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OPERATIONAL GUIDELINES OF ENVIRONMENTAL LAW ENFORCEMENT (INTERIM)

This Operational Guidelines serves as an interim and initial guide for enforcement activities in implementing Department Administrative Order (DAO) 2021-28 "Creation of the Environmental Law Enforcement and Protection Service (ELEPS)" dated 09 August 2021.

I. Principles:

- I.1 Prioritize prevention of environmental destruction over prosecution of environmental offenses, thereby necessitating intelligence and information gathering on clandestine and covert activities whether or not amounting to a crime, including natural events, as long as they tend to or probably cause environmental damage affecting more than one barangay or municipality (barangays and municipalities).
- I.2 Quick response to the foregoing activities or events to abate further damage to the environment or the lives of people.
- I.3 Transparency in performing No.1 and 2 insofar as it will not compromise operations
- I.4 Centralized Command System: The command and direction of the Environmental Law Enforcement and Protection Service (ELEPS) shall be vested in the Executive Director (ED), ELEPS who shall have the power to direct and control tactical as well as strategic movements, deployment, placement, utilization of the ELEPS or any of its units and personnel, including its equipment, facilities and other resources. Such command and direction of the ED, ELEPS may be delegated to subordinate officials with respect to the units under their respective commands, in accordance with the rules and regulation. The ED, ELEPS shall also have the power to issue detailed implementing policies and instructions regarding personnel, funds, properties, records, correspondence and such other matters as may be necessary to effectively carry out the functions, powers and duties of the ELEPS.
 - I.4.1 A Command Center shall be established **at the DENR Central Office** to monitor all activities and to check the progress of enforcement units, with the appropriate Information System.

II. Surveillance and Investigation:

- II.1 Considering that the Enforcement system is still being put in place, the ELEPS will initially rely on the Landscape and Wildlife Indicator (LAWIN) Forest and Biodiversity Protection System, Philippine National Police (PNP), Department of Justice (DOJ)-National Bureau of Investigation (NBI), Philippine Coast Guard (PCG), Philippine Drug Enforcement Agency (PDEA), Philippine Center on Transnational Crime (PCTC), and the Armed Forces of the Philippines (AFP) for intelligence gathering and surveillance.

- II.2 Until such time that the ELEPS shall have their organic drone equipment for surveillance, the regional enforcement units are enjoined to tap available drone services (for deployment at least once a week) in their respective areas, and ensure the 24/7 monitoring of the following instruments: environmental monitoring devices installed such as forest listening devices, real-time water and air quality monitoring devices and CCTVs, particularly in the priority areas for enforcement (see attached map of Priority Areas and Justification for the Highest Priority Areas), with the assistance of field enforcement units using their own available drones and using a hierarchy of monitoring these environmental listening devices. Appropriate protocols for surveillance drones, various environmental monitor devices, and other future equipment shall be issued accordingly.
- II.2.1 Upon apprehension of illegal forest products inside the forest, whether the said products are abandoned or someone was arrested, and while inventory and documentation is ongoing, the enforcement unit shall simultaneously conduct drone surveillance over the forest area covering a 3-kilometer radius around the apprehension spot. Such drone surveillance shall be repeated daily for the next three (3) days which may be extended upon discovery of more illegally damaged areas of the forest.
- II.2.2 Upon apprehension of illegal forest products outside the forest such as roadways, water ways, bridges and private areas whether the said products are abandoned or someone was arrested, the enforcement unit shall promptly endeavor to investigate the most probable sources and origins of such forest products. After such investigation, preferably while inventory and documentation are still ongoing, the enforcement unit shall simultaneously conduct drone surveillance over the said probable sources and origins, if information on the same have been obtained, or if not, in the nearest illegal logging hotspot in the forest area. Such drone surveillance shall be repeated daily for the next three (3) days which may be extended upon discovery of more illegally damaged areas of the forest.
- II.2.3 At the DENR Monitoring Stations, the assigned personnel shall carefully check the documentation of vehicles passing through and effect immediate apprehension and arrest as the case may be. In case apprehension and arrest have been effected, the enforcement unit shall promptly endeavor to investigate the most probable sources and origins of such forest products. After such investigation, preferably while inventory and documentation are still ongoing, the enforcement unit shall simultaneously conduct drone surveillance over the said probable sources and origins if information on the same have been obtained, or if not, in the nearest illegal logging hotspot in the forest area. Such drone surveillance shall be repeated daily for the next three (3) days which may be extended upon discovery of more illegally damaged areas of the forest.

In the case of container vans, the following procedures should be followed:

II.2.3.1 Routine Visual and Document Check.

II.2.3.1.1 Authorized DENR personnel manning the DENR Monitoring Stations shall conduct routine conveyance check on passing container vans, whether locally owned, or those owned or leased by international shipping lines or companies.

II.2.3.1.2 Should the container vans be on a conveyance for which government registration is required, he/she 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/her 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.

II.2.3.1.3 If upon visual check, the container vans are owned or leased by international shipping lines, they shall require the presentation of goods declaration, shipping and other customs documents. They shall likewise check whether the container is secured by a Customs Seal, whether ordinary or electronic. (Refer to officially provided sample)

II.2.3.1.4 With the presentation of goods declaration and shipping documents and/or with the presence of a Customs Seal, the container van is presumed to contain goods for export or the BOC still exercises customs control over the said goods, including the container van.

II.2.3.1.5 Without the presentation of goods declaration and shipping documents, and/or the seal is privately installed, the container van shall be presumed to contain goods not intended for export nor under customs control, and deemed under suspicious circumstances for being in the area being monitored by the DENR in the first place, and passing through the DENR Monitoring Station, thereby constituting probable cause for violation of environmental laws¹.

II.2.3.1.6 Physical Examination of the Container Van. Container vans which are locally owned, and those subject of international conveyance but without the presentation of goods declaration and shipping documents, and/or Customs Seal, may be opened by the DENR on the ground of probable cause for possible violation of environmental laws².

II.2.3.2 Protocols in cases where Goods or Export Declaration are presented and/or Customs Seals are attached.

II.2.3.2.1 In cases where a customs document is presented such as goods declaration for import or export declaration, or the doors are secured with a Customs Seal, the DENR personnel shall, within one (1) hour, notify the nearest BOC focal person in the area, forwarding to him the documents, including the pictures of the van and the Customs Seal together with appropriate recommendation for further action.

II.2.3.2.2 Should the DENR personnel determine that the container van is passing through the area under suspicious circumstances and there is a reasonable ground to believe that a violation of environmental laws has been committed, he/she shall notify through phone call or social media messaging his BOC counterpart of the flagged-down closed container van and forward an electronic copy of the documents presented by the driver or representative of the owner for verification.

II.2.3.2.3 The BOC counterpart shall immediately verify the authenticity of the documents and/or Customs Seal within the same day, or within twenty-four (24) hours from receipt of the notice, or

¹ People vs. Valdez, G.R. No. 127801. March 3, 1999.

² Ibid.

in case of holidays or weekends, within four (4) hours of the next working day.

- II.2.3.2.4 If upon verification, the documents are not validated and/or the Customs Seal are not legitimately installed thereat, the BOC counterpart shall immediately relay the message to the DENR focal person. The DENR personnel, after being apprised of the report from the BOC, may proceed to open and conduct physical examination of the goods inside the container van in accordance with DENR rules and regulations.
- II.2.3.2.5 If the documents are confirmed and/or the customs seal are legitimately installed at the container, the BOC counterpart, shall immediately inform his/her DENR counterpart on the results of his verification. He shall likewise inform the BOC Enforcement and Security Service (ESS) District Commander and the District Collector of the port which has jurisdiction over the location of the container. If the source document comes from another port, he shall likewise inform the District Commander and the District Collector of the Port where the goods declaration or export declaration was lodged, filed, and/or processed.
- II.2.3.2.6 Upon receipt of the notice that the documents are properly processed and/or the Customs Seal are regularly installed, the DENR personnel, may allow the passage of the said container van.
- II.2.3.2.7 However, if they have strong suspicion that a violation of environmental laws has been committed, the DENR personnel shall inform the BOC counterpart that they will escort the said container van up to its final destination and request the conduct of physical examination of the container van upon its arrival. BOC/DENR operatives must only open the container van in the presence of the declarants' authorized representative/s.
- II.2.3.2.8 Upon its arrival, the District Collector shall issue appropriate order for the opening of the container van in the presence of the DENR personnel, and in compliance with existing BOC rules and regulations in the conduct of physical examination. BOC/DENR operatives must only open the containers in the presence of the declarants' authorized representative/s.
- II.2.3.2.9 Delay and/or undue interruption caused by the owner/shipper/importer/exporter/declarant of the goods during the inspection and/or examination of the goods and other documentary requirements shall not hold BOC/DENR operatives liable for the same. Provided, that the acts of the officers be in accordance with their functions, duties, and responsibilities.
- II.2.3.3 Apprehension of the Goods by the DENR after opening of the Container Van in accordance herewith.

Container vans which are locally owned, and those subject of international conveyance but without the presentation of goods declaration and shipping documents, and/or customs seal, including the goods contained therein, may be apprehended by DENR if, upon opening and physical examination, the goods are transported in violation of environmental laws, and DENR rules

and regulations. The DENR officer will announce the apprehension thereof.

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

- II.2.3.3.1 time, date and place of apprehension;
- II.2.3.3.2 full name and address of the offender(s) on-site;
- II.2.3.3.3 full names of all persons accompanying or providing on-site assistance to the apprehending officer or individual;
- II.2.3.3.4 circumstances that led to the apprehension (e.g., discovery of abandoned items, spot-checked by monitoring team, verification of absent, lacking, forged or spurious documentation, etc.);
- II.2.3.3.5 names of local government officials present and/or of other person(s) witnessing the apprehension;
- II.2.3.3.6 preliminary description of the item(s) being apprehended;
- II.2.3.3.7 place, time and date of origin and intended destination, consignors and consignees of the items being apprehended; and
- II.2.3.3.8 such other data or information and comments, observations and recommendations as may be available or pertinent on-site including geotagged photo documentation.

In the collection of personal information, the provisions under RA 10173, otherwise known as the Data Privacy Act of 2012 shall be strictly enforced.

Seizure and confiscation proceedings in accordance with DENR regulations will then follow.

- II.2.3.4 Confiscated goods by DENR personnel shall be disposed of in accordance with existing environmental and natural resources laws, rules and regulations;

II.3 All Enforcement units and specific task groups including the Metropolitan Environmental Offices (MEOs) in the NCR shall conduct thorough and simultaneous investigation and uncompromising prosecution of all persons (principals, accessories and accomplices) involved in environmental crimes, whether in the private sector such as businessmen, organizations, and financiers; or the public sector such as government officials, whether elective or appointive, in all branches of the government.

II.4 Monitor the progress of cases and the proper implementation of sanctions and penalties arising therefrom;

II.5 Assistance that can be requested (through a memorandum signed by the Director of the ELEPS or a higher officer) from the MGB, EMB, FMB, DENR Attached Agencies, Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR), and the Land Transportation Office (LTO):

II.5.1 Any Cease and Desist Order (CDO) issued by the MGB, EMB, LLDA and Attached Agencies shall be copy furnished to the ELEPS for immediate implementation;

II.5.2 Coordinate with the ELEPS in the conduct of investigation of environmental crimes; and

II.5.3 Provide information, reports and documents under its custody, or under the possession of any of its units, that are needed in the conduct of investigation of environmental crimes.

- II.6 Develop defense mechanisms to safeguard confidential/sensitive information through the adoption of the Operational Security (OPSEC) strategy. The OPSEC shall identify critical information that could unintentionally be revealed to unauthorized persons. It will require intelligence and enforcement officers to view their operations from the perspective of the criminals; and it consists of analytical activities and processes like surveillance monitoring, web-based surveillance, and social media monitoring.
- II.7 The ELEPS shall develop an Operations Manual setting in detail the prevention, interdiction, investigation, prosecution and information management of environmental crimes. The Manual shall include detailed procedure in the handling of documentary, object and electronic evidence in a manner that will preserve the chain of custody.

III. Interdiction of Environmental Offenses and Stopping Environmental Damage

- III.1 Upon detection of environmental damage such as forest fires, oil spills, dumping of toxic chemicals and hazardous wastes, fish kills in marine protected areas, mass deaths of wildlife under the jurisdiction of the DENR and similar incidents, the Environmental Protection Division (EPD) shall promptly relay information to the ELED and the latter shall request clearance from the ED to deploy enforcement units in the area by air, by land or water, or any combination thereof to immediately stop the environmental damage and stop the perpetrators. A DENR Enforcement Order shall be issued to the perpetrators and electronic reports immediately submitted to the Command Center.
- III.2 Upon receipt of a CDO, Closure Order, Stoppage Order or Notice of Violation (NOV) issued by the Pollution Adjudication Board (PAB), or the EMB, as the case may be, Notice to Vacate (NTV) and other orders issued by the RED, the PENRO, and the CENRO, the **ELEPS, together with appropriate offices**, shall within 24 hours plan the implementation thereof which shall be done within 72 hours or as directed.
- III.3 Responsibilities that can be requested (through a memorandum signed by the Director of the ELEPS or a higher officer) and/or assigned to the Philippine National Police (PNP), Department of Justice (DOJ)-National Bureau of Investigation (NBI), Philippine Coast Guard (PCG), Philippine Drug Enforcement Agency (PDEA), Philippine Center on Transnational Crime (PCTC), and the and the Armed Forces of the Philippines (AFP):
 - III.3.1 Assist in the enforcement and maintenance of security, prevention or suppression of lawless violence during ELEPS operations, and in the performance of environmental law enforcement functions in accordance with pertinent laws, rules and regulations; and
 - III.3.2 Evaluate and analyze all information, events, and incidents in terms of overall security and stability of any proposed operation, for the purpose of recommending to the ELEPS for appropriate action.

IV. Prosecution of Environmental Offenses and Administrative Confiscation Proceedings

- IV.1 The EPD shall coordinate with the National Prosecution Service (NPS) in the preliminary investigation and prosecution of cases, and with the Ombudsman where a Public officer or employee is involved.

IV.2 Responsibilities that can be requested and/or assigned to the MGB, EMB, FMB, DENR Attached Agencies, Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR), and the Land Transportation Office (LTO):

IV.2.1 Coordinate with the ELEPS in the conduct of prosecution of environmental crimes; and

IV.2.2 Provide information, reports and documents under its custody, or under the possession of any of its units, that are needed in the conduct of prosecution of environmental crimes.

IV.3 Confiscation proceedings by the Legal Division and Office of the Regional Executive Director.

IV.3.1 All forest products, wildlife, mineral ores, precious metals, minerals, conveyances, equipment, tools, gadgets, ledgers and similar items apprehended shall, after summary hearing, be next confiscated and declared properties of the State within thirty (30) days from apprehension. Motion for postponement shall not be allowed and only a maximum of two (2) hearings will be conducted, whether or not anybody will appear as respondent or the latter's counsel, provided that summons by publication shall be automatically conducted within twenty-four (24) hours from apprehension.

IV.3.2 All precious metals including platinum, gold and silver, or their ores shall be immediately turned over to the Bangko Sentral ng Pilipinas (BSP), subject to the provisions of a memorandum of agreement to be executed between the BSP and DENR.

V. Separability Clause. If any provision of this Operational Guidelines shall be held invalid or unconstitutional, the other portions or provisions hereof which are not affected shall continue to be in full force and effect.

VI. Effectivity. This Operational Guidelines takes effect immediately and shall remain effective until the appropriate Memorandum Circular or Administrative Order shall have been issued by the Secretary, DENR.

MARIA ANTONIA YULO LOYZAGA
Secretary

MAP OF PRIORITY AREAS AND
JUSTIFICATION FOR THE HIGHEST PRIORITY AREAS

