

Essentials of Protected Area Management in the Philippines



Department of Environment and Natural Resources
PROTECTED AREAS AND WILDLIFE BUREAU
DENR Compound
Visayas Avenue, Diliman, Quezon City
1101 Philippines



National Integrated Protected Areas Programme
is a special project assisted by a grant
from the European Commission



Department of Environment and Natural Resources
Protected Areas and Wildlife Bureau
Visayas Avenue, Diliman, Quezon City

PRIMER: ADMINISTRATIVE PROCEDURES FOR VIOLATIONS IN PROTECTED AREAS

ESSENTIALS
of
PROTECTED AREA
MANAGEMENT
IN THE
PHILIPPINES

**Essentials of Protected Area Management
in the Philippines
Volume 13**

Primer on
**Administrative Procedures
for Violations**
in Protected Areas



Department of Environment and Natural Resources

Supported by the



European Commission

October 2000

Primer on Administrative Procedures for Violations in Protected Areas

By **Ted T. Bonpin, Asis G. Perez and Associates**

Published by: **National Integrated Protected Areas Programme
PROTECTED AREAS AND WILDLIFE BUREAU
Department of Environment and Natural Resources**

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Citation: BONPIN, T.T., A.G. PEREZ and ASSOCIATES. 2000. *Primer on Administrative Procedures for Violations in Protected Areas*. Essentials of Protected Area Management in the Philippines, Vol. 13, NIPAP, PAWB-DENR, Philippines.

ISBN: 971-8986-28-6

Editor: Irwin Ambal

Design: Benjo Laygo

Cover Art: Joseph S. Manalo

Printed by: 1765 AD PRINT Co., Philippines

Disclaimer: The views expressed are those of the Consultant and Project Staff and do not necessarily represent any official view of the European Commission.

Funding Partners: **European Commission
Department of Environment and Natural Resources**

Technical Assistance

Service Contract: Agriconsulting SpA, Rome, Italy

Available from: **PROTECTED AREAS AND WILDLIFE BUREAU
DENR Compound
Visayas Avenue, Diliman
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Philippines**

FOREWORD



Two of the major thrusts of my administration are sustainable development through participatory resource management

and environmental protection and community-based enforcement of environmental laws. I believe that the support and involvement of all stakeholders in planning and implementing policies and actions aimed at protecting habitats and conserving biodiversity is the key to successful protected area management.

We are now facing this major challenge in light of this relatively new focus of Government which is biodiversity conservation. This was institutionalized in 1992 with the passage of the National Integrated Protected Areas System (NIPAS) Act which aims to identify and establish protected areas all over the country as a management strategy to conserve and protect the country's flora and fauna and other natural resources.

Special projects have thus been set up as operating models for protected area management. The



In 1992, the Government of the Philippines signed the "Convention on Biological Diversity". Following its

commitment under the Convention, the Philippine Congress enacted the National Integrated Protected Areas System (NIPAS) Act in the same year.

To support the Philippine Government in the implementation of the Act, the European Commission co-financed the National Integrated Protected Areas Programme (NIPAP). This project, which started in 1995 is implemented by the Protected Areas and Wildlife Bureau (PAWB) of the Department of Environment and Natural Resources (DENR).

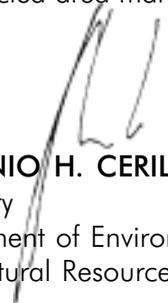
NIPAP was set up to contribute to the conservation, protection and management of natural habitats and biodiversity within the country's National Integrated Protected Areas System.

The active participation of stakeholders in planning and management is an essential

five-year National Integrated Protected Areas Programme (NIPAP) jointly funded by the Philippine Government and the European Commission, has established eight protected areas within the framework of the NIPAS. The project promotes the full participation of local communities in the planning and subsequent implementation of conservation policies.

The learnings from the implementation of NIPAP should thus be disseminated and, where appropriate, replicated in protected areas all over the country.

“Essentials of Protected Area Management in the Philippines”, consists of a series of manuals designed to provide mostly first-hand knowledge on protected area management. This volume **“Primer on Administrative Procedures for Violations in Protected Areas”** is an important guide or reference for managers and field workers and provides useful insights for practical applications in the field of protected area management.



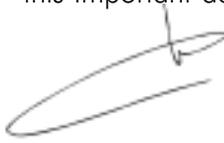
ANTONIO H. CERILLES

Secretary
Department of Environment
and Natural Resources

element in the sustainability of Protected Areas. NIPAP has been actively promoting this approach.

Based on actual field experiences and results of collaborative undertakings with the Department of Environment and Natural Resources, local government units and non-government organizations operating in protected areas, NIPAP developed relevant information critical to protecting the country's natural heritages. These are well-documented in a series entitled *“Essentials of Protected Area Management in the Philippines,”* which may be useful to managers and partner-communities in all protected areas of the Philippines.

I would like to congratulate the National Integrated Protected Areas Programme of the Department of Environment and Natural Resources for this important achievement.



YVES GAZZO

Ambassador
Head of Delegation
European Commission
in the Philippines

PREFACE

The National Integrated Protected Area Programme (NIPAP) is a special project of the Philippines Department of Environment and Natural Resources (DENR), Protected Areas and Wildlife Bureau (PAWB), supported by financial and technical assistance from the European Commission.

A major portion of PAWB's responsibility is to disseminate information about the management and operations of protected areas in the Philippines, at policy, technical and field levels.

Therefore, in collaboration with the Bureau, NIPAP has produced a series of case studies, field and training manuals, other educational material and legal reference documents under the title of ***“Essentials of Protected Area Management in the Philippines”***.

The series builds not only on NIPAP's and PAWB's field experience, but reflects the work and knowledge of sister institutions in the Philippines, including the ASEAN Regional Center for Biodiversity Conservation (ARCBC), the Conservation of Priority Protected Areas Project (CPPAP), and the Technical Assistance for Improving Biodiversity Conservation in Protected Areas of the Philippines Project (TABC).

This volume ***“Primer on Administrative Procedures for Violations in Protected Areas”*** captures the important provisions of various administrative issuances of the DENR to answer basic and frequently asked questions regarding the administrative procedures for violations in protected areas. It describes in great detail the process from apprehension to seizure to confiscation to disposition of items subject of illegal activities in protected areas. The remedies available to offenders are also included to alert park rangers and community-based law enforcers of the possible pitfalls that might derail their noble actions.

In many instances, administrative cases prove to be as, if not more, effective than criminal procedures because the evidentiary requirement (probable cause) is easier to satisfy than that of criminal cases (proof of guilt beyond reasonable doubt), and the proceeding is much less expensive and speedier. Although the penalty might not be as painful in the case of criminal cases, it is sometimes deemed onerous enough to deter further resort to illegal and destructive acts. Moreover, these administrative processes should be consistently undertaken and done well to be really effective.

This primer is expected to enrich the knowledge and skills of field officers and community-based paralegals in protected areas. It is likewise expected that these users help enrich this work by giving suggestions and asking more practical questions arising from their experiences in law enforcement.

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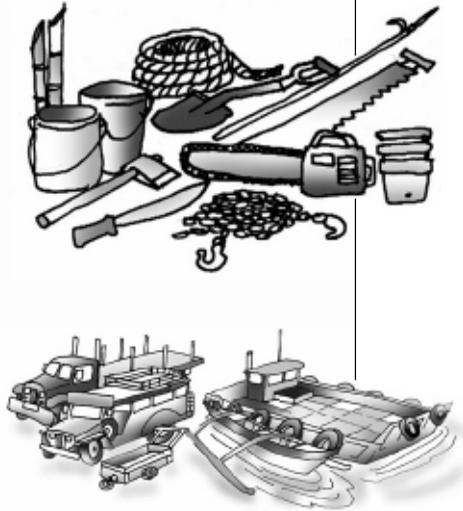
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I. Coverage

- *What are the items subject to apprehension, seizure and confiscation?*

The following items are subject to apprehension, seizure and confiscation:

1. Illegal forest products (DAO 97-32);
2. Wildlife illegally collected, gathered, acquired, transported or imported (DAO 91-36);
3. Machinery, equipment, tools and implements used in the possession, gathering, collecting, processing and/or transportation of items (1) and/or (2); and
4. Conveyance used for the transportation of items (1) and/or (2).



- *What are forest products?*

Forest products refer to timber, including lumber, pulp-wood, firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, charcoal, other forest growth such as grass, shrub, flowering plants in forest lands and others.



- *What are considered illegal forest products?*

Illegal forest products are any of the above-mentioned forest products removed, cut, collected, processed and/or transported with one or more of the following conditions:

1. without authorization or permit;
2. with incomplete supporting documents;

3. with genuine authorizations or permits and/or supporting documents that:
 - a. have expired validly;
 - b. have been cancelled; or
 - c. contain forged entries;
4. with fake authorizations, permits and/or supporting documents.

- *What are considered wildlife?*

Wildlife includes all wild flora and fauna either in live, preserved or processed state.



- *What document is required to transport wildlife?*

The transport of all wild flora and fauna must be accompanied by a Wildlife Transport Permit issued by the Community Environment and Natural Resources Officer (CENRO) who has jurisdiction where the wild flora and/or fauna were gathered and collected (DAO 91-36).

Without a Wildlife Transport Permit, the wildlife, paraphernalia and vehicle used shall be seized in favor of the government, pursuant to PD 1281.

- *What kind of conveyances can be apprehended?*

Any class of vehicle or craft used for transporting either on land, water or air, the illegal forest products and wildlife can be apprehended. The vehicle or craft may or may not be motorized and may have been used in any stage of the commission of the offense. This means that even if a vehicle was used only in temporarily maintaining the wildlife (and not in the very instance of gathering them), the vehicle will still be apprehended.

II. Summary Administrative Procedures

- *What are the summary administrative procedures undertaken when illegal forest products or wildlife are intercepted?*

Summary administrative procedures for apprehension, seizure and confiscation shall be undertaken when these items are intercepted.

The table below contains a summary of the three procedures.

PROCEDURE	PURPOSE	AUTHORIZED OFFICERS	STEPS
Apprehension	<ol style="list-style-type: none"> 1. In its initial stage, to determine probable cause to cause the apprehension of the items; and 2. When probable cause is found to exist, to exercise temporary possession and control over the items. 	<p>Apprehending Officers</p> <ol style="list-style-type: none"> 1. Forest officers; 2. Deputies; 3. Members of law enforcement agencies; or 4. Private citizens. 	<ol style="list-style-type: none"> 1. verification and determination of probable cause 2. on-site recording and preservation of data and evidence 3. on-site determination of fraudulent misrepresentation prejudicial to the government 4. on-site conveyance check 5. on-site report 6. issuance of Apprehension Receipt
Seizure	<ol style="list-style-type: none"> 1. To determine if prima facie case exists to hold the items; and 2. To deliver the items into government custody. 	<p>Seizure Officers</p> <ol style="list-style-type: none"> 1. RED or, in his absence, any RTD 2. PENRO or, in his absence, any SFMS or SEMS 3. CENRO or, in his absence, any Forester III or LMO III 4. PASu (DAO 2000-45) 5. The Secretary may, from time to time, designate, in writing such other DENR Officers for the purpose 	<ol style="list-style-type: none"> 1. delivery of items 2. verification and determination of existence of prima facie case 3. issuance of Seizure Order
Confiscation	To determine if substantial evidence exists to confiscate the items in favor of the Government of the Philippines.	The DENR Officer who issued the Seizure Order shall also preside as the Hearing Officer.	<ol style="list-style-type: none"> 1. notice of hearing 2. hearing 3. recommendation by hearing officer 4. decision by RED 5. motion for reconsideration 6. appeal to the DENR Secretary 7. decision of the DENR Secretary 8. certificate of finality

A. APPREHENSION

- *What is apprehension?*

Apprehension is the initial measure of taking temporary possession and control over the items subject to apprehension when these items are found or intercepted by Apprehending Officers.



- *What are the purposes of apprehension procedure?*

The purposes of the apprehension procedure are:

- a. In its initial stage, to determine probable cause to apprehend the items; and
- b. When probable cause is found to exist, to exercise temporary possession and control over the items.

- *Who are authorized to make apprehensions?*

The following have been designated as Apprehending Officers authorized to make apprehensions:

- a. Forest officers;
- b. Deputies;
- c. Members of law enforcement agencies; or
- d. Private citizens.

- *Who are considered forest officers?*

Forest officers are the officials and employees of the DENR charged with the enforcement of forestry laws, rules and regulations. Examples are forest guards or park rangers employed by DENR, and the PASu.

- *Who are the deputies?*

Deputies are other government officials and private citizens duly deputized by the DENR Secretary or his duly authorized representative to enforce forestry laws, rules and regulations, such as the Bantay Gubat.

- *What are examples of law enforcement agencies?*

Examples of law enforcement agencies are the Philippine National Police (PNP), the Task Force on Anti-Illegal Logging, the PNP-Maritime Command, the Philippine Navy, and the Philippine Coast Guard.

- *What is the legal basis of the power of private citizens to apprehend?*

Under Rule 113, Section 5 of the Rules of Court, a private person may, without a warrant, arrest a person under the following circumstances:

- a. When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- b. When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and
- c. When the person to be arrested is a prisoner who escaped.

- *What are the steps in conducting a summary administrative apprehension?*

The following are the steps in conducting administrative apprehension:

STEP 1 VERIFICATION AND DETERMINATION OF PROBABLE CAUSE
STEP 2 ON-SITE RECORDING AND PRESERVATION OF DATA AND EVIDENCE
STEP 3 ON-SITE DETERMINATION OF FRAUDULENT MISREPRESENTATION PREJUDICIAL TO THE GOVERNMENT
STEP 4 ON-SITE CONVEYANCE CHECK
STEP 5 ON-SITE REPORT
STEP 6 ISSUANCE OF APPREHENSION RECEIPT

STEP 1 VERIFICATION AND DETERMINATION OF PROBABLE CAUSE

- *What is probable cause?*

Probable cause is the reasonable ground for suspicion that there is a possible violation of forestry laws, rules and regulations.

- *In what instances shall verification of probable cause take place?*

The Apprehending Officer shall verify if probable cause exists when:

1. The items subject to apprehension are intercepted; or
2. The abandoned items subject to apprehension are discovered.

- *How is probable cause determined?*

Upon encountering a possible violation of forestry laws, rules and regulations, the Apprehending Officer shall establish probable cause through ocular inspection of all required authorizations/permits and/or supporting documents.

Before the actual inspection, however, the Apprehending Officer shall first:

1. Identify himself, by stating his full name, rank and official designation;
2. Show his current DENR ID, if he is a DENR official or personnel, or a duly issued ID card;
3. Invoke DAO 97-32 or DAO 91-36 as basis for the inspection;
4. Announce the commencement of the verification procedure.

- *What should the Apprehending Officer do if all documents are in order?*



Since probable cause is absent, the Apprehending Officer should immediately release all items inspected and rubber stamp or affix the seal of inspection on the face of all transport documents inspected.

In the absence of an official DENR seal, he shall write the date, state the fact of inspection and the release, and affix his signature above his full printed name in the official log book for the matter.

STEP 2 ON-SITE RECORDING AND PRESERVATION OF DATA AND EVIDENCE



- *What should the Apprehending Officer do if not all documents are in order?*

If after the ocular inspection, the Apprehending Officer finds that the items are illegal forest products or wildlife, the Apprehending Officer shall immediately:

1. Verbally inform the offender(s) of his findings;
2. Announce that he is making an apprehension in accordance with DAO 97-32 or DAO 91-36, whichever is applicable;
3. Prepare a written ON-SITE RECORD of the names, addresses and other available data of the offender(s);
4. Write an itemized list of all on-site machinery, equipment, tools, and implements used in the commission of the offense;
5. Indicate the date, and sign the ON-SITE RECORD; and
6. Request offender(s) to sign the record above their printed names. In case of refusal to sign, the fact or circumstances and any reason for such refusal shall be written in their presence.

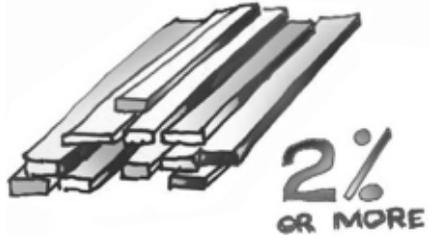
STEP 3 ON-SITE DETERMINATION OF FRAUDULENT MISREPRESENTATION PREJUDICIAL TO THE GOVERNMENT

- *In what cases shall intent to defraud the government be presumed?*

Intent to defraud the government shall be presumed:

1. In case the quantity or volume of a shipment or stock of forest products exceeds what is authorized, documented, manifested or declared:

- a. by 5% or more, in case of timber; and/or
- b. by 2% or more, in case of lumber;



2. Upon discovery of a misdeclaration on the quantity and species being verified.

- *What is the effect of the presence of any of the above conditions?*

The entire shipment shall be considered illegal due to fraudulent misrepresentation with intent to prejudice the government. Such shipment shall be apprehended and seized, and be subjected to confiscation proceedings. The Apprehending Officer shall effect the apprehension even if the authorizations and supporting documents for all or parts of said shipment are verified to be in order.

STEP 4 ON-SITE CONVEYANCE CHECK



- *What should the Apprehending Officer do in case the violation involves the use of conveyance?*

The Apprehending Officer will announce the apprehension of the conveyance. Should the conveyance require government registration, he will inspect the following:

1. Certificate of Registration;
2. Official Receipt; and
3. Driver's License or similar authorization.

Said documents shall be returned to the holder upon notation of the following data:

1. Offender/s's identity and address;
2. Name and address of owner of the conveyance;
3. License plate number; and
4. Other identifying marks or information.

STEP 5 PREPARATION OF ON-SITE REPORT

- *What data should be included in the on-site report?*

The following information, if available, shall be recorded on-site upon apprehension:

1. Time, date and place of apprehension;
2. Full name and address of the offender/s on-site;
3. Full names of the persons accompanying or providing on-site assistance to the Apprehending Officer;
4. Circumstances that led to the apprehension (discovery of abandoned items; spot check by monitoring team; verification of absent, lacking, forged or spurious documentation, etc.);
5. Names of local government officials present and/or of other person/s witnessing the apprehension;
6. Preliminary description of the item/s being apprehended;

7. Place, time and date of origin and intended destination, consignors, consignees of the items being apprehended; and
8. Other data or information and comments, observations and recommendations as may be available or pertinent on-site.

STEP 6

ISSUANCE OF APPREHENSION RECEIPT

- *What are the contents of the apprehension receipt?*

The Apprehending Officer shall issue and hand over to the offender/s an Apprehension Receipt, which shall contain the following:

1. The precise nature of the offense cited;
2. Time, date and place of issuance of Apprehension Receipt; and
3. Full names in print and signatures of both the Apprehending Officer and the offender/s.

In case the offender/s refuse to sign his/her receipt of the Apprehension Receipt, such fact shall also be stated in writing on the Apprehension Receipt, explaining the reason/s for the refusal.

B. SEIZURE

- *What is seizure?*

Seizure is the official act of taking the items apprehended into government custody, pending formal administrative proceedings for the items' disposition.

- *What are the purposes of administrative seizure proceedings?*

The purposes of administrative seizure proceedings are:

1. To determine if *prima facie* case exists to hold the items; and
2. To deliver the items into government custody.

- *When is there a prima facie case?*

There is a *prima facie* case when an offense has been committed, and the evidence at hand indicates that the offender is probably guilty thereof, and that the items delivered are the proceeds of the violation.

- *When does seizure take effect?*

Administrative seizure takes effect when the Seizure Officer actually takes the delivery from an Apprehending Officer and assumes possession and control of the items apprehended.

- *Who are authorized to make seizures?*

The following have been designated as Seizure Officers and are, therefore, authorized to make seizures:

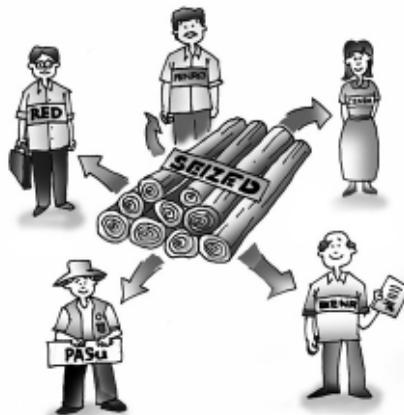
a. The DENR Regional Executive Director (RED) or, in his absence, any DENR Regional Technical Director (RTD) actually assigned to the area of apprehension at the time thereof;

b. The Provincial Environment and Natural Resources Officer (PENRO) or, in his absence, any Senior Forest Management Specialist (SFMS) or Senior Environmental Management Specialist (SEMS) actually assigned to the area of apprehension at the time thereof;

c. The Community Environment and Natural Resources Officer (CENRO) or, in his absence, any DENR Officer with the rank of Forester III or Land Management Officer III (LMO III) actually assigned to the area of apprehension at the time thereof; and

d. Protected Area Superintendent (PASu)–
DAO No. 2000-45.

The Secretary may, from time to time, also designate, in writing, such other DENR Officers for the purpose.



- *Where can the Seizure Officers effect seizure?*
Seizure can be effected within their respective areas of operation.
- *What are the steps in conducting a summary administrative seizure?*
The following are the steps in conducting administrative seizure:

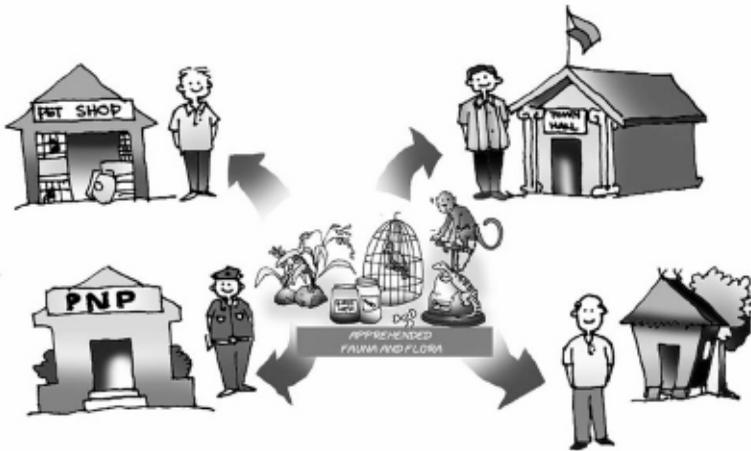
STEP 1 DELIVERY OF ITEMS
STEP 2 VERIFICATION AND DETERMINATION OF EXISTENCE OF <i>PRIMA FACIE</i> CASE
STEP 3 ISSUANCE OF SEIZURE ORDER

STEP 1 DELIVERY OF ITEMS

- *When shall delivery take place?*
Delivery must be done immediately after apprehension.
- *To whom shall the items be delivered?*
The items shall be delivered to the nearest Seizure Officer actually assigned to the area of apprehension.
- *What shall the Seizure Officer do after actual delivery?*
The Seizure Officer shall sign and issue a Seizure Receipt stating the date, place and time of delivery, name of Apprehending Officer, and make an itemized list of the items delivered.
- *What shall the Apprehending Officer do if the delivery of the apprehended items is impracticable?*
The Apprehending Officer shall deposit the apprehended items for temporary safekeeping at the nearest government office.

In cases where the delivery of wild flora and fauna is not immediately feasible, it shall be placed under the custody of any of the following places at the discretion of the Apprehending Officer taking into consideration the safety of the confiscated wildlife:

1. Licensed petshops owners or nursery owners/operators;
2. Nearest local public official such as the Barangay Captain, Municipal or City Mayor, Provincial Governor;
3. nearest PNP station; or
4. any responsible person or groups in the community.



The custody of the wild flora and fauna shall be duly acknowledged and received by the person or officer taking custody thereof (DAO 91-36).

- *What shall the Apprehending Officer do if depositing the apprehended items for temporary safekeeping is impracticable?*

The apprehended items shall remain in the custody of the Apprehending Officer until delivery can be made.

STEP 2

VERIFICATION AND DETERMINATION OF EXISTENCE OF PRIMA FACIE CASE

- *How will the Seizure Officer determine if there is a prima facie case?*

The Seizure Officer shall determine if a *prima facie* case exists through personal examination of documents, items and witnesses.

The Seizure Officer shall confirm that the item/s delivered to him strictly coincide with the itemized list reflected in the documents of apprehension.

- *What should the Seizure Officer do if there is variance between the items delivered and the documents of apprehension?*

The Seizure Officer shall require a sworn statement from the Apprehending Officer with a complete, clear and concise explanation for said variation, which shall form an integral part of the permanent records of the case.

STEP 3

ISSUANCE OF SEIZURE ORDER

- *What will the Seizure Officer do if prima facie exists?*

The Seizure Officer shall immediately issue a Seizure Order for the apprehended items.

- *What happens if the apprehended conveyance is a government vehicle?*

The seizure procedure above shall be followed, and the vehicle shall be immediately released to the highest regional official of the office who owned the same. However, the receiving official should acknowledge that said conveyance has been used in violation of existing forestry laws, rules and regulations.

C. CONFISCATION

- *What is confiscation?*

Confiscation is the official act of the DENR declaring that the items subject to confiscation become property of the Government of the Philippines.

- *What is the purpose of confiscation proceedings?*

Summary administrative confiscation proceedings are conducted to determine if substantial evidence exists to confiscate the items in favor of the Government of the Philippines.

- *When should summary administrative seizures take place?*

Summary administrative seizures should take place immediately upon, or as soon as practicable after the issuance of a Seizure Order.

- *What is the period of time to complete confiscation proceedings?*

Without compelling reasons, confiscation proceedings shall be terminated within fifteen (15) regular business days from commencement thereof.

- *Who shall preside as the Hearing Officer in confiscation proceedings?*

The DENR Officer who issued the Seizure Order shall also preside as the Hearing Officer.

- *What are the steps in conducting Summary Administrative Confiscation?*

The following are the steps in conducting administrative confiscation:

STEP 1 NOTICE OF HEARING
STEP 2 HEARING
STEP 3 RECOMMENDATION by HEARING OFFICER
STEP 4 DECISION by RED
STEP 5 MOTION FOR RECONSIDERATION
STEP 6 APPEAL TO THE DENR SECRETARY
STEP 7 DECISION OF THE DENR SECRETARY
STEP 8 CERTIFICATION OF FINALITY

**STEP 1
NOTICE OF HEARING**

- *Who issues a Notice of Hearing?*
The DENR Officer who issued the Seizure Order also issues the notice of hearing.

- *When shall the summary hearing be scheduled?*
A formal, summary hearing shall be scheduled at a specified place and date within one (1) calendar week from the date of the Seizure Order or, upon written request and signature of all interested parties, within two (2) calendar weeks from said date.



**STEP 2
HEARING**

- *Who shall preside as the Hearing Officer at the confiscation hearings?*
The DENR Officer who issued the Seizure Order shall also preside over the hearing.

- *How will the hearing be conducted?*

The hearings shall be recorded and will be summary in nature, during which all interested parties shall be heard by themselves and/or through counsel of choice.



Hearings shall not be strictly bound by the technical rules on evidence and procedures. Nevertheless, applicable Rules of Court shall have suppletory application in these proceedings to ensure justice and equity at all times.

- *What are the rights of the parties to the case?*

The parties shall be provided:

1. ample opportunity to obtain counsel;
2. a complete set of documents supporting the apprehension and seizure at their expense;
3. the opportunity to present controverting evidence.
4. the option to submit a Memorandum, attaching affidavits and any other supporting documents with a request that the issues be decided based on these documents, in lieu of testimonial evidence.

STEP 3

RECOMMENDATION by HEARING OFFICER

- *What will the Hearing Officer do after the hearing?*

The Hearing Officer submits his/her recommendation to the Regional Executive Director (RED).



STEP 4

DECISION BY THE RED

- *Who renders the decision in confiscation proceedings?*

The RED shall render the decision based on the recommendation of the Hearing Officer.



- *What kind of evidence is needed to order the confiscation of the seized items?*

Substantial evidence shall be sufficient to sustain an administrative decision adverse to the offender/s. The decision shall include a ruling that the seized items be confiscated in favor of the Government.

- *What happens to the case in the absence of substantial evidence?*

In the absence of substantial evidence, the case shall be dismissed and the item/s seized shall be returned.

- *When will the decision of the RED become final and executory?*

The decision shall become final and executory upon the lapse of fifteen (15) regular business days unless a Motion for Reconsideration is filed.

STEP 5

MOTION FOR RECONSIDERATION

- *What remedy is available to parties aggrieved by the RED decision?*

Parties aggrieved by the decision may file only one (1) Motion for Reconsideration within a non-extendible period of fifteen (15) calendar days from receipt of the Decision. It must contain a concise statement of the grounds relied upon for the purpose.

The Hearing Officer shall issue a ruling on such Motion within fifteen (15) days from receipt.

STEP 6

APPEAL TO THE DENR SECRETARY

- *What remedy is available to parties aggrieved by a ruling on the Motion for Reconsideration?*

An appeal to the Office of the DENR Secretary may be filed within a non-extendible period of fifteen (15) calendar

days from the receipt of the ruling on the Motion for Reconsideration.

The Appeal shall be forwarded to the Undersecretary for Legal and Legislative Affairs, who shall submit recommendations to the Secretary within fifteen (15) regular working days.



STEP 7 DECISION of the DENR SECRETARY

- *What remedy is available to parties aggrieved by the Secretary's decision?*

The aggrieved parties may either file a Motion for Reconsideration or file an appeal to the Office of the President within fifteen (15) days from receipt of the Secretary's decision.

STEP 8 CERTIFICATION OF FINALITY

- *When do the confiscated items become permanent property of the government?*

When a decision becomes final and executory, the Undersecretary for Legal Affairs and Legislative Affairs shall *motu proprio* or upon Motion by any party, issue a Certification to that effect for submission to the Secretary. Upon approval by the Secretary, the confiscated items shall become permanent property of the Government.

III. Abandoned Illegal Forest Products

- *What is the procedure in apprehending, seizing and confiscating abandoned illegal forest products?*

The procedure in apprehending, seizing and confiscating abandoned illegal forest products is similar to the procedure outlined above. Due to the absence of the offender/s, however, the following steps are to be followed:

A. APPREHENSION

1. Photographs of the apprehension site and the item/s apprehended shall be taken and shall form a permanent part of the records of the case. The Apprehending Officer shall identify, date, caption and write his/her full printed name and affix his/her signature at the back of each photograph so taken.

2. The Apprehending Officer shall record the required data on the On-Site Record of Violations and On-Site Report. In lieu of Apprehension Receipt, a notice of apprehension shall be left by the Apprehending Officer on-site, posted or tacked into the nearest tree, wall or similar permanent structure.

The notice shall contain the following:

- a. date, time and place of apprehension;
- b. full printed name, designation and signature of the Apprehending Officer;
- c. a complete list of the itemized list of the item/s apprehended;
- d. a summary statement of the violation/s cited; and
- e. full printed name and office address of the Seizure Officer to whom said items will be submitted.

B. SUMMARY SEIZURE/CONFISCATION PROCEEDINGS

After delivery of the items apprehended, the Hearing Officer shall conduct summary seizure and confiscation proceedings.

The Notice of Hearing shall be posted at least three (3)

times, once a week for three (3) consecutive weeks, in at least three (3) public places, including, but not limited to:

- a. the Barangay Hall of the apprehension site;
- b. the Bulletin Board of the DENR Offices where the Proceedings will be conducted; and
- c. Municipal Hall of the apprehension site.

Failure to appear during the hearings by the claimant, owner or other interested party shall be deemed a waiver of their right to appear and of any/all rights to the items apprehended in favor of the Government.

The Hearing Officer shall issue his decision based on the evidence at hand. A Motion for Reconsideration and/or Appeal may be taken by any interested party.

IV. Disputable Presumptions in Administrative Confiscation Proceedings

- *What are presumptions?*

Presumptions are conditions taken by the Hearing Officer as matters of fact without need for evidence to prove the same.

- *What is the implication of having disputable presumptions?*

It means that the party against whom the presumption is taken will have to prove the contrary. Thus, as a person present in the apprehension is presumed to have willingly participated in the illegal act, that person now has the burden of proof to convince the Hearing Officer otherwise.

- *What are the disputable presumptions in administrative confiscation proceedings?*

1. All those apprehended on-site for direct or indirect participation in the commission of the offense had full knowledge of and willingly participated therein.

2. The registered owner and/or operator/driver of a conveyance used in the commission of the offense had full

knowledge and willingly participated therein by providing the conveyance. In case the registered owner of the conveyance is a partnership or corporation, the partners and/or officers thereof had full knowledge of and granted authorization or issued instructions for the use or application of the conveyance in the commission of the offense.

3. The illegal forest products were obtained from an illegal source.

V. Temporary Release of Conveyances

- *Who may apply for the temporary release of conveyances subject of apprehension?*

The owner, claimant or other interested party may apply for the temporary release of the conveyance anytime pending final disposition of the administrative case.

- *Under what conditions can the applicant be granted the temporary release of the conveyance?*

The application should be granted only upon evidence that the same may be used for lawful purposes such as personal mode of transportation, commercial passenger transport, or cargo hauling. The applicant must file a Sworn Statement and Undertaking to this effect and post a bond. A DENR confirmation should also be obtained.

VI. Arrests and Prosecution of Offenses

- *Can the Apprehending Officer arrest the offender/s?*

Yes, the Apprehending Officer may, whenever circumstances so warrant, effect the arrest and detention of the offender/s, and deliver them to the proper authorities.

- *What should the Hearing Officer do when there is sufficient evidence to file a criminal complaint?*

Should the evidence in any administrative case so warrant, the Hearing Officer shall initiate the filing of 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.

- *What other reliefs should be applied for in addition to the imposition of penalties in the prosecution of the criminal case?*

In initiating and prosecuting criminal charges, the cognizant DENR Officer shall, in addition to the indictment, simultaneously file for:

1. actual damages in an amount equivalent to the value of the illegal forest products confiscated;
2. moral and exemplary damages for prejudice to the environment, in an amount equivalent to ten times (10x) the value of the forest products confiscated; and.
3. forfeiture of the confiscated items in favor of the Government of the Republic of the Philippines.

In addition to the foregoing, the Hearing Officer shall promptly send complete certified copies of the records of the case, together with written formal endorsements, to other cognizant government agencies for investigation and prosecution. Government agencies to which cases may be indorsed include the following:

1. Bureau of Internal Revenue - for failure to pay forestry charges and taxes;
2. Department of Trade and Industry - for violation of trade and industry laws; and
3. Securities and Exchange Commission.

VII. Disposition of Items Confiscated in Favor of the Government

- *How will the items subject to confiscation be disposed of?*

In protected areas, as provided by DAO 2000-45, the PASu, upon prior clearance and approval of the PAMB, shall recommend to the CENRO the disposal of confiscated cultural and natural resources such as artifacts, forest products, wild flora and fauna, marine or fishery and mineral resources, except when:

1. resources are held in *custodia legis*;
2. items are subject of donation;
3. items will be deposited with appropriate government agencies; and
4. resources will be utilized for the DENR's own infrastructure needs.

- *How are confiscated illegal forest products, tools and conveyances disposed of?*

Under DAO 97-32, the disposition of items administratively confiscated in favor of the Government shall be governed by the same rules of procedures applied by the DENR Central Committee on Bids and Awards of the Office of the Secretary.

- *Who are authorized to dispose of the items administratively confiscated?*

The following are authorized to dispose of the items administratively confiscated:

1. For items with value not exceeding five hundred thousand pesos (P500,000.00) - DENR Regional Committees on Bids and Awards
2. For items with value exceeding five hundred thousand pesos (P500,000.00) - Central Committee on Bids and Awards

- *What will happen to the proceeds of the sale or disposition?*

All proceeds from the sale or other disposition of any item/s confiscated become property of the Government of the Philippines. Proceeds in cash revert to the General Fund and shall be applied in strict conformity with applicable laws, rules and regulations.

- *How are confiscated wild flora and fauna disposed of?*

Under DAO 91-36, the disposition of confiscated wild flora or fauna shall be handled in accordance with the following procedure:

For Live Wildlife

1. Release the animal back to its natural habitat;
2. Donate to government projects which need the wildlife;
3. Donate or exchange the wildlife with reputable institutions; or
4. Loan the wildlife to reputable institutions.

For Non-Living Specimens/By-products

1. Donate to public or private schools for educational purposes.
2. Destroy using the most economical and effective means, except in cases where:
 - a. the wildlife is subject of judicial proceedings; or
 - b. the wildlife has been determined to be needed for breeding/propagation/research by the DENR as recommended by PAWB.

Exotic Wild Flora and Fauna

Exotic wild flora and fauna under CITES Appendices I, II, and III, after receipt of formal request or petition, may:

1. be returned to the country of origin at the expense of that state; or
2. be deposited in a rescue center or such other place as the DENR deems appropriate upon recommendation of PAWB.

Flora and Fauna in Custodia Legis

In cases where the confiscated wild flora or fauna, whether living or non-living, are the subject of court cases, representations with the proper court shall be made for its immediate disposition. The same may be deposited in rescue centers in the region to avoid death, injury or loss of their economic value during the pendency of the case. These wild flora or fauna shall only be released to the respondent after a final decision in favor of said respondent.

October 10, 1997

DENR ADMINISTRATIVE ORDER NO. 32-97

SUBJECT: 1997 Rules for the Administrative Adjudication of Illegal Forest Products and the Machinery, Equipment, Tools and Conveyances Used in Connection Therewith Pursuant to the Provisions of Presidential Decree No. 705, as amended, and pertinent policies, rules and regulations.

These 1997 Rules for the administrative apprehension, seizure, confiscation, and disposition of illegally possessed, cut, gathered, removed, or transported forest products, the machinery, equipment, tools and implements used in connection therewith, and of the conveyances used to move or otherwise transport the same, are hereby promulgated.

SECTION 1. Definitions. — As used in this Order, the following terms shall be defined and/or construed as indicated below:

a. APPREHENSION — The initial measure taken by the DENR when, having determined the existence of probable cause to do so, items listed in Section 2 hereof are found or intercepted and the temporary possession and control over the same is taken/exercised by those authorized to make apprehensions pursuant to Section 3 hereof for administrative disposition in accordance with law.

b. SEIZURE — Upon determination that an apprehension is supported by a prima facie case against the offender(s), seizure is the official act of taking by persons authorized hereby those items listed in Section 2 hereof into government custody, pending formal administrative proceedings for the disposition thereof.

c. CONFISCATION — Upon determination of guilt in administrative proceedings outlined hereunder, confiscation is the official act of the DENR declaring that items listed in Section 2 hereof become property of the Government of the Republic of the Philippines.

d. FORFEITURE — When items listed in Section 2 hereof are submitted by the DENR for disposition in judicial proceedings, forfeiture thereof in favor of the Government of the

Republic of the Philippines shall be sought in addition to any other remedies applied for in the prosecution of the case.

e. **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.

f. **FOREST OFFICERS** — Officials and employees of the DENR charged with the enforcement of forestry laws, rules and regulations of the Philippines.

SECTION 2. Items subject to apprehension, seizure, confiscation and forfeiture. —

a. **ILLEGAL FOREST PRODUCTS** — Any forest products(s) defined in Section 1 (e) above that are removed, cut, collected, processed and/or transported: (a) without the requisite authorization or permit; or (b) with incomplete required supporting documents 1; (c) with genuine authorizations or permits and/or supporting documentation that have an expired validity, have been cancelled or that contain forged entries; or (d) with spurious (fake) authorizations, permits and/or supporting documentation. In implementing these Rules, original documents shall be required at all times to actually accompany any forest products being moved or transported to any place and for any purpose. Whenever the requisite authorization and/or supporting documentation are required to but do not actually accompany the forest products, such absence constitutes a violation covered by these Rules.

b. **MACHINERY, EQUIPMENT, TOOLS and IMPLEMENTS** — used in the possession, gathering, collecting, processing and/or transporting of illegal forest products; and

c. **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 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.

SECTION 3. Persons Authorized to Make Apprehensions and Effect Seizures.

1. APPREHENSION — The following are authorized to apprehend items outlined in Section 2 hereof:

- (a) Forest Officers as defined in Section 1(f) hereof;
- (b) Deputies (i.e., other government officials and private citizens duly deputized by the DENR Secretary or his duly authorized representative);
- (c) Members of law enforcement agencies; and
- (d) Private citizens as provided by law.

2. SEIZURE — The administrative seizure of illegal forest products takes effect when, for the purpose of holding the same in custodia legis, any DENR Officer designated as a Seizure Officer actually takes delivery from an apprehending officer as described in Section 3 hereof and thereby assumes possession/control of item(s) apprehended pursuant hereto. Only the following are designated Seizure Officers with authority to effect the administrative seizure of items listed in Section 2 hereof and within their respective areas of operation:

- (a) The DENR Regional Executive Director (RED) or, in his absence, any DENR Regional Technical Director (RTD) actually assigned to the area of apprehension at the time thereof;
- (b) The Provincial Environment & Natural Resources Officer (PENRO) or, in his absence, any Senior Forest Management Specialist (SFMS) or Senior Environmental Management Specialist (SEMS) actually assigned to the area of apprehension at the time thereof;
- (c) The Community Environment & Natural Resources Officer (CENRO) or, in his absence, any DENR Officer with the rank of Forester III or Land Management Officer III (LMO III) actually assigned to the area of apprehension at the time thereof; and
- (d) The Secretary may, from time to time, designate, in writing, such other DENR Officers for the purpose.

SECTION 4. General Requirements for Summary Administrative Apprehension, Seizure and Confiscation. — Upon inspection or interception of items listed in Section 2(a) hereof, or upon the discovery of such items that are abandoned, or whose owner, claimant, custodian or other interested party is absent or cannot be determined, the apprehending officer or individual or leader of the apprehending team shall strictly observe the following summary procedures: On-site recording and preservation of data and evidence. By way of establishing and recording the legal basis for an apprehension and seizure, the following procedures shall be strictly complied with:

1. ON-SITE DETERMINATION OF PROBABLE CAUSE — Upon encountering a possible violation of forestry laws, rules and regulations, the apprehending officer/individual/leader of the apprehending team (hereafter referred to as the apprehending officer) shall establish his *bona fide* by identifying himself to any person(s) witnessing the activity by stating his full name, rank and official designation. He shall exhibit his current DENR Identification Card, if he is a DENR official or personnel; if not, a duly issued identification card. He will invoke these Rules and announce the commencement of a verification procedure. He shall then verify the existence of probable cause for an apprehension as outlined below.

2. OCULAR INSPECTION AND IMMEDIATE RELEASE — He will conduct an ocular inspection of all required authorizations cited in Section 2 hereof. If all requisite authorizations, permits, and accompanying documentation are verified to be in order, and the probable cause for an apprehension is absent, the release of all items inspected must be effected immediately. In such cases, the official DENR seal of inspection/verification must be rubber-stamped or otherwise affixed on the face of all transport documents inspected in connection herewith. In the absence of an official DENR seal, he shall write the date, state the fact of inspection, and the release. After which he shall affix his signature above his full printed name in the official log book for the matter.

3. ON-SITE RECORD OF VIOLATIONS — Should inspection pursuant to the preceding paragraph indicate a violation of forestry laws, rules and regulations, and the probable cause for an apprehension is present, the apprehending officer shall immediately: (a) verbally inform the person(s) apprehended of his findings and announce that he is making an apprehension in accordance with these Rules; (b) prepare a written ON-SITE-RECORD of the names, addresses and other available data of all persons found in possession, exercising control and/or supervision over, or performing or otherwise involved in the possession, supervision, control, cutting, gathering, processing and/or transporting the item(s); and (c) if any there be, he shall write an itemized list of all on-site machinery, equipment, tools, and implements used in the commission of or otherwise connected with the offense. He shall then indicate the date and sign the ON-SITE-RECORD, and request the offender(s) to sign the same above their printed names. In case of refusal to sign as herein required, that fact or circumstances and reason, if any, of such refusal shall be written thereon in their presence, as proof of such action.

4. ON-SITE DETERMINATION OF FRAUDULENT MISREPRESENTATION PREJUDICIAL TO THE GOVERNMENT — Intent to defraud the Government shall be presumed:

(a) In case the quantity or volume of a shipment or stock of forest products exceeds what is authorized, documented, manifested or declared: (i) by five percent (5%) or more, in case of timber, and/or (ii) by two percent (2%) or more, in case of lumber; and/or

(b) Upon discovery of a misdeclaration on the quantity and species being verified pursuant hereto.

In all such cases, the entire shipment shall be considered illegal due to fraudulent misrepresentation with intent to prejudice the Government of the Republic of the Philippines. Such shipment shall be apprehended/seized, and subject to confiscation or forfeiture proceedings. The apprehending

officer or individual shall effect the apprehension and proceed as hereunder outlined even if the requisite authorizations and supporting documents for all or part(s) of said shipment are verified to be otherwise in order.

5. ON-SITE CONVEYANCE CHECK — In case the violation noted involves the use of a conveyance, as herein defined, the seizing officer will announce the apprehension thereof. Should the conveyance require government registration, he will require the presentation thereof and will inspect (a) the Certificate of Registration; (b) the Official Receipt thereto appertaining, as well as (c) the Driver's License or similar authorization. Said documents shall be returned to the holder thereof upon notation of his identity and address, as well as of the name and address of the owner of the conveyance, its license plate number or other identifying marks or information.

6. ON-SITE-REPORT — In addition to the foregoing, the following information, if available, shall be recorded on-site upon apprehension, (1) time, date and place of apprehension; (2) full name and address of the offender(s) on-site; (3) full names of all persons accompanying or providing on-site assistance to the apprehending officer or individual; (4) circumstances that led to the apprehension (e.g., discovery of abandoned items, spot check by monitoring team, verification of absent, lacking, forged or spurious documentation, etc.); (5) names of local government officials present and/or of other person(s) witnessing the apprehension; (6) preliminary description of the item(s) being apprehended; (7) place, time and date of origin and intended destination, consignors and consignees of the items being apprehended; and (8) such other data or information and comments, observations and recommendations as may be available or pertinent on-site.

SECTION 5. Outline of Procedures for Summary Administrative Apprehensions. — The following procedures shall be complied with for the summary administrative apprehension of items listed in Section 2 hereof:

1. APPREHENSION RECEIPT — Upon completion of the foregoing procedure and finding the existence of probable cause to make an apprehension, the apprehending officer shall issue and hand-over to the offender an Apprehension Receipt, which shall contain the following: (a) the precise nature of the offense cited; (b) the time, date and place of issuance of the Apprehension Receipt; and (c) the full names in print and signatures of both the apprehending officer and of the offender(s). Should the offender(s) refuse to sign or acknowledge, in writing, his receipt of the Apprehension Receipt, or refuse to take delivery thereof, such fact shall also be stated in writing on the Apprehension Receipt with an explanation thereof.

2. PROVISIONAL APPREHENSION RECEIPT — Should the counting, measurement, description, scaling, weighing, and/or value-estimation of the items being apprehended, and/or of any other documentation activity related thereto, remain incomplete at the close of regular office hours of the day when the apprehension was made, the fact that more time is required to complete the same, shall be explained to those concerned on-site and reflected in the Apprehension Receipt which, in such cases, shall state the date and time this procedure commenced. In such cases the Apprehension Receipt shall be prominently marked with the word PROVISIONAL. The Provisional Apprehension Receipt shall also state the date, time and place when the uncompleted documentation activity will resume. This procedure shall be followed each day that the documentation activity remains incomplete until final completion thereof.

3. TRANSPARENCY OF APPREHENSION PROCEEDINGS — The documentation activity outlined above shall be undertaken with full transparency and in the presence of the offender(s), owner, custodian, possessor, consignor, consignee, or other person(s) claiming the apprehended items or representatives of any of said persons, as well as any other concerned or interested persons. If the documentation activity is undertaken

in the absence of anyone interested therein, such fact shall be stated on both the ON SITE REPORT and APPREHENSION RECEIPT with an explanation, if any. Moreover, the apprehending officer shall immediately implement such measures to ensure that any persons known to have an interest in the apprehended item(s) but who are absent are informed without delay of the fact of, and reasons(s) for, the apprehension, as well as invite said person(s) to attend the proceedings, stating the date, time and place when the documentation activity will resume.

SECTION 6. Outline of Procedures for Summary Administrative Seizure. — The following procedures shall be complied with during the summary administrative seizure of items listed in Section 2 hereof.

1. DELIVERY — As soon as possible after items are apprehended as outlined above, the same shall be delivered by the apprehending officer to the nearest Seizure Officer authorized pursuant to Section 3 hereof, who shall forthwith sign and issue a Seizure Receipt stating the date, place and time, name of apprehending officer, and containing an itemized list of the item(s) delivered to him. In case such delivery of any apprehended item(s) is impracticable, the apprehending officer shall deposit the same for temporary safekeeping at the nearest Government office. Should such temporary safekeeping be impracticable for any reason, the apprehended item(s) shall remain in the custody of the apprehending officer until delivery thereof is effected as herein provided.

2. SUMMARY ADMINISTRATIVE SEIZURE — Upon delivery to those authorized pursuant to Section 3 hereof, the Seizure Officer concerned shall forthwith verify the existence of a prima facie case against the offender by examining all the documents submitted to him by the apprehending officer as required by the foregoing provisions. (a) He shall confirm that the item(s) delivered to him strictly coincide with the itemized list thereof reflected in the documents of apprehension. If such confirmation cannot be completed within the same day, the

procedure for extensions outlined in Section 5 hereof shall apply. In case of variance between the items so delivered and those reflected in the documents of apprehension, he shall require a sworn statement from the apprehending officer with a complete, clear and concise explanation for said variation, which shall form an integral part of the permanent records of the case. In verifying the existence of a prima facie case against the offender, the appropriate DENR Officer shall personally examine the apprehending officer and any witnesses appearing before him in order to satisfy himself that an offense has been committed, that the evidence at hand indicates the offender is probably guilty thereof, and that the items delivered to him are the proceeds of the violation. Should a prima facie case against the offender be thus found, the Seizure Officer shall immediately declare this fact by issuing a SEIZURE ORDER for the apprehended item(s). In case 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 official 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.

SECTION 7. Outline of Procedures for Summary Administrative Confiscation. — The following procedures shall be complied with for the summary administrative confiscation of items listed in Section 2 hereof. Immediately upon, or as soon as practicable after issuance of a SEIZURE ORDER, the following outline shall be followed in the summary seizure proceedings.

1. NOTICE OF HEARING — A Notice of Hearing shall be issued by the DENR Officer who issued the SEIZURE ORDER scheduling a formal, summary hearing at a specified place and date within one (1) calendar week from the date of the SEIZURE ORDER or, upon written request and signature of all interested parties, within two (2) calendar weeks from said date. In no case shall the hearing so scheduled be postponed without the written request of the offender(s) and/or the owner or other person(s) interested in the seized item(s).

2. HEARING — The DENR Officer who issued the SEIZURE ORDER shall preside as the Hearing Officer at Confiscation hearings, which shall be recorded and of summary nature, during which all interested parties shall be heard by themselves and/or through counsel of choice. Ample opportunity to obtain the services of counsel shall, in all cases, be provided.

A complete set of the documents supporting the apprehension and seizure as hereinabove outlined shall be provided to the interested parties at their expense, and who shall be afforded the opportunity to present controverting evidence.

Although not strictly bound by the technical rules on evidence and procedures, applicable Rules of Court shall have suppletory application in these proceedings to ensure justice and equity at all times. In lieu of adducing testimonial evidence, any Party may elect to submit a Memorandum, attaching Affidavits and any other supporting documents thereto, with a request that the issues be decided on the basis thereof.

3. DISPUTABLE PRESUMPTIONS — In administrative proceedings conducted pursuant hereto, the following shall be considered presumptions of fact and/or law and taken as part of the evidence unless specifically controverted and successfully overcome by a preponderance of evidence.

- (a) All those apprehended on-site for direct or indirect participation in the commission of the offense(s) cited had full knowledge of and willingly participated therein;
- (b) The registered owner and/or operator/driver of a conveyance used in the commission of the offense had full knowledge and willingly participated therein by providing the conveyance for the illegal purpose to which said conveyance was applied. In case the registered owner of the conveyance is a partnership or corporation, the partners and/or officers thereof had full knowledge of and granted authorization or issued instructions for the use or application of the conveyance in the commission of the offense.
- (c) Any forest products included within Section 2(a) hereof were obtained from an illegal source.

4. **DECISION** — The Decision shall be rendered by the RED upon recommendation of the Hearing Officer. Substantial evidence shall suffice to sustain an administrative Decision adverse to interested Party(ies), failing which, a ruling shall be issued dismissing the case, and the controversy deemed closed and ordering that the seized item(s) be returned forthwith. When the 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, if any.

In the absence of compelling reasons, which shall in all cases be stated on the record, confiscation proceedings shall be terminated within fifteen (15) regular business days from commencement thereof. A transcript of stenographic notes or minutes taken at these proceedings shall form part of the permanent records of the case together with the Decision issued thereon citing the evidence adduced and reasons supporting the ruling. The Decision shall become final and executory upon the lapse of fifteen (15) regular business days unless a Motion for Reconsideration is filed as provided below.

5. **MOTION FOR RECONSIDERATION** — A party aggrieved by the decision may file only one (1) Motion for Reconsideration within a non-extendible period of fifteen (15) calendar days from receipt of the Decision, containing a concise statement of the grounds relied upon for the purpose. The Hearing Officer shall issue a ruling on such Motion within fifteen (15) days from receipt thereof, stating the grounds thereof. Unless a Notice of Appeal is filed by a Party with the Hearing Officer within a non-extendible period of fifteen (15) calendar days from receipt of a Notice of Appeal, the Hearing Officer shall transmit the complete records of the case to the Office of the Secretary for appropriate action.

6. **APPEAL** — Within a non-extendible period of fifteen (15) calendar days from receipt of the ruling upon a Motion for Reconsideration, a Party, after paying the corresponding Appeal Fee, may file an Appeal with the Office of the Secretary, which shall contain a concise statement of all the issues of fact

and law raised on appeal. Upon receipt thereof, the Appeal shall be forwarded to the Undersecretary for Legal and Legislative Affairs, who shall submit his recommendations to the Secretary within a period of fifteen (15) regular working days.

7. DECISION OF THE DENR SECRETARY — A Party aggrieved by the decision rendered by the Secretary may, within fifteen (15) days from receipt thereof, file but one (1) Motion for Reconsideration, failing which, the same shall become final and executory. However, the aggrieved Party may, within the same period, appeal said Decision to the Office of the President of the Philippines pursuant to Executive Order No. 19, Series of 1996.

8. EXECUTIVE DECISION — When a Decision becomes final and executory upon the lapse of the reglementary periods herein prescribed, the Undersecretary for Legal and Legislative Affairs shall, *motu proprio* or upon Motion by any Party, issue a Certification to that effect for submission to the Secretary. The Certification shall cite the item(s) confiscated in accordance herewith (if any), together with a recommendation for execution of the Decision.

9. TERMINATION OF CASE — Upon approval by the Secretary issued pursuant to the preceding paragraph, confiscated items shall become permanent property of the Government and entered into the books as such and disposed of in accordance with law. The Secretary's approval shall be attached to and shall form part of the permanent records of the case, which, from the date thereof, is considered, terminated and closed.

SECTION 8. Abandoned Illegal Forest Products. — The following procedures apply in cases where illegal forest products and other items listed in Section 2 hereof are abandoned, or when the owner, claimant, custodian or other interested Party(ies) is unknown, cannot be determined, or cannot otherwise be found.

1. The items listed in Section 2 hereof shall forthwith be apprehended. Whenever practicable, photographs of the apprehension site and the item(s) seized shall be taken and shall form a permanent part of the records of the case. For this purpose, the apprehending officer shall identify, date, caption and write his full printed name and affix his signature at the back of each photograph so taken.

2. The ON-SITE RECORD OF VIOLATIONS, ON-SITE REPORT AND APPREHENSION RECEIPT shall be prepared as mandated hereby. In lieu of service of the APPREHENSION RECEIPT, a notice of the apprehension shall be left by the apprehending officer on-site, posted or tacked into the nearest tree, wall or other similar permanent structure. In this connection, the notice shall contain the date, time and place of the apprehension, full printed name, designation and signature of the apprehending officer, a complete, itemized list of the item(s) apprehended, a summary statement of the violation(s) cited, and the full printed name and office address of the seizure officer to whom said items will be submitted as required by these Rules.

3. Summary Seizure/Confiscation Proceedings shall be conducted by the Hearing Officer designated in these Rules. In such cases the Notice of Hearing shall be posted at least three (3) times, once a week for three (3) consecutive weeks, in at least three (3) public places, including, but not limited to: (a) the Barangay Hall of the apprehension site; (b) the Bulletin Board of the DENR Offices where the 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 failure shall be deemed a waiver of the right to appear and of any/all rights to the items apprehended in favor of the Government. The Hearing Officer shall state this fact in the records and certify that publication of Notice of Hearing had been effected in compliance herewith; thereupon, he shall forthwith issue his Decision based on the evidence at hand.

A Motion for Reconsideration and/or Appeal may be taken by any interested Party in accordance with Section 4 hereof.

SECTION 9. Temporary Release of Conveyances. — When a conveyance is apprehended by virtue hereof, and any time thereafter pending final disposition of the administrative case, and should available evidence establish to the satisfaction of the Hearing Officer that the conveyance may be used for lawful purposes, such as, but not limited to: personal mode of transportation; commercial passenger transport; cargo hauling; or other similar legal use, temporary release thereof to the owner or claimant or other interested Party may be applied for, and release thereof to the Applicant *pendente lite* may be granted by the Hearing Officer upon compliance with the following requirements:

1. DENR CONFIRMATION — Written confirmation in the records of the case is entered by the Hearing Officer declaring under oath: (a) that the official registration papers and supporting documents thereof are secured as and made an integral part of the records of the case, possession of which shall not be released unless ordered in the final decision of said case or by other competent authority; and (b) that the Applicant was not among those who were apprehended by virtue hereof and is not a respondent in the case by virtue of which the conveyance is being detained *pendente lite*; (c) the Applicant has not previously been held administratively or criminally liable for violation of forestry laws, rules and regulations; and that (d) available evidence does not in any way indicate the complicity of the Applicant in the offense cited in the confiscation proceedings; and

2. SWORN STATEMENT AND UNDERTAKING — Submission by the Applicant of a Sworn Statement: (a) declaring the precise nature of his claim thereon; (b) declaring that he has not previously been held administratively or criminally liable for violation of forestry laws; (c) describing the precise lawful uses(s) to which the conveyance shall/may be applied during

the pendency of the case; (d) stating the replacement cost of the conveyance at the time the application is filed; and (e) an unconditional undertaking to return possession of the conveyance to the DENR as may be required for the final disposition of the case.

3. POSTING OF BOND — Upon approval of an Application for Temporary Release of Conveyance, and as a precondition to the actual pendente lite release thereof, the Applicant shall post a cash or surety bond to guarantee the prompt return of the conveyance to the DENR as may be required pursuant hereto. In no case shall a personal or private bond or guarantee or recognizance be admitted for this purpose.

The bond shall be equivalent to one-hundred-twenty-five percent (125%) of the replacement cost of the conveyance at the time the bond is submitted. A cash bond in favor of the DENR must be filed by the Applicant with the nearest DENR Regional, Provincial or Community Office; surety bonds in favor of the DENR must be from the GSIS or other government surety. Original documents evidencing the posting of the bond shall be submitted to the Hearing Officer and form part of the records of the case.

4. RECALL OF CONVEYANCE — In case of misrepresentation in the Application for Temporary Release of Conveyance and/or any documents submitted in connection with or support thereof, or in case of failure to comply with any representations or undertakings made in connection therewith, the conveyance shall be ordered recalled by the Hearing Officer and the same shall forthwith be returned by the Applicant to the DENR. In case of failure to return the conveyance in compliance with a directive issued in the administrative case, the bond shall be called and forfeited in favor of the Government.

5. RETURN/CANCELLATION OF BOND — When the Decision in a case becomes final and executory as outlined above and administrative confiscation of the conveyance is not

ordered by the Government, immediate return thereof to the owner and cancellation/return of the bond filed in connection therewith shall be ordered. Unless expressly mandated in the body of the Decision of the case, the Hearing Officer shall forthwith issue an Order citing said Decision, a copy of which shall thereto be attached, mandating the immediate release of the conveyance to the Owner thereof, together with an order for the cancellation of the surety bond or return of the cash bond submitted as hereinabove required.

SECTION 10. Arrests and Prosecution for Other Offenses. —

1. In addition to the functions outlined hereinabove, the Apprehending Officer may, whenever circumstances so warrant, effect the arrest and detention of any person(s) apprehended by virtue hereof, and forthwith deliver such person(s) to the proper authorities in accordance with the provisions of Presidential Decree No. 705, as amended.

2. Should the evidence in any administrative case arising by virtue hereof so warrant, the Hearing Officer shall initiate the filing of 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.

3. In all matters pertaining to arrests and prosecution of any person(s) effected pursuant hereto, all DENR personnel shall without delay coordinate with the Department of Justice Task Force on Environment and Natural Resources (DOJ-STF-ENR) and strictly comply with all directives issued in connection therewith.

4. In initiating and prosecuting criminal charges pursuant to this Section, the cognizant DENR Officer shall, in addition to the indictment, contemporaneously file for: (a) actual damages in an amount equivalent to the value of the illegal forest products confiscated by virtue hereof; as well as

(b) moral and exemplary damages for prejudice to the environment, in an amount equivalent to ten times (10X) the value of the forest products confiscated by virtue hereof.

5. Should the evidence so warrant, the Hearing Officer shall, in addition to the foregoing, promptly send a complete set of the records of the case, duly certified by him as faithful reproductions of the original documents thereof, together with written FORMAL INDORSEMENTS on top and as covers thereof, to other cognizant government agencies for investigation and prosecution in accordance with law. Government agencies to which cases may be indorsed include, but are not limited to the: (a) Bureau of Internal Revenue - for failure to pay forestry charges and taxes; (b) Department of Trade and Industry - for violation of trade and industry laws, and (c) the Securities and Exchange Commission.

6. The foregoing guidelines shall be in addition and without prejudice to any other requirements as are or may hereafter be provided by public policy, law, rules and regulations.

SECTION 11. Reportorial Requirements. — Quarterly Reports shall be submitted by Regional Executive Directors to the Secretary, with copies thereof furnished to the Undersecretary for Legal and Legislative Affairs, to the Undersecretary for Field Operations, and to the Director of the Forest Management Bureau, containing the following information:

1. STATUS REPORT OF CASES — A complete list of all administrative cases initiated pursuant hereto, including the pertinent dates, places and Parties involved, current status and estimated period for completion, as well as recommendations for the efficient and expeditious disposition thereof, if any.

2. LIST OF SEIZED AND CONFISCATED ITEMS — A complete list of all items seized and detained pendente lite, with particular descriptions of each item, current condition

thereof and place of detention/safekeeping. A second list shall be submitted reflecting all conveyances temporarily released pursuant hereto, stating the names of recipients thereof, with the condition and amounts of the bonds pertaining thereto. A third list shall likewise be submitted for all confiscated items awaiting final disposition in accordance herewith, accurately described with recommendations as to the final disposition thereof, if any.

3. ITEMS NOT RECOMMENDED FOR DISPOSITION —

The Quarterly Reports shall specify which confiscated items awaiting final disposition are not recommended for the purpose because: (a) the same had been submitted in evidence to a court or other government agency in connection with the prosecution of offenders in judicial or other proceedings, stating complete details thereof; or (b) the same are recommended for the use of DENR for a specified purpose or activity; or (c) the same are recommended for donation to a charitable institution for use in connection with a humanitarian purpose or activity.

4. ITEMS REQUIRING URGENT DISPOSITION —

In the case of seized items which cannot be detained for safekeeping until final disposition thereof is determined in accordance with the foregoing procedures due to (a) the highly perishable nature thereof, or (b) that a place for adequate safekeeping thereof cannot be provided, or (c) because the continued detention thereof until final disposition in accordance herewith is impractical; and in the case of items confiscated in favor of the Government when the continued/prolonged detention/safekeeping thereof while awaiting final disposition in accordance herewith is not recommended for any of the foregoing reasons, all such items shall be itemized in a separate List of Items for Urgent Disposition.

5. The List of Items for Urgent Disposition shall be submitted to the Undersecretary for Field Operations without delay, and in any case within forty-eight (48) hours from discovery

of the urgent nature of the circumstances. Said List shall state: (i) the general case information cited in sub-paragraph (a) of this Section, (ii) a particular description of the item(s); (iii) the estimated value thereof; (iv) the reason(s) for recommending urgent disposition; and (v) mode of disposition recommended to avoid irreparable damage or prejudice to the item(s). Upon consultation with the Undersecretary for Legal and Legislative Affairs and the Director of the Forest Management Bureau, and with the approval of the Secretary, the Undersecretary for Field Operations shall issue directives for the expeditious disposition of all such items in conformity with law, justice and equity.

SECTION 12. Disposition of Items Confiscated in Favor of the Government. —

1. Items confiscated in favor of the Government in summary administration proceedings conducted pursuant hereto shall be disposed of in accordance with law.

2. The disposition of items administratively confiscated in favor of the Government pursuant to these Rules shall be governed by the same requirement rules of procedures applied by the DENR Central Committee on Bids and Awards of the Office of the Secretary. In this connection, the Central Committee shall reproduce its requirements and rules of procedure for adoption and strict compliance.

3. For the implementation of these Rules, only the DENR Regional Committees on Bids and Awards are authorized to dispose of items administratively confiscated in favor of the Government pursuant hereto, provided that the value of each or all the items to be disposed of in each instances does not exceed five hundred thousand pesos (P500,000.00). In cases where the value of any item, or when the total value of the items scheduled for disposition at any instance, exceeds the cited amount, disposition thereof shall be referred to the Central Committee on Bids and Awards, which shall conduct proceedings in relation thereto.

In this connection, DENR Regional Committees on Bids and Awards are hereby constituted as follows:

- Chairman — Regional Executive Director or, in his absence, the Regional Technical Director (RTDF);
- Member — Regional Legal Officer;
- Member — Representative from the Local Government of the place of the DENR Regional Office concerned; and other members designated by the Regional Executive Director.

The representative from the Commission on Audit (COA) shall be designated as observer.

All Regional Executive Directors shall submit to the Office of the Undersecretary for Field Operations the names of the Members of their respective Regional Committees on Bids and Awards within twenty (20) calendar days from the date of effectivity of these Rules.

4. Consistent with the provisions of Republic Act No. 6713, (Code of Conduct and Ethical Standards for Public Official and Employees), 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 any proceedings for the disposition of confiscated items subject of these Rules.

5. In no case shall same individual(s) from whom the items for disposition were confiscated be qualified/admitted as a bidder in these proceedings.

SECTION 13. Expenses for the Transfer, Safekeeping, Maintenance and Delivery of Apprehended, Seized and Confiscated Items. —

1. All expenses incurred by the DENR in transferring apprehended items to the place of safekeeping, the necessary maintenance thereof, and delivery to any other place or person as may be required by the circumstances and/or in the implementation of the procedures outlined

herein, shall be added to the value thereof. Such expenses shall attach as primary liens over such items in favor of the Department and shall be deducted from and reimbursed to the DENR as administrative costs from the proceeds of the sale thereof if any. In this connection, the Department shall allocate a fund to enable field officers to advance expeditiously hauling expenses and avoid deterioration and/or loss of economic value of the products/conveyances.

2. In cases of forest products, tools, equipment, implements and conveyances that are forfeited in favor of the Government and disposed of by judicial or other official mandate, the cognizant Regional Executive Director shall make official representations with the Court or Government Agency concerned for the purposes of recovering the aforementioned primary lien.

3. 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 Department in this regard.

SECTION 14. Remittance of Proceeds of Sales. — All proceeds from the sale or other disposition of any item(s) confiscated pursuant hereto are property of the Government of the Philippines. Proceeds in cash revert to the General Fund and shall be applied in strict conformity with applicable laws, rules and regulations.

Immediately upon receipt of payment, or any part thereof, for any item(s) sold or otherwise disposed of pursuant to these Rules, the entire amount(s) so received shall, in the form of a Cashier's Cheque or Manager's Cheque, and together with complete documentation and concise explanation therefor, be remitted by the cognizant Chairman of the Regional Committees on Bids and Awards to the DENR Central Office, where a separate account shall be established for the purpose.

A Quarterly Report on all funds remitted to Central Office

pursuant to the preceding paragraph shall be submitted by the cognizant Officer to the Secretary; Quarterly Reports shall be consolidated into an Annual Report to be similarly submitted at the end of the fiscal year.

SECTION 15. Central Office Secretariat for Administrative Cases. —

1. Personnel shall be designated by the Undersecretary for Field Operations to constitute a SECRETARIAT FOR ADMINISTRATIVE CONFISCATION CASES charged with the collection, storage, processing, monitoring, analysis and submission of Central Office Quarterly and Annual Reports thereon. The Central Quarterly and Annual Reports shall be submitted to the Secretary through the Undersecretary for Field Operations.

2. All reports required by these Rules shall be coursed through the Secretariat so constituted to ensure the most efficient administration thereof.

3. The undersecretary for Field Operations may require the Secretariat and all other DENR personnel concerned to prepare such other reportorial requirements as may, from time to time, be necessary for the effective implementation of these Rules.

4. GAZETTE — All policies, guidelines, implementing instructions and directives issued pursuant hereto or in connection with these Rules shall be collated, provided the widest dissemination, and published in the Gazette by the Secretariat. In addition thereto, all Decisions in administrative cases that have become final and executory shall be published in the Gazette, copies of which may be provided to other Government offices and Local Government Units.

SECTION 16. Implementing Guidelines and Instructions. — The Undersecretaries for Field Operations and for Legal and Legislative Affairs may, from time to time, issue such other guidelines, directives and implementing instructions for the orderly and effective implementation of these Rules.

SECTION 17. Penalty Clause. — In addition to and without prejudice to such other remedies as may by law be applicable under the circumstances, DENR Officers and Personnel found guilty of culpable violation of these Rules, whether directly or indirectly, shall suffer such penalties as may be imposed by the Secretary in accordance with law.

SECTION 18. Repealing Clause. — This Order repeals DAO No. 59, Series of 1990, DAO Nos. 54 and 67, both Series of 1993, and DAO No. 19, Series of 1994. All orders, circulars and issuances which are inconsistent herewith are hereby repealed and/or modified accordingly.

SECTION 19. Transitory Provision. — These Rules shall govern all administrative cases involving illegal forest products and the machinery, equipment, tools and conveyances used in connection therewith, initiated after the effectivity hereof, as well as to further proceedings in cases then pending, except to the extent that, in the opinion of the Secretary, or of the Court in appropriate cases, an application hereof would not be feasible or would occasion injustice, in which event the formerly applicable procedures shall be implemented.

SECTION 20. Separability Clause. — If any part of these Rules is declared unconstitutional or otherwise defective on any grounds, the remaining parts not affected thereby shall remain valid and effective.

SECTION 21. 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.

SO ORDERED.

(SGD.) VICTOR O. RAMOS
Secretary

Footnote

1. i.e., those documents required by law, rules and regulations administered by the DENR.

July 11, 1991

DENR ADMINISTRATIVE ORDER NO. 36-91

SUBJECT: Guidelines Governing the Confiscation, Seizure, and Disposition of Wild Flora and Fauna Illegally Collected, Gathered, Acquired, Transported, and Imported Including Paraphernalia Pursuant to the provisions of Act 2590 as amended, Act 3983 as amended, PD 705 as amended, Executive Order 192, and Executive Order No. 277, which authorizes the Secretary of Environment and Natural Resources or his duly authorized representative to order the confiscation of forest products including wildlife, gathered, removed, possessed without authority including paraphernalia used in the commission of the offense and other pertinent policies, laws and regulations, the following regulations are hereby promulgated:

SECTION 1. Definition. For purposes of this Order, the following terms shall be construed to mean as follows:

1.1 Wildlife — shall include all wild flora and fauna either in live, preserved or processed state; and

1.2 Paraphernalia — shall include tools, equipment, conveyances and other instruments used in the illegal gathering, collection, acquisition, transportation, and importation of wildlife.

SECTION 2. Documents Required in the Transport of Wildlife. The transport of all wild flora and fauna must be accompanied by a Wildlife Transport Permit issued by the Community Environment and Natural Resource Officer (CENRO) concerned where the wild flora and/or fauna were gathered and collected.

SECTION 3. Basis of Arrests and Confiscations. Absence of Wildlife Transport Permit shall be sufficient cause for the seizure of wildlife and paraphernalia used in the commission of the offense in favor of the government pursuant to PD 1281 subject to further investigation. If it is found that the wild flora and fauna seized have been gathered, removed, and possessed without authority under existing rules and regulations, final confiscation shall be effected to be followed by the filing of the

complaint. DENR Officers which include Regional Executive Director (RED), Regional Technical Director (RTD), Provincial and Community Environment and Natural Resources Officers (PENROs/CENROs) and other DENR personnel who will later on be deputized by the DENR Secretary or his duly authorized representatives shall have authority to seize and confiscate wild flora and fauna under their respective jurisdictions.

Any person who has committed or is committing any of the offenses defined under Sections 68 and 72, Chapter IV of PD 705, as amended, may be arrested even without warrants as provided for by Section 80, of PD 705, as amended.

SECTION 4. Execution of Sworn Statements. Immediately after seizure of the wild flora and fauna together with the paraphernalia used in the commission of the offense, the apprehending DENR Officer shall execute his sworn statement/affidavit surrounding the facts of the case in the form hereto attached as Annex "A". He shall also take the affidavits or statements of witnesses, if any, in the form hereto attached as Annex "B".

SECTION 5. Inventory of Seized Wildlife and Issuance of Seizure Receipt. An inventory of the seized wild flora and fauna shall be conducted immediately both by the DENR apprehending officer and the owner of the confiscated wildlife. The assessment thereof shall be based on the actual or physical count after which the corresponding seizure receipt shall be issued by the signing DENR Officer(s) duly acknowledged by the apprehended person/s or party/ies.

In case the apprehended person/s or party/ies refuse to acknowledge, the local authority may attest as to the veracity of the seizure receipt.

SECTION 6. Custody of Seized Wildlife and Paraphernalia. This shall be made in accordance with the following procedures:

6.1 In cases where the apprehensions are made by the Philippine National Police (PNP), Economic Intelligence and Investigation Bureau (EIIB), Coast Guard and other government law enforcement agencies, the apprehending

agency shall notify the nearest DENR Office and turn over the seized wild flora and fauna to the CENRO/PENRO/RED, as the case may be, for proper investigation and disposition. In the same manner, wild flora and fauna seized/confiscated by the DENR Central Office personnel shall likewise be turned over to the CENRO/PENRO/RED or to PAWB Central Office concerned for further investigation and proper disposition in accordance with the procedure herein provided.

6.2 In cases where the apprehension is made by the DENR Field Offices, the wild flora and fauna and the paraphernalia used shall be, deposited at the designated rescue centers in the region for safekeeping. In case wild flora or fauna is confiscated by the DENR-NCR, it shall be deposited at PAWB in accordance with DENR AO 142 S. of 1989.

In cases where the transfer of the seized wild flora and fauna to the above places is not immediately feasible, the same shall be placed under the custody of any of the following places at the discretion of the DENR apprehending Officer taking into consideration the safety of the confiscated wildlife.

6.2.1 Licensed petshops owners or nursery owners/operators;

6.2.2 nearest local public official such as the Barangay Captain, Municipal or City Mayor, Provincial Governor;

6.2.3 nearest PNP stations; or

6.2.4 any responsible person or groups in the community in any case, the custody of the wild flora and fauna shall be duly acknowledged and received by the person or officer taking custody thereof in the form hereto attached as Annex "C".

SECTION 7. Filing of Complaint. The CENRO/PENRO or Regional Office concerned shall file the criminal complaint with the proper court pursuant to Section 80 of PD 705, as amended, against any and shall all persons who appear to be responsible for the commission of the offense (see Annex "D").

In case of partnerships, associations or corporations, the complaint shall be filed against the officers who ordered the collection, gathering, acquisition or possession, transport, shipment and exportation of the wild flora or fauna. Failure to identify officers of the managing parties in case of partnerships,

the President or General Manager in case of associations or corporations shall be charged accordingly. The following documents should be attached to the complaint:

- a) Sworn statement/Affidavit of apprehending/arresting DENR Officer/s (Annex "A");
- b) Sworn statement/Affidavits of witnesses, if any, who may have knowledge on the commission of the offense (Annex "B"); and
- c) Copy of the seizure receipt or statement showing the number and species of the wild flora and fauna seized (Annex "C");

Other necessary documents may also be required to support the complaint such as photographs showing wild flora and fauna seized including the tools, equipment, holding cages, conveyances and other instruments used in the commission of the offense.

SECTION 8. Referral of Complaint. Immediately after the complaint is filed, the CENRO/PENRO concerned shall transmit copy of the complaint and all supporting documents to the Regional Office or the Legal Service Office of the DENR Central Office.

SECTION 9. Disposition of Confiscated/Seized Wildlife, and Paraphernalia. The disposition of confiscated wild flora or fauna shall be handled in accordance with the following procedure:

9.1 The RED/CENRO/PENRO/PAWB, as the case may be, or his duly authorized representative(s) shall, without delay, dispose of the confiscated wildlife in accordance with the modes prescribed by DENR AO 142, S. of 1989, to wit:

For Live Wildlife

- 9.1.1 Release of the animals back to its natural habitat;
- 9.1.2 Donation to government projects which need the wildlife;
- 9.1.3 Donation or exchange of the wildlife with reputable institutions; or
- 9.1.4 Loan of the wildlife to reputable institutions.

For Non-Living Specimens/By-products

Confiscated wildlife by-products or specimens shall be disposed of by donating these to public or private schools for educational purposes.

Such specimens or by-products may also be destroyed using the most economical and effective means, except for cases where:

a) the wildlife are subject of judicial proceedings until proper authority is obtained for their disposition from the court where the case is pending.

b) the wildlife have been determined as needed for breeding/propagation/research of the DENR as may be recommend by PAWB.

9.2 Exotic wild flora and fauna under CITES Appendices I, II, and III which were confiscated in the Philippines, may after receipt of formal request or petition, be returned to the country of origin at the expense of that state, or deposited in a rescue center or such other places as the DENR deems appropriate upon recommendation of PAWB.

9.3 In cases of the confiscated wild flora or fauna whether living or non-living, that are the subject of court cases, representations with the proper court shall be made for the immediate disposition thereof through their deposition in rescue centers in the region to avoid death, injury or loss of their economic value during the pendency of the case. These wild flora or fauna shall only be released to the respondent after a final decision has been arrived at by the court ruling in favor of said respondent.

9.4 Confiscated paraphernalia used in the commission of the offense shall be disposed in the same manner as provided for in DENR AO No. 59, series of 1990.

SECTION 10. Reporting. The reporting system shall be in the following manner:

10.1 Individual Cases/Report.

Confiscation, seizure, or impounding shall be reported immediately by the apprehending DENR Officer to the CENRO, PENRO, RED, or PAWB, as the case may be within twenty-four (24) hours from the time the offense was committed. The DENR apprehending officer shall then send a flash report to the next higher officer.

A detailed report by the DENR apprehending officer must be submitted within three (3) days from the date of seizure indicating actions taken thereon.

10.2 Monthly Report

A monthly confiscation report shall be submitted by the

CENRO/PENRO to the Regional Executive Director together with the status of confiscated wildlife and paraphernalia used in the commission of the offense.

The Regional Executive Director shall consolidate the monthly confiscation report of all the CENRO/PENRO under his region and in turn forward the same to the Office of the Undersecretary for Field Operations through the Protected Areas and Wildlife Bureau (PAWB), copy furnished the Office of the Undersecretary for Environment and Research and the Office of Planning and Policy Studies.

10.3 Quarterly Report

The RED shall submit to the Office of the Undersecretary for Field Operations through the Protected Areas and Wildlife Bureau (PAWB), copy furnished the Office of the Undersecretary for Environment and Research a quarterly report on the status of confiscated wild flora or fauna within the region.

SECTION 11. Records Keeping and Monitoring. The PAWB shall handle all paper works and keep all records, data and accounts for all confiscated and disposed wild flora and fauna.

A monthly summary report on confiscated/disposed wild flora and fauna shall be submitted to the DENR Secretary within fifteen (15) days after the end of each month.

SECTION 12. Penalty. Violation of any of the provisions of this Order shall be penalized in accordance with Section 68 of PD 705 and other existing rules and regulations pertinent thereto.

SECTION 13. Repealing Clause. All order, memoranda, circulars inconsistent herewith are hereby repealed and/or amended accordingly.

SECTION 14. Effectivity. This Order takes effect fifteen (15) days after publication in a newspaper of general circulation.

(SGD.) FULGENCIO S. FACTORAN, JR.
Secretary

ANNEX A

(To be executed by the DENR Apprehending Officer)

REPUBLIC OF THE PHILIPPINES
MUNICIPALITY OF _____)s.s.
PROVINCE OF _____

A F F I D A V I T

I, _____, of legal age and a resident of _____,
after being duly sworn, depose and state:

1. That I am an _____ of the Department of Environment
and Natural Resources, Region _____ with place of assignment at
_____.

2. That on or about _____ at _____, I was _____
(state activity such as conducting surveillance, patrolling, etc.);

3. That in the course of the performance of my work on or about
_____ in _____ I apprehended a certain _____ for
having collected, transported, exported and/or possessed _____ heads
or pieces of _____ with a total value of P _____ without a
permit or license or legal supporting documents;

4. That said wild flora/fauna were collected, gathered, transported,
exported and/or possessed without permit, license or legal supporting
documents upon order of _____ company, more particularly,
_____ who are officials of said company or corporation.

5. That the wild flora/fauna subject hereof are not supported by
any legal document in violation of Section 68 of PD 705, as amended,
and as further amended by Executive Order No. 277, Series of 1987.

IN WITNESS WHEREOF, I have hereunto signed this Affidavit this
_____ day of _____, _____ at _____.

Affiant

SUBSCRIBED AND SWORN to before me this _____
day of _____, _____ at _____.

Administrative Official

ANNEX B
(Note: To be executed by the Witnesses)

REPUBLIC OF THE PHILIPPINES)
MUNICIPALITY OF _____)s.s.
PROVINCE OF _____)

A F F I D A V I T

I, _____, of legal age and a resident of _____,
after being duly sworn, depose and state:

1. That on or about _____ I was at _____;
2. That on or about said time and date I saw _____;
3. That _____ was later apprehended by _____
for reasons of _____;
4. That I execute this affidavit to attest to the truth of the foregoing
narration.

IN WITNESS WHEREOF, I have hereunto signed this Affidavit this
____ day of _____ 00 ___ at _____.

Affiant

SUBSCRIBED AND SWORN to before me this _____
day of _____, _____ at _____.

Administrative Official

ANNEX C

RECEIPTS OF FORESTRY PRODUCTS
SEIZED UNDER THE AUTHORITY OF FORESTRY LAWS,
RULES AND REGULATIONS

I/We _____ with home address at _____ hereby
acknowledge to have received from _____ the following seized
forest products (wild flora/fauna), to wit:

That the same have been seized, impounded and left in my/our
custody/custodial at _____ pending further investigations by
the Secretary of Department of Environment and Natural Resources or
his duly authorized representatives. I further oblige myself to faithfully
keep and protect to the best of my ability the said forest products (wild
flora, fauna) from defacement in the manner, destruction or loss and
that I will never alter nor remove said forest products until ordered by the
Secretary of Environment and Natural Resources of his duly authorized
representative/s or any Court of Justice of the Philippines.

POSSESSOR/S

CUSTODIAN/S

WITNESS:

SEIZED BY:

Done this ____th day of _____, _____ at _____.

Essentials of Protected Area Management in the Philippines

Protected Areas and Wildlife Bureau (PAWB) Technical Review Committee (TRC)

- | | |
|-------------------------------|--|
| Theresa Mundita S. Lim | Chairperson, PAWB-TRC
Assistant Director, PAWB |
| Priscilla N. Calimag | Chief Ecosystems Management Specialist
Officer-In-Charge,
Planning Staff |
| Carlo C. Custodio | Chief Ecosystems Management Specialist
Chief,
Wildlife Resources Division |
| Teresita Blastique | Senior Ecosystems Management Specialist
Officer-In-Charge,
Biodiversity Assessment Section |
| Janet L. Garcia | Senior Ecosystems Management Specialist
Officer-In-Charge,
Biodiversity Protection Section |
| Marlynn M. Mendoza | Supervising Ecosystems Management Specialist
Officer-In-Charge,
Protected Area Community Management Division |
| Soledad C. Mendoza | Senior Ecosystems Management Specialist
Officer-In-Charge,
Information and Extension Section |