

**Administrative Order
No. 36
July 11, 1991**

**SUBJECT: Guidelines Governing the Confiscation,
Seizure and Disposition of Wild Flora and
Fauna Illegally Collected, Gathered,
Acquired, Transported and Imported
Including Paraphernalia**

Pursuant to the provisions of Act 2590, as amended, Act 3983, as amended, PD 705, as amended, Executive Order 192, and Executive Order No. 277, which authorizes the Secretary of Environment and Natural Resources or his duly authorized representative to order the confiscation of forest products including wildlife, gathered, removed, possessed without authority including paraphernalia used in the commission of the offense and other pertinent policies, laws and regulations, the following regulations are hereby promulgated:

Section 1. Definition. For purposes of this Order, the following terms shall be construed to mean as follows:

- 1.1 **Wildlife** - shall include all wild flora and fauna either in live, preserved or processed state; and
- 1.2 **Paraphernalia** - shall include tools, equipment, conveyances and other instruments used in the illegal gathering, collection, acquisition, transportation and importation of wildlife

Section 2. Documents Required in the Transport of Wildlife. The transport of all wild flora and fauna must be accompanied by a Wildlife Transport Permit issued by the Community Environment and Natural Resources Officer (CENRO) concerned where the wild flora and/or fauna were gathered and collected.

Section 3. Basis of Arrests and Confiscations. Absence of Wildlife Transport Permit shall be sufficient cause for the seizure of wildlife and paraphernalia used in the commission of the offense in favor of the government pursuant to PD 1281 subject to further investigation. If it is found that the wild flora and fauna seized have been gathered, removed, and possessed without authority under existing rules and regulations, final confiscation shall be effected to be followed by the filing of the complaint. DENR Officers which include Regional Executive Director (RED), Regional Technical Director (RTD), Provincial and Community Environment and Natural Resources Officers (PENROs/CENROs) and other DENR personnel who will later on be deputized by the

DENR Secretary or his duly authorized representatives shall have authority to seize and confiscate wild flora and fauna under their respective jurisdictions.

Any person who has committed or is committing any of the offenses defined under Sections 68 and 72, Chapter IV of PD 705, as amended, may be arrested even without warrant as provided for by Section 80 of PD 705, as amended.

Section 4. Execution of Sworn Statements. Immediately after seizure of the wild flora and fauna together with the paraphernalia used in the commission of the offense, the apprehending DENR Officer shall execute his sworn statement/affidavit surrounding the facts of the case in the form hereto attached as Annex "A". He shall also take the affidavits or statements of witnesses, if any, in the form hereto attached as Annex "B".

Section 5. Inventory of Seized Wildlife and Issuance of Seizure Receipt. An inventory of the seized wild flora and fauna shall be conducted immediately both by DENR apprehending officer and the owner of the confiscated wildlife. The assessment thereof shall be based on the actual or physical count after which the corresponding seizure receipt shall be issued by the signing DENR Officer(s) duly acknowledged by the apprehended person/s or party/ies.

In case, the apprehended person/s or party/ies refuse to acknowledge, the local authority may attest as to the veracity of the seizure receipt.

Section 6. Custody of Seized Wildlife and Paraphernalia. This shall be made in accordance with the following procedures:

- 6.1 In cases where the apprehensions are made by the Philippine National Police (PNP), Economic Intelligence and Investigation Bureau (EIIB), Coast Guard and other government law enforcement agencies, the apprehending agency shall notify the nearest DENR Office and turn over the seized wild flora and fauna to the CENRO/PENRO/RED, as the case may be, for proper investigation and disposition. In the same manner, wild flora and fauna seized/confiscated by the DENR Central Office personnel shall likewise be turned over to the CENRO/PENRO/RED or to PAWB Central Office concerned for further investigation and proper disposition in accordance with the procedure herein provided.
- 6.2 In cases where the apprehension is made by the DENR Field Offices, the wild flora and fauna and the paraphernalia used shall be deposited at the designated rescue centers in the region for safekeeping. In case wild flora or fauna is

confiscated by the DENR-NCR, it shall be deposited at PAWB in accordance with DENR AO 142 s. of 1989.

In cases where the transfer of the seized wild flora and fauna to the above places is not immediately feasible, the same shall be placed under the custody of any of the following places at the discretion of the DENR apprehending officer taking into consideration the safety of the confiscated wildlife.

- 6.2.1 licensed petshop owners or nursery owners/operators;
- 6.2.2 nearest local public official such as the Barangay Captain, Municipal or City Mayor, Provincial Governor;
- 6.2.3 nearest PNP stations; or
- 6.2.4 any responsible person or groups in the community

In any case, the custody of the wild flora and fauna shall be duly acknowledged and received by the person or officer taking custody thereof in the form hereto attached as Annex "C".

Section 7. Filing of Complaint. The CENRO/PENRO or Regional Office concerned shall file the criminal complaint with the proper court pursuant to Section 80 of PD 705, as amended, against any and all persons who appear to be responsible for the commission of the offense (See Annex "D").

In case of partnerships, associations, or corporations, the complaint shall be filed against the officers who ordered the collection, gathering, acquisition or possession, transport, shipment and exportation of the wild flora and fauna. In case of failure to identify the officers, the managing partners in case of partnerships, the President or General Manager in case of associations or corporations shall be charged accordingly.

The following documents should be attached to the complaint:

- a) Sworn statement/Affidavit of apprehending/arresting DENR officer/s (Annex "A");
- b) Sworn statement/Affidavits of witnesses, if any, who may have knowledge on the commission of the offense (Annex "B"); and
- c) Copy of the seizure receipt or statement showing the number and species of the wild flora and fauna seized (Annex "C")

Other necessary documents may also be required to support the complaint such as photographs showing the wild flora or fauna seized including the tools, equipment, holding cages, conveyances and other instruments used in the commission of the offense.

Section 8. Referral of Complaint. Immediately after the complaint is filed, the CENRO/PENRO concerned shall transmit copy of the complaint and all supporting documents to the Regional Office or the Legal Service Office of the DENR Central Office.

Section 9. Disposition of Confiscated/Seized Wildlife and Paraphernalia. The disposition of confiscated wild flora or fauna shall be handled in accordance with the following procedure:

9.1 The REO/CENRO/PENRO/PAWB, as the case may be, or his duly authorized representative(s) shall, without delay, dispose the confiscated wildlife in accordance with the modes prescribed by DENR AO 142, s. 1989, to wit:

For Live Wildlife

9.1.1 Release of the animals back to its natural habitat;

9.1.2 Donation to government projects which need the wildlife;

9.1.3 Donation or exchange of the wildlife with reputable institutions; or

9.1.4 Loan of the wildlife to reputable institutions

For Non-Living Specimens/By-products

Confiscated wildlife by-products or specimens shall be disposed by donating to public or private schools for educational purposes.

Such specimens or by-products may also be destroyed using the most economical and effective means, except for cases where:

- a) the wildlife are subject of judicial proceedings until proper authority is obtained for their disposition from the court where the case is pending;
- b) the wildlife have been determined as needed for breeding/propagation/research of the DENR as may be recommended by PAWE.

- 9.2 Exotic wild flora and fauna under CITES Appendices I, II and III which were confiscated in the Philippines, may, after receipt of formal request or petition, be returned to the country of origin at the expense of that state, or deposited in a rescue center or such other places as the DENR deems appropriate upon recommendation of PAWB.
- 9.3 In cases of the confiscated wild flora and fauna whether living or non-living, that are the subject of court cases, representations with the proper court shall be made for the immediate disposition thereof through their deposition in rescue centers in the region to avoid death, injury or loss of their economic value during the pendency of the case. These wild flora or fauna shall only be released to the respondent after a final decision has been arrived at by the court ruling in favor of said respondent.
- 9.4 Confiscated paraphernalia used in the commission of the offense shall be disposed in the same manner as provided for in DENR AO No. 59, Series of 1990.

Section 10. Reporting. The reporting system shall be in the following manner:

10.1 Individual Cases/Report

Confiscation, seizure, or impounding shall be reported immediately by the apprehending DENR Officer to the CENRO, PENRO, RED, or PAWB, as the case may be within twenty-four (24) hours from the time the offense was committed. The DENR apprehending officer shall then send a flash report to the next higher officer.

A detailed report by the DENR apprehending officer must be submitted within three (3) days from the date of seizure indicating actions taken thereon.

10.2 Monthly Report

A monthly confiscation report shall be submitted by the CENRO/PENRO to the Regional Executive Director together with the status of confiscated wildlife, and paraphernalia used in the commission of the offense.

The Regional Executive Director shall consolidate the monthly confiscation report of all the CENRO/PENRO under his region and in turn forward the same to the Office of the Undersecretary for Field Operations through the Protected Areas and Wildlife Bureau (PAWB), copy furnished the Office of

the Undersecretary for Environment and Research and the Office of Planning and Policy Studies.

10.3 **Quarterly Report**

The RED shall submit to the Officer of the Undersecretary for Field Operations through the Protected Areas and Wildlife Bureau (PAWB), copy furnished the Office of the Undersecretary for Environment and Research a quarterly report on the status of confiscated wild flora or fauna within the region.

Section 11. Records Keeping and Monitoring. The PAWB shall handle all paper works and keep all records, data and accounts for all confiscated and disposed wild flora and fauna.

A monthly summary report on confiscated/disposed wild flora and fauna shall be submitted to the DENR Secretary within fifteen (15) days after the end of each month.

Section 12. Penalty. Violation of any of the provisions of this Order shall be penalized in accordance with Section 68 of PD 705 and other existing rules and regulations pertinent thereto.

Section 13. Repealing Clause. All orders, memoranda, circulars inconsistent herewith are hereby repealed and/or amended accordingly.

Section 14. Effectivity. This Order takes effect fifteen (15) days after publication in a newspaper of general circulation.

FULGENCIO S. FACTORAN, JR.
Secretary

NOTE: Annexes Omitted