

**[ DENR DEPARTMENT ADMINISTRATIVE ORDER  
NO. 97-32, October 10, 1997 ]**

**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 product(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 (i.e., those documents required by law, rules and regulations administered by the DENR); (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) authorization's, 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 thereto. 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 MI 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 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 fides 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 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 shipments 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 I 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 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 therefor.

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, these 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 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 — 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 the 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 reason(s) for, the apprehension, as well as invite said person(s) to attend the proceedings, stating the date, time and date when the documentation activity will resume.

*Section 6. Outline of Procedures for Summary Administrative Seizure.* The following procedures shall be complied with for 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 itemized is impracticable, the apprehending officer shall deposit the same for 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