

**[ NPC CIRCULAR NO. 2014-014, April 25, 2014 ]**

**RULES FOR THE ADMINISTRATIVE ADJUDICATION OF PERSONS VIOLATING FOREST LAWS AND OTHER PERTINENT RULES AND REGULATIONS AS WELL AS IN THE DISPOSITION OF ILLEGAL FOREST PRODUCTS AND THE MACHINERIES, EQUIPMENTS, TOOLS AND CONVEYANCES USED IN CONNECTION THEREWITH**

*Adopted: 25 April 2014*

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Pursuant to the provisions of Executive Order (E.O) No. 224, Presidential Decree (PD) No. 705, as amended, and other pertinent policies, rules and regulations, these Rules for the administrative apprehension, seizure, confiscation, and disposition of illegally possessed, cut, gathered, removed, or transported forest products, the machineries, equipments, 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 Circular, the following terms shall be defined and/or construed as indicated below:

- a. **APPREHENSION** - The initial measures taken by the NPC or its agents, after having determined the existence of probable cause, with respect to the items listed in Section 3 hereof which are found to be in the possession, control or custody of the violator/s.
- b. **SEIZURE** - Upon determination of the existence of a probable cause against the offender / s, seizure is the official act of taking by persons authorized herein to take those items listed in Section 3 hereof into government custody pending formal administrative proceedings for the disposition thereof.
- c. **CONFISCATION** - Upon determination of guilt in administrative proceedings outlined hereunder and after due process and hearing, confiscation is the official act of the NPC declaring that items listed in Section 3 hereof become property of the Government of the Republic of the Philippines.
- d. **FORFEITURE** - When items listed in Section 3 hereof are submitted by the NPC for disposition and the surrender thereof in favor of the Government of the Republic of the Philippines.
- e. **FOREST PRODUCTS** - Refer 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, the associated water, fish, game, scenic, historical, recreational, and geologic resources in forest lands; and
- f. **FOREST OFFICERS** - Officials and employees of the NPC charged with the enforcement of forestry laws, and other pertinent rules and regulations of the Government of the Republic of the Philippines.

**SECTION 2. Coverage.** This Circular governs for the administrative adjudication of persons violating forest laws and other pertinent rules and regulations as well as in the disposition of illegal forest products and the machineries, equipments, tools and conveyances used in connection therewith apprehended/ confiscated/ seized within NPC watershed managed reservations and other areas in which it has existing co-management agreement with other entities.

**SECTION 3. Items subject to apprehension, seizure, confiscation and forfeiture.**

- a. **ILLEGAL FOREST PRODUCTS** - Any forest product(s) defined in Section 1(e) above that are removed, cut, collected, caught, processed and/or transported: (a) without the requisite authorization or permit; or (b) with incomplete required supporting documents; (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. Any forest product in excess and above the given quantity and quality pursuant to Section 5 Paragraph 4 shall also be considered as illegal forest product.
- 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 4. Persons Authorized to Make Apprehensions and Effect Seizures.**

1. **APPREHENSION** - The following persons collectively known as apprehending officers, are authorized to apprehend items outlined in Section 3 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 NPC President 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 NPC Officer designated as a Seizure Officer actually takes delivery from an apprehending officer as described in Section 4 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 within their respective areas of operation: (a) The WAT Chief or any Senior Watershed Management Specialist (SWMS) or Other Officers of the same rank actually assigned to the area of

apprehension at the time thereof;

(b) The President may, from time to time, designate in writing such other NPC Officers for the purpose.

**SECTION 5. General Requirements for Summary Administrative Apprehension, Seizure and Confiscation.** Upon inspection or interception of items listed in Section 3 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 shall observe the following summary procedures:

**On-site recording and preservation of data and evidence.** The following procedures shall be complied with:

1. **ON SITE DETERMINATION OF PROBABLE CAUSE** - Upon encountering a possible violation of forestry laws, rules and regulations, the apprehending officer shall establish his/her/their authority by identifying themselves to any person(s) witnessing the activity by stating their full name, rank and official designation. They shall exhibit their current NPC Identification Card, if they are NPC officials or personnel, if not, their duly issued identification card. The apprehending officers shall invoke these Rules and announce the commencement of a verification procedure. They shall then verify the existence of probable cause for an apprehension as outlined below.
2. **OCULAR INSPECTION AND IMMEDIATE RELEASE** - Conduct an ocular inspection of all required authorizations cited in Section 3 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 NPC seal of inspection/verification must be rubberstamped or otherwise affixed on the face of all transport documents inspected in connection herewith. In the absence of an official NPC seal, they shall write the date, state the fact of inspection, and the release. After which the apprehending officers shall affix their signatures above their full printed name in the official log book for the matter.
3. **ON-SITE RECORD OF VIOLATIONS** - Should inspection pursuant to the preceding paragraph indicates 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) recite the constitutional rights of the persons apprehended to remain silent and to have a competent and independent counsel of his own choice (MIRANDA rights), etc. (c) 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 (d) recording of the itemized list of all on-site machinery, equipment, tools, and implements used in the commission of or otherwise connected with the offense. The apprehending officers 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. **APPREHENSION AND DELIVERY OF OFFENDERS TO THE NEAREST POLICE STATION** - The apprehending officer shall also take temporary custody of the person apprehended for the sole purpose of delivering him/her immediately to the nearest police station for proper disposition. The apprehending officer shall, as much as possible, submit all available and necessary documents to the police station to support the filing of complaint against the offender.
  
5. **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 shipments shall be apprehended/seized, and subject to confiscation or forfeiture proceedings. The apprehending officer 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.

6. **ON-SITE CONVEYANCE CHECK** - In case the violation noted involves the use of a conveyance, as herein defined, the apprehending officer will announce the apprehension thereof. Should the conveyance require government registration, the apprehending officer will require the presentation thereof and will inspect (a) the Certificate of Registration (b) the Official Receipt of its ownership (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 and other identifying marks or information.
  
7. **ON-SITE-REPORT** - In addition to the foregoing, the following information, if available, shall be recorded immediately upon apprehension, (1) time, date and place of apprehension; (2) full name and address of the offender(s); (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 6. Outline of Procedures for Summary Administrative Apprehensions.** The following procedures shall be complied with for the summary administrative apprehension of items listed in Section 3 hereof:

1. **APPREHENSION RECEIPT** - After finding the existence of probable cause to make an apprehension and upon completion of the foregoing procedure, 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 therein. The Apprehension Receipt shall also indicate the detailed information of apprehended materials.
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, when more time is required to complete the same, the apprehending officer shall explain and reflect the same in the Apprehension Receipt. 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 where 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** - As much as possible, 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 or their presence cannot be required/obtained or it is impractical, such fact shall be stated on both the INCIDENT REPORT and APPREHENSION RECEIPT with an explanation, if any. Moreover, the apprehending officer shall immediately implement such measures to ensure that any persons, if known, who have an interest in the apprehended item(s) be informed of the reasons(s) for the apprehension, as well as invite said person(s) to attend every proceedings, stating the date, time and date when such proceeding will commence or resume.

**SECTION 7. Outline of Procedures for Summary Administrative Seizure.** The following procedures shall be complied with the summary administrative seizure of items listed in Section 3 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 4 hereof, who shall forthwith sign and issue a Seizure Receipt stating the date, place and time, name of Apprehending Officer(s), and containing an itemized list of the item(s)