

**DENR Administrative Order
No. 2000-05
Series of 1994 (Revised)**

Subject Revising DENR Administrative Order (DAO) No. 94-
: 11, Supplementing DENR Administrative Order No.
96-37, Series of 1996, And Providing For
Programmatic Compliance Procedures Within The
Environmental Impact Statement (EIS) System

ARTICLE I
Policy Objectives and Definition of Terms

Section 1. *Basic Policy*

1.1 Supplementing DENR Administrative Order No. 37, Series of 1996 on the implementation of the EIS System, the Department also assure environmentally and socially acceptable development of industrial areas within the Philippines in furtherance of, among other provisions, Art. I, Section 8, Rules and Regulations Implementing the Intent and Provisions of PD 1586 Establishing the Environmental Impact Statement (EIS) System in Relation to Presidential Decree No. 1151 Promulgating the Philippine Environmental Policy.

Section 2. *Policy Objectives*

1.2.1 To identify environmental constraints and opportunities of natural systems in order to guide the planning and development of industrial projects that have multiple stages or components.

1.2.2 To incorporate incentives for industrial siting in regional industrial centers.

1.2.3 To incorporate cost-effective environmental management systems in compliance with Philippine environmental standards.

1.2.4 To assess the carrying capacity of the natural environment in areas designated for industrial development.

1.2.5 To assure environmentally sensitive development of industrial projects and programs.

1.2.6 To assess the induced effects on the social and natural environment of concentrated industrialization programs.

1.2.7 To streamline the procedures for environmental compliance for industries locating in regional industrial centers.

1.2.8 To encourage industries to locate in geographic areas which are environmentally and socially suitable to their activities.

1.2.9 To ensure transparency through wide participation of concerned sectors, especially the local communities, in compliance monitoring of development projects and programs.

Section 3. *Definition Of Terms*

1.3.1 For the purpose of these rules and regulations, whenever any of the following words and terms are used therein, they shall have the meaning ascribed in this section:

1. ***Ambient levels or standards*** – refers to the allowance of maximum levels of selected pollutants in a water body or the surrounding air, with an adequate margin of safety, that will protect public health and the environment.
2. ***Carrying Capacity*** – refers to the capacity of natural and human environments to accommodate and absorb change without experiencing conditions of instability and attendant degradation.
3. ***CENRO*** – refers to the Community Environment and Natural Resources Officer of the DENR.
4. ***Compliance Monitoring*** – refers to the activity, usually through inspection, sampling, or other means of evaluation, designed to gauge the level of compliance with the discharge permit-related conditions stipulated in the ECC and permits issued by other environmental statutory authorities.
5. ***DENR*** – refers to the Department of Environment and Natural Resources.
6. ***Discharge Allocations*** – refers to pollution loadings that may be borne by the carrying capacity of a given airshed or waterbody and which may be assigned to one or a number of industrial sources to ensure that ambient levels are not exceeded.
7. ***Eco-profile*** – or ecological profile, refers to geographic-based instruments for planners and decision-makers which present an evaluation of the environmental quality and carrying capacity of an area. They are the result of the integration of primary and secondary data and information on natural resources and anthropogenic activities on the land which are evaluated by various environmental risk assessment and forecasting methodologies that enable DENR to anticipate the type of development control necessary in the planning area. The technical detail is of particular use in the formulation of an EIS for a project or program.
8. ***Economic incentive*** – refers to an administrative instrument founded in law or regulation that endeavors to stimulate the achievement of an environmental benefit through the economic system without primary reliance on command-and-control regulations. These are sometimes referred to as "market-based incentives".

9. **Ecozone** – refers to a Special Economic Zone (see definition of Special economic Zone below)
10. **EMB** - refers to the Environmental Management Bureau.
11. **Environmental Compliance Certificate (ECC)** – refers to the document issued by the Secretary of the Department of Environmental and Natural Resources or his duly authorized representative certifying that the proposed project or program under consideration will not bring about unacceptable environmental impacts and that the proponent has complied with the requirements of the Environmental Impact Statement (EIS) System for programmatic compliance; it is usually issued with conditionalities,
12. **Environmental Impact Assessment (EIA)** – refers to the process of predicting the likely environmental consequences of implementing project or program activities.
13. **Environmental Impact Statement Review Committee** – refers to the body of experts from various fields organized by DENR whose main task is to assist the DENR in evaluating EIS and other documents from time to time.
14. **Environmental Impact Statement/Study (EIS)** – refers to the documentation of studies on the environmental impacts of a project or program including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary in its specific application to differing projects and programs, but shall contain in every case all the relevant information and details about the project to enable the DENR and other concerned parties to make judicious decisions regarding the carrying capacity of certain areas and systems to support projects or programs.
15. **Environmental Impact Statement Programmatic Compliance (EISPC)** – refers to the entire EIS system as it applies to programmatic compliance.
16. **Environmental Impact Statement (EIS) System** – refers to the entire process of organization, administration and procedure institutionalized for the purpose of assessing the significance of the effects of physical developments on the quality of the environment.
17. **Environmental Monitoring Fund** – refers to an ECC conditionality created to support the activities of the Multisectoral Monitoring Teams and a reasonable environmental information program.
18. **Export Processing Zone (EPZ)** – a type of industrial estate. It is a customs-controlled manufacturing enclave where industries are allowed to import raw materials and export finished goods without duty and tax charges and import restrictions. The rationale is to encourage the processing of imported raw materials for re-export while freeing the importer/exporter of the bureaucratic procedure and red tape normally associated with such operations. EPZs are designed mainly to attract foreign investments although local entrepreneurs may also establish enterprises in this area.

19. **Industrial Development Area (IDA)** – refers to an area, such as an ecozone, regional Agro-industrial Growth Center (RGC), or industrial estate, that contains several facilities or a cluster of enterprises co-located in a designated area which may have significant impact on the environment.
20. **Industrial Estate (IE)** – refers to a tract of land subdivided and developed according to a comprehensive plan, under a unified and continuous management, with provisions for basic infrastructure and utilities with or without prebuilt standard factory buildings and common service facilities, for the use of a community of industries.
21. **Locator Firm** - refers to an industrial facility that locates or is sited within the geographic boundaries of an industrial development area (IDA).
22. **Market or Market - based Incentive** – an administrative instrument founded in law or regulation that endeavors to stimulate the achievement of an environmental benefit through the market system without primary reliance on command-and-control regulations.
23. **Methodologies to forecast environmental impacts, ambient levels, and discharge allocation** – refers to such techniques as:
 - a. **Delphi Technique** – uses the opinions of knowledgeable experts and through a repetitive process, converges toward group consensus.
 - b. **Mathematical Modeling** – principal cause-effect relationships of a proposed action are described in terms of mathematical functions and combined to yield a mathematical model capable of predicting future environmental conditions. It is particularly helpful in assessing ambient levels.
 - c. **Simulation** – generally used to assess the probabilities of various classes of events, or to forecast environmental changes from existing general trends. For example, the Monte Carlo Method may be used to estimate how frequently the concentration of the contaminant in the discharge might exceed a particular value.
 - d. **Geographical Information Systems (GIS)** – are essentially computerized graphical overlays and interacting data files. If environmental features are "mapped" systematically, information acquired on specific projects can be combined, and the GIS database becomes more detailed over time.
 - e. **Cost-Benefit Analysis** – a formalized accounting of the anticipated costs and benefits of an action of particular use when comparing alternative forms of an action. It is not limited to economic costs, but includes risks to long-term environmental quality and public health.

- f. **Environmental Risk Assessment** – a category of analyses by which the potential risk of harm to individuals, communities and ecosystems can be evaluated. It is expected to be of significant value in the EIS process.
24. **Multi-Sectoral Monitoring Team** – refers to a team of project or program stakeholders from representative sectors, most particularly local communities, organized and chaired by DENR for the purpose of providing general oversight over ECC conditionalities.
25. **PENRO** – refers to the Provincial Environment and Natural Resources Officer of the DENR.
26. **Permit** – refers to a license issued by DENR to project or program facilities that limits emission/effluent discharges of individual sources in accordance with environmental standards.
27. **Pollution Management Appraisal (PMA)** – an analytical technique for identifying methods by which industrial firms can reduce the amount or hazard of wastes generated, through methods such as source reduction, recycling/reclamation/reuse or pollution control measures.
28. **Program** – refers to activities and actions of an undertaking consisting of a series of similar projects or enterprises, or a project subdivided into several phases and/or stages of determinable duration; whether situated in a contiguous area or geographically dispersed, which may have significant impact on the environment.
29. **Programmatic Compliance** – refers to activities undertaken by a proponent to comply with the policies and procedures established by this regulation to secure an ECC for its project or program.
30. **Project** – refers to activities and actions of an undertaking characterized by several components or a cluster of enterprises co-located in a designated area which may have significant impact on the environment.
31. **Project Profile (PP)** – refers to the document submitted by the project proponent substantially describing the proposed project or program and containing sufficient descriptive detail of the environmental aspects of a proposed project or program to enable DENR to determine whether the project or program is subject to programmatic procedures.
32. **Project or Program Administrator** – refers to the operational representative of the proponent who is vested with the authority and responsibility to manage the compliance of the project or program with permitted discharges and emission allocations which are subject to DENR's regulatory authority and approval.
33. **Proponent** - refers to any person, group, authority, association, public corporation, private corporation, or other body undertaking or intending to

undertake a project or program and duly vested with administrative authority and responsibility over the project or program.

34. **Public Hearing** – refers to the activity undertaken by DENR to gather facts and elicit all issues, concerns and apprehensions and at the same time provide the proponent with the opportunity to present the project or programs to the people/community who would be affected by such.
35. **RED** – refers to the Regional Executive Director of DENR.
36. **Regional Agro-Industrial Center (RGC)** – refers to an industrial development area identified by the Regional Development Council and the RGC Task Force as priority area where government can rationalize the distribution of public and private investments in industrial infrastructure to support its efforts of hastening the growth and development of lagging regions and at the same time effect dispersal of industries.
37. **Remediation Plan** – refers to the formulation of measures or a methodology for achieving mitigation of one or more ECC conditionality violations.
38. **RTD** – refers to the Regional Technical Director for Environmental Management and Protected Areas Service of the DENR regional offices.
39. **Social Acceptability** – refers to the process, respected by both DENR and a proponent, which ensures that the concerns of affected communities are incorporated into the decision-making process for programmatic compliance.
40. **Special Economic Zone (Ecozone)** – refers to areas under the administration of the Philippine Economic Zone Authority, created pursuant to R.A. 7916 (1994), with potential to be developed, or already developed, into agro-industrial, industrial, tourist/recreational, commercial, banking, investment, and financial centers, and which have been designated for development in accordance with EISPC procedures.

ARTICLE II

Scope of the EIS Programmatic Compliance

Section 1. Projects And Programs Covered

2.1.1 Projects that fall into the following categories are within the purview of programmatic compliance, as more fully articulated by guidelines published by EMB; and are required to submit a programmatic EIS :

- a. A Program consisting of a series of similar projects, or a project subdivided into several phases and/or stages whether situated in a contiguous area or geographically dispersed, such as energy projects.

b. A project consisting of several components or a cluster of projects co-located in a designated area such as an industrial estate or export processing zone.

2.1.2 A locator firm in an IDA holding a single-project ECC that pre-exists a proponent's ECC under programmatic compliance is not exempt from the conditionalities of the proponent's ECC. The IDA administrator will assign a portion of its discharge allocation, as identified in its ECC, to the locator firm, which will immediately supersede the locator firm's single-project ECC and permit regarding discharges. For the five-year period following issuance of the IDA ECC, the IDA Administrator, with DENR's concurrence, may negotiate with the locator firm regarding the locator's adoption of the other conditionalities in the IDA's ECC. Upon expiration of the five-year period, the IDA ECC will supersede the locator firm's pre-existing ECC conditionalities in all respects.

Section 2. *Projects And Programs Not Covered*

2.2.1 Undertakings that are determined to be outside the purview of programmatic compliance pursuant to Section 2.1.1 above, may be subject, however, to the requirements of the individual project EIS as provided under DENR Administrative Order No. 37, Series of 1996.

2.2.2 A new locator in an IDA (with ECC) that does not conform to the original specifications of the programmatic EIS is required to submit a single-project EIS, but may use the eco-profile data for its discharge allocations. Under such circumstances, DENR must consider this as a separate ECC application.

ARTICLE III **Procedural Flow**

The EMB shall be responsible for processing EIS programmatic compliance documents. The flow chart showing the processing steps set out in the EISPC guidelines is attached.

Section 1. *Screening*

3.1.1 ECC applications for Projects or Programs that falls within the categories described in Article II Section 1, item 2.1.1 shall proceed with scoping and shall follow procedures as detailed in the EISPC guidebook.

3.1.2 A proponent, if it is unsure whether it falls within programmatic compliance guidelines, may submit a Project Profile (PP) to the EMB. For these purposes, the PP shall contain sufficient detail of the project or program elements, or the expansion thereof, to enable a procedural assessment to be made as to whether the undertaking is subject to programmatic compliance procedures. In that connection, an environmental description of sources and emissions, rather than an analysis of their impacts, will constitute sufficient accompanying technical detail.

3.1.3 Project and programs shall not be developed within the Integrated Protected Areas System of the Philippines, as designed by DENR, unless such areas are designated by the President or his duly appointed representative to accommodate such projects and projects and programs, as the public interest may warrant.

Section 2. Scoping

3.2.1 Scoping shall be initiated by the project proponent at the earliest possible stage of project development to define the range of actions, alternatives and impacts to be examined as well as the area for ecoprofiling. Following are the main objectives of the scoping activity :

- a. Provide an early link between the DENR and the proponent to ensure that the EIA addresses relevant issues and presents results in a form consistent with the EIS programmatic compliance requirements
- b. Allow the stakeholders to make their concerns known to ensure that the EIA adequately addresses the relevant issues;
- c. Address issues on carrying or assimilative capacity of the environment and identify possible legal constraints or requirements regarding the project proposal; and
- d. Determine and agree on the assessment methodologies and the process of dealing with issues relating to social acceptability.

3.2.2 The EMB shall identify reviewers who shall be invited to join the scoping sessions and eventually review the results of the ecoprofiling and EIA study for the particular project or undertaking whenever possible.

3.2.3 Based on the scoping process, the proponent shall submit a scoping report to the EMB. The scoping report should include among others the proposed scope of the ecoprofiling activity and the EIA study. This shall be reviewed and approved by the EMB and shall serve as basis for the studies to be conducted and a basis for the review of the EIS.

3.2.4 The agreed-upon scope may be adjusted during the course of the study to take into account new information or changing conditions.

Section 3. EIS Preparation

3.3.1 A proponent having a project or program, or expansion thereof, that is subject to programmatic compliance shall secure a copy of the procedural guidelines published by EMB for its guidance. On the basis of the regulations hereunder and the procedural guidelines, the proponent shall prepare and submit a programmatic environmental impact statement (PEIS) to the EMB. The EIS may be prepared by the proponent's technical staff or be commissioned to a competent contractor, at the option of the proponent.

3.3.2 DENR shall require the proponent to involve the broadest range of stakeholders in the project or program in specifically formulating and focusing the scope of the EIA study, prior to its commencement, with a view toward initiating and conducting the EIA process on an open, inclusive and transparent manner.

Section 4. *Submission Of The EIS*

3.4.1 Upon the completion of the study, the proponent shall submit a copy of the EIS to EMB for completeness screening prior to its official acceptance as an ECC application. The submitted document shall be evaluated within seven (7) working days for completeness and decide whether the information contained in the EIS is sufficient for a thorough evaluation of the subject environmental impacts. The EMB shall then inform the proponent of any additional information that may be needed for further evaluation of the EIS, and may also recommend and perform an ocular inspection of the proposed site or sites of the undertaking in question in order to check the veracity of the information contained therein.

3.4.2 If found acceptable, the EMB shall require the proponent to submit at least fifteen (15) legible copies of the EIS.

3.4.3 The proponent of such project seeking programmatic compliance shall pay the necessary fees in accordance with the schedule of fees.

3.4.4 The proponent shall likewise furnish a copy of the EIS to the Offices of the concerned Regional Executive Director, PENRO, CENRO and local government units. A laymanized version of the EIS Executive Summary shall also be made available for the public.

Section 5. *Review Of The EIS*

3.5.1 After the evaluation for completeness, the EMB, at its discretion, may convene the EIA Review Committee to assist in the review process.

3.5.2 The EIA Review Committee shall be selected from a pool technical experts and subject area specialists both from within DENR and from outside sources such as the academic community, other government agencies and the private sector. EMB shall supplement the Committee's pool of experts when occasion demands.

3.5.3 The EMB shall schedule the holding of a public hearing, subject to the process stipulated in Article V, Section 3, and may likewise require the proponent to submit additional information, if necessary. The proponent will also be expected to demonstrate social acceptability of the project or program

Section 6. *Granting or Denial of the ECC Application*

3.6.1 EIARC Recommendation

Within fifteen (15) days from the completion of the review, the EIARC shall submit a report to the EMB Director containing the results of its review/evaluation and its recommendations with respect to the issuance or non-issuance of the ECC.

3.6.2 Recommendation of the EMB Director

Within fifteen (15) days from the receipt of the EIARC report, the EMB Director shall make his/her own recommendations to the Office of the Secretary for final decision. Copies of the EIARC report and other pertinent documents shall be attached to the EMB Director's recommendations.

3.6.3 Decision

The DENR Secretary shall either grant or deny the issuance of the ECC. In granting or denying the issuance of the ECC, the Secretary shall take into account the social and environmental cost implications relative to the judicious utilization, development and conservation of the country's natural resources

In case the decision is to grant the ECC the following conditionalities shall be highlighted :

1. Scope and delineation of the project or program and site(s), including, as appropriate, approval of phased program elements
2. Pre-operational and construction activities
3. Implementation of the Environmental Management and Monitoring Plan
4. Multi-sectoral monitoring of ECC general conditionalities
5. Discharge permits required under all relevant media programs and the emission allocations recommended therefor (for submission to the relevant DENR Regional permitting and monitoring units for operationalizing)
6. Completion of Memorandum of Agreement for Multi-sectoral Monitoring Team and Environmental Monitoring Fund
7. Implementation of financial responsibility where warranted by public risk
8. Relocation Plan, including compensation packages, as needed
9. Construction of infrastructure facilities
10. Use of economic incentives and pollution management appraisals, as necessary.

3.6.4 Transmittal of EIS Records and ECCs

The Office of the Secretary shall cause the transmittal of the decision , the EIS, all pertinent records and documents to the EMB within five (5) days from the date of

such issuance. The offices of the concerned Regional Executive Director, PENRO, CENRO, the municipal/City mayor and the proponent shall also be furnished with a copy of the decision within the same period by the Office of the Secretary

ARTICLE IV **Contents of the Programmatic EIS**

At the minimum, the EIS for programmatic compliance should contain the following :

1. Project Description
2. Scoping Report
3. Eco-profiling of Air, water, Land, and People Sectors
 - includes the application of analytical forecasting techniques for assessing environmental carrying capacity, impacts, and discharge allocations mathematical modeling, simulation, Delphi techniques and geographical information systems (GIS).
4. Impact Analysis
 - includes project siting and alternatives
 - alternative techniques
 - mitigation of industrial impacts and infrastructure burdens
 - including health impact analysis
5. Environmental Risk Assessment (if found necessary during scoping)
 - individual locators risk assessment
 - consequential/cummulative risk assessment
6. Environmental Management Plan
 - includes discharge allocation programs with offset provisions if the project is located in a non-attainment area
 - mitigation and enhancement measures
 - framework for the operation of economic incentives
 - allocation of monitoring responsibilities
 - environmental monitoring fund provisions
 - financial responsibility procedures and options
7. Proposals for environmental monitoring and guarantee funds
8. Accountability statements of preparer and proponent
9. Other supporting documents

ARTICLE V
Public Participation And Social Acceptability

Section 1. *Public Information*

- a. All information about the proposed project or program shall be presented by the proponent to the public in a language and manner that are easily understood .
- b. A notice of the submission of the EIS for programmatic compliance shall be posted by the proponent in the barangay and municipal halls and other conspicuous places in the affected community, together with a summary of the proposed project or undertaking.

Evidence demonstrating compliance with this requirements shall form part of the supporting documents to be submitted with the EIS.

Section 2. *Public Consultation*

Proponents of projects or undertakings required to undergo an EIA shall initiate the conduct of public consultations to ensure that the public's concerns are fully integrated into the EIA process

Section 3. *Public Hearings*

Public hearing(s), whose number shall be at the discretion of the EMB, shall be held to promote a wide and timely exchange of views, information, and concerns among the affected parties, communities, and the proponent. At a minimum, the proponent will present the tentative conclusions of the draft EIS and their technical justification for the public's benefit and information. Copies of the EIS shall be made available to the affected communities by the proponent either at the DENR Regional Office, if convenient, or at a local school(s) or library(ies).

5.3.1 Notice of Public Hearing

A notice of public hearing shall be published once a week for two (2) consecutive weeks in any newspaper of general circulation and in the area(s) of the project or activity at least fifteen (15) calendar days prior to a scheduled hearing. Notices shall likewise be posted in conspicuous places in the municipality or barangays where the project or projects are to be located. Expenses for the notices shall be borne by the proponent.

5.3.2 Designation of Hearing Officers

The EMB Director or his duly designated representative shall appoint hearing officers for the conduct of public hearings.

5.3.3 Powers and Duties of Hearing Officers

Hearing Officers shall have the power and authority to conduct proceedings with the aim of eliciting further information and more pertinent facts.

They will ensure that all responsible positions/concerns are afforded an opportunity to be heard.

The Hearing Officers shall submit a report of their findings to the EMB, as appropriate, within five (5) working days after the hearing.

5.3.4 Nature of Proceedings

Public hearings shall be summary in nature and need not strictly adhere to the technical rules of evidence.

Copies of the report shall be considered as public documents and shall be made available to all concerned parties and other interested entities, upon request.

5.3.5 Process Documentation Report

The proponent shall prepare a process documentation report on the public consultation, public hearing, alternative dispute resolution processes which shall be validated by the EMB.

Section 4. *Social Acceptability*

DENR shall guarantee that the EIA process shall be open, transparent, and accessible. To that end, DENR shall publish social acceptability guidelines and describe the responsibilities of all relevant parties in promoting general public understanding of the project or program among the members of the affected local communities. The proponent shall bear the principal responsibility for initiating these meetings and consultations called for in the social acceptability guidelines, and shall attach to its EIS copies of minutes or other appropriate documentation of such meetings and consultations as a demonstration of its responsibility to promote wide public understanding of its project or program.

ARTICLE VI Monitoring

Section 1. *Compliance Monitoring*

6.1.1 Formation of the Multi-Partite Monitoring Team

A multi-partite monitoring team (MMT) shall be formed immediately after the issuance of an ECC. The composition of the Multisectoral Monitoring Team shall broadly represent the sectoral stakeholders of the project or program, and most particularly the local communities. The specific tasks of the members of the MMT shall be provided in a Memorandum of Agreement (MOA) negotiated by the proponent, the DENR and the major stakeholders.

6.1.2 Responsibilities of the MMT

The MMT shall be principally tasked to undertake monitoring of compliance with the ECC conditions, the EMP and applicable laws, rules and regulations. It shall also be tasked to validate impacts predicted in the EIS. The DENR Regional Office with the assistance of EMB shall initiate the formation of a Multisectoral Monitoring Team for an approved project or program and will serve as Chair of the Team's activities. Its principal function will be to provide general oversight over the conditionalities imposed in the ECC. The composition of the Multisectoral Monitoring Team shall broadly represent the sectoral stakeholders of the project or program, and most particularly the local communities.

6.1.3 The project or program administrator (who shall be the successor to the project proponent) shall allow duly credentialed monitoring personnel entry to its premises at all reasonable times during normal business hours to inspect, monitor, and sample.

Section 2. *Discharge Allocations*

Discharge allocations to of sources in the project or program will become operationalized through permits issued by the appropriate DENR Regional Office and administered by the project or program administrator. EIS documentation will establish the discharge levels to be permitted. The Regional Office will also conduct compliance monitoring in order to assure the integrity of the permit limitations and discharge allocations of the project or program.

ARTICLE VII

Environmental Monitoring Fund And Guarantee Funds

Section 1. *An Environmental Monitoring Fund*

Proponents required to submit a programmatic EIS are mandated to include in their EIS a commitment to establish an environmental monitoring fund (EMF) when an ECC is eventually issued. The EMF shall be established not later than the initial construction phase of its project or undertaking. The amount to be allocated for the EMF shall be determined on the basis of the estimated cost of approved post-assessment monitoring and environmental information programs.

Section 2. *Environmental Guarantee Fund*

An environmental guarantee fund (EGF) shall be established for all projects or programs that have been determined by the DENR to pose In addition, where warranted by significant public risk, or where a project or program requires rehabilitation or restoration. DENR is authorized to enter into negotiations with a proponent to ensure its financial responsibility to respond to contingent events should a

response be ordered by any lawful authority such as corrective action for damage to the environment and/or damage to person or property, through exposure to toxic substances or waste. Mechanisms that may be used to demonstrate such financial responsibility include, but are not limited to, commercial insurance, self-insurance through a financial test, surety bond, letter of credit, and trust fund, or a combination of these instruments.

ARTICLE VIII **Economic Incentives**

DENR shall promulgate guidelines on a range of economic incentives that are available to proponents to promote environmental improvement for any project or any incentive mechanisms, through pricing signals, can influence a facility's investment decisions for pollution prevention and control strategies, raw material use, and process technology. Among the incentive mechanisms that will be made available to proponents and their successors (IDA administrators) are offsets, tradeable allowances, pollution charges, user fees, and waste exchange.

The use of economic incentives under EISPC is voluntary. They may be employed for the following purposes:

1. maintain a program or project area within its established pollutant loading limits as defined by the eco-profile
2. provide a means to bring a program or project area that has exceeded its pollutant loading limits into compliance as defined by the eco-profile
3. generate revenues to support an overall environmental management program for the program or project area.

Pollution Management Appraisals (PMAs) are highly recommended procedures to identify opportunities for source reduction or waste minimization. Proponents and IDA administrators shall encourage the widespread use of PMAs among locator firms in the development of economic incentive strategies.

ARTICLE IX **Memorandum of Agreement with Local Government Units**

Section 1. *Briefing*

After the eco-profile of each RIC has been completed pursuant to Section 2.3.4, DENR shall meet with all of the affected Local Government units (LGU) at the

barangay, municipal, and provincial level, together with other organized sectors, and brief them on its technical findings, pursuant to the spirit of Art. 3, Section (c) and (d), rules and Regulations Implementing the Local Government Code of 1991.

Section 2. Execution

After consultations have taken place between DENR and the appropriate LGUs, and appropriate interest is expressed on the part of the LGUs, DENR shall undertake to enter into a Memorandum of Agreement (MOA) with the LGUs, either jointly or severally, with a view toward incorporating, either originally or by amendment, the eco-profile for each RIC into the Comprehensive Land Use Plan required of the LGUs pursuant to Art. 41, Ibid., with particular reference to the requirement therein that "ecological balance" be considered in the Plan.

ARTICLE XIII

Duties and Responsibilities of Actors in the EIS Programmatic Compliance Process

Section 1. Proponents

- 10.1.1 conduct an Environmental Impact Assessment (EIA) of the proposed project and submit its findings to DENR in accordance with the prescribed guidelines.
- 10.1.2 Ecoprofile the project area and its vicinities.
- 10.1.3 Involve the public in project scoping and other appropriate opportunities.
- 10.1.4 Provide a true, complete and accurate EIS (with Accountability Statement attached).
- 10.1.5 Publish the notice of public hearing
- 10.1.6 Provide resource persons to make presentations and answer questions during public meetings and hearings
- 10.1.7 Ensure that appropriate post-assessment permits are in place and that monitoring and reporting are carried out as required
- 10.1.8 Comply with the conditionalities of the ECC
- 10.1.9 Submit the required reports to the DENR

Section 2. DENR

10.2.1 Office of the Secretary

1. Approves and issues EIA policies, plans, programs, and guidelines
2. Advises the President and Congress on the need to enact and modify laws relative to the EIS System
3. Issues or denies issuance of the Environmental Compliance Certificate (ECC) for EIS documents

10.2.2 EMB

1. Formulates, recommends, and coordinates the implementation of EIA policies, plans, programs and guidelines relative to the EIS System
2. In coordination with regional offices, conducts assessments and evaluations of the EIS to serve as basis for recommending the issuance/denial of the ECC and/or advises the proponent that its project as planned needs modification and correction
3. Develops procedural assessment and eco-profile guidelines and prescribes the appropriate scoping guidelines for projects and programs undertaking programmatic compliance
4. Validates or may conduct eco-profiles of areas and natural systems.
5. Serves as the administrative body which carries out certain support procedures of the EIS System
6. Process applications for programmatic ECC.
7. In cooperation with the Regions, solicits in writing comments from other government agencies and persons with expertise or regulatory powers over the proposed projects and programs
8. Conduct on-site inspections for EIS purposes and make necessary recommendations.
9. Initiate the conduct of public hearings.
10. Coordinates with the DENR field offices, local government units (LGUs), non-governmental organizations (NGOs), people's organizations (POs), proponents and other government agencies in the conduct of actual compliance and multisectoral monitoring of projects and programs granted ECC under programmatic compliance

11. Initiate consultations with Local Government Units, and other sectors, with a view toward entering into a Memorandum of Agreement designed to incorporate eco-profiles into LGU Comprehensive Land Use Plans.
12. Recommend approval or denial of the ECC for EIS programmatic compliance under Section 2.4.9.

10.2.3 Regional Offices

1. Implement the laws, policies, plans, programs, projects, rules and regulations of the DENR relative to the EIS System.
2. Investigate EIS-related complaints.
3. Assist EMB in the conduct of the site inspection for EIS purposes and make necessary recommendation.
4. Conduct actual compliance monitoring of projects granted ECCs and prepare the necessary reports.
5. Coordinate with other government agencies, non-governmental organizations, local government units, private offices and proponents in the region in the implementation and enforcement of EIS System rules and regulations and in public information campaigns.
6. Initiate the conduct of public hearings.
7. Encourage pollution prevention programs through economic incentives in coordination with project and program administrators through pollution management appraisals and other means.

10.2.4 PENRO and CENRO

1. Coordinate with local government units, barangay officials, NGOs, POs and local residents relative to the EIS System.
2. Conduct public information campaign regarding the EIS System.
3. Assist the Regional Office in the conduct of on-site inspections and monitoring.

10.2.5 EIA Review Committee

1. Whenever convened, in the discretion of the Regional Office/EMB, assist the EIA unit in the evaluation and review of EIS documents.
2. Make recommendations regarding the issuance of non-issuance of Environmental Compliance Certificate of proposed projects or programs under review.

ARTICLE XI **Schedule of Fees**

Section 1. Payment of Fees

All proponents upon submission of the Programmatic EIS, shall pay a filing fee of PhP 310.00, a processing fee of PhP 100.00 per ha of development area and a legal research fee of PhP 70.00.

Section 2. Additional Costs

The proponent shall be responsible for the payment of all costs relating to the review of its EIS, in accordance with the existing Implementing Rules and Regulations.

ARTICLE IVXII **Penalties, Ground for Cancellation of ECC and Administrative Sanction**

In general, the project or program administrator shall be accountable for compliance with the ECC issued to his project or program; and the individual component facilities under a project or program may be held accountable under other authorities for compliance with their individual permits and for appropriate corrective action. Accordingly, the Secretary of the Department of Environment and Natural Resources or his duly authorized representative shall impose penalties upon project or program administrators found violating provisions of PD 1586 or its implementing rules and regulations. Nothing herein contained, however, shall prevent the imposition of any sanctions, whether civil or criminal, against a project/program's individual component facilities (and their managers) that may be authorized under any other pollution control law or regulation of the Republic of the Philippines that regulates discharges, effluents, emissions, conditions, or procedures to which such individual component facilities are subject.

Section 1. Scope of Violations

12.1.1 Projects or programs defined under Section 2.1.1 found operating without an ECC

12.1.2 Projects or programs found violating ECC conditions

Section 2. *Imposition of Penalties*

12.2.1 A report which will serve as the basis for the imposition of fine must be prepared by EMB or its Regional Office. The report will include the following information, at a minimum:

1. Brief background of the project or program including any previous violation, if any.
2. Nature of the violation and/or the ECC conditions violated.
3. Results and discussion on any measurement, sampling or monitoring activities conducted either by EMB, Regional Environmental Management Protected Areas (EMPAS) or DENR accredited research institutions, academic and or technical organizations.
4. Discussion on the results obtained and the corresponding adverse impacts caused by the violations.
5. Recommended amount of fine to be imposed in accordance with this Order.

12.2.2 The Report shall be submitted to the Director of EMB of the Regional Executive Director (RED), as the case may be, for appropriate action.

12.2.3 The EMB Director or RED shall issue an order for the imposition of penalties.

12.2.4 Corresponding Fines for specific violation types

The violation of ECC requirements is categorized as follows:

A. *Projects or programs which are established and/or are operating without an ECC*

Any project or program which has been classified or is classifiable under Section 2.1.1 and has been established and/or is operating without an ECC shall be liable to penalty.

Any project or program that is subject to programmatic compliance and is operating without an ECC shall be informed by DENR about the nature of the violation and the corresponding amount of fine proposed to be imposed.

The DENR shall evaluate the merits of the explanation submitted by the proponent or the duly authorized representatives of the violating project or program and decide whether or not a fine and the submission of EIS shall be imposed.

The amount of fine shall not exceed P100,000 for each IDA plus P50,000 for every locator established/operating without ECC, at the discretion of the DENR.

The violator shall settle all requirements within forty – five (45) days following notification. A separate violation occurs for each day that extends beyond such forty-five (45) day period without having settled all requirements. The fine shall not exceed P50,000 for each such separate violation. Failure to comply with these requirements also constitutes ground for issuance of an order for the cessation of project or program operation.

B. *Projects or programs violating ECC Conditions*

1. First Violation

The proponent (or the project or program administrator) shall be informed about the nature of the violation by the Director of the EMB or the RED, and shall be asked to explain, within seven (7) days following receipt of notification, why it should not be penalized. The Director of the EMB or the RED shall decide within seven (7) days following receipt of explanation whether the justification is meritorious or a violation has been committed.

The Director of EMB or RED, upon determination that a fine is warranted, shall impose a fine and require the proponent (or the project or program administrator) to submit a remediation plan that will address the violations. The Plan will also contain a time frame for completion of the remediation. The Plan shall be approved by the Director of EMB or RED. If the violator does not submit a Plan within five (5) days of the order to do so by the Director of EMB or RED, the latter shall impose a Plan.

The amount of fine for each violation of the ECC conditions shall not exceed P100,000, which shall be set at the discretion of the DENR. A separate violation occurs for each day that extends beyond the time frame for remediation completion established in the remediation Plan. The fine shall not exceed P100,000 for each such separate violation. Failure to comply with these requirements also constitutes grounds for the summary suspension or revocation of the ECC.

2. Subsequent Violations.

Upon further violation of any ECC condition by any proponents (or project or program administrator), the EMB or Regional Office may order, in addition to the imposition of fines as provided in subsection B.1 (above) of this Sec. 4.2.4 or such other sanctions as may be available under applicable pollution control laws, the cessation of operations and the revocation of the violator's ECC, and shall pursue these remedies under any legal authority available to DENR whether intrinsic or extrinsic to PD 1586 and its rules.

Section 3. *Implementing Body*

The EMB and DENR Regional Offices shall be responsible for determining whether there has been any violation of PD 1586, and its implementing rules and regulations.

Section 4. *Motion for Reconsideration*

All Motions for Reconsideration by the proponent (or the project or program administrator) shall be submitted to the EMB Director or RED within fifteen (15) days following receipt of the DENR order. The EMB Director or the RED shall issue a decision on the Motion for Reconsideration within (30) days following receipt of the motion. The decision of the EMB Director or the RED, as the case may be, shall be final. A Motion for Reconsideration shall not stay the daily accumulation of penalties for non-compliance with a remediation plan.

Section 5. *Appeals*

Any appeal from the decision/order of the EMB Director or RED shall be filed by the proponent (or the project or program administrator) with the Office of the Secretary within fifteen (15) days following receipt of the said order or decision. The Secretary shall issue a decision on the appeal within a period of thirty (30) days following the receipt of the said appeal. The decision of the Secretary shall be final and executory.

ARTICLE XIIIIV **Supplemental Rules and Regulations**

13.1.1 An application for an ECC which has been inactive on the part of the proponent for at least a year shall be returned to the proponent. The DENR shall notify the proponent one month before the application is terminated.

13.1.2 If, after termination, the proponent decides to proceed with its project, it is considered a new application and the proponent shall pay the corresponding fee.

ARTICLE XIV
Transitory Provision

Considering the technical details needed to operationalize this order, the EMB shall prepare the appropriate blueprint plans of action that will prepare the implementation of the order within a period not to exceed one year from the effectivity of the said order.

ARTICLE XV
Effectivity

This Administrative Order shall take effect thirty (30) days after its publication of the Implementing Rules and Regulations in any newspaper of general circulation.

ARTICLE XVI
Repealing Clause

All rules and regulations found inconsistent herewith shall be superseded by this Administrative order.

ANTONIO H. CERILLES

Secretary

RECOMMENDING APPROVAL:

PETER ANTHONY A. ABAYA
Director, EMB

Published at:

MALAYA - January 14, 2000