



Republic of the Philippines
Department of Environment and Natural Resources
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MEMORANDUM

FOR/TO : Assistant Director, BMB
Assistant Director, ERDB
Assistant Director, EMB
Assistant Director, FMB
Assistant Director, LMB
Assistant Director, MGB
Representative (OHEA)
Representative (OCOS)
Representative (Office of the Undersecretary for Legal, Admin.,
Human Resources, and Legislative Affairs)
Representative (Office of the Undersecretary for Field Operations and
Environment)
Representative (Office of the Undersecretary for Mining and
and Muslim Affairs)
Representative (Office of the Undersecretary Policy, Planning and Int'l.
Affairs)
Representative (Office of the Undersecretary for Finance, Information
Systems and Climate Change)
Representative (Office of the Undersecretary for Solid Waste
Management & Local Government Units Concerns)
Representative (Office of the Undersecretary for Special Concerns)
Representative (Office of the Undersecretary for Enforcement)
Representative (Office of the Assistant Secretary for Policy, Planning
and
Foreign-Assisted and Special Projects)
Representative (Office of the Assistant Secretary for Legal)
Representative (Office of the Assistant Secretary for Field Ops.-
Luzon)
Representative (Office of the Assistant Secretary for Field Ops.-
Visayas)
Representative (Office of the Assistant Secretary for Field Ops.-
Mindanao and Legislative Affairs)
Representative (Office of the Assistant Secretary for Finance, Info.
Systems and Mining Concerns)
Representative (Office of the Assistant Secretary for Enforcement)
Representative (Office of the Assistant Secretary for Administration
and Human
Resources)
The Director Legal Affairs Service
Representative (Legal Affairs Service)
Engr. Ernestina Jose (SCIS)
For. Conrado Bravante, Jr. (FASPS)

FROM : The Chairperson of the Policy Technical Working Group , and OIC
Director Policy and Planning Service

SUBJECT : **HIGHLIGHTS OF PTWG MEETING NO. 2021-22 HELD ON
NOVEMBER 5, 2021 9:30 AM**

DATE : 12 NOV 2021

We are furnishing herewith the highlights of the above-cited meeting regarding the following topics:

1. Draft DOST-DA-DENR-DOH-DILG Joint Department Circular (JDC) re Rules and Regulations for the Research and Development, Handling and Use, Transboundary Movement, Release into the Environment, and Management of Genetically Modified Plant and Plant products Derived from the Use of Modern Biotechnology
2. Draft DENR Memorandum Order (DMO) re Delegation of Authority to Regional Executive Directors to Order the Immediate Departure of Offenders from Protected Areas in Cases of Emergency
3. Draft DENR Memorandum Circular (DMC) re Guidelines on the Utilization of the Legal Defense Fund and the Creation of the Legal Defense Fund Claims Board in the Department and Its Regional Offices

FOR INFORMATION.

Melinda C. Capistrano
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DENR-POLICY TECHNICAL WORKING GROUP

Minutes of Meeting No. 2021-22

November 05, 2021, 9:30 AM

Combination of Virtual Meeting via Zoom and In-Person Hybrid Meeting
PPS-PSD, 3/F DENR Bldg., Visayas Ave., Diliman, Quezon City

I. Attendees

1. Dir. Melinda C. Capistrano, Chairperson-PPS
2. Dir. Norlito Eneran, Vice Chair, LAS
3. Asst. Dir. Roland De Jesus, MGB
4. Ms. Norma Molinyawe, BMB
5. Ms. Jennelyn Asegurado-Ramos, BMB
6. Ms. Katherine Soriano, BMB
7. Mr. Gino Alejandro Sison, BMB
8. Ms. Danica Darlucio, BMB
9. Mr. Jason Esguerra, EMB
10. Engr. Regina Eugenio, EMB
11. Engr. Therese Gonzales, EMB
12. Engr. Edwin Concepcion, EMB
13. Ms. Belly Cabeso, EMB
14. Mr Patrick Noah Rosales, ERDB
15. Ms. Kathlyn Umali, ERDB
16. Ms. Kenneth Tabliga, FMB
17. For. Joybert Mijares, FMB
18. For. Lemuelle Celis, FMB
19. For. Lovella Luzette Galindon, LMB
20. Ms. Encarmila Panganiban, OULAHRLA
21. Ms. Aminah Veronica Blanco, OULAHRLA
22. For. Roberto A. Oliveros, OUAAMMA
23. Engr. Ashley Rosal, OUSWMLGUC
24. Ms. Judith M. Redula, OUE
25. Ms. Maria Cristina A. Francisco, OUFOE
26. Engr. Myla Carungi, OUFOE
27. For. Ivy Nicole Galla, OCOS
28. For. Maureen Reyes, OASFO – Visayas
29. Ms. Catherine Pagkatipunan – OASFOMLA
30. Engr. Roberto Aguda, OAPPFASP
31. For. Flordelino M. Rey, OAPPFASP
32. Mr. Elias Susaya, Jr., OASECFISMC
33. Atty. Paolo Gonzales, LAS
34. Atty. Bianca Pagalilauan, LAS
35. For. Llarina S. Mojica, PPS-PSD
36. Ms. Marlyn Arzaga, PPS-PSD
37. Ms. Ma. Lorelie Agbagala, DOST NCBP Secretariat
38. Mr. Reimond Corona, DOST NCBP Focal/ Secretariat (PPS-PSD)
39. Mr. Nehemiah B. Salvador (Host)
40. Ms. Cherry Winsom Holgado (Environment)
41. Ms. Anna Michelle Lim (Biodiversity)
42. Ms. Mary Lou Retos (Lands)
43. For. Amisol B. Talania (Forestry)
44. For. Emma Liwliwa Baradi-Medina (Mines)
45. Ms. Theresa Enriquez (Mines)

II. Highlights of the Meeting

The meeting commenced at 9:30 AM and was presided over by Director Melinda C. Capistrano (PPS). The draft DMC re: Guidelines on the Utilization of the Legal Defense Fund and Creation of the Legal Defense Claims Board in the Department and its Regional Offices was included for discussion under Other Matters.

1. Draft DOST-DA-DENR-DOH-DILG Joint Department Circular (JDC) re: Rules and Regulations for the Research and Development, Handling and Use, Transboundary Movement, Release into the Environment, and Management of Genetically Modified Plant and Plant Products Derived from the Use of Modern Biotechnology

Presentation and Discussions:

- For. Llarina S. Mojica informed the body that the draft JDC is for virtual signing on November 8, 2021 (Monday) at 5 PM. Thus the session will only clarify the questions and comments of the PTWG.
- Engr. Regina Eugenio (EMB) presented a short background on the draft JDC, whose main consideration is the passage of Republic Act (RA) No. 11032 or the Ease of Doing Business Act of 2018. She explained that the current process of issuing the Biosafety Permit experiences long delays. The average no. of days it takes the DENR BC to submit the complete technical report to BPI is around 117 days. The draft JDC presented has already been presented to and endorsed by the National Committee on Biosafety of the Philippines in August 2021. Prior to that, there were stakeholder consultations attended by members of the DENR Biosafety Committee (BC) such as EMB, ERDB, BMB, FMB...etc.
- Engr. Eugenio also presented the salient features. The proposed JDC streamlines the process of reviewing the Biosafety Permit and allows the engagement of external experts in the Joint Assessment Group (JAG) to be created. She compared the original process flow with the revised process flow in the JDC. It also removes the expiry date of the Biosafety Permit for Commercial Propagation and Direct Use.
- The draft JDC also revises the prefatory statement pertaining to the mandate of the DENR by removing the reference to Presidential Decree 1586 on the Environmental Impact Assessment (EIA) because the impact of Genetically Modified (GM) Plants on air and water is minimal. These crops need less water and less fertilizer. The main impact of these is on biodiversity and other plants based on the Related Literature.
- For. Joybert Mijares (FMB) asked about the inclusion of animals in the JDC. Ms. Eugenio responded that this is not covered under the draft JDC but there is an on-going proposal specific for GM animals.

- Dir. Capistrano inquired how long the new process will take. Engr. Eugenio answered that the DENR BC will be convened and will send representatives to the JAG. The DENR BC will still convene to gather inputs and comments before sending its representatives to the JAG.
- Dir. Capistrano clarified the part on the engagement of external experts. Ms. Regina Eugenio said that this will still be discussed in the Committee as the DENR BC if there is still a need, considering the DENR BC has been reviewing applications since 2016 and the BMB represents the PH in the Cartagena Protocol.
- For Flordelino Rey (OAPPFASP) asked if the JDC only regulates only those GM Plants for research or if it will include GM Plants imported from other countries such as vegetables. Ms. Regina responded that all of those are regulated articles and cited BT Talong as an example. All GMOs are reviewed before entry into the country. For. Rey asked if all of the vegetables/crops sold in the market has been reviewed. Engr. Eugenio said that they cannot guarantee this and that all applications are endorsed by DA BPI. For. Rey shared that the live GMOs can influence the environment, affect biodiversity and he stressed that the disposal is not being regulated as of the moment. Ms. Eugenio replied that if the question pertains to the products sold on the market, this will be under the jurisdiction of DA and DTI. In addition, monitoring and evaluation is being conducted by the Biosafety Committees of each agency. For. Oliveros (OUAAMMA) supported For. Rey's question and asked about illegal and smuggled products. Ms. Regina assured that the following concerns will be raised in subsequent meetings of the NCBP.
- Engr. Roberto Aguda (OASPPFASP) asked the role and involvement of the Bureau of Customs (BOC) and Philippine Ports Authority (PPA). Ms. Regina answered that the following sectors are not included. Engr. Aguda pointed out that they should also be a part since they have roles to consider upon entry of products in the country. Dir. Capistrano commented that the aforementioned is in DA's role. Ms. Lorelie Agbagala (DOST NCBP) informed the body that BPI and DA are constantly monitoring products/plants in points of entry in the country. Sampling and testing is done in the port of entry. For. Oliveros suggested that joint enforcement monitoring be conducted to address these illegal and unregulated products. For. Rey suggested including research on the disposal of GMOs. Engr. Eugenio said these can be included in the revision of the DMO 2021-05 re: Adoption of the Standard Protocol on the Conduct of Environmental Risk Assessment of Genetically Modified Plant and Plant Products Derived from the Use of Modern Biotechnology.
- Dir. Capistrano asked about the definition of "Ecosystem," whether this is the official definition. Engr. Eugenio stated that most of the comments on the draft JDC were from ERDB but that this was concurred by the DENR BC. Ms. Agbala informed the body that most of the comments came from ERDB and Atty Simonette Lim
- Dir. Capistrano asked if we conduct regular monitoring on International Companies' local subsidiaries like Monsanto. Engr. Eugenio affirmed that this is being done.

- Dir. Capistrano asked who will hire the external technical experts and where the funding will come from. Ms. Eugenio answered that the DENR-BC will decide however the financial support is not yet defined. This matter will be included in the next agenda and could be clarified in the revision of DMO 2021-05.
- For. Rey commented that the technical experts will represent the DENR in the JAG and opined that their expertise should be focused on the regulatory aspect rather than the technical aspect. Dir. Capistrano said that the technical aspect is important in the assessment. On the regulatory aspect, DENR already has the expertise.
- For Rey asked if the number of days for securing FPIC is separate from time allotted for the processing and issuance of the Biosafety Permit. For. Mijares said this will be secured by the proponent. Engr. Eugenio answered that the FPIC is part of the application requirements.
- Dir. Capistrano asked about the virtual signing on November 8 and which Secretaries have confirmed their attendance. Ms. Agbagala responded that Secretary William Dar and Sec. Fortunato dela Peña have confirmed. For DOH, FDA Director General Domingo and Usec. Quinsay for DILG. Per coordination with Col. Jeruta and HEA Ejawan, Sec. Cimatu has another commitment tomorrow and will not be present. She asked who will represent the DENR in lieu of Sec. Cimatu. She said that Usec Leones was the DENR representative in previous events. Dir. Capistrano said that it is probably that Usec Leones will be the representative.
- Dir. Capistrano said to tackle the comments of the PTWG in the DENR BC so that these may be addressed/answered. She also recommended the issuance of clarificatory guidelines.
- For. Oliveros moved for the termination of the discussion of the proposed JDC subject to some corrections or further discussion of issues discussed during this meeting.

Agreements:

- Raise the following issue in the next meeting of the NCBP.
 - Smuggled GM products
 - Joint Enforcement Monitoring
 - Disposal of GM products
- Revise DMO 2021-05 to include provisions clarifying engagement of external technical experts and its funding source as well as other remaining issues raised by the PTWG.

2. Draft DMO re: Delegation of Authority to Regional Executive Directors to Order the Immediate Departure of Offenders from Protected Areas in Cases of Emergency

Presentation and Discussions:

- Ms. Norma Molinyawe (BMB) presented a brief background on the draft DMO. Its legal basis is RA 7586 as amended by RA 11038 and the Section 21 ENIPAS Act on penalties. The draft DMO aims to ensure that the court order is not needed in enforcing strict policies in the field. The draft DMO stems from Usec Edilberto Leonardo's observation through his field exposure that the Secretary's authority in Section 21 of the ENIPAS Act should be delegated the field for them to be able do their enforcement activities even without a court order, especially for those illegal occupants encroaching in PAs.
- For. Oliveros suggested if the proposed policy can be elevated to DAO instead of DMO since it is a delegation of authority. The body agreed with the proposal.
- Dir. Eneran inquired why this was not included in the IRR of the ENIPAS Act which was issued as recently as 2019. Ms. Molinyawe answered that this was a recent instruction from Usec Leonardo during his time as OIC-Director of the Biodiversity Management Bureau. This was suggested by his legal adviser and was also reviewed by the Legal Affairs Service and the Policy and Planning Service. Originally, this was supposed to be a Memorandum from the Secretary but it was recommended by the PPS to be a DMO.
- Dir. Eneran asked if they experienced difficulty in getting authority from the Secretary for these matters or if there are substantial delays. Ms. Molinyawe said the issue is the Court Order and that based on the ENIPAS Act, a court order is needed for eviction.
- Dir. Eneran said he is looking at valid delegation as this may be contested. The legal cover should be sufficient when this authority is delegated to the Regions. He shared their previous experience on delegating authority to issue Certification of A&D Lands, which was invalidated by the Supreme Court. He recommended looking into this matter further and studying if we can really delegate considering that the law imbues the authority to issue evictions with the Secretary.
- On the title, For. Oliveros suggested changing the word "departure" to "eviction" as this is what is in the law. Ms. Molinyawe said that the word used in Section 21 is departure. Engr. Aguda said eviction is more appropriate as an eviction order will be issued. Dir. Capistrano said that eviction is harsh but that it has more authority behind it.
- For. Mijares asked if the IRR specified that the Secretary may delegate this authority to the REDs. Ms. Molinyawe said this was not specified. Dir. Capistrano reiterated Dir. Eneran's recommendation to consult this with BMB's Legal Office and ensure that it is legally sound.
- Dir. Eneran suggested that the policy should follow the usual format of a DAO. In this the definition of emergency is vital since the general rule is that the court will issue the eviction. It is only during emergencies that the Secretary may issue an eviction order. The draft DAO should include a section on definition of terms. Equally important here is the procedure to be followed before issuing an eviction

order. In emergency situations. He supported the intention behind the draft policy but he pointed out that we need to provide guidelines on how the RED will issue the order. Who will investigate? Who will determine that a situation is an emergency? The policy could be easily subject to abuse.

- Dir. Capistrano agreed that emergency should be properly defined to avoid legal problems
- For. Oliveros also suggested to thoroughly discuss the eviction of PA Occupants and how this could be implemented. Procedures are needed on how to implement this aspect. Engr. Aguda agreed with the need to define emergency and how we will demonstrate impending threats. He also asked whether the eviction order is valid only for a set amount of time or whether the order is permanent. Dir. Capistrano said that ideally there should be no occupants within PAs. Engr. Aguda said that there are those who have occupied the Protected Area even before its proclamation and there are requirements to be followed in relocation. Ms. Lovella Galindon (LMB) interjected that occupants with vested rights cannot be evicted. Ms. Norma Molinyawe said the Survey on Protected Area Occupants has identified those who have vested rights.
- Engr. Aguda also asked about the case if Indigenous People are involved. Ms. Molinyawe said this is a different headache.
- Dir. Capistrano said that since the DMO will be overhauled, the discussion will be deferred and instructed BMB to tackle this once again in their Policy Review Committee.
- For. Oliveros moved for the termination of the discussion of the draft policy subject to the corrections of the PTWG.

Agreements:

- On the title, use the term “eviction” instead of “departure”
- The draft DMO shall be converted into an Administrative Order and follow the approved format. It should contain the usual sections, including definition of terms.
- Review the policy further, whether there is sufficient legal cover or basis to delegate the authority to the REDs.
- Clearly define “emergency”
- Include procedure to be followed before issuing an eviction order, relocation...etc.
- The discussion of the draft Policy was deferred pending the revision of the draft policy
- The draft policy will be tackled again in another meeting of the PTWG.

3. Other Matters

3.1. Draft DMC re: Guidelines on the Utilization of the Legal Defense Fund and Creation of the Legal Defense Claims Board in the Department and its Regional Offices was included for discussion under Other Matters.

Presentation and Discussions:

- Dir. Capistrano stated that the draft DMC was already tackled by the PTWG and that the DBM already has a reply however, the some clarification is needed on the draft DMC.
- Atty. Bianca Pagalilauan (LAS) presented a short update on the draft DMC. She explained that their presentation will be limited to discussions on the legal basis and the response of the Department of Budget and Management (DMB) on the query whether cases filed before the Office of the Ombudsman and the Civil Service Commission (CSC) will be covered by the legal defense fund (LDF). She also discussed the activities that transpired after the PTWG review of the draft policy on March 22, 2021.
- On the legal basis, For. Mojica noted that GAA is cash-based, hence, there is a question whether the legal basis (FY 2021 GAA) will still apply in CY 2022. She also asked if the LDF is included in the Planning Guidelines for 2022. Dir. Capistrano informed that the LDF was not considered in the FY 2021 Planning Guidelines but if this was incorporated in the GAA for FY 2022, then the LDF will be considered. The funding will come from the DBM. A clearance from the said agency will be sought. The PTWG Secretariat informed that based on the comment of the Financial and Management Service (FMS), payment for the LDF may only be facilitated with the creation of the claims board. Dir. Capistrano said we cannot talk about funding if the claims board is not formed.
- Dir. Eneran commented that once the DMC is approved, the claims board will be created. The said board will facilitate the claims for LDF. In terms of funding, there will be no issue since the LDF applies to the whole bureaucracy. The board will only review the claims forwarded to DBM. Dir. Capistrano informed that funding for FY 2021 may be used until June 2022.
- The PTWG Secretariat also asked if this will cover cases filed by the Ombudsman. Atty. Pagalilauan answered that as per DMB, the LDF shall only be used in courts supervised by the Supreme Court. The LDF may not be used for cases filed under quasi-judicial agencies like the Ombudsman, Civil Service Commission that are not under the supervision of the SC.
- Atty. Bianca commented that once the DMC is approved, the claims board is expected to come up with their internal guidelines. Dir. Capistrano remarked that there should only be one internal guidelines for the Department.
- For. Oliveros moved for the approval of the draft DMC, seconded by other members.

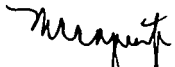
Agreements:

- The draft DMC was approved for endorsement

There having no other matters to discuss, the meeting was adjourned at 11:40 PM.

Prepared by the Secretariat

Noted By:


MELINDA C. CAPISTRANO
OIC-Director, Policy and Planning Service
and Chairperson, PTWG