



Republic of the Philippines
Department of Environment and Natural Resources
FOREST MANAGEMENT BUREAU
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MEMORANDUM

FOR : All DENR Regional Executive Directors
All Provincial Environment and Natural Resources Officers
All Community Environment and Natural Resources Officers

FROM : The Director

SUBJECT : **REVOCATION OF FMB TECHNICAL BULLETIN NO. 7 RE:
COMMON ISSUES AND ANSWERS ON FORESTRY LAWS,
RULES AND REGULATIONS AND ITS ENFORCEMENT**

DATE : **MAY 17 2022**

This has reference to the FMB Technical Bulletin (TB) No. 7 regarding the Common Issues and Answers on Forestry Laws, Rules and Regulations and its Enforcement.

In view of the recently approved policies, FMB Technical Bulletin No. 7 is hereby revoked and rescinded. This Office will undertake further review and enhancement of forestry related policies for the effective protection, development, and conservation of forestlands and watersheds.

FOR YOUR INFORMATION AND GUIDANCE, PLEASE.

TIRSO P. PARIAN, JR., CESO IV

cc: Office of the Undersecretary for Policy, Planning and International Affairs
Office of the Undersecretary for Field Operations – Luzon, Visayas and Environment
Office of the Undersecretary for Field Operations – Mindanao



1 Background:

Under Special Order No. 2013-48 dated February 22, 2013, a Re-Orientation training was organized in connection with the Department's function on supervising and assisting the implementation and enforcement of environmental laws, rules and regulations related to the execution of E.O. 23. Major issues on Apprehension, Confiscation, Registration of Chainsaw, and Issuance of Certificate of Tree Plantation Ownership (CTPO), Certificate of Verification (COV) and Self-Monitoring Form (SMF) were identified and clarified upon the conduct of the training. Hence, the issuance of this Technical Bulletin was made for the guidance of all concerned.

2 Purpose and Objective:

This Technical Bulletin serves to explain and clarify the identified issues on forestry laws and governance.

To uniformly educate, update and refresh all the concerned field personnel with regard to the implementation and enforcement of the pertinent laws relative to this cause.

3 Users of the Technical Bulletin:

The users of this Technical Bulletin are the field personnel tasked with the implementation and enforcement of existing environmental laws, rules and regulations.

4 DAO 97-32 "1997 Rules for the Administrative Adjudication of Illegal Forest Products and the Machinery, Equipment, Tools and Conveyances used in Connection therewith."

A. Apprehending Officer/ Seizure Officer/ Hearing Officer

As a general rule, an Apprehending Officer should be different from that of the Seizure/Hearing Officer.

However, in cases where there is lack of field employees qualified to become seizure/hearing officers, the apprehending officer may also act as the seizure/hearing officer at the same time during the course of the conduct of the administrative adjudication proceedings as an exception to the general rule.

Furthermore, in the absence of a Forester III or LMO III, a Forester II with a designation of the same rank as Forester III or LMO III can also function as a Seizure/Hearing Officer. The qualification as to "rank" as cited in *Section 3 (2) (c) of DAO 97-32* refers to the function or designation of the seizure/hearing officer and should be given liberal interpretation in order to fully carry into effect the significant provisions of the rules for administrative adjudication.

B. Apprehending Public Conveyance

Any form of public conveyance (e.g. public utility bus, public utility jeepney, etc.) used solely for the transport of illegal products should be apprehended. However, it is a different case when a public conveyance is incidentally loaded with illegal forest products. The same may not undergo apprehension and a recommendation should be made for the suspension or cancellation/revocation of its franchise, as the case may be.

C. Turn-Over of Apprehended Items and Filing of Complaint

The PNP and other law enforcer may file a complaint directly with the Office of the Prosecutor in accordance with the new *Rules of Procedure for Environmental Cases (A.M. No.09-6-8-SC), Rule 9, Section 1*. The apprehended items must be turned over to the DENR, specifically to the Seizure Officer for the issuance of a Seizure Receipt in accordance with the rules on administrative adjudication proceedings. Under *Rule 12 (Custody and Disposition of Seized Items, Equipment, Paraphernalia, Conveyances and Instruments)* of the aforementioned Rules of Procedure, "The custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the *concerned government agency*". (Emphasis supplied)

DENR has no jurisdiction unless and until the apprehended items are properly turned over to the Seizure Officer where the Seizure Receipt will be issued in preparation for the administrative proceedings.

D. Release of Forest Products/ Conveyance in reference to Administrative Proceedings

The DENR should not automatically release the seized forest products or conveyance by virtue of an Order issued by a Public Prosecutor or Judge dismissing the case in a criminal proceeding. A criminal case is independent from the administrative proceedings. In criminal cases, the quantum of evidence required is proof beyond reasonable doubt, while in administrative proceedings only substantial evidence is required. Hence, we can initiate or proceed with the administrative adjudication proceedings even if the Public Prosecutor (Fiscal) or Judge ordered the release of the items as a consequence of the dismissal of the criminal case filed against the violators. However, the Prosecutor or the Honorable Judge should be officially informed of the ongoing administrative case or proceedings.

E. Transport Documents

As stated in Section 2 of DAO 97-32, ORIGINAL transport document/permit should accompany the shipment AT ALL TIMES. In such an instance that no document/permit was presented during the apprehension, although complete documents were provided and showed subsequently during the conduct of the administrative proceedings, any request for the release of the seized forest products and conveyance should not be granted.

With regard the issue where the party needs to controvert during the administrative proceedings is not whether there was a valid transport document/permit issued covering the shipment. Rather, it is to disprove the allegation of the apprehending team that such document/permit was not present during the apprehension. (*Section 7 Item No. 2 2nd paragraph, DAO 97-32*)

F. Basis for Valuation of Apprehended Forest Products

Fair Market Value is the suggested basis for valuation of apprehended forest products.

5 RA 9175 “An Act Regulating the Ownership, Possession, Sale, Importation and Use of Chainsaws, Penalizing Violations thereof and for other Purposes.”

A. Purchase of Chainsaw

Upon registration with the DENR, there is no need to issue a permit to an individual who wishes to purchase a chainsaw as long as he or she can present an official receipt of the purchased chainsaw from a registered importer/dealer.

B. Non-Registration of Assembled/Chop-chop Chainsaws

Assembled/chop-chop chainsaws shall not be registered. The purpose of the Chainsaw Act (R.A. 9175) is to stop the proliferation of old and/or illegal chainsaws. For this reason, it can no longer be used for any legal purpose. However, for those who have already registered their chainsaws, the same will be respected until the expiration of its certificate of registration but can no longer be renewed.

C. Renewal of Chainsaw Permit

There is no penalty for the delay in the filing for the renewal of permit.

D. Registration of Chainsaw Operator

With regard to the issue as to where the Chainsaw Operator should register depends upon the intended purpose and use of the equipment. If the chainsaw is to be used specifically for cutting coconuts, the operator shall register with the Philippine Coconut Authority (PCA). If the equipment will be used for cutting trees, the operator should register with the DENR.

All chainsaws must be registered with the DENR, except for the province of Palawan which is through the PCSD-Palawan Council for Sustainable Development (*Section 4, DAO 2003-24*).

6 DMC 99-20 “Supplemental Guidelines Governing the Registration, Harvesting, Transport and Marketing of Timber By-Products coming from Private Plantations within Private Lands or Tax declared Allienable or Disposable Lands.”

A. Issuance of Certificate of Tree Plantation Ownership (CTPO)

Pursuant to DMC 99-20, the term Certificate of Tree Plantation Ownership (CTPO) shall be used instead of the Private Tree Plantation Ownership Certificate (PTPOC).

CTPO shall be issued for private plantations that are newly established, already established and those with mature plantation. Issuance of CTPO merely for harvesting purposes should not be encouraged.

The column for the VOLUME portion of all CTPO to be issued should be filled up only after the conduct of 100% inventory by the CENRO concerned upon request for harvesting.

6 PD 705 “Revised Forestry Code of the Philippines”

A. Jurisdiction over Planted Edible Fruit Bearing Trees in Private Lands

The DENR has jurisdiction over edible fruit bearing trees planted within private lands which are utilized as timber or lumber (*DAO 1994-18, Guidelines Governing the Cutting, Gathering and Disposition of Edible Fruit Bearing Trees*). Necessary transport documents such as Certificate of Verification (COV) and Self-Monitoring Form (SMF) shall be issued.

B. Caption for the complaint on illegal logging

Violation of Section 77 of PD 705, as amended by R.A. 7161 shall be the proper caption.





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