



Republic of the Philippines
Department of Environment and Natural Resources
MINES AND GEOSCIENCES BUREAU

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APR 10 2019

MEMORANDUM CIRCULAR
NO. 2019- 002

SUBJECT: SUPPLEMENTAL GUIDELINES TO MGB MEMORANDUM CIRCULAR NO. 2018-01 OTHERWISE KNOWN AS GUIDELINES IN THE CONDUCT OF APPREHENSION, SEIZURE, CONFISCATION AND DISPOSITION OF ILLEGALLY SOURCED MINERALS/ MINERAL PRODUCTS AND BY-PRODUCTS, TOOLS, CONVEYANCES AND EQUIPMENT USED

Pursuant to the provisions of Republic Act (R.A.) No. 7942, otherwise known as the Philippine Mining Act of 1995, Department Administrative Order (DAO) No. 2010-21 as its Implementing Rules and Regulations, Executive Order (E.O.) No. 292, otherwise known as the Administrative Code of 1987, pertaining to the power of the Director of a line bureau to promulgate rules and regulations necessary to carry out bureau objectives, policies and functions and other pertinent laws, rules and regulations, the following **amendments** and/or **inclusions** as **supplement** to Memorandum Circular No. 2018-01, otherwise known as the Guidelines in the Conduct of Apprehension, Seizure, Confiscation and Disposition of Illegally Sourced Minerals / Mineral Products and By-Products, Tools, Conveyances and Equipment Used in the commission of the offense, are hereby issued for the information, guidance and compliance of all concerned.

CHAPTER I
IMPOSITION OF FINES

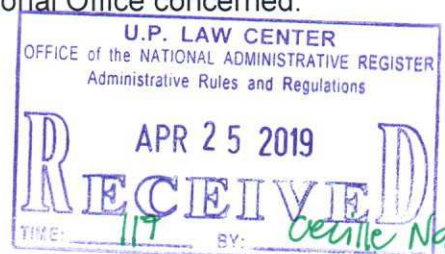
SECTION 1. ILLEGAL TRANSPORT OF MINERALS/MINERAL PRODUCTS AND BY-PRODUCTS

Absence of any documents, permits or authority required in the transport of minerals/mineral products and by-products shall be *prima facie* evidence constituting an offense punishable with an additional fine not exceeding Five Thousand Pesos (Php5,000.00) pursuant to Section 110 (Other Violations) of RA 7942, and the filing of an appropriate case in a court of competent jurisdiction and the commencement of an administrative confiscation proceedings before the Confiscation Panel duly created by the MGB Regional Director concerned.

Payment shall be made directly to the MGB Regional Office concerned.



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**“MINING SHALL BE PRO-PEOPLE AND PRO-ENVIRONMENT
 IN SUSTAINING WEALTH CREATION AND IMPROVED QUALITY OF LIFE.”**

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**CHAPTER II
RELEASE/ RECALL OF CONVEYANCE**

SECTION 2. REQUISITES FOR THE TEMPORARY RELEASE OF CONVEYANCE

When a conveyance is seized and anytime thereafter pending final disposition of the administrative case, and should available evidence establish to the satisfaction of the MGB Regional Director upon the recommendation of the Confiscation Panel, that the same may be used for lawful purposes as personal mode of transportation or commercial passenger transport, temporary release thereof to the owner may be applied for, and release thereof to the owner *pendente lite* may be granted upon compliance of the following requirements:

A. Sworn Statement/Declaration and Undertaking – A written declaration by the owner, shall be entered in the records of the case, declaring under oath:

- i. That the official registration papers and supporting documents thereof are secured and made an integral part of the records of the case, possession of which shall not be released unless ordered in the final decision of said case or by other competent authority;
- ii. Describing the precise lawful use(s) of the conveyance during the pendency of the case;
- iii. Stating the replacement cost of the conveyance at the time the application is filed;
- iv. That the owner was not among those who were apprehended and is not a respondent of the case by virtue of which the conveyance is being detained *pendente lite*;
- v. That the owner has not previously been held administratively or criminally liable for violation of mining laws, rules and regulations;
- vi. That available evidence does not in any way indicate the complicity of the owner in the offense cited in the confiscation proceedings; and
- vii. An unconditional undertaking to return possession of the conveyance to the MGB Regional Office concerned as may be required for the final disposition of the case.

B. Posting of Bond – As a requirement to the actual *pendente lite* release of the conveyance, the owner shall post a cash or surety bond to guarantee the prompt return of the conveyance to the MGB Regional Office concerned as may be required pursuant thereto. The bond shall be equivalent to one hundred twenty-five percent (125%) of the replacement cost of the conveyance at the time the bond is submitted.

- i. A cash bond in favor of the MGB must be filed by the owner with the MGB Regional Office concerned. Original documents evidencing the posting of the



bond shall be submitted to the MGB Regional Office concerned and shall form part of the records of the case; or

- ii. Surety bond in favor of the MGB may be secured from government surety/GSIS or any private bonding companies.

SECTION 3. ISSUANCE OF A TEMPORARY RELEASE ORDER

Temporary Release Order shall be issued by the MGB Regional Director concerned in cases where court proceedings have not yet commenced and upon compliance of the requisites mentioned in Section 2 hereof.

SECTION 4. RECALL OF CONVEYANCE/S

A. When Conveyance/s may be Recalled

Under the following instances, immediate recall of the conveyance shall be ordered, and failure to return the same within seven (7) calendar days shall mean forfeiture of cash or surety bond in favor of the Government, without prejudice to the filing of an appropriate case in a court of competent jurisdiction:

- i. In case of misrepresentation by the owner in the application for Temporary Release of Conveyance and/or any documents submitted in connection with or in support thereof, or in case of failure to comply with any representations or undertakings made in connection therewith; **and/or**
- ii. In case a **Final Confiscation Order** has been issued by the MGB Regional Director concerned.

SECTION 5. RELEASE OF CONVEYANCE/S AND BOND

In case a **Release Order** has been issued by the MGB Regional Director concerned or by a competent court, the conveyance/s shall be ordered released to the owner and the surety bond shall be returned to the owner. In case of cash bond, the release thereof shall be subject to the procedures of the Bureau of Treasury.

CHAPTER III SUSPENSION OF CONFISCATION PROCEEDINGS

SECTION 6. WHEN CONFISCATION PROCEEDINGS IS SUSPENDED

In cases where a criminal complaint relative to violations of RA 7942, RA 7076 and other mining laws, rules and regulations is already filed in court, the



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administrative confiscation proceedings shall be suspended, and the MGB Regional Office concerned shall seek clearance from the court to continue with the confiscation proceedings, and the eventual confiscation and disposition of the illegally sourced minerals/mineral products and by-products, tools, conveyances and equipment used in the commission of the offense.

CHAPTER IV FINAL PROVISIONS

SECTION 7. REPEALING CLAUSE

All Circulars inconsistent herewith are hereby deemed repealed and/or modified accordingly.

SECTION 8. EFFECTIVITY

This Memorandum Circular shall take effect immediately.


ATTY. WILFREDO G. MONCANO
Acting Director

MINERAL RESOURCES
DEPARTMENT
BUREAU
Office of the Director



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ATTY. WILFREDO C. MONCAYCO
 Acting Director

(PCI-April 22, 2019)