange earnings generated by rattan industries amounted to US$ 45.9 million accounting for 52.6% of total furniture exports. In terms of employment, around 15,000 people were employed by rattan industries in the 1990's (PCARRD, 1991).

Aside from such contribution, rattan has important uses among other sectors of society. For hunters and gatherers, rattan is used for binding and thatching small temporary shelters in the forest. Among local communities, rattan is a source of food as most rattan fruits are edible. Also, they use rattan as raw material for fish traps, hammocks or sleeping mats, carpet beaters, hats, walking sticks, buggy whips, twines, etc. Moreover, they use rattan to cure some common diseases.

Rattans comprise around half of the entire palm flora of the Philippines. It has four genera: (a) *Calamus,* (b) *Daemonorops*, (c) *Korthalsia;* and (d) *Plectocomia.* Among the four genera mentioned, *Calamus* comprises the largest and is the most widely distributed. It can be found from northern Luzon to Sulu archipelago (PCARRD, 1991).

In terms of diversity, there are about 141 species of rattan present in the Philippines. Of these total number of known species, over 70% are endemic in the Philippines (Malabrigo, 2001). .

In consideration of the importance of rattan resources, several policies have been formulated by the government through the Department of Environment and Natural Resources.

2.0 EVOLUTION OF POLICIES ON RATTAN RESOURCES

The first policy on rattan resources was issued on January 21, 1985 through the BFD Administrative Order No. 2-85. Following this policy is the issuance of the DENR Memorandum Order No. 5 in 1987 where interim guidelines on the processing of applications for rattan cutting permits were discussed. In 1988, another administrative order was issued by the DENR to supersede BFD Administrative Order No. 2-85. Titled "Revised Regulations Governing Rattan Resources", the new administrative order contains policies that address the issues on maximum areas for a rattan cutting license, duration of permit, forest lands available for rattan plantation development, etc.

Four years later, two administrative orders were again issued. DAO 61, S 1989 provides both the DENR and the permittees, the guidelines in the determination of the floor price for rattan. DENR Administrative Order No 4, S 1989 on the other hand contains the revised regulation on rattan resources. This directive supersedes the BFD Administrative Order No. 2-85.

In 1989, DAO 4-1 was issued to provide special provisions for the processing of rattan applications within areas reserved/occupied by cultural communities. In 1993, DAO 18 was put out to give the revised schedule of forestry administrative fees. This policy amended MAO No.5, Series of 1980, BFD AO No.2, Series of 1985, MAO No. 50, Series of 1986, FAO No. 1, Series of 1984, DAO No. 4, Series of 1989, and all other related orders, issuances and other rules and regulations which are inconsistent with this new policy. The most recent policy on rattan resources was issued in 2001 through the DENR Memorandum Circular No. 2001-08. This policy tackles the process to renew expired rattan cutting contracts.

3.0 ANALYSIS OF CURRENT POLICY

DENR Administrative Order No. 04-89 dated June 10, 1989 entitled "Revised Regulations Governing Rattan Resources" contains the current policies on rattan production and utilization. Formulation of these policies is based on the following objectives of the government on rattan resources: (a) To ensure the sustainable productivity, expanding availability, and access to, the rattan resource for the continuing support to dependent industries and the generation of employment opportunities and revenues; (b) To provide a system of rational harvesting, and gainful and efficient utilization of the resources; and (c) To rationalize the industries which are dependent upon rattan as their primary raw material.

The following analysis of the current policies is based on the issues of equal access to resources, simplification of requirements, equity, decentralization, and accountability.

3.1. Equal Access to Resources

The current policy contains some provisions that allow equal access to rattan resources. For instance in the disposition of rattan production areas where public bidding is required, specific areas will be allocated for bidding between and among big entrepreneurs and separate areas for bidding between and among the small entrepreneurs. Around 55% of the rattan production area of any region shall be allocated to the small entrepreneurs with a paid up capitalization of P250,000 or less. The remaining 45% of the regions rattan production area will be allocated to big entrepreneurs with a paid up capitalization exceeding P250,000. Also, DAO 4-89 provides special privilege to members of indigenous communities through giving them the highest priority if in case the former licensee is not included among prospective bidders.

3.2. Simplification of Requirements

In DAO 4-89, an applicant needs to submit a lot of documents before he/she qualifies to become a rattan permittee. Applicants of the rattan permit over and over again raised this sentiment during conduct of interviews and consultation meetings. After examination of the list of requirements and consideration of issues raised, a simplified list was attained (Table 3.2a)

Table 3.2a. Simplified requirements to prequalify in securing rattan cutting permit.

Type of Applicant	Requirements
1. Individuals or cooperatives	*Common:* ▪ Proof of available capital and credit lines ▪ Supply contract/marketing agreement/rattan purchase order with/from existing rattan furniture or rattan craft manufacturers ▪ Certification from concerned official (e.g. Provincial Governor or Mayor or Chieftain). that applicant(s) is(are) bonafide resident(s) of the area where rattan resources are located *Specific*: ▪ If Cooperatives of rattan gatherers: (a) Certificate of registration issued by the Bureau of Cooperatives Development; and (b) Audited financial statements for immediate past 3 years. ▪ If individual or associations of members of indigenous cultural communities/tribal group, certification from the pertinent government office concerned with affairs of Muslims or cultural communities that is a duly recognized association ▪ If individual or associations of rebel returnees or war veterans or veterans of military campaigns, certification from the Department of National Defense that the applicant is truly a rebel returnee, war veteran or veteran of military campaigns.
2. Individual or associations of BKKK-accredited rattan gatherer or NACIDA registered users	*Common:* ▪ Proof of available capital and credit lines ▪ Supply contract/marketing agreement/rattan purchase order with/from existing rattan furniture or rattan craft manufacturers *Specific:* ▪ If an individual BKKK accredited or NACIDA registered rattan user, certificate of accreditation by local BKKK

	Action officer or certified copy of NACIDA registration. ▪ If associations of BKKK accredited rattan gatherers/users or NACIDA-registered rattan users: (a) Articles of association duly accredited by the BKKK Action Officer concerned; and (b) Articles of incorporation duly registered with the NACIDA
3. Owners/operators of rattan processing plant or Holders of timber license agreements or Partnerships/corporations	*Common:* ▪ If a corporate body; (a) certified photocopy of certificate of registration issued by SEC; (b) certified photocopy of Articles of Incorporation and By-Laws; (c) description and background of current stockholders, directors, and officers, including their nationalities, biodata and related experiences ▪ Audited financial statements for the immediate past three years ▪ Statement of undertaking to employ, wherever applicable, members of cultural communities and local residents in its operations.
	Specific: ▪ If owners/operators of rattan processing plant, proof of paid-up capital or owner's equity of not less than P250,000 ▪ If TLA holder, (a) Certified copy of the TLA; and (b) Supply contract/marketing agreement/rattan purchase order with existing rattan furniture manufacturers ▪ If partnerships/corporations, (a) Proof of available capital and credit lines and (b) Supply contract/marketing agreement/rattan purchase order with/from existing rattan furniture or rattan craft manufacturers

As shown in Table 3.2a, the number of types of applicants was reduced from nine to three. In DAO 4-89 however, the applicants are grouped into: (1) owners/operators of rattan processing plant; (2) individual local rattan gatherer; (3) cooperatives of rattan gatherers; (4) individual BKKK-accredited rattan gatherer or NACIDA registered rattan user; (5) associations of BKKK-accredited rattan gatherer/users, NACIDA-registered rattan users; (6) individual or associations of members of indigenous cultural communities/tribal group; (7) individual or associations of rebel returnees or war veterans or veterans of military campaigns; (8) holders of timber license agreements; and (9) partnerships/corporations.

In Table 3.2a, the three types of applicants include: (1) individuals or cooperatives; (2) individual or associations of BKKK-accredited rattan gatherer or NACIDA registered users; and (3) owners/operators of rattan processing plant or Holders of timber license

agreements or Partnerships/corporations. The clustering of the types of applicants was done because some of the requirements are common to some types of applicants.

Moreover, some of the requirements stipulated in DAO 4-89 were deleted. For instance, for all types of applicants, requirement sworn statement authorizing representative(s) of DENR to verify submitted information was deleted because even without this sworn statement, the DENR would still and have the right to verify if the documents submitted are true.

For owners/operators of rattan processing plants, requirements list and quantity of rattan product lines, past export revenues from processed rattan products were deleted. Past export revenues are already reflected in the audited financial statements of the company while list and quantity of product lines is an unnecessary document.

For cooperatives of rattan gatherers, requirement certificate of training issued by BCOD was deleted while For individual and associations of BKKK-accredited rattan gatherer or NACIDA registered rattan user, requirement list and quantity of product line was deleted.

For holders of timber license agreement (TLA), the requirement certification from the wood industry association recognized by the DENR that such holders are of good standing was deleted because the requirement certified copy of TLA is enough proof that the applicant is performing well.

In securing rattan processing permit, application requirements stated in the current policy to secure permit for establishment of processing plant are retained. However, for permit seeking to expand a processing plant, requirements such as certificate of registration and clearance from CENRO/PENRO that plant is not pollutive are deleted. This is primarily because such requirements were already submitted when owners applied for permit to establish new plant (Table 3.2b).

Table 3.2b. Application requirements in securing rattan processing plant permit.

Type of Permit	Simplified
1. Permit to establish new processing plant	▪ Duly accomplished application form ▪ Certificate of registration issued to the applicant to engage in business in the Philippines ▪ Complete feasibility study ▪ A rattan pole supply contract with a rattan cutting licensee(s) ▪ Clearance from CENRO/PENRO that the plant will not be pollutive and will not cause any damage to the environment ▪ Clearance from Housing and Land Use Regulatory Board
2. Permit to expand	▪ Duly accomplished application form ▪ Proof of the existence and ownership of a rattan processing plant ▪ Business plan indicating, among others, management and work

Type of Permit	Simplified
	force, plant lay-out, machinery and procedures of processing product lines, markets and marketing channels, and audited financial statement for the immediate past three years.

To secure for permit to establish and develop rattan plantation, the requirements certification from the CENRO of the availability of the area for rattan plantation establishment and development and proof of financial capability to engage in rattan plantation were deleted. This was done because as proposed earlier the DENR will already make available areas suitable for lease (Table 3.2c).

The requirement proof of financial capability was also deleted from the list of common requirements if applicants are holders of rattan processing plant license, rattan cutting permit, TLA, and tree plantation lease because they already submitted this proof when they secured the current permit they are holding (Table 3.2c).

Table 3.2c. Simplified application requirements for rattan plantation establishment and development.

Requirements	Simplified
Application requirements	Duly accomplished application form
▪ Common	▪ Rattan plantation development and management plan prepared by registered forester ▪ If a corporate body, partnership, or association, (a) certified photocopy of the Articles of Incorporation, partnership or Association, and By-laws as the case may be; (b) Certified photocopy of Registration with SEC; (c) description and background of current stockholders, directors and officers, including their nationalities, biodata and relevant experiences
Specific a.) For holders of a rattan processing plant license b.) For holders of a rattan cutting permit c.) For holders of a license agreement or timber license	▪ Copy of existing rattan processing plant license ▪ Copy of existing and valid rattan cutting license ▪ Copy of existing and valid timber license agreement or other forms of timber license ▪ Project feasibility study ▪ Copy of existing and valid forest tree plantation lease agreement ▪ Project feasibility study

Requirements	Simplified
d.) For holders of a tree plantation lease	▪ Certification from the Mayor/provincial Governor that the applicant is a bonafide resident of the municipality/province where the area applied for is located
e) For individual persons	▪ Proof of financial capability to the extent of at least ten thousand pesos (P10000) per hectare.

3.3 Equity

The current policy promotes more equitable distribution of the area of rattan resources compared with the previous policies on rattan. As indicated in Section 25 of DAO 4-89, the maximum area for individuals is 5,000 ha while for corporations, partnerships, associations, or cooperatives, the maximum area is 30,000. ha.

3.4 Decentralization

The licensing of rattan production areas must be decentralized. At the current policy, documents must pass through the CENRO, PENRO, RED, before it reaches the office of the DENR Secretary where the permit for the plantation is issued. Under each level, there are sections that documents must go through before an endorsement from the head is achieved. This results to too lengthy processing time and encourages practice of graft and corruption. Experiences noted during field interview that applicants usually give some money to the DENR personnel to reduce the number of processing days. To facilitate the processing of rattan plantation lease, levels where documents must passed through prior to the issuance of the permit must be reduced.

Figure 3.1.1 shows the simplified procedure for the rattan cutting permit. It should be noted that from the CENRO, the documents are immediately forwarded to the RED. The reason for by passing the PENRO level is that at this level, only endorsement is being done. The people who are more familiar with the area being applied for lease are those at the CENRO level. Furthermore, it is proposed that the RED issues the permit rather than the Secretary of the DENR. It is too impractical for people especially from the far flung areas to do follow-up in Manila.

3.5 Accountability

3.5.1 DENR

It is proposed that the DENR through the CENROs should identify lands of public domain where rattan resources are present with the use of satellite imageries, aerial photographs, and forest resources maps. These available areas must be demarcated/delimited on a map to determine the location and extent of available

area for rattan harvesting. The information must be posted at the office of the CENRO for the reference of interested parties.

Monitoring and evaluation of the instrument shall be undertaken by the staff of the CENRO to ensure that permittees do not violate existing rules and regulations. Also, it will serve as check and balance to quarterly and annual reports submitted by permittees. Monitoring and evaluation report shall be submitted to the office of the Undersecretary for Operations and the Office of the Secretary.

The DENR shall provide technical assistance to permittees such as proper techniques in harvesting rattan. Likewise, a standard format for quarterly and annual reports must be provided by the DENR to all licensees.

3.5.2 Permittee

The current policy indicates that licensee can harvest rattan with a length of 25 lineal meters or longer. Recent forest inventory reports reveal that average length per pole varies from 5 to 9 lineal meters only. Thus, if such policy is implemented strictly, a tremendous decrease in rattan harvest will result.

4.0 RECOMMENDATION

In addition to the issues raised in Section 3 of this paper, the following are some recommended measures to improve the current policies on rattan resources:

1. Allow establishment of rattan plantations in second growth forests scheduled for relogging within 20 years or less. Initial rotation for large diameter rattans is 10 years and subsequent cutting can be made every 4 to 5 years after the first cutting, thus there is enough time to grow rattan and make the area productive.

2. Rattan special deposit which is intended to be used for the replanting of areas with rattan should not be placed in the National Treasury Fund. Experiences in the past indicate that it is very difficult to withdraw the money once it is placed in the National Treasury. Thus, a separate fund that is managed by the DENR must be created for this purpose.

3. The rattan special deposit of P0.50 for every lineal meter of rattan for rattan with diameter of $\geq$ 2 cm and P0.20 for every lineal meter of rattan with diameter < 2 cm must be based on actual volume harvested. Section 52 of the DAO 4-89 indicate that the special deposit shall be based on the annual allowable cut.

4. The DENR should develop and implement an effective monitoring system. While this may mean additional duties and financial resources in the part of the DENR, this recommendation is necessary to be undertaken to ensure that the country's rattan resources be sustainably managed.

5. Cutting of rattan must be based on maturity and not on the length of the pole. As mentioned earlier in the discussion, the recent inventory reports indicate that rattan resources in the country are less than 25 lineal meters.

6. Area that contains more than 500 growing rattan seedlings should not be excluded in potential areas for rattan plantation lease. This would mean excluding productive areas for rattan plantation development.

7. The DENR should help the permittee to establish links with government organizations that can help the processing plant owner to improve the quality of products produced and in the marketing of the products produced.

Terminal Report

Simplified and Harmonized Forestry Regulatory Procedures
With funding support from The EcoGovernance Program-USAID
(Subcontract No. 4105-506-03P-03)

ANNEX D

Review and Analysis of Co-Management Schemes In the Philippine Forestlands

FORESTRY DEVELOPMENT CENTER
College of Forestry and Natural Resources
University of the Philippines Los Baños

(Through the University of the Philippines Los Baños Foundation, Inc.)
College, Laguna 4031 Philippines

April 2004

TABLE OF CONTENTS

		PAGE
1.0	INTRODUCTION	
1.1	Background	D-1
1.2	Objectives of the Study	D-2
1.3	Methodology	D-2
2.0	ANALYTICAL REVIEW AND ANALYSIS OF LITERATURES ON CO-MANAGEMENT	
2.1	Factors to success or failure at the community level	D-3
2.2	Factors to success or failure at the LGU level	D-3
2.3	Factors to success or failure at the DENR level	D-4
3.0	WATERSHED MANAGEMENT IN NUEVA VIZCAYA: THE CASE OF THE DENR-LGU CO-MANAGEMENT SCHEME	
3.1	Description of the Study Area	D-11
3.2	Model 1. DENR-LGUs Stakeholders Co-Management of the Lower Magat Forest Reserve	D-13
	❑ Socio-Economic Background of the Lower Magat Forest Reserve	
	❑ Mechanisms for Entering into Co-management of the Lower Magat Forest Reserve	
	❑ Co-Management Implementation Mechanisms	
	❑ Types of Tenurial Agreements	
	❑ Status and Accomplishments	
3.3	Model 2. TREE for Legacy Program (Tree Resources for Enterprise, Education and for Legacy)	D-17
	❑ Program Thrusts	
	❑ Program Components	
	❖ *Tree for Legacy*	
	❖ *Tree for Education*	
	❖ *Tree for Enterprise*	
	❑ Mode of Implementation	
	❑ Status and Accomplishments	
3.4	Nature and Extent of Co-Management Practiced	D-19
3.5	Issues and Concerns Arising from Co-Management Schemes in Nueva Vizcaya	D-20

- DENR
- LGU
- PO/Community

3.6 Strengths and Weaknesses of the Co-Management Schemes in Nueva Vizcaya D-21

3.7 Lessons Learned from the Co-Management Schemes in Nueva Vizcaya D-22

4.0 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

4.1 Summary and Conclusions D-23

4.2 Recommendations D-26

Terminal Report

Simplified and Harmonized Forestry Regulatory Procedures
With funding support from The EcoGovernance Program-USAID
(Subcontract No. 4105-506-03P-03)

ANNEX D

Review and Analysis of Co-Management Schemes In the Philippine Forestlands

FORESTRY DEVELOPMENT CENTER
College of Forestry and Natural Resources
University of the Philippines Los Baños

(Through the University of the Philippines Los Baños Foundation, Inc.)
College, Laguna 4031 Philippines

April 2004

TABLE OF CONTENTS

		PAGE
1.0	INTRODUCTION	
1.1	Background	D-1
1.2	Objectives of the Study	D-2
1.3	Methodology	D-2
2.0	ANALYTICAL REVIEW AND ANALYSIS OF LITERATURES ON CO-MANAGEMENT	
2.1	Factors to success or failure at the community level	D-3
2.2	Factors to success or failure at the LGU level	D-3
2.3	Factors to success or failure at the DENR level	D-4
3.0	WATERSHED MANAGEMENT IN NUEVA VIZCAYA: THE CASE OF THE DENR-LGU CO-MANAGEMENT SCHEME	
3.1	Description of the Study Area	D-11
3.2	Model 1. DENR-LGUs Stakeholders Co-Management of the Lower Magat Forest Reserve	D-13
	❑ Socio-Economic Background of the Lower Magat Forest Reserve	
	❑ Mechanisms for Entering into Co-management of the Lower Magat Forest Reserve	
	❑ Co-Management Implementation Mechanisms	
	❑ Types of Tenurial Agreements	
	❑ Status and Accomplishments	
3.3	Model 2. TREE for Legacy Program (Tree Resources for Enterprise, Education and for Legacy)	D-17
	❑ Program Thrusts	
	❑ Program Components	
	❖ *Tree for Legacy*	
	❖ *Tree for Education*	
	❖ *Tree for Enterprise*	
	❑ Mode of Implementation	
	❑ Status and Accomplishments	
3.4	Nature and Extent of Co-Management Practiced	D-19
3.5	Issues and Concerns Arising from Co-Management Schemes in Nueva Vizcaya	D-20

- DENR
- LGU
- PO/Community

3.6 Strengths and Weaknesses of the Co-Management Schemes in Nueva Vizcaya D-21

3.7 Lessons Learned from the Co-Management Schemes in Nueva Vizcaya D-22

4.0 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

4.1 Summary and Conclusions D-23

4.2 Recommendations D-26

ANNEX D

REVIEW AND ANALYSIS OF CO-MANAGEMENT SCHEMES IN THE PHILIPPINE FORESTLANDS

1. INTRODUCTION

1.1 Background

The co-management of natural resources is currently viewed as an alternative strategy in resource management based on the increased participation of local communities. As defined, co-management involves the sharing of responsibilities and benefits between the government and individuals or collective users for the management, exploitation and conservation of natural resources. This re-orientation of managing natural resources came about as a result of the limited success and sometimes failure of the centralized approach of natural resources management, the continuing deterioration of the environment and the felt injustice done to the local people by disregarding them as potential partners in forest management. Various forms of co-management schemes may evolve depending on the type of resource as different resources require different kinds of management regimes. Co-management arrangements may also depend on the type of communities (i.e. indigenous cultural communities, upland farmers), and the capability and innovativeness of the local government unit exercising control over the forest and natural resource.

Co-management of natural resources is anchored on the Local Government Code of 1991 also known as Republic Act 7160. The Code emphasized the role of the local government units in natural resources management by stating that the local government shares with the national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdictions. The Department of Environment and Natural Resources (DENR) has crafted several policy issuances to strengthen the collaboration and partnership between the Department and the local government units. These are the Department Administrative Order No. 92-30 entitled "Guidelines for the transfer and implementation of DENR functions devolved to the local government units"; the DENR-DILG Joint Memorandum Circular No.98-01 entitled "Manual of procedures for DENR-DILG-LGU partnership on devolved and other forest management functions"; and the more recent Joint Memorandum Circular No. 2003-01 entitled "Strengthening and institutionalizing the DENR-DILG-LGU partnership on devolved and other forest management functions". Other legislations like the National Integrated Protected Areas System of 1991 and the Indigenous People's Rights Act of 1997 have further recognized the role of upland farmers, fisherfolks and indigenous peoples in sustainably managing their natural resources.

After more than a decade of efforts towards decentralization and devolution, a number of co-management schemes were being implemented by different organizations and agencies in

managing the natural resources. Further study of these cases is needed to understand the factors leading to successful co-management arrangements and to find ways of strengthening existing policies and guidelines governing the joint management of natural resources by different sectors. Lessons derived from these experiences would also help in the development of appropriate mechanisms for the involvement of different sectors in co-managing the uplands.

1.2 OBJECTIVES OF THE STUDY

The general objective of the study is to document, review and analyze different co-management schemes existing in the Philippine forestlands. The specific objectives are the following:

1. to identify the different stakeholders and evaluate the mechanism of entering into socially negotiated institutional arrangements;
2. to determine and evaluate the nature and the extent of stakeholders' involvement in co-managing forest resources;
3. to identify and document the factors affecting successes and failures of the different co-management schemes;
4. to determine and recommend ways of achieving sustainability of co-management schemes; and
5. to provide comprehensive recommendations for addressing policy and field level implementation gaps.

1.3. METHODOLOGY

This project component includes an analysis of both primary and secondary data. The analysis of secondary data involved the analytical review of different researches, studies and other relevant literatures on co-management of forest and natural resources by different sectors. The study identified the different stakeholders as composed of the community represented by the people's organization (PO's) in most cases, non-government organizations (NGOs), local government units (LGUs), the DENR and other government agencies (OGAs). The study also determined and evaluated the nature and extent of stakeholders' involvement in co-management and their respective responsibilities and benefits or incentives derived in co-managing the given resource. From the analytical review, the study synthesized the factors influencing the success and failure of the different co-management schemes.

Primary data collection was also done. The team did a case analysis of the co-management scheme practiced in managing the watershed resources in Nueva Vizcaya. The co-management practiced in the province is a showcase of a successful collaboration between the DENR and the local government at the provincial and municipal level. The data were gathered through focused group discussion of the important stakeholders consisting of the DENR, LGU, and PO. The respondents were guided by key questions on their roles and responsibilities; the mechanisms for entering into partnership or collaborative management; assistance or support

received; problems encountered in the implementation and in the management of the project; and their opinions as to the factors contributing to the success or failure of the project. From the case analysis, lessons were drawn from their practices on co-management.

2.0 ANALYTICAL REVIEW AND ANALYSIS OF LITERATURES ON CO-MANAGEMENT

Presented in Table 1 is the matrix of the different factors that contributed to the success or failure of the different co-management arrangements practiced in different types of resources based on studies conducted by the respective authors.

It can be gleaned from the table that the key factors towards successful co-management arrangement is the result of the interaction of the three major stakeholders, namely the community as represented by the people's organization, the local government unit and the DENR. This is possible provided these stakeholders are properly motivated and deeply committed.

2.1. Factors for the Success or Failure at the Community Level

- It can be an effective partner in resource management, protection, and conservation if it is clear to them that they will benefit from the project
- The involvement of the community in the planning of activities builds confidence and creates ownership of the work and outputs, thus it enhances participation
- The livelihood component must be an integral part of the project to sustain the people's participation
- Social preparation should always precede technical intervention
- Commitment and positive perception of the people to the project

2.2. Factors for the Success or Failure at the LGU Level

- Successful LGUs are those that have allocated human resources and their local funds to the project
- Enactment of local policies and ordinances to support the project
- Strong & committed leadership that is dynamic and pro-active
- A strong ENRO as a regular division of the LGU with staffing support and annual budget allocation
- The LGUs recognize that the benefits are measurable and far outweigh the costs

2.3. Factors for Success or Failure at the DENR Level

- Dedication of the DENR personnel engendered by recognition and reward for exemplary performance of duties
- The DENR must review and update policy issuances so as to harmonize existing laws with long-term needs of the people and the environment
- Should seek ways and means to raise and allocate funds for the project
- The field personnel must update and retool themselves on the new policies and implementation guidelines to be effective partners
- The DENR should truly convert itself from a regulatory agency to a people-friendly, development-oriented organization

Table 1. Matrix for the analysis of the different co-management schemes of forest resources.

Author/s	Type of Resource/ Description	Site/Location of Study	Size of Proj. Area	Type of Tenurial Instrument Used	Project Classification	Funding Source	Contributing Factors to Success or Failure
Poquita (2000)	Coastal resource	Brgy. Aguining, Pres.C.P. Garcia, Bohol			Community-based coastal resource mgt. project	WB w/counterpart fund from GOP	• Community given the lead role in implementing the project • PO members are well-organized, properly trained and highly motivated • Alternative sustainable livelihood is in place
Kayastha (1995)	Indigenous community	Brgy. Haliap, Asipulo, Ifugao			Indigenous community-based forest resource mgt.		• Politically & legally entrust the utilization & mgt. of the forests to the local people • Participation was low due to unequal distribution of forest resources & dissatisfaction w/benefit-sharing • Formulation of policies respecting customary tradition
Leonor (1995)	Mangrove	Brgy.Buswang, Kalibo, Aklan Brgy.Songcolan, Batan, Aklan	50 ha. 12 ha.		Mangrove reforestation project	ADB &OECF DAR, DENR	• Involvement of the community in decision-making to give them feeling of belongingness, thus enhanced participation • Commitment & positive perception of the people to the project • Dedication of the site coordinator

Author/s	Type of Resource/ Description	Site/Location of Study	Size of Proj. Area	Type of Tenurial Instrument Used	Project Classification	Funding Source	Contributing Factors to Success or Failure
							• Full support of the institutions involved • Presence of livelihood project to minimize dependence of people on the forest
Nuestro (1997)	Reservation area for Negritos	Kanawan Negritos Reservation, Morong, Bataan	165 ha.	Cert. of Community Forest Stewardship (CCFS)	Integrated Social Forestry Project	DENR	• Strong leadership • Different incentives led the Negritos to diversify their livelihood activities
Gran (1995)	Pilot DENR mangrove reforestation project	Brgy. Sinian, Baliangao, Misamis Occ.	76 ha		Mangrove Reforestation Project	DENR	
Bermosa and Guzman (1999)	Area for indigenous people (Bugkalot)	Nagtipunan, Quirino	43,126 ha.	CADC-CBFMA	CBFM		• Strengthening gov't support in preserving & protecting the culture, beliefs & practices of indigenous cultural communities • Confining the tribes w/in their ancestral domain thru more opportunities for educ'n; training to expand their mrkt. linkages & cooperativism for them to get a good price for their products & technology transfer • Presence of policies for res. mgt.& conservation that

Author/s	Type of Resource/ Description	Site/Location of Study	Size of Proj. Area	Type of Tenurial Instrument Used	Project Classification	Funding Source	Contributing Factors to Success or Failure
							allows non-mechanized logging & labor intensive system of forest extraction • Project beneficiaries who are vigilant in ff. their customary laws on land & resource use
Serrano et al. (1999)	Area for indigenous people (Dumagats)	Aurora, Quezon		CADC-CBFMA	CBFM		• Harmonization of gov't laws w/customary laws • Strategic nat'l framework for incorporating indigenous knowledge system in the co-mgt. of ENR w/c shld. be founded on the Dumagat's rt. for self-determination, & due respect of their primary jurisdiction over nat. resources in their area • Have preferential right to manage & utilize resources for their benefit & those of their children
General (1999)	Buffer zone running parallel to the boundary of the Northern Sierra Madre Natural Park Conservatio n Project	San Mariano, Isabela		Socialized Integrated Industrial Forest Mgt. Agreement (SIFMA)	Socialized Integrated Industrial Forest Management Project	PLAN International	• Provision by DENR of sufficient budget for SIFMA. Budget Plan shld. include the formation of their own survey teams, purchase & reproduction of SIFMA forms & other documents & provision of logistics to DENR's field men to show that they can perform their

Author/s	Type of Resource/ Description	Site/Location of Study	Size of Proj. Area	Type of Tenurial Instrument Used	Project Classification	Funding Source	Contributing Factors to Success or Failure
							co-mgt. tasks & responsibilities • DENR shld. strive to show their enthusiasm by sending representatives that will help the LGUs, PLAN, brgy. Councils and POs in their information dissemination campaign • Provision by DENR of technical & material support to SIFMA holders after the phase-out of funding agency support • Greater involvement of the PO to ensure that co-mgt tasks & responsibilities of SIFMA applicants are carried out • Barangay council shld. resolve land conflicts or disputes • Interest of communities can be enhanced thru IEC & support to the 1st SIFMA holders • Agroforestry farming in a buffer zone is seen as the most sustainable alternative livelihood • With profitable agroforestry farm, it is easier to convince

Author/s	Type of Resource/ Description	Site/Location of Study	Size of Proj. Area	Type of Tenurial Instrument Used	Project Classification	Funding Source	Contributing Factors to Success or Failure
							people to conserve & protect the park
Paguirigan and Pasicolan (1999)	Fuelwood production on individual farms thru agroforestry and communal tree farming	Tumauini, Isabela			Fuelwood-based agroforestry and communal tree farm project	FAO-RWEDP(Regional Wood Energy & Development Project) & Isabela State University	• Continuous social negotiation between project implementers & the locals especially for projects that are donor-driven in design • The locals' felt needs are a strategic entry point for development projects. This requires willingness of the donor agency to adjust their terms & conditions to fit into the locals' prevailing needs preference & development pace • Clear definition of individual partner's contribution. • Provision of incentives to the community shld. be developmental, one that leads to capacity building • External institutions shld. function as mere facilitators & catalysts in

Author/s	Type of Resource/ Description	Site/Location of Study	Size of Proj. Area	Type of Tenurial Instrument Used	Project Classification	Funding Source	Contributing Factors to Success or Failure
							the development process • Community organizing shld. be focused on social capability building & political capability strengthening to break the dependency syndrome of locals on external assistance

3.0 WATERSHED MANAGEMENT IN NUEVA VIZCAYA: THE CASE OF THE DENR-LGU CO-MANAGEMENT SCHEME

One of the successful cases of collaborative management in forestry is the co-management arrangement practiced in Nueva Vizcaya. In September 1997, the Department of Environment and Natural Resources and the Provincial Government of Nueva Vizcaya entered into a co-management scheme for the restoration, protection and management of the forestlands in the province classified as production and settlement zones. The local government in partnership with DENR is currently practicing three models of co-management: the DENR- LGUs-Stakeholders co-management of the Lower Magat Forest Reserve, TREE for Legacy and the Devolved Small Watershed, all part of the Community-Based Forest Management Program.

3.1 Description of the Study Area

The province of Nueva Vizcaya is located in the north-central part of Northern Luzon in Region II. It is often referred to as the northern gate to the Cagayan Valley. It is bounded on the north by the provinces of Ifugao and Isabela, on the east by Quirino and Aurora, on the south by Nueva Ecija and on the west by Benguet and Pangasinan (Figure 1). The province which is 210 km north of Metro Manila is accessible by land transportation.

The province occupies a land area of 390,390 ha (3,903.9 sq km) which is approximately 10.72 percent of the regional land area. Nueva Vizcaya has 15 municipalities and 267 barangays. Bayombong serves as the provincial capital. It is the third largest province in Region II in terms of land area.

The terrain of Nueva Vizcaya is marked by numerous mountains and forests, rolling hills and valleys. The province is surrounded by mountain ranges such as the Sierra Madre on the east, the Cordillera on the west and the Caraballo on the south. It is also well-endowed with natural water that can be tapped for irrigation, domestic and industrial water supply, hydroelectric power generation and recreation.

Because of its relative proximity to Metro Manila, Nueva Vizcaya is the first province in Region II whose accessible forest has been severely denuded, creating several environmental problems affecting not only the province but the rest of the region as well. Recognizing the grave problems of the province and its strategic importance in the region, the provincial government is one of the few LGUs who put on the ground the institutionalization of the DENR-LGU partnership on devolved forest management functions.

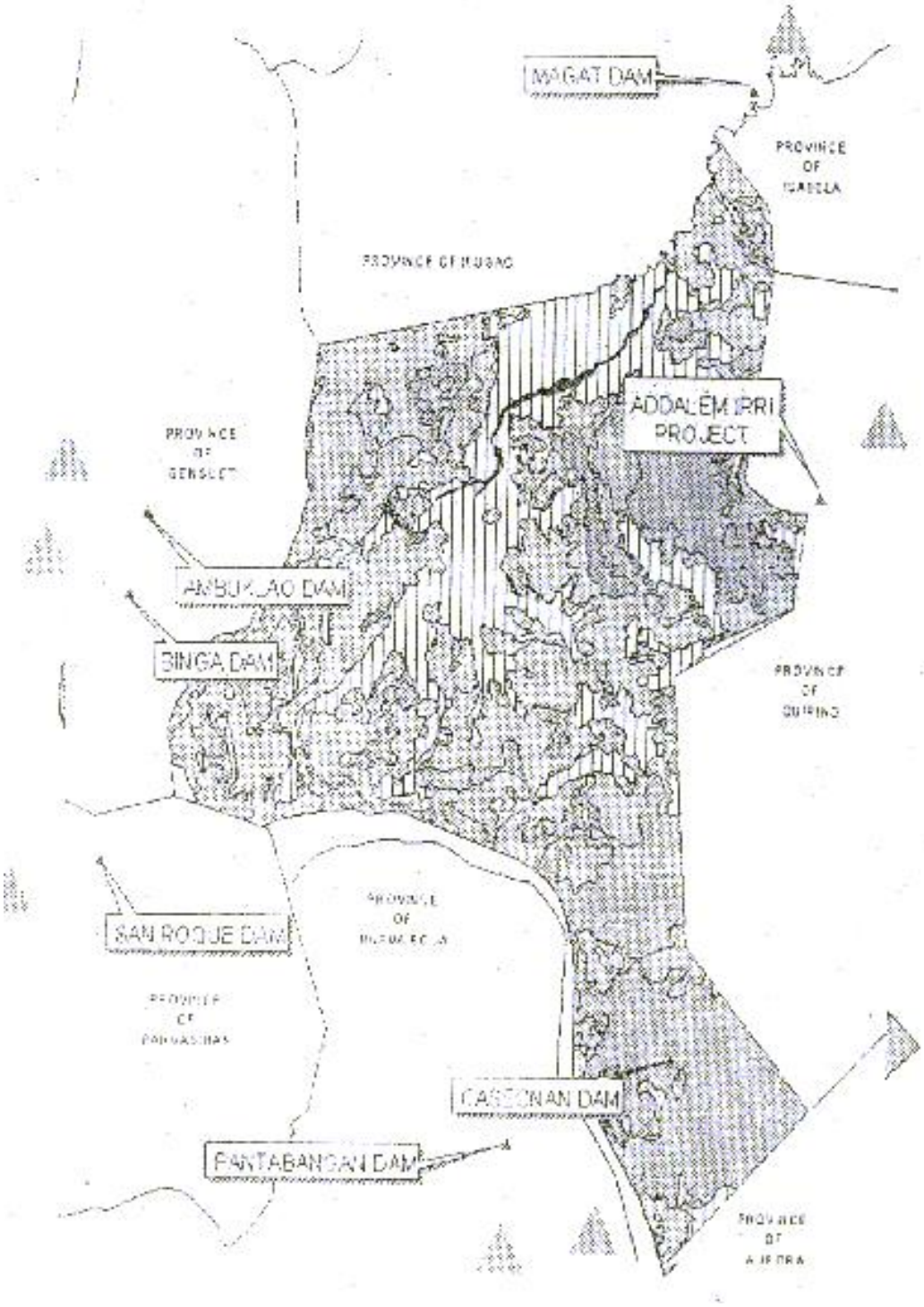


Figure 1. Map of Nueva Viscaya showing its strategic importance as a source of natural water

3.2. Model 1. DENR-LGUs-Stakeholders Co-Management of the Lower Magat Forest Reserve

The Lower Magat Forest Reserve (LMFR) encompasses the municipalities of Diadi and Bagabag in Nueva Vizcaya covering an area of 24,251 ha of forestlands and 6,547 ha of A and D lands. Part of the Lower Magat Forest Reserve was established as a reforestation project in June 1938 by the then Bureau of Forest Development. In 1969, Presidential Proclamation No. 573 was issued establishing the Magat Forest Reserve. As of October 1987, 2,572 ha were reported to have been reforested. The Magat Forest Reserve provides watershed protection support to the Magat Dam. It consists of seven major sub-watersheds and all, except for one, drain into the Magat river which is a major source of water for the Magat Dam.

Socio-Economic Background of the Lower Magat Forest Reserve

The number of households within the Reserve is 3,793 (1995) amounting to a total population of 16,978. Both in the municiplaitites of Diadi and Bagabag, agriculture is the main source of livelihood. In Diadi, the major crops raised are vegetables, corn, rice, mango and other fruit trees. Aquaculture production is also a major economic activity in the municipality which is noted for its tilapia. Ranching activities are also widespread in Diadi which has 3,687 hectares of pasture land and a cattle production of 4,000 heads. In Bagabag, rice and corn are the main produce. The municipality also grows pineapple, citrus, luffa, tomato, and a variety of vegetables and root crops. As in Diadi, ranching is also an important economic undertaking in Bagabag.

The 24,251 ha of forestland in the reserve consists of a number of tenured areas comprising of certificate of stewardship contracts (CSCs), pasture lease agreements (PLAs), tree farm lease agreements (TFLAs), agroforestry farm lease agreements (AFLAs) and community forestry management agreements (CFMAs). These areas comprise a total of 5,359 hectares. On the other hand, open access areas or those not covered by any tenure agreements have a total of 18,892 hectares.

The lack of adequate forest protection by the DENR, which has jurisdiction of these areas, has resulted to the uncontrolled entry of migrant settlers who continue to occupy and cultivate these areas. Problems on tenurial security and occupancy in expired pasture lease areas is also widespread causing property rights conflicts. Forest fires are common due to the forest land cover in the area which is mostly grasslands and brushlands. Aside from this, uncontrolled fire burning from kaingin farms and pastures are frequent. This situation makes reforestation efforts very difficult. The open access nature of the Reserve has likewise led to illegal resource extraction activities as well as to extensive charcoal making using raw materials sourced from plantations within the Reserve. These management and tenurial problems besetting the Lower Magat Forest Reserve have warranted a change in management regime from DENR-initiated to one jointly managed by the Provincial Government and the DENR.

Mechanisms for Entering into Co-management of the Lower Magat Forest Reserve

With the reorganization of DENR and re-focusing of reforestation efforts towards the contracting mode, funding and staff support for the LMFR resulting to the area reverting to open access status. Fearing that open access and unmanaged areas within the Forest Reserve would lead communities to engage in destructive activities, the Provincial Government of Nueva Vizcaya and the DENR reached an agreement to co-manage the area.

With the assistance of non-government organizations like Governance on Local Democracy (GOLD) Project of the Associates in Rural Development Inc. and Natural Resources Management Program (NRMP) a series of meetings, consultations and workshops were held with LGU officials and the DENR. An indicative plan was prepared laying out the strategic and operational policy directions for co-managing the Reserve by the DENR and the LGUs.

The principles that guided the planning process and the formulation of strategies of the team were the following: recognition and formalization of individual/group property rights in the form of sub-allocations, sub-agreements, joint ventures and contracts within allowed zones; flexibility and autonomy in operationalizing the co-management arrangement between the LGU and DENR based on the MOA, Indicative Plan and Annual Work Plans; the involvement and participation of the private sector (legitimate occupants, claimants, investors and non-government organizations) in the protection, development and management of the Reserve will potentially access private capital, technology, and managerial expertise; transparency, accountability, team work and defined responsibility and authority as keys in the Plan implementation.

Co-Management Implementation Mechanisms

On February 25, 1998, the Provincial Government of Nueva Vizcaya and the DENR forged a Memorandum of Agreement providing for the joint allocation, protection, development and management of the LMFR. To implement this, a Steering Committee and a Lower Magat Forest Management Office (LMFMO) were created.

The Steering Committee illustrates the collaborative arrangement whereby government and local communities share responsibility and decision making in resource management. As such, the major responsibility of the Steering Committee is to oversee, supervise, and provide policy and strategic directions and incentive systems. It is headed by the Governor of Nueva Vizcaya as chair, the Regional Executive Director of DENR-Region 2 as co-chair, and has as its members the PENRO, mayors and NGOs. The Chairman is empowered or authorized to enter into sub-agreements or contracts with individuals, private sector, or groups for the protection, development and management of the reserve as provided in the MOA. Administrative Order No. 99-01, issued by the Steering Committee, further sets the guidelines for the management and utilization of forest resources in the Lower Magat Forest Reserve, specifying the scope and coverage of the program, the basic policies, primary land uses, qualification of the participants, procedure for application and processing of management agreements, tenurial instruments, formulation of management plan and other provisions.

The LMFMO, on the other hand, is the executing and operational arm of the Steering Committee. A Project Manager heads the Steering Committee. Under the Project Manager are three line divisions and two staff offices. The two staff offices are the Administrative and the Planning, Monitoring and Evaluation offices. The line divisions are composed of the Service Center, Investment Promotion and the Eco-Tourism, Research and Commercial Complex Center.

The Service Center is responsible for seed collection and production, nursery management, ground surveys, extension services to community members, provide technical assistance to participants, Conduct IEC and review and process applications for sub-agreements and other tenure instruments. The Investment Promotion Center is in charge of planning and directing public and private sector investments in the Reserve particularly planning and accessing infrastructure support from both government and private sectors. The Eco-tourism, Research and Commercial Complex Center is in charge of managing the existing reforestation and experimental area within the Reserve.

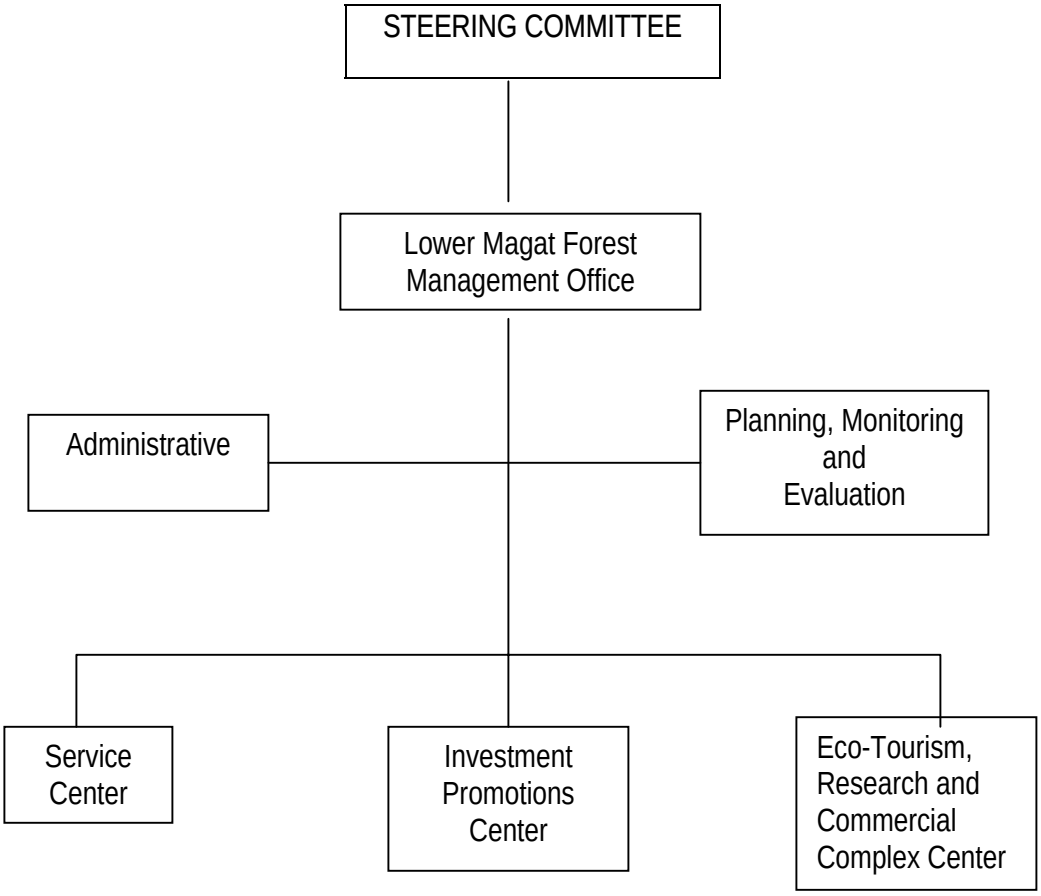


Figure 2. Organizational Structure of the Lower Magat Forest Management Office

Types of Tenurial Agreements

The open access condition of the Reserve has resulted to its "de facto" management by local communities. In recognition of the already existing individual and group property rights, the Provincial Government and the DENR came up with three types of sub-agreements with stakeholders to protect and develop the Reserve. These agreements are:

- Tree Farm Land Management Agreement (for small holders)
- Agro-Forestry Land Management Agreement (for small and large holders)
- Community-Based Agro-Forestry Land Management Agreement (for POs, NGOs, associations, etc.)
- Special Land Use Management Agreement

Memorandum of Agreements are executed between the two partners involved i.e. the Steering Committee, representing the LGU, and the Land Manager. The Governor of Nueva Vizcaya, who is the chair of the Steering Committee, DENR Regional Executive Director, and the Land Manager, jointly signs these agreements.

The primary responsibility of the Land Managers, as the stakeholders are termed in the MOA, is to develop their land, specifically to undertake rehabilitation and protection measures to restore in accordance with their management /work plan as approved by the Steering Committee. However, activities not included in their plan are subject to the consent of the Steering Committee e.g. entering into business agreement with any person, construction of any structures, and others. Since the area is a watershed area, cutting of trees is not allowed. However, designated areas are set aside where occupants can farm.

Status and Accomplishments

As of 2002, the Lower Magat Forest Management Office has issued 51 sub-agreements covering 2,348.68 hectares to individuals and associations. Project reports show that as a result of this co-management project, there have been less incidence of forest fires, timber poaching, charcoal making and forest squatting within the Reserve; expansion of fruit and forest tree farms, increased natural regeneration; more livelihood opportunities, reduced migration and selling of rights, and more participation of farmers. Finally the co-management project led to the issuance of the Joint Memorandum Circular 98-01 of DENR and DILG which served as basis for a co-management framework. Table 2 shows further details on the extent of the program's implementation.

Table 2. Summary of MOAs approved by the LMFMO Steering Committee

Type of Instrument	No. of Applicants	Total Area (has)
Agroforestry Land Management Agreement (ALMA-Large)	15	1,938.33
Agroforestry Land Management Agreement (ALMA-Small)	27	53.9778
Tree Farm Land Management Agreement	1	0.86
Community Based Agroforestry Land Management Agreement (CBALMA)	4	345.89
Special Land Use	4	9.6209
Grand Total	51	2,348.6787

Source: Lower Magat Forest Management Office, Nueva Vizcaya

3.3. Model 2. TREE for Legacy Program (Tree Resources for Enterprise, Education and for Legacy)

The TREE for Legacy Program arose out of the realization that the traditional approach to reforestation, such as standard tree planting and contract reforestation, has failed. The TREE for Legacy Program addresses the problem of unsustainable reforestation activities by providing incentives that would address the basic needs of the beneficiaries.

The program covers the whole province of Nueva Vizcaya and is applicable to private and public lands and forestlands. The area of coverage differs depending on the type of applicants: for individual applications, up to 5 ha; for associations/cooperatives, from 5 to 10 ha, and for corporations, more than 100 ha.

Program Thrusts

The thrusts of the Tree for Legacy program are two-fold, to improve the socio-economic conditions of the participants and to improve the bio-physical condition of the areas covered by the program. On the socio-economic aspect, it aims to alleviate poverty through the generation of alternative sources of income; restore and legitimize local wood supply; democratize access to land and decision-making; reverse negative attitudes towards reforestation; and provide security of tree ownership. On the other hand, the bio-physical thrusts of the program aim to develop and rehabilitate open, idle or degraded and marginal lands; restore and conserve land to improve soil quality; and improve the quality and quantity of water resources.

To achieve these thrusts, the LGU entered into a series of partnerships with local community groups, associations, schools and individuals to rehabilitate degraded forest protection and production zones and private lands. In the 3 program components under the Tree for Legacy Program, the main strategy is for participants to have access to the products they have planted.

Program Components

Tree for Legacy

This program provides usufructory rights to individuals or groups for trees planted in protection areas of watersheds including national parks, public parks, water sources, river banks, areas intended for reforestation, areas along roads, buffer zones, areas not suitable for agriculture and settlement, among others. Participants can enjoy the products from the trees planted such as fruits and flowers. Cutting of trees is not allowed to preserve the scenic and aesthetic value of the area.

Tree for Education

The Tree for Education program supports the raising of commercial trees by students and entitles them to harvesting privileges in designated production areas of watersheds. Areas included in this program are school reservations, open access areas, and ISF areas. Incentives to the program include harvesting of tree products, marketing support and assistance.

Tree for Enterprise

Tree for Enterprise entitles tree growers secure harvesting rights over trees planted in production areas of watersheds, alienable and disposable lands, all open areas (e.g. abandoned PLAs, ISF areas), CADC areas, civil reservation, ISF areas, existing PLAs, areas managed by religious organizations. Awards are given to participants with satisfactory performance and tax breaks/holidays given.

Mode of Implementation

The implementation of the Program involves the DENR, LGU-ENRO, Department of Education, barangay and the provincial assessor's office. The DENR issues permit to cut, transport harvested timber, monitor cutting of trees and processing together with the ENRO, and determines the trees to be cut. The Municipal Assessors, on the other hand, is charged with keeping of and registering documents. The barangay issues the appropriate certificate and acts as arbiter of conflicts.

Program participants are issued certificates of ownership. The Certificate of Usufruct is issued to Tree for Legacy participants. It entitles the holder to harvest flowers/fruits and other by-products from trees but not to cut the tree. On the other hand, the Certificate of Tree Ownership is given to Tree for Education and Tree for Enterprise participants. It allows the holder to cultivate, harvest and market the trees planted and grown in the area. However sustainability is provided for in the Program since only 60 percent of the trees could be harvested and cut trees have to be replaced with new seedlings. Both certificates can be transferred to family members or sold to legitimate residents of the barangay.

Status and Accomplishments

As of 2003, around 2,420 hectares have been covered under the 3 components of the Tree for Legacy Program and approximately 808,718 seedlings planted (Table 3). In addition, 236 Memorandum of Agreements covering 1,776.59 hectares were issued broken down as follows: Tree for Legacy, 6; Tree for Education, 4; Tree for Enterprise, 226. A total of 100 Certificates of Ownership were also released under the Tree for Education and Tree for Enterprise components.

The widespread participation of various sectors in the Tree for Legacy Program has resulted to the following impacts: participants were converted to forest guards/managers, reduction in forest fire, charcoal-making and timber poaching; improved supply of potable water for domestic and irrigation use; creation of alternative sources of employment and livelihood, among others. The program has also reportedly contributed to the decrease of poverty incidence in the province, from 52% in 1992, to 23% in 1997 and to 10.9% as of the 2000 census.

Table 3. Status of Tree for Legacy Program

Project Components	Hectares	Seedlings Planted	Schools	Organizations/ Associations	Individuals
Tree for Legacy	168	58,662	8	59	2,360
Tree for Education	79.59	49,556	70		2,100
Tree for Enterprise	2,172.56	700,540		33	1,423
Total	2,420.15	808,718	78	92	5,883

Source: Environment and Natural Resources Office, Provincial Government of Nueva Vizcaya

3.4 Nature and Extent of Co-Management Practiced

Jointly executed guidelines and Memorandum of Agreements guide the co-management scheme between the LGU and the DENR. These documents further strengthen the co-management arrangements between and among the DENR, LGU and the community. The co-management agreement between the various stakeholders spells out the rights and obligations of each as specified in the MOAs and guidelines. The role of the Department of Environment and Natural Resources, which is the primary government agency responsible for the conservation, management, protection and proper use of the environment and natural resources, is mainly facilitative and coordinative. This includes providing technical assistance to the provincial LGUs, conducting periodic monitoring and assessment, and provide services and resources in implementing the projects, among others.

The main responsibility of the Local Government Unit is to lead, direct and coordinate the planning, implementation and monitoring of work plans; allocate human and financial resources, pass the necessary ordinances, rules and regulations in support of the project, facilitate capability-building and empowerment activities of people's organizations.

The People's Organizations/stakeholders on the other hand, implement the programs and its activities. It is responsible for maintaining, protecting and managing the plantations and farms. It also harvests the produce from the trees they have planted such as fruits and flowers.

3.5. Issues and Concerns Arising from Co-Management Schemes in Nueva Vizcaya

The legal framework for the local-level management of forest and natural resources is the 1991 Local Government Code. It laid down the foundation for decentralization and devolution thereby simplifying the lines of authority over the management of resources. In line with this, the DENR issued several policy issuances governing co-management. These are DAO No. 92-30 entitled Guidelines for the transfer and implementation of DENR functions devolved to the local government units; the DENR-DILG Joint Memorandum Circular No.98-01 entitled Manual of procedures for DENR-DILG-LGU partnership on devolved and other forest management functions; and the Joint Memorandum Circular No. 2003-01 entitled Strengthening and institutionalizing the DENR-DILG-LGU partnership on devolved and other forest management functions.

The LGUs are bounded by the Local Government Code of 1991 in the performance of their roles and responsibilities of the devolved forest management functions. Although the Code embodies a comprehensive legal framework for managing forest and natural resources at the local level, specific policies are needed to be crafted suited to a specific area and type of resource.

There are policy gaps in the Code that weakens enforcement. Section 1 of JMC No. 98-01 reiterates the general policies on devolution contained in the Code. It clearly states that the DENR remains as the primary government agency responsible for the conservation, management, protection, proper use and sustainable development of the country's environment and natural resources. This section also states that the LGUs share with the DENR the responsibility in the sustainable management and development of the forest resources within their territorial jurisdiction. Furthermore, the implementation of devolved functions as provided by the Code is subject to the Department's supervision, control and review. This is a policy gap that negates or limits the powers of the LGUs to exercise their functions. Essentially, this means that the DENR devolved to LGU only field personnel, few assets and resources.

The study also analyzed the issues and concerns arising from co-management at the level of the major partners involved.

DENR

Section 9 of the Joint DENR-DILG MC. No. 2003-01 enjoins the LGUs to provide funds to make devolution, partnership and co-management effective. This provision states that *the*

DENR shall provide the necessary technical support to capacitate the LGUs in handling forest management responsibilities. The LGUs are enjoined to provide the necessary funds to make the devolution, partnership and co-management work. Other resources sharing arrangements shall be worked out among DENR, DILG and LGUs, and guidelines for such arrangements shall be provided for in the National Strategic Partnership Plan. Because of the ambiguity of this provision, funds for this activity are very limited or not available at present. Many technical trainings aimed at capacitating the LGUs are constrained by lack of budget.

LGU

Section 7 of the Joint DENR-DILG MC No. 2003-01 reiterates the participation of LGU in the issuance of tenure instruments and permits under Sec. 9.3 of JMC 98-01. This provision states the participation of the LGU in the issuance of tenure instruments and permits. This section states that *it is mandatory for pertinent DENR offices to submit to the LGU for comments any application for tenurial instruments including resource extraction permits before the said instruments or permits are issued. In cases where the forest area covers two or more cities/municipalities, then the comments of all 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 city/municipal LGUs and the provincial LGUs which cover the area must be requested.*

However, the LGU sees it most proper that it issues by itself the resource extraction permits and that its role be not confined only to giving comments.

PO/Community

The POs/ communities feel that they still lack knowledge about the CBFM program because of insufficient IEC training. Furthermore, they still prefer to be under the old ISF program, because, to be converted into the CBFM they have to fulfill a lot of requirements. Although they expressed interest in applying under the CBFM program so that other community members can avail of land to farm, they feel constrained to do so by the requirements needed. In spite of the co-management, they feel that decision-making still mainly remains with the DENR.

3.6. Strengths and Weaknesses of the Co-Management Schemes in Nueva Vizcaya

The co-management scheme practiced in Nueva Vizcaya is still at a pilot stage. However, it has shown significant progress in rehabilitating denuded forestlands, managing existing forests and undertaking extensive reforestation in production and protection forests. On the other hand, questions still arise on the sustainability of these co-management schemes. Below are the perceived strengths and weaknesses of co-management of natural resources as practiced in Nueva Vizcaya.

Strengths:

1. Formulation of guidelines and strategies to operationalize co-management policies on the field.

These policies are translated into Memorandum of Agreements and guidelines with specific and well-defined functions and obligations, roles and responsibilities of each partner, the DENR, LGU, POs/stakeholders.

2. Recognition of existing community management arrangements and providing the appropriate policy support to institutionalize it.

   Tenurial arrangements existing in the area were converted into agreements such as Tree Farm Land Management Agreement, Agro-Forestry Land Management Agreement and CBFMAs which are covered by a Memorandum of Agreement.

3. Provision of rights and incentives

   The participants to the different co-management schemes are given the right to harvest the products from trees they have planted in return for guarding, protecting and managing their areas sustainably. Participants are therefore afforded with livelihood opportunities through this program. The agreements are also long-term covering 25 years, renewable for another 25 years. Aside from these, they have the right to transfer their claims to the next of kin or to interested members of the community.

4. Technically trained and capable staff of the Environment and Natural Resources Office

   The ENRO, tasked to oversee the co-management activities, consists of technically trained personnel devolved from the DENR to the provincial government.

Weaknesses:

1. Unspecified mechanisms for accessing technical, financial and other forms of assistance from DENR and other government agencies

2. Problems in resolving boundary conflicts in the different tenurial instruments

3. Insufficient IEC to enhance the awareness of participants/stakeholders on the merits of the different co-management programs and on community based forest management programs.

3.7. Lessons Learned from the Co-Management Schemes in Nueva Vizcaya

The following lessons were drawn from the practice of co-management in Nueva Vizcaya:

1. Identification of the project should be demand-driven and based on felt needs of the community

2. The project should answer the basic needs of the stakeholders

3. Recognition of usufruct and tenurial rights

4. Easy and simple to follow guidelines that are transparent and have accountability

5. Clear delineation of roles and responsibilities of the different stakeholders and a well-defined incentive system

6. Strong leadership that can motivate and harmonize the different and conflicting interests

7. Placing a social infrastructure and corresponding budgets attuned to the operationalization of plans

8. Capacity-building for public officials and networking with potential donors and investors, research institutions and NRM practitioners

4.0 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

4.1 Summary and Conclusions

The study documented, reviewed and analyzed different co-management schemes existing in the Philippine forestlands. A deeper study of these cases is needed to understand the factors leading to successful co-management arrangements and to find ways of strengthening existing policies and guidelines governing the joint management of forest and natural resources by different stakeholders. Specifically, the study aims to pursue the following objectives: (1) to identify the different stakeholders and evaluate the mechanism of entering into socially negotiated institutional arrangements; (2) to determine and evaluate the nature and the extent of stakeholders' involvement in co-managing forest resources; (3) to identify and document the factors affecting successes and failures of the different co-management schemes; (4) to determine and recommend ways of achieving sustainability of co-management schemes; and (5) to provide comprehensive recommendations for addressing policy and field level implementation gaps.

To attain the objectives of the study, primary and secondary data were collected. The study did a case analysis of the co-management scheme practiced in managing the watershed resources in Nueva Vizcaya. The data were gathered through focused group discussion of the different stakeholders consisting of the DENR, LGU, and PO. From the case analysis, lessons were drawn from their practices on co-management.

Analysis of secondary data involved the analytical review of different researches, studies and other relevant literatures on co-management of forest and natural resources. The study identified the different stakeholders as consisting of the community which is represented in most cases by the people's organization, non-government organizations (NGOs), local government units (LGUs), the DENR and other government agencies (OGAs). From the analytical review, the study synthesized the mechanisms for entering into socially negotiated collaborative management; the nature and extent of stakeholders' involvement in co-management; their

respective responsibilities and benefits or incentives in co-management; and the factors influencing the success and failure of the different co-management schemes.

The mechanisms of entering into co-management arrangements greatly vary depending on the type of resource, the conditions and needs of particular sites, and the mode of interventions as dictated by the funding or grant-giving agency. Shown in Table 4 is the summary of the implementation approaches and types of tenure of various CBFM-type approaches in the uplands and near coastal areas. It can be gleaned from the table that the implementing scheme varies with the type of program and so are the mechanisms of entering into partnership agreement. Intervention activities take various forms like infrastructure support; comprehensive site development through loan support, volunteer labor in exchange for free seedlings or funds generated from resources coming from the area; community organizing by NGO or the DENR; and technical support services.

The study also evaluated the nature and extent of co-management practiced by the different stakeholders. As documented in the field study in Nueva Vizcaya, the co-management agreement between the various stakeholders spells out the rights and obligations of each as specified in the MOAs and guidelines. The Department of Environment and Natural Resources, as the primary government agency responsible for the conservation, management, protection and proper use of the environment and natural resources, its role is mainly facilitative and coordinative. This includes providing technical assistance to the provincial LGUs, conducting periodic monitoring and assessment, and providing services and resources in implementing the projects, among others.

The Local Government Unit shares in the co-management through leading, directing and coordinating the planning, implementation and monitoring of work plans, allocates human and financial resources, passes necessary ordinances, rules and regulations in support of the project, facilitate capability-building and empowerment activities of people's organizations. The People's Organizations/community, on the other hand, is responsible for developing and protecting the project area.

There are also several documented cases (Lina, 2001and Salvosa,2001) of best practices made by the LGUs in performing devolved forest management functions. In these cases, the local governments implemented projects by mobilizing citizen involvement by appealing to their spirit of volunteerism and sense of civic responsibility. These practices have been recognized through *Galing Pook Awards* initiated by the Department of Interior and Local Government (DILG) and the Asian Institute of Management (AIM). Some of these are the following:

(1) In 1994, Puerto Princesa City has mobilized the community to protect and conserve natural resources with the creation of Bantay-Gubat, Bantay-Dagat, and other socio-civic groups to protect and manage the environment including watersheds and coastal areas.

(2) Kalibo, Aklan initiated a related project with its campaign to save the mangroves. With the active involvement and participation of the communities, mangrove areas were enhanced and protected to serve as breeding places for marine resources.

(3) Marikina City was cited for its Save the Marikina River. This project has been the model of excellence in local governance and environmental protection.

(4) In Iloilo, the Maasin Watershed was spared from further damage with the timely intervention of the local government. The provincial government established the Maasin Watershed Task Force, a multisectoral group composed of the provincial and city governments; three municipal LGUs , the DENR, media, NGOs, civic clubs, a number of corporations and educational institutions. The Task Force mobilized 5,000 people for mass tree planting. It also implemented the *Adopt a Tree Park* program which designated specific areas for particular groups or organizations to reforest and protect. Program participants are also allowed to practice agroforestry-based livelihood projects.

(5) In Zambales, the marine conservation of San Salvador Island is yet another illustration of the significant roles the LGUs can play to enhance and conserve natural resources including marine resources.

(6) The Eco-Walk project implemented in Baguio City, shows how innovative the LGU both in protecting the environment and educating the children to love and protect the environment.

(7) The upland agricultural development initiated in Magsaysay, Davao del Sur shows how to exploit natural resources and at the same time maximize and protect watershed areas.

Table 4. Summary of the implementation approaches and types of tenure of various CBFM-type approaches in the uplands and coastal areas.

Program/Project	Implementing Scheme	Tenure
ENR-SECAL	Watershed management planning with heavy infrastructure support, CO by the DENR staff	Certificate of Stewardship Contract (CSC)
FSP/OECF	Loan support for comprehensive site development, CO by contract with the NGO	Community Forest Management Agreement (CFMA)
CEP	Site development through volunteer labor, seedlings provided by program	Mangrove Stewardship Agreement (MSA)
NRMP	Site development funds generated from resources coming from the CBFM area, CO by the DENR staff and assisting professionals	Community-based Forest Management Agreement (CBFMA), CSC inside CBFM area, CADC
LIUCP	Heavy emphasis on infrastructure development in cooperation with the LGUs	Community Forest Stewardship Agreement (CFSA) converted to CADC, CSC
CFP	Loan support for comprehensive site development, CO by contract with NGO	CFMA
ISF	Mostly through individual families, technical support services provided, CO by the DENR	
ADMP	Site development generated from resources coming from the CBFM area, CO by the DENR staff	CADC,CALC

Source: Acosta, R.T. 2001. The role of upland communities in Watershed Management. General Technical Report Series No.9. Forestry Development Center, CFNR, UPLB, College, Laguna

In general, co-management arrangements have proven to be an effective strategy in managing forest and natural resources which used to be centrally managed by the government. There are several factors contributing to success or failure of co-management. Hence, we need to probe for the really workable combinations in specific regions or communities. At the community level, the following are the contributing factors to success or failure: (1) it can be an effective partner in resource management, protection, and conservation if it is clear to them that they will benefit from the project; (2) the involvement of the community in the planning of activities builds confidence and creates ownership of the work and outputs, thus it enhances participation; (3) the livelihood component must be an integral part of the project to sustain the people's participation; (4) social preparation should always precede technical intervention; and (5) commitment and positive perception of the people to the project.

The factors to success or failure at the LGU level are (1) successful LGUs are those who have allocated human resources and their own local funds to the project; (2) enactment of local policies and ordinances to support the project; (3) strong & committed leadership that is dynamic and pro-active; and, (4) a strong ENRO as a regular division of the LGU with staffing support and annual budget allocation.

At the DENR level, the important contributing factors to success or failure as derived from the study are (1) dedication of the DENR personnel; (2) the DENR must review and update policy issuances so as to harmonize existing laws with long-term needs of the people and the environment; (3) should seek ways and means to raise and allocate funds for the project ; and (4) the field personnel must update and retool themselves on the new policies and implementation guidelines to be effective partners.

4.2 Recommendations

In view of the findings of the study, the following recommendations were drawn:

(1) Harmonization of laws on devolution with rules and procedures governing devolved functions. The implementation of devolved functions as provided by the 1991 Local Government Code are subject to the DENR's supervision, control and review. This is tantamount to limiting the powers of the LGUs to exercise devolved functions.

(2) Build-up the capability of LGUs to deal with management of the natural resources within their territorial jurisdiction. Although there are success stories about the LGUs ability to manage devolved forest management functions, many LGUs have limited capabilities due to very low budget appropriations for staff development.

REFERENCES:

Acosta, R.T., 2001. The role of upland communities in watershed management . In Enhancing and Sustaining Stakeholders' Participation in Watershed Management, General Technical Report Series No. 9, Forestry Development Center, U.P. Los Baños College of Forestry and Natural Resources, College, Laguna, Philippines.

Agbayani, R. Q. 2002. Role of LGUs in watershed management: The Nueva Vizcaya Experiment. Paper presented to the 6th Multi-Sectoral Forum on Watershed Management, in Banaue, Ifugao, 14-15 November 2002.

Antolin, A. T. 1999. Co-management of natural resources. In Co-Managing the Environment. The Natural Resources of the Sierra Madre MountainRange (E.C. Bernardo and D.J. Snelder, erds.). Proceedings of the International Work Conference organized by CVPED and Plan International, in Cabagan, Isabela, Philippines, on 21-24 September 1998.

Baaco, A.T. 1999. Institutional arrangements in the management and utilization of the Iwahig upland ecosystem. MS Thesis, U.P. Los Baños, College, Laguna.

Bermosa, C. S. and R. Z. Guzman. 1999. Environmental factors influencing migration among the Nbugkalots at nagtipunana, Quirino. In Co-Managing the Environment. Natural Resources of the Sierra Madre Mountain Range (E.C. Bernardo and D.J. Snelder, eds.). Proceedings of the International Work Conference organized by CVPED and Plan International, in Cabagan, Isabela, Philippines, on 21-24 September 1998.

Bernardo, R. G. 2001. Environmental impacts and distribution of benefits of Apo Island marine sanctuary, Dauin, Negros Oriental, Philippines. MS thesis, U.P. Los Baños, College, Laguna.

Bromley, D.W. and M. M. Cernea. 1989. The Management of Common Property Natural Resources: Some Conceptual and Operational Fallacies. World Bank Discussion Paper No. 57.

Carandang, A. P. 2001. Determination of appropriate production sharing policy in Community-Based Forestry Management areas. Paper presented at the Forestry Development Center Policy Seminar Series, UPLB-CFNR Operations Room.

Catacutan, D.C. and C. E. Duque. Local natural resources management: sustaining factors and policy imperatives. A synthesis report of country-wide case studies of eleven practicing LGUs in local Natural Resources Management, Valencia City, Bukidnon, 8-9 November 2001. International Centre for Research in Agroforestry. Southeast Asia and Regional Research Programme.

FAO. 1993. Common Forest Resource Management: Annotated Bibliography of Asia, Africa and Latin America. Community Forestry Note No. 11.

Ganguli, B. N. 1993. Sustainable management of forest resources: issues for common property. A keynote address to the 4th International Conference of the International Association for the Study of Common Property (IASCP), Asian Development Bank, Manila, Philippines (mimeographed).

General, A. A. 1999. Co-management of the environment through the Socialized Integrated Industrial Forest Management Agreement (SIFMA): The San Mariano experience. In Co-Managing the Environment. Natural Resources of the Sierra Madre Mountain Range (E.C. Bernardo and D.J. Snelder, eds.). Proceedings of the International Work Conference organized by CVPED and Plan International, in Cabagan, Isabela, Philippines, on 21-24 September 1998.

Gran, E.G. 1995. People's participation in mangrove ecosystem: Management in Sinian, Baliangao, Misamis Occidental. MS Thesis, U.P. Los Baños, College, Laguna.

Kayastha, A. K. 1995. Indigenous community-based forest resource management system and its impact on environmental integrity in Haliap, Ifugao province, Northern Philippines. MS Thesis, U.P. Los Baños, College, Laguna.

Leonor, R. L. 1995. Environmental resource management of two mangrove projects in the province of Aklan. MS Thesis, U.P. Los Baños, College, Laguna.

Lina, J. D. 2001. Role of local government units in watershed management. In enhancing and Sustaining Stakeholders' Participation in Watershed Management, General Technical Report Series No. 9, Forestry Development Center, U.P. Los Baños College of Forestry and Natural Resources, College, Laguna.

Lower Magat Forest Reserve Indicative Plan.

Malayang, B. S. III. 1999. Environmental co-management in the Philippines: a policy challenge from the perspective of political ecology. In Co-Managing the Environment. Natural Resources of the Sierra Madre Mountain Range (E.C. Bernardo and D.J. Snelder, eds.). Proceedings of the International Work Conference organized by CVPED and Plan International, in Cabagan, Isabela, Philippines, on 21-24 September 1998.

Nuestro, E. D. 1997. Institutional incentives in Community-Based Resources Management in Kanawan, Negritos Reservation, Morong, Bataan. MS Thesis, U.P. Los Baños, College, Laguna.

Paguirigan, D. M. and P. N. Pasicolan. 1999. Between donors' prescription and community felt need: A dilemna and a process of social negotiation on co-management. In Co-Managing the Environment. Natural Resources of the Sierra Madre Mountain Range (E.C. Bernardo and D.J. Snelder, eds.). Proceedings of the International Work Conference organized by CVPED and Plan International, in Cabagan, Isabela, Philippines, on 21-24 September 1998.

Poquita, A. L. 2000. Assessment of the first community-based coastal resource management project in Aguining, Carlos P. Garcia, Bohol. MS Thesis, U.P. Los Baños, College, Laguna.

Sajise, P. E., F. P. Fellizar and G.C. Saguiguit. 1999. The road to community-based resource management in the Philippines: entries, bends, tolls and dead-ends. In Co-Managing the Environment. Natural Resources of the Sierra Madre Mountain Range (E.C. Bernardo and D.J. Snelder, eds.). Proceedings of the International Work Conference organized by CVPED and Plan International, in Cabagan, Isabela, Philippines, on 21-24 September 1998.

Serrano, R. C., N. Calderon and G. Ebenga. 1999. Incorporating Indigenous Knowledge Systems and Practices in the co-management of Aurora forest biodiversity: Focus on the Dumagats. In Co-Managing the Environment. Natural Resources of the Sierra Madre Mountain Range (E.C. Bernardo and D.J. Snelder, eds.). Proceedings of the International Work Conference organized by CVPED and Plan International, in Cabagan, Isabela, Philippines, on 21-24 September 1998.

Terminal Report

Simplified and Harmonized Forestry Regulatory Procedures

With funding support from The EcoGovernance Program-USAID
(Subcontract No. 4105-506-03P-03)

ANNEX E
FOREST LAW ENFORCEMENT and DUE DILIGENCE MECHANISM

FORESTRY DEVELOPMENT CENTER
College of Forestry and Natural Resources
University of the Philippines Los Baños

(Through the University of the Philippines Los Baños Foundation, Inc.)
College, Laguna 4031 Philippines

April 2004

TABLE OF CONTENTS

1. 0 FOREST LAW ENFORCEMENT

1.1 Introduction E.1-1
1.2 Definition of Terms E.1-1
1.3 Institutional Framework for Forest Law Enforcement E.1-3
1.4 Forestry Offenses
1.4.1 Common Forestry Offenses Under PD 705 as Amended E.1-4
1.4.2 Offenses Under RA 7586 (NIPAS Law) E.1-4
1.4.3 Offenses Under RA 9175 (Chainsaw Act of 2002) E.1-4

1.5 Administrative Apprehension, Seizure, and Confiscation

1.5.1 Apprehension E.1-6
1.5.2 Procedure for Administrative Apprehension and Seizure E.1-8
1.5.3 Procedure for Summary Administrative Confiscation
A. Forest products E.1-9
B. Abandoned Illegal Forest Products E.1-10

1.6 Judicial Prosecution of Offenses for Violation of Forestry Laws

1.6.1 Jurisdiction of Court to Try Offense E.1-11
1.6.2 Institution of Criminal Action E.1-13

A. Complaint or Information E.1-13
B. Preliminary Investigation E.1-15
C. Arrest E.1-16
D. Arraignment and Plea E.1-18
E. Pre-Trial Conference E.1-18
F. Trial E.1-19
G. Judgment E.1-19

1.7 Systems of Penalties

1.7.1 Imposable Penalties E.1-21

1.8 Disposition

1.8.1 Disposition of Items Confiscated in Favor of the Government E.1-22
1.8.2 Modes of Disposition E.1-22
1.8.3 Expenses for Transfer, Safekeeping, Maintenance and Delivery E.1-26
1.8.4 Remittance of Proceeds of Sales E.1-26

1.8.5 Reportorial Requirements E.1-26

2.0 DUE DILIGENCE MECHANISM

2.1 Introduction E.1-28
2.2 Elements of Due Diligence Mechanism E.1-28
2.3 Operational Definitions E.1-29
2.4 Checklist of Items to Consider in the Exercise of Due Diligence E.1-30
2.5 Code of Conduct of Good Environmental Governance E.1-31
2.6 Institutionalization of Due Diligence Mechanism E.1-32
2.7 Implementation E.1-32
2.8 Monitoring and Evaluation E.1-33
2.9 Conclusion E.1-33

REFERENCES E.1-34

MANUAL ON FOREST LAW ENFORCEMENT
AND DUE DILIGENCE MECHANISM

With Draft Department Administrative Order on
New Rules and Regulations on Forest Law Enforcement

Simplified and Harmonized Forestry Regulatory Procedures

With funding support from The EcoGovernance Program-USAID
(Subcontract No. 4105-506-03P-03)

FORESTRY DEVELOPMENT CENTER
College of Forestry and Natural Resources
University of the Philippines Los Baños

(Through the University of the Philippines Los Baños Foundation, Inc.)
College, Laguna 4031 Philippines

29 February 2004

Draft

Department Administrative Order

on

NEW RULES AND REGULATIONS ON FOREST LAW ENFORCEMENT

MANUAL ON

FOREST LAW ENFORCEMENT AND DUE DILIGENCE MECHANISM

1.0 FOREST LAW ENFORCEMENT SYSTEM

1.1. Introduction

The crafting of forestry laws, decrees, acts, rules, regulations and other related issuances needs the expertise and wisdom of specialized professionals such as foresters, lawyers, environmentalists, and sociologists, among other personages. But it also requires a professional who can verbalize these in the simplest, easily understood language, sans the embellishments that only serve to muddle their more salient and substantial points, without losing their technical essence nor their exigency. By nature, these fiats/edicts are often replete with legalese that their format and verbal presentation requires counsel to interpret them in layman's terms. To the ordinary person, fiats are heavy reading that borders to confusion, not to mention exasperation, and eventually, to misinterpretation. When this happens, whatever noble contents and intents these fiats have, are lost in the legalistic statements negating the very purpose these are created in the first place.

Fiats are crafted to be implemented successfully on the ground. Therefore, the first step to make these achieve their purpose is to design them in such a way that they are user-friendly, meaning, whoever are their intended audience/users, these users can understand and interpret them accordingly, and to take appropriate action in the performance of their official duties and responsibilities, even without the assistance of lawyers/legal officers. What is ideal then, is simplified and harmonized version of these.

Thus, this manual.

1.2. Definition of Terms

Apprehension	-	to lay hold of forest products , tools and equipment, implements and conveyance, whether in transit or stationary for the purpose of inspection.
Arraignment	-	stage in prosecution whereby a complaint or information is read to the accused in a language or dialect known and understandable to him and asking whether he pleads guilty or not to the accusation filed against him.
Arrest	-	is the taking of a person into custody in order that he may be bound to answer for the commission of an offense (Sec.1, Rule 113, Revised Rules of Criminal Procedure
Complaint	-	is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated.

Confiscation	-	the act of appropriating seized forest products and conveyances by the government after judgment duly issued by the proper authority, either administrative or judicial that the said property is illegal or has been used in the cutting, gathering, collecting and/or possessing and /or transporting illegal forest products.
Conveyance	-	-any mode or type or class of vehicle or craft or any other means used for transportation either on land, water, air, or any combination thereof whether motorized or not, used in the gathering, collecting, transporting and/or possessing of the illegal forest products.
Department	-	refers to the Department of Environment and Natural Resources.
Forest officers	-	officials and employees of the DENR charged with the enforcement of forestry laws, rules and regulations of the Philippines.
Forest products	-	refers to timber including lumber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil , honey, beeswax, nipa, rattan, charcoal, or other forest growth, such as but not limited to grass, shrub, flowering plants in forest lands and others.
Forfeiture	-	the loss of rights in a transaction involving property.
Information	-	is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court.
Inquest	-	is an informal and summary investigation conducted by a public prosecutor in criminal cases involving persons arrested and detained without the benefit of a warrant of arrest issued by the court for the purpose of determining whether or not said persons should remain under the custody and correspondingly charged in court.
Judgment	-	is the adjudication by the court that the accused is guilty or not guilty of the offense charged and the imposition on him by the proper penalty and civil liability, if any. It must be written in the official language, form personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts and the law upon which it is based.
Preliminary Investigation	-	is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.
Probable cause	-	the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.
Secretary	-	refers to the Secretary of the Department of Environment and Natural Resources.
Seizure	-	official act of taking by persons authorized hereby those items subject of apprehension, seizure and confiscation into government custody, pending formal administrative proceedings for the disposition thereof.

Wildlife - means wild forms and varieties of flora and fauna, in all developmental stages, including those which are in captivity or are being bred or propagated.

1.3. Institutional Framework for Forest Law Enforcement

1.3.1. Department of Environment and Natural Resources (DENR) – under Executive Order No. 292, this is the primary government agency responsible for the enforcement of natural resources and environmental laws, rules and regulations. It has three levels of field offices which directly enforce these natural resources and environmental laws, rules, and regulations, namely: regional, provincial, and community environment and natural resources offices.

1.3.2. Local Government Units (LGUs) – under the Local Government Code of 1991, one of the devolved functions to provinces and cities is the enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on the protection of the environment. Aside from these devolved functions, the law also opened the avenue of joint sharing of responsibilities between the national government and the LGUs on the protection of the environment.

At the individual level, local government officials have been deputized by the DENR as environment and natural resources officers with specific functions pertaining to forest law enforcement.

1.3.3. Other Government Agencies (OGAs) – these refer to government agencies that exercise control and supervision over portions of the public forest. It is incidental to their mandate over these forest lands to enforce existing laws, rules and regulations covering forests, environment, and natural resources. Academic and R & D institutions with land grants and forest reservations are also responsible in protecting the natural resources inside these land grants and forest reservations. The prosecution arm of the government, the Department of Justice is also involved during the preliminary investigation and prosecution of the offender.

1.3.4. Civil Society – this consists of groups or organizations involved in the enforcement of natural resources and environmental laws in their private capacities and only on a limited basis. Experience shows that civil society groups and organizations are usually active on surveillance, apprehensions, data gathering, and monitoring and evaluation of cases filed in court or other tribunals.

1.3.5. Multi-sectoral Bodies – these are bodies created by law whose functions include the enforcement of natural resources and environmental laws, rules and regulations. Examples are the Protected Areas Management Boards (PAMBs) and Multi-Sectoral Forest Protection Councils.

1.3.6. Law Enforcement Agencies – these include the Philippine National Police (PNP), National Bureau of Investigation (NBI), Philippine Coast Guard (PCG), Armed Forces of the Philippines (AFP), Task Force on Anti-illegal logging, PNP-Maritime Command, Philippine Navy, which are mandated to enforce all laws including natural resources and environmental laws, rules and regulations.

1.3.7. The Judiciary – the judiciary, represented by the courts, plays a critical role in the enforcement of natural resources and environmental laws, rules and regulations. The

courts try the complaints/informations filed before them and render decision finding the accused guilty or not guilty.

1.4. Forestry Offenses

1.4.1 Common forestry offenses under PD 705 as amended

1. Cutting, gathering and/or collecting timber or other forest products without license or possession of timber or other forest products without legal document (illegal logging).
2. Unlawful occupation or destruction of forest lands and grazing lands (kaingin making).
3. Pasturing livestock without authority in forest lands, grazing lands and undisposed A & D lands.
4. Illegal occupation of national parks systems and recreation areas and vandalism therein.
5. Destruction of wildlife resources.
6. Unlawful possession of implements and devices used by forest officers.
7. Failure or refusal to pay, collect or remit forest charges.
8. Sale of wood products without compliance to grading rules and standards.
9. Survey by unauthorized person.
10. Misclassification and survey by government official or employee.
11. Coercion and influence.
12. Unlawful possession of implements and devices used by forest officers.
13. Tax declaration on real property.

1.4.2. Offenses under RA 7586 (NIPAS Law)

1. Hunting, destroying, disturbing, or mere possession of any plants/animals or products without a permit.
2. Dumping of any waste products detrimental to the protected area or to the plants/animals/inhabitants therein.
3. Use of any motorized equipment without a permit.
4. Mutilating, defacing or destroying objects of natural beauty/objects of interest to cultural communities (of scenic value).
5. Damaging/leaving roads and trails in a damaged condition, squatting, mineral locating, or otherwise, occupying any land.
6. Constructing/maintaining any kind of structure, fence or enclosures, conducting any business enterprise without permit.
7. Leaving unexposed/unsanitary conditions refuse or debris, or depositing in ground or in bodies of water.
8. Altering/removing/destroying or defacing boundary marks/signs.

1.4.3. Offenses under RA 9175 (Chainsaw Act of 2002)

1. Selling, purchasing, reselling, transferring, distributing or processing a chainsaw without a permit.
2. Unlawful importation or manufacturing of chainsaws.
3. Tampering of engine serial number.
4. Actual unlawful use of chainsaw. Any person found to be in possession of chainsaw and uses the same to cut trees and timber in forestland or elsewhere except as authorized by the Department.
5. Public official or employee found to be in actual unlawful use of chainsaw.

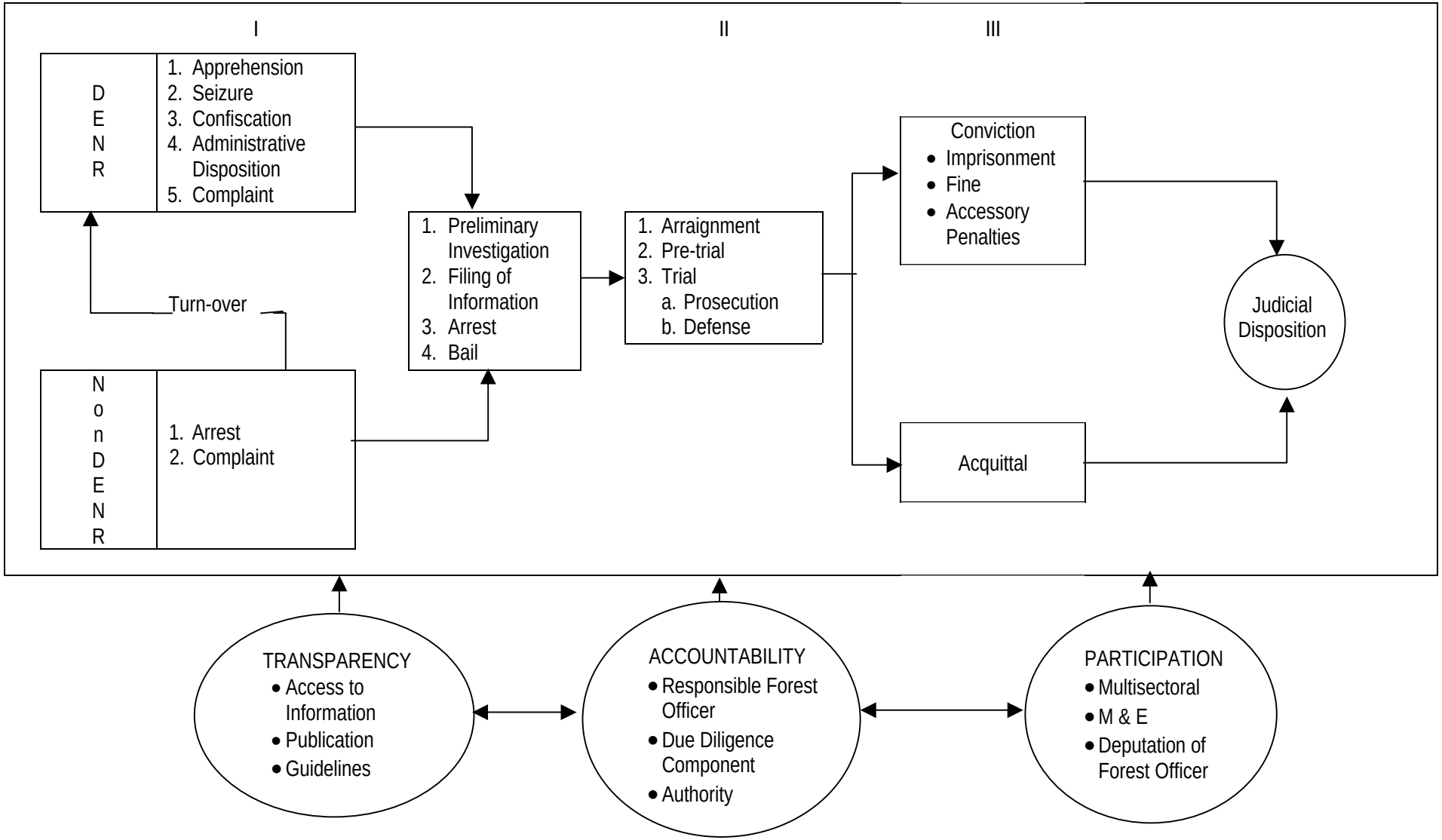


Figure 1. Forest Law Enforcement System

1.5. Administrative Apprehension, Seizure, and Confiscation

1.5.1. Apprehension

Apprehension is to lay hold of forest products, tools and equipment, implements and conveyances whether in transit or stationary for the purpose of inspection.

Persons authorized to make apprehensions:

- Forest officers
- Deputies (i.e. other government officials and private citizens duly deputized by the DENR Secretary or his duly authorized representative)
- Members of law enforcement agencies
- Private citizens as provided by law (Sec. 3, DAO 97-32)

Persons Authorized to Effect Seizure

- Community Environment and Natural Resources Officer (CENRO) or in his absence any DENR officer with the rank of Forester 3 or Land Management Officer 3 (LMO) actually assigned to the area of apprehension at the time thereof and,
- The Team Leader of the apprehending team.
- Protected Area Superintendent (PASU) (DAO 2000-45).
- The Secretary may from time to time also designate in writing such other DENR Officers for the purpose.

Items Subject to Apprehension and Seizure

a. Forest products illegally cut, gathered, removed or possessed or abandoned (EO 277).
b. Any forest products removed, cut, collected, processed and/or transported without the requisite authorization or permit; or with incomplete required supporting documents; with genuine authorization or permit and/or supporting documentation that has an expired validity, has been cancelled or that containing forged entries; or with spurious (fake) authorization, permit and/or supporting documentation. (Sec 2, DAO 97-32)
c. Machinery, equipment, tools and implements used in the possession, gathering, collecting, processing and/or transporting of illegal forest products. (Sec 2, DAO 97-32)
d. Conveyance – any mode or type or class of vehicle or craft or any other means used for transportation either in land, water, air, or any combination thereof whether motorized or not, used for or in taking and/or maintaining temporary or permanent possession or control, gathering, collecting, processing, disposing of, or otherwise transporting, moving or transferring illegal forest products. (Sec. 2, DAO 97-32).
e. Wildlife illegally collected, gathered, acquired, transported or imported (DAO 91-36).

Documents required for the transport or shipment of forest products

1. For logs/timber: Original Certificate of Transport Origin (CTO); together with the tally sheet corresponding thereto;
2. For lumber: Original Certificate of Lumber Origin(CLO), together with the sales invoice, in case of lumber sales, and the tally sheet;
3. For non-timber forest products: Original Certificate of Non-timber Forest Products Origin (CNFPO), together with the delivery receipt. (Sec. 4, DAO 7,S-1994)

4. No Certificate of Origin shall be required in the following instances:
   a. Logs/timber being transported from the licensee's/permittee's cutting area to its wood processing plant or main log storage area, provided that such facilities are located within the province of source; provided further that in cases where the wood processing plant is located outside the province, the transport/shipment thereof may be allowed, subject to prior approval by the RED(s) concerned. Such approval shall be in the form of a special authority issued by the RED for a period not exceeding one year, subject to the following conditions; that the conveyance(s) is/are company owned; that the delivery route is the normal route in the delivery of logs to the log pond or log yard of the firm's wood processing plant; and listing of the type and serial/plate number of the vehicle(s) authorized for the purpose.
   b. Transport/shipment of finished, semi-finished, or knocked-down forest products, provided that these are accompanied by a delivery receipt or sales invoice, together with the tally sheets;
   c. Lumber and lumber products transported from source to buyer/end-user within the confines of the province or within the Greater Manila area, provided that the same are covered by the corresponding sales invoice and/or delivery receipt;
   d. Forest products transhipped from the point of initial unloading to its final point of destination, provided it is accompanied by a Certificate of Transhipment (COT) issued by the CENRO concerned indicating therein the kind, number, volume, and consignee of the shipment as well as the serial number of the Certificate of Origin accompanying the shipment.
   e. Transport of logs/timber/lumber/other forest products derived from planted trees or non-wood forest products inside private lands, provided that the same is accompanied by a Certificate of Verification issued by a DENR local official at the CENRO level. (Sec. DAO 7, S-1994).

Forest products being shipped/transported without the accompanying original Certificate of Origin or the Special Authority to Transport duly issued by a DENR officer concerned shall be presumed as coming from illegal sources and as such, the forest products, including the conveyance used shall be subject to confiscation and disposition and the offender shall be prosecuted in accordance with PD 705 ,as amended, and other applicable laws and regulations. (Sec. 12, DAO 7,S-1994).

General rule: Search must be done with a search warrant in accordance with the Philippine Constitution

The right of the people to be able to secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complaint and the witnesses he may produce and particularly describing the place to be searched and the persons or things to be seized (Sec 2, Art. III, 1987 Constitution)

What should the officer enforcing the warrant do after seizing properties

1. The officer seizing property under warrant must give a detailed receipt for the same to the lawful occupant of the premises in whose presence the search and seizure were made, or in the absence of such occupant, must, in the presence of at least two witnesses of sufficient age and discretion residing in the same locality, leave a receipt in the place in

which he found the seized property (Sec. 11, Rule 126, 2000 Revised Rules of Criminal Procedure)

2. The officer must forthwith deliver the property seized to the judge who issued the warrant, together with a true inventory thereof duly verified under oath (Sec. 12, 2000 Revised Rules of Criminal Procedure)

1.5.2. Procedure for Administrative Apprehension and Seizure

1. Ocular inspection and cursory investigation - Involves the verification of authorizations, permits and accompanying documentation of forest products (transport documents in their original copies), machinery, equipment, tools and implements and conveyance(s).

2. Inventory and Documentation

If probable cause for apprehension and seizure is present, the apprehending officer shall:

a. Verbally inform the person(s) apprehended of his findings.
b. Take the names, addresses and other available data of all persons involved in the cutting, gathering or collecting and/or transporting or possessing the forest products.
c. Write an itemized list of all on-site machinery, equipment, tools and implements used, if any, in the commission of, or otherwise connected with, the offense.
d. In case the violation involves the use of a conveyance, the apprehending forest officer shall verify the certificate of registration and/or official receipt as well as the driver's license or similar authorizations. Said documents shall be returned to the holder thereof upon notation of his identity and address as well as the name and address of the owner of the conveyance, its license plate number and other identifying marks or information.
e. Immediately conduct the scaling or measurement of the apprehended forest products. The assessment thereof shall be based on the gross volume without the benefit of deduction for natural defects. In case the scaling or measurement cannot be completed at the close of regular office hours of the day, assistance shall be secured from the local DENR offices for a sufficient number of scalers to finish the work.
f. Seize the forest products, machineries, conveyance(s), tools and equipment.

   In cases where the apprehension is made by non-DENR personnel, i.e., PC/PNP, Coast guard, and other deputized law enforcers, they shall notify the nearest DENR office and turn over the seized forest products and conveyance to the authorized seizure officer.

   In cases where the apprehended conveyance involved is a government vehicle, the procedure above shall be followed and the vehicle shall be immediately released to the highest regional officer of the office who owned the same upon acknowledging that the said conveyance has been used in violation of existing forestry laws, rules and regulations.

3. Issuance of seizure receipt

Upon completion of the foregoing procedure, seizure receipt shall be issued which shall be acknowledged and received by the owner/shipper of the forest products or by his

representative. In case of refusal, the fact shall be reflected thereon in their presence as proof of such action.

4. Preparation of apprehension and seizure reports.

   The apprehension and seizure reports shall be prepared and the same, together with all the pertinent documents i.e., tally sheets, seizure receipts, photographs, etc., shall be submitted to the PENRO who shall conduct the confiscation proceedings.

Authority of the Secretary of Environment and Natural Resources

Sec. 68 - A of PD 705 authorizes the Secretary of the DENR or his duly authorized representative to order the confiscation of any forest products illegally cut, gathered, removed, or possessed or abandoned, and all conveyances used either by land, water or air in the commission of the offense and to dispose of the same in accordance with pertinent laws, regulations or policies on the matter.

Judicial Confiscation of Forest Products

Under Sec. 68 PD 705, as amended, the Court shall order the confiscation in favor of the government the timber or forest products cut, gathered, collected, removed or possessed as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found, but only after the case has been filed, tried and decided upon by the court.

1.5.3. Procedure for Summary Administrative Confiscation

A. Forest Products

1. Immediately after seizure, a notice of hearing shall be signed by the PENRO and to be served by the apprehending officer to the parties concerned. Included therein, an order to parties to submit a written explanation within 3 days from receipt thereof.
2. The concerned parties shall submit their written explanation under oath why the forest product/conveyance should not be confiscated.
3. The PENRO or in his absence, any Senior Forest Management Specialist (SFMS) or Senior Environmental Management Specialist (SEMS) shall preside as hearing officer with the guidance of a DENR lawyer.
4. The procedure shall be summary in nature where the parties are required to submit the necessary documents, affidavits and evidences. However, the hearing officer may ask for clarificatory questions if need be.
5. The hearing officer shall render his decision within a period of 15 days from receipt of the documents, affidavits and evidences.

   If there is no substantial evidence sufficient to sustain an administrative decision adverse to interested parties, a ruling shall be issued dismissing the case and ordering the seized items to be returned to the owner.

When evidence so warrants, a ruling shall be issued declaring the seized items to be confiscated in favor of the government, together with recommendations for further prosecution of the persons involved.

6. The decision shall become final and executory upon the lapse of 15 days unless a motion for reconsideration is filed.
7. A party aggrieved by the decision may file only one motion for reconsideration within a non-extendible period of 15 days from receipt of the decision.
8. A party may file an Appeal within a non-extendible period of 15 days from receipt of the denial of the Motion for Reconsideration or receipt of the decision.
9. The appeal should be filed with the Office of the RED if the volume of forest products confiscated is less than 1,000 cu.m. and to the Office of the Secretary if more than 1,000 cu.m. and only upon payment of the corresponding appeal fee. The appeal shall contain a concise statement of all the issues of fact and law raised on appeal.
10. The appeal may be entertained only on any of the following grounds:
    - If there is prima facie evidence of abuse of discretion on the part of the PENRO.
    - If the decision, resolution or order was secured through fraud or coercion, including graft and corruption.
    - If serious errors in the findings of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the appellant.
11. The decision of the Secretary shall be final and executory 15 days from receipt thereof, if no motion for reconsideration or appeal to the Office of the President is filed.

B. Abandoned Illegal Forest Products -- the following procedures shall apply in cases where illegal forest products, machinery, equipment and tools, as well as conveyance used are abandoned, or when the owner is unknown, cannot be determined, or cannot otherwise be found.

1. Illegal forest products/conveyances/machinery, equipment, tools and implements shall forthwith be apprehended.

   Whenever practicable, photographs of the apprehension site and items seized shall be taken indicating the date, caption and full printed name and signature of the apprehending officer at the back of each photograph.

2. Prepare on-site record of violations, on-site report and issue seizure receipt.

   In lieu of seizure receipt, notice of apprehension/seizure shall be left by the apprehending/seizing officer on-site, posted or tacked into the nearest tree, wall or other similar permanent structures.

   The notice shall contain the: 1) date, time and place of apprehension, 2) full printed name, designation and signature of apprehending officer, 3) a complete, detailed list of item(s) apprehended, 4) summary statement of violation(s) cited, and 5) the full printed name and office address of the seizure officer to whom said items will be delivered.

3. Hearing Officer shall conduct summary confiscation proceedings.

   Notice of hearing shall be posted at least 3 times, once a week for 3 consecutive weeks in at least 3 public places, including, but not limited to a) the barangay hall of the apprehension site, b) bulletin board of the DENR office where proceedings will be conducted, and c) at the municipal hall of the apprehension site.

   Should the owner, claimant or any interested party fail to appear at the proceedings, such shall be deemed a waiver of the right to appear and of any/all rights to the items apprehended and seized in favor of the government.

   The hearing officer shall state this fact in the records and enter certification that publication of Notice of Hearing had been effected in compliance herewith and thereupon issue his decision based on the evidence at hand.

   A motion for reconsideration and/or appeal may be taken by the owner, claimant or any interested party in accordance with Section 7 hereof.

1.6. Judicial Prosecution of Offenses for Violation of Forestry Laws

1.6.1. Jurisdiction of Court to try offense

1. The Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts, shall have jurisdiction over all criminal cases where the penalty imposed is imprisonment not exceeding *prison correccional* or six years, regardless of the amount of fine, the civil liability, or the accessory penalties (RA 7691, Act Expanding Jurisdiction of the METC, MTC, and MCTC).

2. The Regional Trial Courts shall have jurisdiction over all criminal cases where the penalty imposed exceeds *prison correccional* or six years imprisonment regardless of the amount of fine, the civil liability, or the attendant accessory penalties. (RA 7691).

   a) In cases where the only penalty provided by law is fine, the jurisdiction is determined by BP 129 (Sec. 32 (2) which provides that where the amount of fine does not exceed P4,000, the same shall fall under the jurisdiction of the MTC. In excess of such amount, the RTC.

   b) However, in cases involving damage to property through criminal negligence, the case shall fall under the exclusive original jurisdiction of the MTC regardless of the amount of fine.

Table 1 shows the different kinds of cases that can be filed, the appropriate agency where to file them, the responsible lawyer or law enforcer to handle the case, the weight of evidence needed and the imposable penalties.

Table 1. Kinds of cases that can be filed.

Kind of Case	Legal Basis	Who can file suit/case	Responsible Lawyer/Law Enforcer	Where to Lodge/File Case	Weight of Evidence Needed	Penalty/ Sanction
Criminal Case	Penal law (law that defines crimes, treats of their nature and provides for their punishment)	Filipino people	Public Prosecutor or Fiscal	In court • MTC • MCTC • MTCC • RTC depending on weight of evidence	Proof beyond reasonable doubt	• Imprisonment • fine • both Imprisonment and fine
Civil case	Civil law (law that determines and regulates the private relations of the members of civil society)	Any person, corporation or association affected by the wrong doing of others	Private lawyer	In court • MTC • MCTC • MTCC • RTC depending on the amount of damages	Preponderance of evidence	• Temporary restraining order • payment of damages, etc
Administrative case	Administrative law (law being implemented by administrative agencies i.e. RAs, PDs, DAOs, etc.)	Anybody affected when this law is violated	• Private lawyer • Public lawyer • Ordinary citizen	In agencies implementing the laws violated e.g. DENR, BFAR, DILG, etc.	Sufficient evidence	• Fine • Revocation of license • Suspension or dismissal from service, etc.

1.6.2. Institution of Criminal Action

A. Complaint or Information

Complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated.

Information, on the other hand, is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court

Who must prosecute criminal actions

All criminal actions either commenced by complaint or information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of the public prosecutor or in the event of lack of public prosecutors, the private prosecutor maybe authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn. (Supreme Court Resolution En Banc A.M. No. 02-2-07 – SC dated April 10, 2002, to take effect on May 1, 2002).

Who may file complaint – the complaint may be filed either by the CENRO, PENRO, RED or any forest officer.

Where to File Complaint

a) For offenses where a preliminary investigation is required by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation (Sec. 1 Rule 110, 2000 Revised Rules of Criminal Procedure)
b) For all other offenses, by filing the complaint or information directly with the MTC and MCTC or with the office of the prosecutor. (Sec. 1 Rule 110, 2000 Revised Rules of Criminal Procedure).

Place where action is to be instituted – the criminal action shall be instituted and tried in the court of the municipality or territory where the offense was committed or where any of its essential ingredients occurred. In case of illegal transport of forest products on board a motor vehicle, train or aircraft, the complaint must be filed in the municipality or territory where such conveyances passed, including the place of departure and arrival. (Sec. 15, Rule 100, 2000 Revised Rules of Criminal Procedure)

Form and Content of Complaint

Complaint or information must be in writing, in the name of the People of the Philippines and against all persons who appear to be responsible for the offense involved.

The complaint or information must contain the name of the accused; designation of the offense given by the statute; acts or omissions complained of as constituting the offense (cause of

accusation); name of offended party; date of commission of offense and place where offense is committed.

In case of partnership, associations or corporations, the complaint shall be filed against the officers who ordered the cutting, gathering and collection or possession of timber or other forest products without any authority or legal documents as required under existing laws and regulations (Sec. 68, PD 705, as amended by EO 277).

Should the evidence in any administrative case arising by virtue hereof so warrants, the concerned CENRO, PENRO, RED or any forest officer shall initiate a criminal complaint before the City or Provincial Prosecutor or before the municipal trial court of appropriate jurisdiction for preliminary investigation and prosecution in accordance with law.

Under Sec. 80, PD 705, reports and complaints regarding the commission of any of the offenses defined herein, not committed in the presence of any forest officer or employee or any deputized officers, shall immediately be investigated by the forest officer assigned in the area where the offense was allegedly committed, who shall thereupon receive the evidence supporting the report or complaint.

If there is prima facie evidence to support the complaint or report, the investigating forest officer shall file the necessary complaint with the appropriate official authorized by law to conduct preliminary investigation and file information in court.

Documents to accompany complaint

1. Sworn statement of the apprehending/arresting officer.
2. Affidavits of witnesses, if any, who may have knowledge of the commission of the offense.
3. Copy of the seizure receipt or statement showing the number, species and volume of the logs/timber/forest products seized including all pertinent information on the machinery, equipment and tools as well as conveyance used.
4. Photographs and if not available, an inventory showing the timber or other forest products seized including the tools, equipment, machinery and conveyances used in the commission of the offense. (DENR Memo Order No. 36-88).
5. If the offense involves the unlawful occupation of a forest land, a map of the occupied area must be submitted together with an assessment of the value of the forest resources that may have been damaged.
6. Other pertinent documents.

In initiating and prosecuting criminal charges, the cognizant DENR officer shall, in addition to the indictment, contemporaneously file for actual damages in an amount equivalent to the value of the illegal forest products confiscated as well as moral and exemplary damages for prejudice to the environment, in an amount equivalent to 10 times the value of the forest products confiscated.

After the complaint is filed, the concerned forest officer shall transmit copy of the complaint and all supporting documents to the Regional Office for proper handling and disposition, copy furnished the Assistant Secretary for General Legal Services and the Task Force Taga-Usig.

B. Preliminary Investigation

Preliminary Investigation: when required

Preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.

A preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least 4 years, 2 months and 1 day without regard to the fine (Sec. 11, Rule 112, Revised Rules on Criminal Procedure).

The right of the accused to a preliminary investigation is a personal right and can be waived expressly or by implication. If not waived, the absence of a preliminary investigation may amount to a denial of due process. However, lack of a preliminary investigation, does not impair the validity of an information or render it defective.

When Preliminary Investigation is not required

When a person is lawfully arrested without a warrant involving an offense which requires preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing rules.

In the absence or unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court on the basis of the affidavit of the offended party or arresting officer or persons.

Before complaint or information is filed, the person arrested may ask for a preliminary investigation but he must sign a waiver of the provisions of Article 125 Revised Penal Code (RPC) as amended, in the presence of his counsel. Notwithstanding the waiver he may apply for bail and the investigation must be terminated within 15 days from its inception. (Sec. 7 Rule 112, 2000 Revised Rules on Criminal Procedure).

Officers authorized to conduct preliminary investigation

1. Provincial or City Prosecutors and their assistants
2. Judges of Municipal Trial Courts and MCTC
3. National and Regional State Prosecutors
4. Other Officers as may be authorized by law

This authority to conduct preliminary investigation includes all crimes cognizable by the proper court in their respective territorial jurisdiction (Sec. 2 Rule 112, 2000 Revised Rules of Criminal Procedure).

Section 80 of PD 705, as amended, requires forest officers to deliver the offender and confiscated forest products, tools and equipment to appropriate officials designated by law to conduct preliminary investigation and file information in court within 6 hours from time of arrest

and seizure and if far from authorities within reasonable time sufficient for ordinary travel to and from place of arrest.

When warrant of arrest may issue

Within 10 days from the filing of a complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause he shall issue a warrant of arrest or a commitment order if the accused had already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to Sec. 7, Rule 112, 2000 Revised Rules on Criminal Procedure. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within 5 days from notice and the issue must be resolved by the court within 30 days from the filing of complaint or information.

C. Arrest

Arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense (Sec.1, Rule 113, Revised Rules of Criminal Procedure)

Who may execute arrest

- Forest officer or employee
- Appropriate official designated by law
- Deputies (other government officials/private citizens duly deputized by the DENR Secretary)
- Members of law enforcement agencies (PC/INP, AFP/Coast guard)
- Other government law enforcement agencies
- Private citizens (citizen's arrest)

How shall arrest be made

Arrest is made by an actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest. No violence or unnecessary force shall be used in making an arrest, and the person arrested shall not be subject to any greater restraint than is necessary for his detention (Sec.2, Rule 113 2000 Revised Rules of Criminal Procedure).

The warrant of arrest should be executed within 10 days from receipt thereof otherwise, after the expiration of such period, the officer whom it was assigned for execution, shall make a report to the judge who issued the warrant and in case of his failure to execute the same, state the reason therefore. (Sec. 4 Rule 113, 2000 Revised Rules of Criminal Procedure).

Modes of making arrest

- By virtue of a warrant of arrest
- By warrantless arrest

Arrest by officer by virtue of a warrant

Officer shall inform the person to be arrested of the cause of the arrest and should show him the warrant unless to do so would imperil himself or place himself in jeopardy.

A warrant of arrest is necessary when the offense is not committed in the presence of the arresting officer.

Arrest without warrant – There are only 3 instances when the arresting officer may arrest a person without warrant

1. When in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense.
2. When an offense has in fact just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.
3. When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another (Sec. 5, Rule 113, 2000 Rules of Criminal Procedure).

Arrest under PD 705

Pursuant to Section 80 of PD 705, as amended, the Forest Officer may arrest even without warrant any person who has committed or is committing in his presence any of the offenses defined under Chapter IV of PD 705 as amended. He shall also seize and confiscate in favor of the government the tools and equipment used in committing the offense and the forest products cut, gathered or removed by the offender.

Sec. 68 of PD 705, on the other hand, punishes the mere act of possession of forest products without legal documents, hence the offenders are in every case committing the unlawful act *in flagrante*. Therefore, their arrest without warrant is lawful because they were then actually committing the offense.

Delivery of arrested person

The person arrested with or without warrant must be delivered to the nearest police station or jail without necessary delay to prevent him from fleeing from the reach of law or going into hiding. Under Sec. 80 of PD 705, as amended, the arresting forest officer shall deliver within 6 hours from time of arrest and seizure the offender and the confiscated forest products, tools and equipment to, and file the proper complaint with, the appropriate official designated by law to conduct preliminary investigation and file information in court.

If the arrest and seizure are made in the forest, far from the authorities designated by law to conduct preliminary investigation, the delivery and filing of complaint shall be done within reasonable time sufficient for ordinary travel from the place of arrest to the place of delivery.

D. Arraignment and Plea

Immediately after the complaint is filed, the forest officer shall transmit copy of complaint and all supporting documents to the Regional Office for proper handling and disposition, copy furnished the Assistant Secretary for General Legal Services. The prosecution of cases shall be the primary responsibility of the Regional Office concerned subject to the supervision and control of the Assistant Secretary for Legal Affairs. (DENR Memo Order No. 36-88)

Arraignment is done in open court by the judge or clerk by furnishing the accused with a copy of the complaint or information, reading the same in the language or dialect known to him and asking him whether he pleads guilty or not guilty. If he refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him.

Unless a shorter period is provided by a Special Law or Supreme Court Circular, the arraignment shall be held within 30 days from the date the court acquired jurisdiction over the person of the accused. The period of the pendency of a motion to quash or for a bill of particulars , or other causes justifying suspension of arraignment shall be excluded. (Sec. 2, SC Cir. No. 38-98, Implementing RA 8493, Speedy Trial Act of 1998).

At any time before entering his plea, the accused may move to quash the complaint or information on the following grounds:

That:

a) The facts charged do no constitute an offense;
b) The court trying the case has no jurisdiction over the offense charged;
c) The court trying the case has no jurisdiction over the person of the accused;
d) The officer who filed the information had no authority to do so;
e) It does not conform substantially to the prescribed form;
f) More than one offense is charged except when a single punishment for various offenses is prescribed by law;
g) The criminal action or liability has been extinguished;
h) It contains averments which if true, would constitute a legal excuse or justification;
i) The accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent. (Sec 3., Rule 117, 2000 Rules on Criminal Procedure)

E. Pre-trial Conference

It is mandatory in all criminal cases to order a pre-trial conference after arraignment to consider the following:

a. Plea bargaining
b. Stipulation of facts
c. Marking for identification of evidence of the parties
d. Waiver of objections to admissibility of evidence
e. Such other matters as will promote fair and expeditious trial of the criminal and civil aspects of the case (Sec. 3, SC Circular 38-98).

All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. These agreements shall be approved by the court (Sec. 4, SC Circular 38-98).

Considering the importance of the pre-trial conference, the apprehending forest officer must attend it and bring to the court the original copies of all records of the case being heard.

F. Trial

After arraignment and pre-trial, the accused shall prepare for trial. Trial shall commence within 30 days from receipt of the pre-trial order and shall continue until terminated. The order of trial shall proceed in the following order:

1. The prosecution shall present evidence to prove the charge and, in the proper case, the civil liability. The apprehending forest officer and those who assisted him, together with the DENR officers who have personal knowledge about the subject matter must attend the hearings on this stage.
2. The accused may present evidence to prove his defense and damages, if any, arising from the issuance of a provisional remedy in the case.
3. The prosecution and the defense may, in that order, present rebuttal and sworn-rebuttal evidence unless the court, in furtherance of justice, permits them to present additional evidence bearing upon the main issue.
4. Upon admission of the evidence of parties, the case shall be deemed submitted for decision unless the court directs them to argue orally or to submit written memoranda.
5. When the accused admit the act or omission charged in the complaint or information but interposes a lawful defense, the order of trial may be modified (Sec. 11, Rule 119, 2000 Rules of Criminal Procedure).

Rights of the Accused at the Trial

In all criminal prosecutions, the accused shall be entitled to the following rights:

1. To be presumed innocent until the contrary is proved beyond reasonable doubt;
2. To be informed of the nature and cause of the accusation against him;
3. To be present and defend in person and by counsel at every stage of the proceedings, from arraignment to promulgation of the judgment. The accused may however, waive his presence at the trial pursuant to the stipulations set forth in his bail bond, unless his presence is specifically ordered by the court for purposes of identification. The absence of the accused without any justifiable cause at the trial on a particular date of which he had notice shall be considered a waiver of his right to be present during that trial. When an accused during custody had been notified of the date of trial and escapes, he shall be deemed to have waived his right to be present on said date and on all subsequent trial dates until custody is regained. Upon motion, the accused may be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his right without the assistance of counsel;
4. To testify as witness in his own behalf but subject to cross-examination on matters covered by direct examination. His silence shall not in any manner prejudice him;
5. To be exempt from being compelled to be a witness against himself;

6. To confront and cross-examine the witnesses against him at the trial. Either party may utilize as part of its evidence the testimony of a witness who is deemed out of or cannot with due diligence be found in the Philippines, unavailable or otherwise unable to testify, given in another case or proceeding, judicial or administrative, involving the same parties and subject matter, the adverse party having had the opportunity to cross-examine him;
7. To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf;
8. To have a speedy, impartial and public trial;
9. To have the right of appeal in all cases allowed and in the manner prescribed by law (Sec. 1, Rule 115, 2000 Revised Rules of Criminal Procedure)

G. Judgment

Judgment is the adjudication by the court that the accused is guilty or not guilty of the offense charged and the imposition on him by the proper penalty and civil liability, if any. It must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts and the law upon which it is based.

Content of Judgment

a) If the judgment is of conviction it shall state:

1. The legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission.
2. The participation of the accused in the offense, whether as principal, accomplice, or accessory.
3. The penalty imposed upon the accused.
4. The civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.

b) If judgment is of acquittal, it shall state:

1. Whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist.

Promulgation of Judgment

The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.

Entry of Judgment

After judgment has become final it shall be entered by the clerk in the book of entries of judgment. The date of finality of judgment or final order shall be deemed to be the date of its entry. The record shall contain the dispositive part of the judgment and shall be signed by the

clerk, with a certificate that such judgment has become final and executory (Sec. 2, Rule 36, Revised Rules of Court).

1.7. Systems of Penalties

1.7.1 Imposable Penalties

1. Imprisonment

Sec. 68 of PD 705 provides that any person who cuts, gathers, collects, removes or possess timber and other forest products without license shall be punished with the penalties imposed under Art. 309 and 310 of the Revised Penal Code (RPC). It also states that in case of partnerships, association or corporation, the officers who ordered such illegal activities are also liable.

Art. 309 of the RPC prescribes the penalties for the crime of theft while Art. 310 prescribes the penalties for qualified theft which is next higher by two degrees than those specified in the crime of theft.

The duration of penalties is shown hereunder:

Table 2. Penalties for Cutting, Gathering, Collection, Removal and Possession and Transport of Timber and other Forest Products without Authority or Legal Permit.[4]

VALUE	PENALTY	DURATION
More than ₱22,000	*Reclusion Temporal* in its medium and maximum periods (Maximum)	18 years, 2 months and 21 days to 20 yrs (1 year for each additional ₱10,000 but total penalty shall not exceed 20 years)
More than ₱12,000 up to ₱22,000	*Reclusion Temporal* in its medium and maximum periods	14 years, 8 months and 1 day to 20 years.
More than ₱200 up to ₱6,000	*Prison Mayor* in its medium and maximum periods	8 years and 1 day to 12 years
More than ₱50 up to ₱200	(see footnote[5])	(see footnote[5])
More than ₱5 up to ₱50	(see footnote[5])	(see footnote[5])
₱5 or less	*Prison Correctional* in its medium and maximum periods	2 years, 4 months and 1 day to 6 years

2. Confiscation and forfeiture of the proceeds or instruments of the crime

[4] See Art. 310 in relation to Art. 309 and Art. 61 of the Revised Penal Code.

[5] Applying the provisions of Art. 61 of the RPC, the penalty two degrees higher than what are prescribed in Art. 309 would be *prison mayor* in its medium period to *reclusion temporal* in its maximum period, or 8 years and 1 day to 14 years and 8 months (see also Table of Penalties, Appendix A in II L. REYES, THE REVISED PENAL CODE (12th ed.) p. 1011, No. 25). This penalty seems incongruous since it is higher same incongruity arises where the value is more than P200 up to P6,000. The P5 up to P50 as the penalty would be *prison mayor* in its fullest extent which has a duration of 12 years.

Source: Law on Illegal Logging (A Manual) by Wilfredo M. Peñaflor and Dick B. Perez. March 1994.

Every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instruments or tools with which it was committed. Such proceeds and instruments shall be confiscated and forfeited in favor of the government, unless they be the property of a third person not liable for the offense (Art. 45, Revised Penal Code of the Philippines, 1999 ed.).

Under Sec. 68, PD 705, the court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed, as well as the machinery, equipment, implements and tools illegally used in the area where timber or forest products are found.

Sec.68-A further provides that in cases of violations of this Code, or other forest laws and regulations, the Department Head or his duly authorized representative, may order the confiscation of any forest products illegally cut, gathered, removed or possessed or abandoned, and all conveyances used either by land, water or air in the commission of the offense and to dispose of the same in accordance with pertinent laws, rules or policies on the matter.

3. Fine- whether imposed as a single or as an alternative penalty, shall be considered an afflictive penalty if it exceeds ₱ 6,000.00; a correctional penalty, if it does not exceed ₱ 6,000.00 but is not less than ₱ 200.00 and a light penalty if it be less than ₱ 200.00. (Article 26, Revised Penal Code of the Philippines, 1999 ed.)

4. Perpetual disqualification from acquiring any such privilege upon a permittee, licensee or lessee who cuts timber from a license, leased areas of another without prejudice to whatever civil action the latter may bring against the offender.

5. Suspension/ revocation of license/permit etc.

1.8. DISPOSITION

1.8.1. Disposition of items confiscated in favor of the government

1. Items forfeited in favor of the government shall be disposed of in accordance with law.
2. Except for disposition through donation, and for DENR's own-use, the disposition shall be governed by the same requirement and rules of procedures applied by DENR Central Committee on Bids and Awards of the Office of the Secretary. The Central Committee shall reproduce its requirement and rules of procedure for adoption and strict compliance.
3. DENR employees and their relatives within the fourth civil degree of consanguinity or affinity shall in no way, directly or indirectly be allowed to participate in or otherwise be interested in any part of these proceedings.
4. In no case shall same individual(s) from whom items for disposition were confiscated be qualified as bidder in these proceedings. (Sec. 12, DAO 97-32)

1.8.2. Modes of Disposition

1. Sale/Auction

2. Donation
3. Own use

Approving Officials

Table 3 shows the level of approvals of those authorized to disposed through public auction and /or donation the forest products confiscated/retrieved in favor of the government.

The REDs/PENROs/CENROs shall submit to the Secretary, through the Undersecretary of Field Operations, monthly report of disposition of forest products.

Sale through Public Auction

Forest products subject of disposition through public auction:
a. Confiscated forest products without court cases;
b. Forest products retrieved/recovered/salvaged by the DENR or turned over to the DENR pursuant to approved permits (e.g. approved tree cutting, or road right-of-way permits)

Table 3. Forest products, modes of disposition and approving authorities.

Types of Forest Products	Mode of Disposition and Limits of Authority		Approving Authority
	Public Auction	Donation	
Confiscated Forest Products	Worth more than ₱500,000.00	More than 500.00 cu.m.	Secretary
	₱ 300,000.05 to ₱ 500,000.00	100.01 cu.m. to 500.00 cu.m.	Usec, Field Operations
	₱ 150,000.05 to ₱ 300,000.00	50.01 cu.m. to 100.00 cu.m.	RED
	₱ 50,000.05 to ₱ 150,000.00	30.01 cu.m. to 50.00 cu.m.	PENRO
	₱ 50,000.00 or less	30.00 cu.m. or less	CENRO
Retrieved by or turned over to DENR (e.g. those covered by Cutting Road Right of Way Permits	Worth more than ₱ 500,000.00	More than 100.00 cu.m.	Secretary
	₱ 300,000.05 to ₱ 500,000.00	50.01 cu.m. to 100.00 cu.m.	Usec, Field Operations
	₱ 150,000.05 to ₱ 300,000.00	30.01 cu.m. to 50.00 cu.m.	RED
	₱ 50,000.05 to ₱ 150,000.00	10.01 cu.m. to 30.00 cu.m.	PENRO
	₱ 50,000.00 or less	10.00 cu.m. or less	CENRO

Source: DENR Adm. Order No 2003 – 18. Amendment to Sec. IX of DENR Administrative Order No. 2000-11 43 Re: Disposition of Forest Products.

Procedure for Disposition through Public Auction

1. The auction is conducted by the Committee on Bids and Awards who shall convene and issue an invitation to bid containing the following:

a. Invitation number
b. Place, date and time of opening of bids
c. Quantity of forest products
d. Accurate description and specification of forest products
e. Terms and conditions including the floor price
f. Bond requirement
g. Right to accept and reject bids (Government reservation clause)
h. Invitation to bidders
i. Bid proposals.

2. Posting and publication

The invitation to bid and Notice of Sale shall be posted in at least three (3) conspicuous places in the DENR local offices and in other public places. It shall be published in at least two (2) newspapers of general circulation for three (3) consecutive days, the last publication of which shall be 15 days before the opening of the bids.

In case of rebidding, the Invitation to Rebid and Notice of Sale shall be published in the same newspaper of general circulation at least once every week for three consecutive weeks, the last publication of which shall be one week before the scheduled rebidding (DMO 36-88)

3. Accreditation of Bidders

The committee, meeting in quorum, shall not honor the offer or proposal of any bidder unless he has formally submitted an application therefore under oath containing among other information: his name and address; citizenship; nature of business; and statement that he has not committed any of the grounds for disqualification, i.e., a) conviction of a crime related to business, commerce, and trade, as well as for hoarding and profiteering;b) smuggling/conniving with smugglers of forest products; and, c) deliberate error, omission or commission in the bid tender (DMO 36-88).

4. Deposit

All bidders shall be required to deposit in either cashier's or manager's check in the name of the DENR Secretary the equivalent of 10% of the amount of bid, which deposit shall be returned to the losing bidder after the award is announced.

The 10% deposit of the winning bidder shall be automatically converted into partial payment and failure of the awardee to remit or pay the balance of the amount of the bid on or before 2:00 o' clock in the afternoon of the third working day from the date of the sale will render the award to him as null and void, and the 10% deposit forfeited in favor of the government.

5. Award of Bids

a.) Award shall be given to the most advantageous offer to the government, provided that, the offer shall not be less than the minimum bid price set by the Committee.

b.) In case of tie, the bidders shall submit another sealed bid immediately after the committee declares a tie and the bids shall likewise be opened after which, the committee shall prepare abstract of quotations and its order of award.

c.) The committee shall prepare and send the award order or notification to the winning bidder. This award order shall serve as permit of the awardee to remove, transport and dispose the forest products subject of said award; Provided, however that the awardee shall have remitted/ paid the balance of the amount of bid before actual removal or transport of the same commences.

Donation

Forest products which may be disposed of through donation

a. Those which are not subject of a pending case in court or with other appropriate office;
b. Those without claimants or offenders against whom the case could be filed;
c. Those found abandoned within forest areas, the ownership of which could not be ascertained and without claimants.

Beneficiaries qualified to receive donations

i. Barangays
ii. Municipal and provincial governments
iii. Other government agencies, who by nature of their functions require wood materials or other forest products in order to enhance their services to the general public.

Documents to support request for donations

i. Justification for the construction/ establishment of the infrastructure;
ii. Bill of materials and building plan duly approved by the project engineer; Provided, that in case of Barangay construction or similar project, a simple sketch plan duly signed by the building foreman or barangay captain shall be sufficient;
iii. Certification issued by the provincial auditor that there is no fund or appropriation for the purchase of the required wood materials; provided, that for barangay constructions or similar projects, a certification from the Municipal Development Officer shall be sufficient; and,
iv. Certification from the CENRO/PENRO/Regional Office concerned that said volume or amount of forest products is available for disposition.

A certificate of completion of the project shall be submitted by the donee to the concerned DENR office duly attested to by the DENR official concerned and the provincial auditor, accompanied by the following documents:

a. Certification by the Project Engineer of the completion of the project.
b. Species and volume of timber and other forest products utilized
c. Photographs of completed project showing specific portions where the donated materials were utilized (Malacañang Memo Order 162, S-1993)

Since donation is gratuitous in nature and for government use, the payment of forest charges shall not be required from the donee.

1.8.3. Expenses for the transfer, safekeeping, maintenance and delivery of apprehended, seized and confiscated items

1. Expenses for transfer, delivery and maintenance/safekeeping of apprehended items shall be added to the value thereof and shall attach as primary liens in favor of the DENR. It shall be deducted from and reimbursed to the DENR as administrative cost from the proceeds of the sale thereof.

2. The DENR shall allocate a fund to enable field officers to advance expeditiously the hauling of expenses and avoid deterioration and/or loss of economic value of the products/conveyances.

3. In cases where items forfeited in favor of the government are disposed of by judicial or other official mandate, the cognizant RED shall make official representations with the court or government agency concerned for the purpose of recovering the aforementioned primary lien.

4. The Undersecretary for Field Operations may promulgate such other guidelines, rules and regulations as may from time to time be deemed necessary or appropriate under the circumstances in order to ensure the recovery of expenses incurred by the DENR in this regard. (Sec. 13, DAO 97-32)

1.8.4. Remittance of proceeds of sales

a. Proceeds from the sale of any items confiscated are property of the government of the Philippines. Proceeds in cash shall be deposited in a Special Fund and shall be applied in strict conformity with applicable laws, rules and regulations to priority needs of the DENR.
b. The proceeds of sale of confiscated forest products, after deduction of all administrative costs related to the confiscation shall be remitted by the chairman of the CBA-CFP to the Secretary, DENR either in the form of cashier's or manager's check immediately upon receipt of the full payment of the bidded forest products (DMO 36-88).
c. A quarterly report on all funds remitted to the Central Office shall be submitted by the cognizant officer to the Secretary which shall also be consolidated into an annual report to be similarly submitted at the end of the fiscal year. (Sec. 14, DAO 97-32)

1.8.5. Reportorial Requirements

Quarterly reports shall be submitted by the RED to the Secretary, copy furnished the Assistant Secretary for General Legal Services, Undersecretary for Field Operations, and the Director of the Forest Management Bureau on the following:

1. Status Report of Cases – a complete list of all administrative cases initiated, including the dates, places and parties involved, current status and estimated period for completion, as well as recommendations for the efficient and expeditious disposition thereof.

2. List of seized and confiscated items

2.1. All items seized and detained *pendente lite* with particular description of each item, current condition and place of detention/safekeeping.
2.2. All conveyances temporarily released, stating names of recipients, conditions and amount of bonds
2.3. All confiscated items awaiting final disposition, accurately described with recommendations as to final disposition

3. Items not recommended for disposition

3.1 Those submitted as evidence in court or other government agency
3.2 Those recommended for use by the DENR
3.3 Those recommended for donation

4. Items requiring urgent disposition

4.1 Items which cannot be detained for safekeeping until final disposition thereof is determined due to

a. the highly perishable nature thereof
b. the place for adequate safekeeping thereof cannot be provided, and
c. its continued detention until final disposition is impractical

4.2 The list of these items shall be submitted to the Undersecretary for Field Operations without delay within 48 hours from discovery of urgency stating the particular description of the items, estimated value, reasons for recommending urgent disposition, and mode of disposition recommended.

5. Upon consultation with the Assistant Secretary for General Legal Services and the Director of FMB, and with the approval of the Secretary, the Undersecretary for Field Operations shall issue directives for the expeditious disposition of all such items.

2.0 DUE DILIGENCE MECHANISM

2.1 Introduction

One of the so-called hazards of government service is the threat of dissatisfied clients who resort to filing administrative and even criminal complaints against government officials. The experience of DENR officials shows quite a number of its officials being haled to court for a variety of reasons. This has resulted in a general sense of harassment that somehow takes away the initiative and aggressiveness of involved DENR officials in the performance of their job. This bureaucratic side-effect could adversely affect the over-all effectiveness of government officials in the discharge of the functions of their position.

To restore the confidence of these government officials in the integrity of the system, and give them a sense of security against harassment suits and baseless charges, there is a need to institute a due diligence mechanism (DDM) that will serve as a basis of determining the official conduct of any DENR official.

2.2 Elements of Due Diligence Mechanism

The proposed due diligence mechanism (DDM) is underpinned by the three componential elements of eco-governance:

1. transparency in all transactions and decisions
2. accountability of national and local leaders
3. participatory decision making

It also embodies the other core characteristics of good governance as defined by the United Nations Development Programme:

1. Rule of Law - legal frameworks are fair and enforced impartially, particularly the laws on human rights; public security and safety are a high level.

2. Responsiveness - institutions and processes serve all stakeholders.

3. Consensus Orientation - differing interests are mediated to reach broad consensus on what is the common good, in the best interests of the organization, community or country, and whenever possible, on policies and procedures.

4. Equity - all men and women have opportunities to improve or maintain their well-being and vulnerable and excluded are targeted to provide security of well-being to all.

5. Effectiveness and Efficiency - processes and institutions produce results that meet the needs while making the best use of the resources.

6. Strategic Vision - leaders and the public share a broad and long-term perspective on good society, good governance, and human development, along with a sense of what is needed for such development.

7. Legitimacy - authority is legitimate in terms of the established legal and institutional framework and specific decisions in terms of the accepted institutional criteria, processes and procedures.

8. Resource Prudence - resources are managed and used with a view to optimize the well-being of people over several generations, ideally in perpetuity, without mortgaging the future.

9. Ecological Soundness - the environment is protected and regenerated to ensure sustainable self-reliance.

10. Empowering and Enabling - all actors in society are empowered to pursue legitimate goals and enabling environments are created to optimize their successes and the realization of the well-being of all.

11. Partnership - governance is seen as a whole-system responsibility that cannot be discharged effectively by government alone, but involves institutionalized mechanisms and processes for working in partnerships of public, private and civic actors in conducting the business of governance at all levels.

This mechanism is further based on existing laws governing the conduct of government employees:

1. Republic Act 3019, as amended. Otherwise known as the Anti-graft and Corrupt Practices Act
2. Republic Act 6713, as amended entitled Code of Conduct and Ethical Standards for Public Officials and Employees
3. Executive Order 292, the Civil Service Law, Rules and Regulations as embodied in the Administrative Code of 1987
4. Administrative Agency's (DENR) Internal Disciplinary System

2.3 Operational Definitions

For purposes of this due diligence mechanism, the following terms shall be defined operationally as follows:

1. Due Diligence - is such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case (Black's Law Dictionary, 6th Ed).

   Black's Law Dictionary makes a distinction between high degree of diligence, a common degree of diligence, and a slight degree of diligence. High or great diligence refers to such measure of care, prudence and assiduity as persons of unusual prudence and discretion exercise in regard to any and all of their own affairs. Common or ordinary diligence is that degree of diligence which men, in general, exercise in respect to their own concerns. Low

or slight diligence is that which persons of less than common prudence take of their own concerns.

This due diligence mechanism refers to common or ordinary diligence.

As mentioned in the position paper submitted by Atty. Antonio Oposa, Jr., the law punishes gross negligence which was described as "negligence characterized by want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences insofar as other persons may be affected."

The position paper further stated the generally accepted test to determine negligence in a particular case which may be stated as, "Did a person, in doing the negligent act, use that reasonable care and caution which an ordinarily prudent person would have used in the same situation? If not, then he is guilty of negligence."

2. Good Faith - is an honest belief, the absence of malice and the absence of design to defraud or seek an unconscionable advantage (Black's Law Dictionary, 6th Ed). It is ordinarily used to describe that state of mind denoting honesty of purpose, freedom from intention to defraud, and generally speaking, means being faithful to one's duty or obligation.

   The law presumes that an official act was done in good faith and in the ordinary course of business. This presumption is an effective shield for government officials because the burden of proof to show bad faith is on the contesting party.

   Bad faith is the opposite of good faith, generally implying or involving actual or constructive fraud, or a design to mislead or deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation, not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive. It is not simply bad judgment or negligence, but rather it implies the conscious doing of a wrong because of dishonest purpose or moral obliquity; it is different from the negative idea of negligence in that it contemplates a state of mind affirmatively operating with furtive design or ill will (Black's Law Dictionary, 6th Ed).

2.4 Checklist of Items to Consider in the Exercise of Due Diligence

- Is the matter under consideration within the scope of your functions?
- Are you familiar with the law and regulations on the matter pending before you?
- Have you followed the procedure before acting on the pending matter?
- Do you have any direct or indirect personal interest in the transaction?
- Are you acting on a pending matter within a reasonable time?
- In case of letters received by you from the public, have you acted on it and replied to the person writing the letter within 15 days?
- In case of an application for a permit, is the applicant legally entitled or qualified?

- Will the government or any private person be unduly disadvantaged by your decision?
- Are the endorsements by your subordinates complete?
- Is there a promise of anything in return for your action?
- Where there is a bidding required, have the bidders been given the chance to submit their bid?
- In case of your absence, have you designated the official nest-in-rank to sign in your behalf?
- When there is a request to examine documents, except those that are strictly confidential in character, will you allow it?
- Are you acting in an oppressive manner to any client of your office?
- Have you in any way hinted at the possibility of something in exchange for your approval?

2.5 Code of Conduct of Good Environmental Governance

Recently, the DENR composed a Code of Conduct of Good Environmental Governance. All employees of the DENR shall swear and subscribe to this Code upon their appointment to the DENR. Violation of any of the undertakings contained in this Code shall be a ground for disciplinary action. On the other hand, the DENR shall integrate faithful compliance of DENR employees to this Code in the agency's incentives, merit and promotion system. Below, is a faithful reproduction of this Code:

I Commit to Abide by this Code of Conduct of Good Environmental Governance:

- I will perform my duties with an awareness that must be develop, protect, and judiciously utilize the natural wealth of my nation for public good;
- I will discharge the duties of my work with efficiency, urgency, professional competence and transparency in keeping with designation as personnel of the nation's primary environmental and natural resources protection agency;
- I will provide equal opportunity service;
- I will hold myself personally and solely accountable to the Filipino people for all my actions in line with the ethics of professionalism, policies of organizational discipline, and the laws and regulations of the Philippines, the Philippine Civil Service Code and the Department of Environment and Natural Resources;
- I will lead a simple, but respectable personal life, as befits, a public steward of our nation's environmental resources;
- I will ensure that due diligence is taken before any decision or actions are made or implemented that will concern ether directly or indirectly present and future Filipinos, their heritage, and the natural resources they rely upon;
- I will pursue only the highest justice most beneficial and least cost to the greatest number of people;
- I will treat work colleagues, stakeholders, and other community members with respect, valuing their views and decisions and involving them in the protection of the environment; and

- I will lead by example in actively pursuing a sustained and systematic Environmental Governance of the country.

TO MANIFEST my commitment to this Code, and my intent to observe it in all my official acts, I hereby affix my signature the law with no reservation of any kind, or hesitance to execute the tenets stipulated herein.

This shall be my covenant and contractual obligation to my people, to the Department, and to the Republic of the Philippines.

_____
Name

_____
Designation

_____
Date

Accepted:

ELISEA G. GOZUN
DENR Secretary

Date

2.6 Institutionalization of Due Diligence Mechanism

This proposed due diligence mechanism needs the imprimatur of the DENR Secretary to become a formal component of the agency's administrative system. Depending on the results of public consultations, an administrative issuance is needed to institutionalize this due diligence mechanism.

Considering the implications of this DDM to the administrative disciplinary system of the DENR, the impacts of the Civil Service Commission (CSC), Ombudsman, and the Department of Justice(DOJ), are vital and must be secured. The eventual objectives is for this DDM to be formally recognized and respected by the CSC , Ombudsman and DOJ when dealing with an administration complaint against DENR employees.

2.7 Implementation

Once adopted by the DENR leadership and officially recognized by the CSC, Ombudsman and DOJ, the actual implementation of DDM can proceed within the agency bureaucracy. For every application involving the exploration , development, and use of natural resources, including transport, an integrated checklist shall be accomplished by all who acted on the

application and this self-accomplished document shall form part of the internal records of the application. The purpose is to document the compliance to the DDM on all applications involving the exploration, development and use of the country's natural resources.

2.8 Monitoring and Evaluation

The compliance to DDM will be monitored mainly through the submission and evaluation of reports, using the accomplished DDM checklist. This reportorial requirement can be integrated in the periodic performance evaluation system currently practiced by the DENR to determine the efficiency and effectiveness of its employees.

2.9 Conclusion

The DDM is being proposed for adoption to give meaning to the core elements of eco-governance of transparency, accountability, and participatory decision-making.

It is designed to document the exercise of due diligence on the part of the DENR Official when taking action on the matter brought before him/her. By doing so, it establishes a protective shield against baseless harassment suits usually filed by disgruntled clients and employees.

REFERENCES

1.0 Forest Law Enforcement System

Commissioner of Customs vs. Court of Tax Appeals and Jose Pascual. SCRA 138, September 23, 1985, pp. 583-587

DAO 97-32. 1997 Rules for the Administrative Adjudication of Illegal Forest Products and the Machinery, Equipment, Tools and Conveyances Used in Connection Herewith. 10 October 1997.

DAO 2003-18. Amendment to Section IX of DENR Administrative Order No. 2000-11 re: Disposition of Forest Products.

DAO 07, S-1994. Revised Guidelines Governing the Issuance of Certificate of Origin for Logs, Timber, Lumber, and Non-Timber Forest Products. Feb. 17, 1994.

DENR Memorandum Order 36-88. Guidelines on the Confiscation, Seizure and Disposition of Illegally Cut, Gathered, and/or Transported Forest Products. 6 May 1998.

DENR Memorandum Order No. 12-90. Addendum to DENR Memorandum Order 36, Series of 1988 re: Guidelines on the Confiscation, Seizure and Disposition of Illegally Cut, Gathered and/or Transported Forest Products. 17 August 1990.

DENR Memorandum Circular No. 19-90. Amendment to Certain Provisions of DENR Memorandum Order No. 36-88 re: Guidelines on the Confiscation, Seizure and Disposition of Illegally Cut, Gathered and/or Transported Forest Products. 10 September 1990.

DENR Memorandum Circular No. 12-92. Authority to Approve Donations of Confiscated Logs. 11 August 1992.

DAO No. 50-92. Guidelines on the Disposition of Confiscated Logs, Lumber and Other Forest Products for Public Infrastructure Projects. 10 November 1992.

DENR Memorandum Circular NO. 2003-11. Clarifying the 1997 Rules in the Administrative Adjudication of Illegal Forest Products under DENR Administrative Order 97-32. 24 June 2003.

Executive Order No. 277. Amending Section 68 of PD 705, as amended, otherwise known as the Revised Forestry Code of the Philippines, for the purpose of penalizing possession of timber and other forest products without documents required by existing forest laws, authorizing the confiscation of illegally cut, gathered, removed and possessed forest products, and grants of rewards to informers of violations of forestry laws, rules and regulations. 25 July 1987.

Factoran vs. Court of Appeals, G.R. No. 93540. December 13, 1999, Official Gazette, Vol. 97, No. 36, September 3, 2001.

Malacañang Memorandum Order No. 162. Providing guidelines for the disposition of confiscated logs, lumber and other forest products for public infrastructure projects and other purposes. 19 August 1993.

Memorandum of Agreement (MOA) between Department of Environment and Natural Resources (DENR) and the Department of Justice (DOJ) re: Task Force on Environment and Natural Resources. May 1993.

Paat vs. CA. GR No. 111107. 2nd Div., Supreme Court. 10 January 1997.

Peñaflor, Wilfredo and Dick B. Perez. Law on Illegal Logging: A Manual. March 1994.

Presidential Decree No. 705, as amended, otherwise known as the Revised Forestry Code of the Philippines. May 19, 1975.

Republic Act No. 9175. Chainsaw act of 2002. 7 November 2002.

Republic Act 7586, NIPAS Law.

Republic Act No. 9147, Wildlife Resources Conservation and Protection Act. 30 July 2001.

Revised Penal Code of the Philippines. 1999 revised edition.

Supreme Court Circular. 38-98, Implementing RA 8493, Speedy Trial Act of 1998.

Supreme Court Resolution En Banc A.M. No. 02-02-07-SC, April 10, 2002.

1987 Philippine Constitution.

Revised Rules of Civil Procedure

2000 Revised Rules on Criminal Procedure.

2.0 Due Diligence

Black's Law Dictionary, 6th ed.

DENR Code of Conduct of Good Environmental Governance

Oposa, Antonio Jr., A Policy Paper on Due Diligence, 2003

Republic Act 3019, as amended. Anti-graft and Corrupt Practices Act

Republic Act 6713, as amended. Code of Conduct and Ethical Standards for Public Officials and Employees

Executive Order 292. Administrative Code of 1987 (Civil Service Law, Rules and Regulations)

Administrative Agency's (DENR) Internal Disciplinary System

PREPARED BY:
Forest Law Enforcement and Due Diligence Team

Team Leader ELENO O. PERALTA, *PhD Forestry, LLB*

Team Members LENI N. GARCIA, *BS Journ, LLB*

DANTE N. PECSON, *AB Fine Arts, DevCom (MS Units*)

ANNEX E.1

DRAFT

REPUBLIC OF THE PHILIPPINES
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City

DENR Administrative Order
No. 2004-

SUBJECT: Manual on Forest Law Enforcement and Due Diligence Mechanism

In consonance with the provisions of PD 705, as amended, and pertinent policies, rules and regulations, a DENR Manual on Forest Law Enforcement and Due Diligence Mechanism is hereby adopted.

The manual, which shall form part of this Order, shall serve as the reference of all DENR offices including its bureaus and regional offices to enhance efficiency in the implementation of law enforcement activities.

All officers of the DENR charged with the enforcement of forestry laws, rules and regulations shall adhere to the provisions of this manual.

This Order repeals DENR Administrative Order 97-32. All other orders, circulars, and issuances, inconsistent herewith are hereby repealed and/or modified accordingly.

This Order shall take effect 15 days after its publication once a week for three consecutive weeks in a newspaper of general circulation.

SGD. ELIZEA G. GOZUN
Secretary

ANNEX E.2

REPUBLIC OF THE PHILIPPINES
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City

DENR Administrative Order
No. 2004 –

SUBJECT: New Rules and Regulations on Forest Law Enforcement

Pursuant to the provisions of PD 705, as amended and pertinent policies, rules and regulations, these new rules and regulations on Forest Law Enforcement is hereby promulgated.

Section 1. DEFINITION OF TERMS

As used in this Order, the following terms shall have the corresponding meanings:

Apprehension - to lay hold of forest products , tools and equipment, implements and conveyance, whether in transit or stationary for the purpose of inspection.

Arraignment - stage in prosecution whereby a complaint or information is read to the accused in a language or dialect known and understandable to him and asking whether he pleads guilty or not to the accusation filed against him.

Arrest - is the taking of a person into custody in order that he may be bound to answer for the commission of an offense .

Complaint - is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated.

Confiscation - the act of appropriating seized forest products and conveyances by the government after judgment duly issued by the proper authority, either administrative or judicial that the said property is illegal or has been used in the cutting, gathering, collecting and/or possessing and /or transporting illegal forest products.

Conveyance - any mode or type or class of vehicle or craft or any other means used for transportation either on land, water, air, or any combination thereof whether motorized or not, used in the gathering, collecting, transporting and/or possessing of the illegal forest products.

Department - refers to the Department of Environment and Natural Resurces.

Forest officers	-	officials and employees of the DENR charged with the enforcement of forestry laws, rules and regulations of the Philippines.
Forest products	-	refers to timber including lumber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil , honey, beeswax, nipa, rattan, charcoal, or other forest growth, such as but not limited to grass, shrub, flowering plants in forest lands and others.
Forfeiture	-	the loss of rights in a transaction involving property.
Information	-	is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court.
Inquest	-	is an informal and summary investigation conducted by a public prosecutor in criminal cases involving persons arrested and detained without the benefit of a warrant of arrest issued by the court for the purpose of determining whether or not said persons should remain under the custody and correspondingly charged in court.
Judgment	-	is the adjudication by the court that the accused is guilty or not guilty of the offense charged and the imposition on him by the proper penalty and civil liability, if any. It must be written in the official language, form personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts and the law upon which it is based.
Preliminary Investigation	-	is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.
Probable cause	-	the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.
Secretary	-	refers to the Secretary of the Department of Environment and Natural Resources.
Seizure	-	official act of taking by persons authorized hereby those items subject of apprehension, seizure and confiscation into government custody, pending formal administrative proceedings for the disposition thereof.
Wildlife	-	means wild forms and varieties of flora and fauna, in all developmental stages, including those which are in captivity or are being bred or propagated.

CHAPTER I

ADMINISTRATIVE APPREHENSION, SEIZURE, AND CONFISCATION

Section 2. Persons authorized to make apprehensions:

1. Forest officers
2. Deputies (i.e. other government officials and private citizens duly deputized by the DENR Secretary or his duly authorized representative)
3. Members of law enforcement agencies
4. Private citizens as provided by law

Section 3. Persons Authorized to Effect Seizure

1. Community Environment and Natural Resources Officer (CENRO) or in his absence any DENR officer with the rank of Forester 3 or Land Management Officer 3 (LMO) actually assigned to the area of apprehension at the time thereof;
2. Team Leader of the apprehending team;
3. Protected Area Superintendent (PASU);
4. The Secretary may from time to time also designate in writing such other DENR Officials for the purpose.

Section 4. Items Subject to Apprehension and Seizure

1. Forest products illegally cut, gathered, removed or possessed or abandoned.
2. Any forest products removed, cut, collected, processed and/or transported without the requisite authorization or permit; or with incomplete required supporting documents; with genuine authorization or permit and/or supporting documentation that has an expired validity, has been cancelled or that containing forged entries; or with spurious (fake) authorization, permit and/or supporting documentation.
3. Machinery, equipment, tools and implements used in the possession, gathering, collecting, processing and/or transporting of illegal forest products.
4. Conveyance – any mode or type or class of vehicle or craft or any other means used for transportation either in land, water, air, or any combination thereof whether motorized or not, used for or in taking and/or maintaining temporary or permanent possession or control, gathering, collecting, processing, disposing of, or otherwise transporting, moving or transferring illegal forest products.
5. Wildlife illegally collected, gathered, acquired, transported or imported .

Section 5. Documents required for the transport or shipment of forest products

The following documents shall be required for the transport or shipment of forest products:

1. For logs/timber: Original Certificate of Transport Origin (CTO); together with the tally sheet corresponding thereto;
2. For lumber: Original Certificate of Lumber Origin(CLO), together with the sales invoice, in case of lumber sales, and the tally sheet;
3. For non-timber forest products: Original Certificate of Non-timber Forest Products Origin (CNFPO), together with the delivery receipt.
4. No Certificate of Origin shall be required in the following instances:

    a. Logs/timber being transported from the licensee's/permittee's cutting area to its wood processing plant or main log storage area, provided that such facilities are located within the province of source; provided further that in cases where the wood processing plant is located outside the province, the transport/shipment thereof may be allowed, subject to prior approval by the RED(s) concerned. Such approval shall be in the form of a special authority issued by the RED for a period not exceeding one year, subject to the following conditions; that the conveyance(s) is/are company owned; that the delivery route is the normal route in the delivery of logs to the log pond or log yard of the firm's wood processing plant; and listing of the type and serial/plate number of the vehicle(s) authorized for the purpose.
    b. Transport/shipment of finished, semi-finished, or knocked-down forest products, provided that these are accompanied by a delivery receipt or sales invoice, together with the tally sheets;
    c. Lumber and lumber products transported from source to buyer/end-user within the confines of the province or within the Greater Manila area, provided that the same are covered by the corresponding sales invoice and/or delivery receipt;
    d. Forest products transhipped from the point of initial unloading to its final point of destination, provided it is accompanied by a Certificate of Transhipment (COT) issued by the CENRO concerned indicating therein the kind, number, volume, and consignee of the shipment as well as the serial number of the Certificate of Origin accompanying the shipment.
    e. Transport of logs/timber/lumber/other forest products derived from planted trees or non-wood forest products inside private lands, provided that the same is accompanied by a Certificate of Verification issued by a DENR local official at the CENRO level.

    Forest products being shipped/transported without the accompanying original Certificate of Origin or the Special Authority to Transport duly issued by a DENR officer concerned shall be presumed as coming from illegal sources and as such, the forest products, including the conveyance used shall be subject to confiscation and disposition and the offender shall be prosecuted in accordance with PD 705, as amended, and other applicable laws and regulations.

Section 6. Procedure for Administrative Apprehension and Seizure

The following procedure shall be complied with in apprehension and seizure of illegal forest products and conveyances use in the commission of the offense:

1. Ocular inspection and cursory investigation - Involves the verification of authorizations, permits and accompanying documentation of forest products (transport documents in their original copies), machinery, equipment, tools and implements and conveyance(s).

2. Inventory and Documentation

   If probable cause for apprehension and seizure is present, the apprehending officer shall do the following:

   a. Verbally inform the person(s) apprehended of his findings.
   b. Take the names, addresses and other available data of all persons involved in the cutting, gathering or collecting and/or transporting or possessing the forest products.
   c. Write an itemized list of all on-site machinery, equipment, tools and implements used, if any, in the commission of, or otherwise connected with, the offense.
   d. In case the violation involves the use of a conveyance, the apprehending forest officer shall verify the certificate of registration and/or official receipt as well as the driver's license or similar authorizations. Said documents shall be returned to the holder thereof upon notation of his identity and address as well as the name and address of the owner of the conveyance, its license plate number and other identifying marks or information.
   e. Immediately conduct the scaling or measurement of the apprehended forest products. The assessment thereof shall be based on the gross volume without the benefit of deduction for natural defects. In case the scaling or measurement cannot be completed at the close of regular office hours of the day, assistance shall be secured from the local DENR offices for a sufficient number of scalers to finish the work.
   f. Seize the forest products, machineries, conveyance(s), tools and equipment.
   g. In cases where the apprehension is made by non-DENR personnel, i.e., PC/PNP, Coast guard, and other deputized law enforcers, they shall notify the nearest DENR office and turn over the seized forest products and conveyance to the authorized seizure officer.

      In cases where the apprehended conveyance involved is a government vehicle, the procedure above shall be followed and the vehicle shall be immediately released to the highest regional officer of the office who owned the same upon acknowledging that the said conveyance has been used in violation of existing forestry laws, rules and regulations.

3. Issuance of seizure receipt

   Upon completion of the foregoing procedure, seizure receipt shall be issued which shall be acknowledged and received by the owner/shipper of the forest products or by his representative. In case of refusal, the fact shall be reflected thereon in their presence as proof of such action.

4. Preparation of apprehension and seizure reports.

   The apprehension and seizure reports shall be prepared and the same, together with all the pertinent documents i.e., tally sheets, seizure receipts, photographs, etc., shall be submitted to the PENRO who shall conduct the confiscation proceedings.

Section 7. Procedure for Summary Administrative Confiscation

Immediately after seizure, a notice of hearing shall be signed by the PENRO and to be served by the apprehending officer to the parties concerned. Included therein, an order to parties to submit a written explanation within 3 days from receipt thereof.

The concerned parties shall submit their written explanation under oath why the forest product/conveyance should not be confiscated.

The PENRO or in his absence, any Senior Forest Management Specialist (SFMS) or Senior Environmental Management Specialist (SEMS) shall preside as hearing officer with the guidance of a DENR lawyer.

The procedure shall be summary in nature where the parties are required to submit the necessary documents, affidavits and evidences. However, the hearing officer may ask for clarificatory questions if need be.

The hearing officer shall render his decision within a period of 15 days from receipt of the documents, affidavits and evidences. If there is no substantial evidence sufficient to sustain an administrative decision adverse to interested parties, a ruling shall be issued dismissing the case and ordering the seized items to be returned to the owner. When evidence so warrants, a ruling shall be issued declaring the seized items to be confiscated in favor of the government, together with recommendations for further prosecution of the persons involved.

The decision shall become final and executory upon the lapse of 15 days unless a motion for reconsideration is filed. A party aggrieved by the decision may file only one motion for reconsideration within a non-extendible period of 15 days from receipt of the decision.

Appeal - A party may file an Appeal within a non-extendible period of 15 days from receipt of the denial of the Motion for Reconsideration or receipt of the decision. The appeal should be filed with the Office of the RED if the volume of forest products confiscated is less than 1,000 cu.m. and to the Office of the Secretary if more than 1,000 cu.m. and only upon payment of the corresponding appeal fee. The appeal shall contain a concise statement of all the issues of fact and law raised on appeal.

Grounds for Appeal - The appeal may be entertained only on any of the following grounds:

1. If there is prima facie evidence of abuse of discretion on the part of the PENRO.
2. If the decision, resolution or order was secured through fraud or coercion, including graft and corruption.

3. If serious errors in the findings of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the appellant.

   The decision of the Secretary shall be final and executory 15 days from receipt thereof, if no motion for reconsideration or appeal to the Office of the President is filed.

Section 8. Procedure for Summary Administrative Confiscation of Abandoned Illegal Forest Products -- the following procedures shall apply in cases where illegal forest products, machinery, equipment and tools, as well as conveyance used are abandoned, or when the owner is unknown, cannot be determined, or cannot otherwise be found.

1. Illegal forest products/conveyances/machinery, equipment, tools and implements shall forthwith be apprehended. Whenever practicable, photographs of the apprehension site and items seized shall be taken indicating the date, caption and full printed name and signature of the apprehending officer at the back of each photograph.

2. The apprehending forest officer shall prepare on-site record of violations, on-site report and issue seizure receipt. In lieu of seizure receipt, notice of apprehension/seizure shall be left by the apprehending/seizing officer on-site, posted or tacked into the nearest tree, wall or other similar permanent structures. The notice shall contain the: a) date, time and place of apprehension, b) full printed name, designation and signature of apprehending officer, c) a complete, detailed list of item(s) apprehended, d) summary statement of violation(s) cited, and e) the full printed name and office address of the seizure officer to whom said items will be delivered.

3. The hearing officer shall conduct summary confiscation proceedings. The notice of hearing shall be posted at least 3 times, once a week for 3 consecutive weeks in at least 3 public places, including, but not limited to a) the barangay hall of the apprehension site, b) bulletin board of the DENR office where proceedings will be conducted, and c) at the municipal hall of the apprehension site.

   Should the owner, claimant or other interested party fail to appear at the proceedings, such shall be deemed a waiver of the right to appear and of any/all rights to the items apprehended and seized in favor of the government.

   The hearing officer shall state this fact in the records and enter certification that publication of notice of hearing had been effected in compliance herewith and thereupon issue his decision based on the evidence at hand.

   A Motion for Reconsideration and/or Appeal may be taken by the owner, claimant or any interested party in accordance with Section 7 hereof.

CHAPTER II

JUDICIAL PROSECUTION OF OFFENSES FOR VIOLATION OF FORESTRY LAWS

Section 9. Institution of Criminal Action

All criminal actions either commenced by complaint or information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of the public prosecutor or in the event of lack of public prosecutors, the private prosecutor maybe authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn.

The complaint may be filed either by the CENRO, PENRO, RED or any forest officer.

For offenses where a preliminary investigation is required. The complaint maybe filed with the proper officer for the purpose of conducting the requisite preliminary investigation and for all other offenses, by filing the complaint or information directly with the MTC and MCTC or with the office of the prosecutor as stated under Section 1, Rule 110, 2000 Revised Rules of Criminal Procedure.

The criminal action shall be instituted and tried in the court of the municipality or territory where the offense was committed or where any of its essential ingredients occurred. In case of illegal transport of forest products on board a motor vehicle, train or aircraft, the complaint must be filed in the municipality or territory where such conveyances passed, including the place of departure and arrival.

Form and Content of Complaint

The complaint or information must be in writing, in the name of the People of the Philippines and against all persons who appear to be responsible for the offense involved.

The complaint or information must contain the name of the accused; designation of the offense given by the statute; acts or omissions complained of as constituting the offense (cause of accusation); name of offended party; date of commission of offense and place where offense is committed.

In case of partnership, associations or corporations, the complaint shall be filed against the officers who ordered the cutting, gathering and collection or possession of timber or other forest products without any authority or legal documents as required under existing laws and regulations

Should the evidence in any administrative case arising by virtue hereof so warrants, the concerned CENRO, PENRO, RED or any forest officer shall initiate a criminal complaint before the City or Provincial Prosecutor or before the municipal trial court of appropriate jurisdiction for preliminary investigation and prosecution in accordance with law.

Reports and complaints regarding the commission of any of the offenses defined herein, not committed in the presence of any forest officer or employee or any deputized officers, shall immediately be investigated by the forest officer assigned in the area where the offense was allegedly committed, who shall thereupon receive the evidence supporting the report or complaint.

If there is prima facie evidence to support the complaint or report, the investigating forest officer shall file the necessary complaint with the appropriate official authorized by law to conduct preliminary investigation and file information in court.

Documents to accompany complaint

1. Sworn statement of the apprehending/arresting officer.
2. Affidavits of witnesses, if any, who may have knowledge of the commission of the offense.
3. Copy of the seizure receipt or statement showing the number, species and volume of the logs/timber/forest products seized including all pertinent information on the machinery, equipment and tools as well as conveyance used.
4. Photographs and if not available, an inventory showing the timber or other forest products seized including the tools, equipment, machinery and conveyances used in the commission of the offense.
5. If the offense involves the unlawful occupation of a forest land, a map of the occupied area must be submitted together with an assessment of the value of the forest resources that may have been damaged.
6. Other pertinent documents.

In initiating and prosecuting criminal charges, the cognizant DENR officer shall, in addition to the indictment, contemporaneously file for actual damages in an amount equivalent to the value of the illegal forest products confiscated as well as moral and exemplary damages for prejudice to the environment, in an amount equivalent to 10 times the value of the forest products confiscated.

After the complaint is filed, the concerned forest officer shall transmit copy of the complaint and all supporting documents to the Regional Office for proper handling and disposition, copy furnished the Assistant Secretary for General Legal Service and the Task Force Taga-Usig.

Section 10. Preliminary Investigation: when required

Preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.

A preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least 4 years, 2 months and 1 day without regard to the fine.

The right of the accused to a preliminary investigation is a personal right and can be waived expressly or by implication. If not waived, the absence of a preliminary investigation may amount to

a denial of due process. However, lack of a preliminary investigation, does not impair the validity of an information or render it defective.

When Preliminary Investigation is not required

When a person is lawfully arrested without a warrant involving an offense which requires preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing rules.

In the absence or unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court on the basis of the affidavit of the offended party or arresting officer or persons.

Before the complaint or information is filed, the person arrested may ask for a preliminary investigation but he must sign a waiver of the provisions of Article 125 Revised Penal Code (RPC) as amended, in the presence of his counsel. Notwithstanding the waiver he may apply for bail and the investigation must be terminated within 15 days from its inception.

Officers authorized to conduct preliminary investigation

1. Provincial or City Prosecutors and their assistants
2. Judges of Municipal Trial Courts and MCTC
3. National and Regional State Prosecutors
4. Other Officers as may be authorized by law

This authority to conduct preliminary investigation includes all crimes cognizable by the proper court in their respective territorial jurisdiction.

When warrant of arrest may issue

Within 10 days from the filing of a complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause he shall issue a warrant of arrest or a commitment order if the accused had already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to Sec. 7, Rule 112, 2000 Revised Rules on Criminal Procedure. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within 5 days from notice and the issue must be resolved by the court within 30 days from the filing of complaint or information.

Section 11. The following may execute arrest:

1. Forest officer or employee
2. Appropriate official designated by law
3. Deputies (other government officials/private citizens duly deputized by the DENR Secretary)

4. Members of law enforcement agencies (PC/INP, AFP/Coast guard, etc.)
5. Other government law enforcement agencies
6. Private citizens (citizen's arrest)

Arrest is made by an actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest. No violence or unnecessary force shall be used in making an arrest, and the person arrested shall not be subject to any greater restraint than is necessary for his detention.

The warrant of arrest should be executed within 10 days from receipt thereof otherwise, after the expiration of such period, the officer whom it was assigned for execution, shall make a report to the judge who issued the warrant and in case of his failure to execute the same, state the reason therefore.

The arresting officer shall inform the person to be arrested of the cause of the arrest and should show him the warrant unless to do so would imperil himself or place himself in jeopardy.

A warrant of arrest is necessary when the offense is not committed in the presence of the arresting officer.

There are only 3 instances when the arresting officer may arrest a person without warrant:

1. When in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense.
2. When an offense has in fact just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.
3. When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

Delivery of arrested person

The person arrested with or without warrant must be delivered to the nearest police station or jail without necessary delay to prevent him from fleeing from the reach of law or go into hiding. The arresting forest officer shall deliver within 6 hours from time of arrest and seizure, the offender and the confiscated forest products, tools and equipment to, and file the proper complaint with, the appropriate official designated by law to conduct preliminary investigation and file information in court.

If the arrest and seizure are made in the forest, far from the authorities designated by law to conduct preliminary investigation, the delivery and filing of complaint shall be done within reasonable time sufficient for ordinary travel from the place of arrest to the place of delivery.

Section 12. Arraignment and Plea

Immediately after the complaint is filed, the forest officer shall transmit copy of complaint and all supporting documents to the Regional Office for proper handling and disposition, copy furnished the Assistant Secretary for General Legal Services. The prosecution of cases shall be the primary responsibility of the Regional Office concerned subject to the supervision and control of the Assistant Secretary for General Legal Services.

Arraignment is done in open court by the judge or clerk by furnishing the accused with a copy of the complaint or information, reading the same in the language or dialect known to him and asking him whether he pleads guilty or not guilty. If he refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him.

Unless a shorter period is provided by a Special Law or Supreme Court Circular, the arraignment shall be held within 30 days from the date the court acquired jurisdiction over the person of the accused. The period of the pendency of a motion to quash or for a bill of particulars , or other causes justifying suspension of arraignment shall be excluded.

At any time before entering his plea, the accused may move to quash the complaint or information on the following grounds:

That:

1. The facts charged do no constitute an offense;
2. The court trying the case has no jurisdiction over the offense charged;
3. The court trying the case has no jurisdiction over the person of the accused;
4. The officer who filed the information had no authority to do so;
5. It does not conform substantially to the prescribed form;
6. More than one offense is charged except when a single punishment for various offenses is prescribed by law;
7. The criminal action or liability has been extinguished;
8. It contains averments which if true, would constitute a legal excuse or justification;
9. The accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

Section 13. Pre-trial Conference

It is mandatory in all criminal cases to order a pre-trial conference after arraignment to consider the following:

1. Plea bargaining
2. Stipulation of facts
3. Marking for identification of evidence of the parties
4. Waiver of objections to admissibility of evidence
5. Such other matters as will promote fair and expeditious trial of the criminal and civil aspects of the case

All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. These agreements shall be approved by the court.

Considering the importance of the pre-trial conference, the apprehending forest officer must attend it and bring to the court the original copies of all records of the case being heard.

Section 14. Trial

After arraignment and pre-trial, the accused shall prepare for trial. Trial shall commence within 30 days from receipt of the pre-trial order and shall continue until terminated. The order of trial shall proceed in the following order:

1. The prosecution shall present evidence to prove the charge and, in the proper case, the civil liability. The apprehending forest officer and those who assisted him, together with the DENR officers who have personal knowledge about the subject matter must attend the hearings on this stage.
2. The accused may present evidence to prove his defense and damages, if any, arising from the issuance of a provisional remedy in the case.
3. The prosecution and the defense may, in that order, present rebuttal and sworn-rebuttal evidence unless the court, in furtherance of justice, permits them to present additional evidence bearing upon the main issue.
4. Upon admission of the evidence of parties, the case shall be deemed submitted for decision unless the court directs them to argue orally or to submit written memoranda.
5. When the accused admit the act or omission charged in the complaint or information but interposes a lawful defense, the order of trial may be modified.

Section 15. Rights of the Accused at the Trial

In all criminal prosecutions, the accused shall be entitled to the following rights:

1. To be presumed innocent until the contrary is proved beyond reasonable doubt;
2. To be informed of the nature and cause of the accusation against him;
3. To be present and defend in person and by counsel at every stage of the proceedings, from arraignment to promulgation of the judgment. The accused may however, waive his presence at the trial pursuant to the stipulations set forth in his bail bond, unless his presence is specifically ordered by the court for purposes of identification. The absence of the accused without any justifiable cause at the trial on a particular date of which he had notice shall be considered a waiver of his right to be present during that trial. When an accused during custody had been notified of the date of trial and escapes, he shall be deemed to have waived his right to be present on said date and on all subsequent trial dates until custody is regained. Upon motion, the accused may be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his right without the assistance of counsel;
4. To testify as witness in his own behalf but subject to cross-examination on matters covered by direct examination. His silence shall not in any manner prejudice him;
5. To be exempt from being compelled to be a witness against himself;

6. To confront and cross-examine the witnesses against him at the trial. Either party may utilize as part of its evidence the testimony of a witness who is deemed out of or cannot with due diligence be found in the Philippines, unavailable or otherwise unable to testify, given in another case or proceeding, judicial or administrative, involving the same parties and subject matter, the adverse party having had the opportunity to cross-examine him;
7. To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf;
8. To have a speedy, impartial and public trial;
9. To have the right of appeal in all cases allowed and in the manner prescribed by law.

Section 16. Judgment

Judgment is the adjudication by the court that the accused is guilty or not guilty of the offense charged and the imposition on him by the proper penalty and civil liability, if any. It must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts and the law upon which it is based.

If the judgment is of conviction it shall state:

1. The legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission;
2. The participation of the accused in the offense, whether as principal, accomplice, or accessory.
3. The penalty imposed upon the accused, and;
4. The civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.

If judgment is of acquittal, it shall state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist.

16.1. Promulgation of Judgment

The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.

16.2 Entry of Judgment

After judgment has become final it shall be entered by the clerk in the book of entries of judgment. The date of finality of judgment or final order shall be deemed to be the date of its entry. The record shall contain the dispositive part of the judgment and shall be signed by the clerk, with a certificate that such judgment has become final and executory .

CHAPTER III

DISPOSITION

Section 17. Disposition of items confiscated in favor of the government

Items forfeited in favor of the government shall be disposed of in accordance with law. Except for disposition through donation and for DENR's own- use, The disposition shall be governed by the same requirement and rules of procedures applied by DENR Central Committee on Bids and Awards of the Office of the Secretary. The Central Committee shall reproduce its requirement and rules of procedure for adoption and strict compliance.

DENR employees and their relatives within the fourth civil degree of consanguinity or affinity shall in no way, directly or indirectly be allowed to participate in or otherwise be interested in any part of these proceedings. In no case shall same individual(s) from whom items for disposition were confiscated be qualified as bidder in these proceedings.

Section 18. Procedure for Disposition through Public Auction

Confiscated forest products without court cases and forest products retrieved/recovered/salvaged by the DENR or turned over to the DENR pursuant to approved permits (e.g. approved tree cutting, or road right-of-way permits) shall be available for disposition through public auction. The following procedure shall be strictly followed in the disposition of forest products through public auction and/or sale:

1. The auction shall be conducted by the Committee on Bids and Awards who shall convene and issue an invitation to bid containing the following:

    a. Invitation number
    b. Place, date and time of opening of bids
    c. Quantity of forest products
    d. Accurate description and specification of forest products
    e. Terms and conditions including the floor price
    f. Bond requirement
    g. Right to accept and reject bids (Government reservation clause)
    h. Invitation to bidders
    i. Bid proposals.

2. Posting and publication

    The invitation to bid and Notice of Sale shall be posted in at least three (3) conspicuous places in the DENR local offices and in other public places. It shall be published in at least two (2) newspapers of general circulation for three (3) consecutive days, the last publication of which shall be 15 days before the opening of the bids.

In case of rebidding, the Invitation to Rebid and Notice of Sale shall be published in the same newspaper of general circulation at least once every week for three consecutive weeks, the last publication of which shall be one week before the scheduled rebidding

3. Accreditation of Bidders

The committee, meeting in quorum, shall not honor the offer or proposal of any bidder unless he has formally submitted an application therefore under oath containing among other information: his name and address; citizenship; nature of business; and statement that he has not committed any of the grounds for disqualification, i.e., a) conviction of a crime related to business, commerce, and trade, as well as for hoarding and profiteering;b) smuggling/conniving with smugglers of forest products; and, c) deliberate error, omission or commission in the bid tender .

4. Deposit

All bidders shall be required to deposit in either cashier's or manager's check in the name of the DENR Secretary the equivalent of 10% of the amount of bid, which deposit shall be returned to the losing bidder after the award is announced.

The 10% deposit of the winning bidder shall be automatically converted into partial payment and failure of the awardee to remit or pay the balance of the amount of the bid on or before 2:00 o' clock in the afternoon of the third working day from the date of the sale will render the award to him as null and void, and the 10% deposit forfeited in favor of the government.

5. Award of Bids

Award shall be given to the most advantageous offer to the government, provided that, the offer shall not be less than the minimum bid price set by the Committee.

In case of tie, the bidders shall submit another sealed bid immediately after the committee declares a tie and the bids shall likewise be opened after which, the committee shall prepare abstract of quotations and its order of award.

The committee shall prepare and send the award order or notification to the winning bidder. This award order shall serve as permit of the awardee to remove, transport and dispose the forest products subject of said award; Provided, however that the awardee shall have remitted/ paid the balance of the amount of bid before actual removal or transport of the same commences.

Section 19. Forest products which may be disposed of through donation shall be:

1. Those which are not subject of a pending case in court or with other appropriate office;
2. Those without claimants or offenders against whom the case could be filed;
3. Those found abandoned within forest areas, the ownership of which could not be ascertained and without claimants.

Beneficiaries qualified to receive donations

a. Barangays
b. Municipal and provincial governments
c. Other government agencies, who by nature of their functions require wood materials or other forest products in order to enhance their services to the general public.

Documents to support request for donations

a. Justification for the construction/ establishment of the infrastructure;
b. Bill of materials and building plan duly approved by the project engineer; provided, that in case of Barangay construction or similar project, a simple sketch plan duly signed by the building foreman or barangay captain shall be sufficient;
c. Certification issued by the provincial auditor that there is no fund or appropriation for the purchase of the required wood materials; provided, that for barangay constructions or similar projects, a certification from the Municipal Development Officer shall be sufficient; and,
d. Certification from the CENRO/PENRO/Regional Office concerned that said volume or amount of forest products is available for disposition.

A certificate of completion of the project shall be submitted by the donee to the concerned DENR office duly attested to by the DENR official concerned and the provincial auditor, accompanied by the following documents:

a. Certification by the Project Engineer of the completion of the project.
b. Species and volume of timber and other forest products utilized
c. Photographs of completed project showing specific portions where the donated materials were utilized

Since donation is gratuitous in nature and for government use, the payment of forest charges shall not be required from the donee.

Section 20. Expenses for the transfer, safekeeping, maintenance and delivery of apprehended, seized and confiscated items

Expenses for transfer, delivery and maintenance/safekeeping of apprehended items shall be added to the value thereof and shall attach as primary liens in favor of the DENR. It shall be deducted from and reimbursed to the DENR as administrative cost from the proceeds of the sale thereof.

The DENR shall allocate a fund to enable field officers to advance expeditiously the hauling of expenses and avoid deterioration and/or loss of economic value of the products/conveyances.

In cases where items forfeited in favor of the government are disposed of by judicial or other official mandate, the cognizant RED shall make official representations with the court or government agency concerned for the purpose of recovering the aforementioned primary lien.

The Undersecretary for Field Operations may promulgate such other guidelines, rules and regulations as may from time to time be deemed necessary or appropriate under the circumstances in order to ensure the recovery of expenses incurred by the DENR in this regard.

Section 21. Remittance of proceeds of sales

Proceeds from the sale of any items confiscated are property of the government of the Philippines. Proceeds in cash shall be deposited in a Special Fund and shall be applied in strict conformity with applicable laws, rules and regulations to priority needs of the DENR.

The proceeds of sale of confiscated forest products, after deduction of all administrative costs related to the confiscation shall be remitted by the chairman of the CBA-CFP to the Secretary, DENR either in the form of cashier's or manager's check immediately upon receipt of the full payment of the bidded forest products.

A quarterly report on all funds remitted to the Central Office shall be submitted by the cognizant officer to the Secretary which shall also be consolidated into an annual report to be similarly submitted at the end of the fiscal year.

Section 22. Reportorial Requirements

Quarterly reports shall be submitted by the RED to the Secretary, copy furnished the Assistant Secretary for General Legal Services, Undersecretary for Field Operations, and the Director of the Forest Management Bureau on the following:

1. Status Report of Cases – a complete list of all administrative cases initiated, including the dates, places and parties involved, current status and estimated period for completion, as well as recommendations for the efficient and expeditious disposition thereof.

2. List of seized and confiscated items

    2.1. All items seized and detained *pendente lite* with particular description of each item, current condition and place of detention/safekeeping.
    2.2. All conveyances temporarily released, stating names of recipients, conditions and amount of bonds
    2.3. All confiscated items awaiting final disposition, accurately described with recommendations as to final disposition

3. Items not recommended for disposition

    3.1 Those submitted as evidence in court or other government agency
    3.2 Those recommended for use by the DENR
    3.3 Those recommended for donation

4. Items requiring urgent disposition

4.1 Items which cannot be detained for safekeeping until final disposition thereof is determined due to

a. the highly perishable nature thereof
b. the place for adequate safekeeping thereof cannot be provided, and
c. its continued detention until final disposition is impractical

4.2 The list of these items shall be submitted to the Undersecretary for Field Operations without delay within 48 hours from discovery of urgency stating the particular description of the items, estimated value, reasons for recommending urgent disposition, and mode of disposition recommended.

5. Upon consultation with the Assistant Secretary for General Legal Services and the Director of FMB, and with the approval of the Secretary, the Undersecretary for Field Operations shall issue directives for the expeditious disposition of all such items.

Section 23. Repealing Clause.

This Order repeals DENR Administrative Order 97-32. All other orders, circulars and issuances inconsistent herewith are hereby repealed and/or modified accordingly.

Section 24. Effectivity.

This Order shall take effect fifteen (15) days after its publication once a week for three consecutive weeks in a newspaper of general circulation.

(SGD.) ELIZEA G. GOZUN
Secretary