

Administrative Order

No. 59

June 22, 1990

SUBJECT: Guidelines in the Confiscation, Forfeiture and Disposition of Conveyances Used in the Commission of Offenses Penalized Under Section 68, P.D. 705, as Amended by Executive Order No. 277, series of 1987 and other Forestry Laws, Rules and Regulations

Pursuant to the provisions of Section 68 of Presidential Decree No. 705, as amended, and as further amended by Executive Order No. 277, Series of 1987, the following guidelines and procedures in the confiscation, forfeiture and disposition of conveyances used in the commission of offenses penalized under P.D. 705, as amended, and other forestry laws, rules and regulations are hereby promulgated for the information and guidance of all concerned.

SECTION 1. Definition of Conveyance. The term conveyance as used in these guidelines includes any type or class of vehicle, craft, whether motorized or not, used either in land, water or air, or a combination thereof or any mode of transport used in the movement of any forest products including all its implements and accessories.

SECTION 2. Conveyances Subject to Confiscation and Forfeiture. - All conveyances used in the transport of any forest product obtained or gathered illegally whether or not covered with transport documents found spurious or irregular in accordance with Section 68-A of P.D. 605, shall be confiscated in favor of the government or disposed in accordance with pertinent laws, regulations or policies on the matter.

SECTION 3. Requirement to Transport Forest Products. Before any forest product shall be transported, the shipper and conveyance owner or their duly authorized representatives shall enter into a transport agreement and shall submit the same to the CENRO as a prerequisite to the issuance of a transport document. The transport agreement shall contain the undertaking that the conveyance owner shall also be held liable in case of illegally transported forest product.

SECTION 4. Who are Authorized to Seize Conveyance. - The Secretary or his duly authorized representative such as the forest officers and/or natural resources officers, or deputized officers of the DENR are authorized to seize said

conveyances subject to policies and guidelines pertinent thereto. Deputized military personnel and officials of other agencies apprehending illegal logs and other forest products and their conveyances shall notify the nearest DENR field offices, and turn over said forest products and conveyances for proper action and disposition. In case where the apprehension is made by DENR field offices, the conveyance shall be deposited with the nearest CENRO/PENRO/RED Office as the case may be, for safekeeping wherever it is most convenient and secured.

SECTION 5. Action on Illegally Used Conveyances. - The disposition of confiscated illegally used conveyances shall be governed by the provisions of Section 9 hereof. In no case shall a conveyance seized or held in custody be released without the prior approval of the Secretary or his duly authorized representative in accordance with these regulations.

SECTION 6. Report of Confiscation/Seizure. - Whenever a seizure is made under these rules, the forest officers or natural resources officers concerned shall submit a report thereof within three (3) days to the Secretary or his duly authorized representative.

SECTION 7. Notice to Owner. - The Secretary, RED/PENRO/CENRO or their duly authorized representatives shall give the owner or his representative a written notice of the seizure and shall give him an opportunity to be heard in reference to the ground or reason for the seizure by requiring said owner or representative to submit sworn statements or affidavits within three (3) days from receipt of such written notice or they may elect to have a formal hearing conducted, but they must signify their intention in writing within the same period. For the purpose of such notice and all proceedings connected with confiscation, "representative" shall be deemed to include not only representative-in-fact of the owner but also any person having possession of the conveyance at the time of confiscation or seizure.

SECTION 8. Report/Recommendation. - Upon receipt of the aforecited sworn statement/affidavit of the owner or representative or if none is received despite due notice, the PENRO/CENRO or any authorized representative of the DENR for that matter shall determine if the seized conveyance was used in the commission of the offense as contemplated in Section 2 hereof, and shall render a report thereon within one week accompanied by the evidence he has gathered including his recommendations to the Secretary or the Regional Executive Director, as the case may be.

SECTION 9. Disposition of Conveyance. - All conveyances found to have been used in the transport of any forest product from illegal sources and/or covered by spurious documents shall be declared forfeited in favor of the government in accordance with Sec. 68-A of PD 705, as amended. Forfeited conveyances may be used,

at the discretion of the DENR, in the forest protection and development activities, otherwise, the same shall be disposed of through public auction by the Secretary or the Regional Office, as the case may be, in accordance with existing policies and procedures for the disposition of government property.

SECTION 10. Forfeiture of Seized Conveyances. - Conveyances found to have transported illegally sourced forest products and without the necessary transport agreement as provided for in Sec. 3 of this Order shall be subject to forfeiture in favor of the government.

SECTION 11. Temporary Release of Conveyance. - Conveyances seized may be temporarily released pending resolution of the case upon completion showing good cause and his willingness to post a cash bond equal to the value of the conveyance or a GSIS surety bond double the value of the conveyance as determined by the Commission on audit. In no case, however, shall a conveyance be temporarily released where the transport of the forest products is not covered by the authority to transport as mentioned in Section 3 hereof. An affidavit of undertaking shall be executed by the conveyance owner to produce the conveyance whenever required by the court.

SECTION 12. Criminal Action. - The confiscation of the conveyance under these regulations shall be without prejudice to any criminal action which shall be filed against the owner thereof or any person who used the conveyance in the commission of the offense.

SECTION 13. Repealing Clause. - MNR Circular No. 10, series of 1983, MNR Memorandum Order No. 2, series of 1984, and all other orders, circulars, and issuances inconsistent herewith are hereby repealed and/or modified accordingly.

SECTION 14. Effectivity. - This Order shall take effect immediately.

FULGENCIO S. FACTORAN, JR.
Secretary

NOTE: Certificate of Transport Agreement (CTA) omitted.