



Republic of the Philippines
Office of the President
DANGEROUS DRUGS BOARD

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BOARD REGULATION No. 1
Series of 2007

SUBJECT: Guidelines on the Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia, and/or Laboratory Equipment in Connection with Cases under Investigation, Preliminary Investigation or Reinvestigation

WHEREAS, under Section 81 (b) of the Comprehensive Dangerous Drugs Act of 2002 (R. A. 9165), the Dangerous Drugs Board is given the power to promulgate rules and regulations for, among others, the safekeeping, disposition, burning or condemnation of any dangerous drug and/or controlled precursor and essential chemical under its charge and custody, and prescribe administrative remedies or sanctions for the violations of such rules and regulations;

WHEREAS, while the Dangerous Drugs Board has set the guidelines on the custody and disposition of seized dangerous drugs, controlled precursors and essential chemicals, and laboratory equipment in Board Regulation No. 1, Series of 2002, in relation to Section 21 of R.A. 9165, the said regulation, however, only covers dispositions in connection with cases already filed in court, and instances where no person is apprehended and no criminal case is filed;

WHEREAS, there is absence of a clear regulation covering dispositions on cases still under investigation by drug law enforcement units, preliminary investigation or reinvestigation, and this has resulted in the accumulation of the inventory of dangerous drugs and controlled precursors and essential chemicals in government forensic laboratories;

WHEREAS, with the lack of adequate storage facilities in government forensic laboratories, this large inventory of dangerous drugs and controlled precursors and essential chemicals is exposed to pilferage and loss;

NOW, THEREFORE, be it resolved, as it is hereby resolved, that the Dangerous Drugs Board promulgate this Regulation Governing the Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia, and/or Laboratory Equipment in Connection with Cases under Investigation, Preliminary Investigation or Reinvestigation:

Section 1. Definition of Terms. The following are the definitions of terms used in this Regulation:

Board – the Dangerous Drugs Board.

Controlled precursors and essential chemicals – include those listed in Tables I and II of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and made an integral part of RA 9165, as well as those classified as such by the Dangerous Drugs Board.

Court – the Regional Trial Court where the petition for destruction is filed, or the court which issued the search warrant and where the motion for destruction is filed.

Dangerous drugs – include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances and made an integral part of RA 9165, as well as those classified as such by the Dangerous Drugs Board.

DENR – the Department of Environment and Natural Resources.

DOJ – the Department of Justice

Forensic laboratory - refers to the laboratory being maintained by the Philippine National Police, the National Bureau of Investigation or the Philippine Drug Enforcement Agency.

Investigation – refers to the investigation conducted by the drug law enforcement unit before a case is filed with the DOJ or Prosecutor's Office for Inquest or Preliminary Investigation.

Laboratory equipment - means a paraphernalia, apparatus, material or appliance when used, intended for use or designed for use in the manufacture of any dangerous drug and/or controlled precursor and essential chemical, such as reaction vessel, preparative/purifying equipment, fermentor, separatory funnel, heating mantle, gas generator, hydrogenator and scrubber, or their substitute.

MSDS - means Material Safety Data Sheet. It provides necessary information with regard to proper storage and safe handling procedures, first aid procedures, proper leak, spill and disposal techniques, protective equipment, and other safety procedures used to limit potential exposure to toxic or hazardous materials and other information such as hazardous ingredients, physical and chemical characteristics, physical hazards and health hazards.

PDEA – the Philippine Drug Enforcement Agency.

Preliminary Investigation – is an inquiry or proceeding conducted by the DOJ or Prosecutor's Office for the purpose of determining whether there is a sufficient ground to engender a well-founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof and should be held for trial.

R.A. 9165 – the Comprehensive Dangerous Drugs Act of 2002.

Reinvestigation – refers to a new Preliminary Investigation conducted by the DOJ or Prosecutor's Office upon order of the Trial Court.

Trial Court – the court where the criminal case for violation of R.A. 9165 is filed.

Section 2. Coverage. This Regulation shall cover dispositions of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment confiscated, seized and/or surrendered for violation of R.A. 9165 which are under investigation by drug law enforcement units, preliminary investigation or reinvestigation pursuant to a court order.

Section 3. Disposal of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia, and/or Laboratory Equipment. Dangerous drugs, controlled precursors and essential chemicals,

instruments/paraphernalia, and/or laboratory equipment confiscated, seized and/or surrendered and covered by this Regulation shall be disposed of as follows:

- a. Upon the receipt of the final certification of the forensic laboratory examination results issued by the government forensic laboratory, pursuant to Section 21 of R.A. 9165 and Section 4 of Board Regulation No. 1, Series of 2002, the PDEA may file a petition for the immediate destruction of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment with the Regional Trial Court presided by the Executive Judge of the province or city where the confiscation, seizure and/or surrender took place. If the confiscation, seizure or surrender was by virtue of a search warrant, the appropriate motion shall be filed with the Court which issued the said search warrant. In both instances, the petition or motion shall be filed with the prior written conformity of the Provincial or City Prosecutor which shall be indicated in the pleading. The trial court where the criminal case is subsequently filed shall take judicial notice of the proceedings thereof.
- b. After the filing of the petition or motion, as the case may be, the Court shall, within seventy-two hours, conduct an ocular inspection of the confiscated, seized, and/or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia, and/or laboratory equipment.
- c. Within twenty-four hours after the Court inspection, the Court through the PDEA shall proceed with the destruction or burning or disposal of subject items.
- d. Prior to their destruction, representative samples of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals shall be taken and duly weighed and recorded by the forensic laboratory which conducted the examination for presentation as evidence in the trial court. Maximum quantities of samples to be retained are as follows:

(1) Controlled Precursors and Essential Chemicals

- a) not more than 2.5 liters for liquid chemicals;
- b) not more than 10 grams for non-liquid chemicals;
- c) where the chemical is in its original container, samples to be retained shall not be more than one container, e.g. glass bottle or can or polyethylene container or barrel or drum.

(2) Dangerous Drugs

- a) not more than fifteen (15) grams each of heroin or morphine or opium or cocaine or other dangerous drugs such as, but not limited to, MDMA or LSD or PMA or GHB or TMA or marijuana resin or marijuana resin oil;
 - b) not more than fifty-five (55) grams of methamphetamine or amphetamine;
 - c) not more than 510 grams of marijuana leaves;
 - d) not more than ten (10) plants of opium poppy, coca bush, ephedra or marijuana;
 - e) not more than fifteen (15) grams of other dangerous drugs.
- e. Where the amount of seized dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals is equal to or less than the prescribed amount of retention above, all the seized items shall be preserved as evidence in court.

- f. In all cases involving chemicals, the PDEA officer in-charge of their disposal should also refer to their MSDS for further guidance on safe handling and disposal.
- g. Dangerous drugs and controlled precursors and essential chemicals shall be disposed of by means of the following methods:
 - 1) Thermal destruction method in accordance with applicable laws. The PDEA may engage the professional services of third parties with thermal facilities covered by valid and subsisting permits and clearances issued by appropriate government agencies; or
 - 2) Other lawful appropriate methods as may be authorized by the Board, in consultation with the DENR.
- h. Plant sources of dangerous drugs, such as marijuana plant, shall be destroyed by burning on the site of eradication activity and in open field. Thereafter, the burnt marijuana plant shall be buried underground.
- i. Witnesses may be allowed to observe the procedures for the conduct of destruction or disposal of seized dangerous drugs or controlled precursors and essential chemicals. Witnesses shall wear "dust mask". During the start of marijuana plant destruction, witnesses should stay at a distance of no less than fifty (50) meters from the destruction site and away from wind direction. In case of destruction in a thermal facility, witnesses should stay no less than fifteen (15) meters away from the facility when the burning starts. In this regard, the PDEA officer supervising the destruction will make the judgment call.
- j. The PDEA shall maintain a watch detail until the destruction process is completed.
- k. Destruction or disposal or burning of seized dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia, and/or laboratory equipment shall be done in public and witnessed by the following:
 - 1) the respondent/accused or his/her representative or counsel or a member of the Public Attorney's Office appointed by the Secretary of Justice;
 - 2) a representative from the media;
 - 3) a representative from the DOJ;
 - 4) a representative from civil society groups; and
 - 5) any elected public official.
- l. The respondent/accused or his/her representative or counsel shall be allowed to personally observe all the above proceedings. In case he/she refuses or fails to appoint a representative after due notice in writing to him/her or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the Public Attorney's Office to represent the respondent/accused.
- m. The Board, through the Director General of the PDEA or Regional Director of the PDEA, as the case may be, shall issue a sworn certification as to the fact of destruction or burning of the subject items which shall be submitted to the Court hearing the petition or motion and a copy of which, certified to by the clerk of court, shall be submitted to the trial court where the criminal case is subsequently filed together with the representative samples in the custody of the PDEA.

- n. The cost of disposition or destruction of seized dangerous drugs, controlled precursors and essential chemicals, and/or equipment shall be borne by the respondent/accused.
- o. After the promulgation of judgment in the criminal case, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the trial court for leave to turn over the said representative samples, including any instrument/paraphernalia and/or laboratory equipment, to the PDEA for proper disposition and destruction within twenty-four (24) hours after receipt of same.

Section 4. Disposal for scientific, medical and training purpose. Disposal of seized dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment for scientific, medical and training purpose shall be in accordance with Section 8 of Board Regulation No. 1, Series of 2002.

Section 5. Penalty Clause. Any violation of this Regulation shall be penalized under Section 32 of R.A. 9165.

Section 6. Separability Clause. If for any reason any section or provision of this Regulation, or any portion thereof, or the application of such section, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Regulation shall not be affected by such declaration and shall remain in force and effect.

Section 7. Repealing Clause. All Board regulations or other issuances inconsistent with this Regulation are hereby superseded or modified accordingly.

Section 8. Effectivity - This Regulation shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and after its registration with the Office of the National Administrative Register (ONAR).

ADOPTED and APPROVED this 20th day of March, in the year of Our Lord, 2007 in Quezon City.



Secretary ANSELMO S. AVENIDO, JR.
Chairman, Dangerous Drugs Board

Attested:



Undersecretary EDGAR C. GALVANTE
Secretary of the Board