MEMORANDUM

FOR : The Regional Directors
      EMB Regional Offices

FROM : The OIC, Director

SUBJECT : CLARIFICATION ON THE PROVISIONS OF SECTION 11
           OF THE PROCEDURAL MANUAL FOR DAO 2003-30
           "FINES, PENALTIES AND SANCTIONS."

DATE : SEP 08 2005

This refers to the request for clarification on the provisions of Section 11
of the Procedural Manual for DAO 2003-30 "Fines, Penalties and Sanctions," of
the Regional Directors of EMB CALABARZON and MIMAROPA Regions.

In the said memo, three points were raised:

1. Whether or not the phrase “operating without an ECC” includes the pre-
   construction stage of the project;
2. Whether or not the penalty of Php 50,000.00 is fixed even for projects
   that commenced its implementation but are not yet in actual operation;
   and
3. Whether or not the table under paragraph 2 of Section 11.2 Computation
   of Fines shall be used in reducing penalties for ECC violations.

The table (mechanics of fine reduction) presented in Chapter 11, Section
11.2. (Computation of Fines) found in page 131 referred only to computation
for the reduction of penalties for projects found operating without an ECC per
30 September 2003 Memorandum Circular No. 15 Series of 2002 on the “Scope
of Violations and Guidelines for the Imposition of Penalties for Violations under
the Philippine EIS System (P.D. 1586) signed by former Secretary Heherson T.
Alvarez. In answer to the three questions raised by the Regional Directors:

1. The phrase “operating without an ECC” refers to projects implemented
   without an ECC. Implementation of a project may be defined as the time
   of the start of construction, (i.e. excavation works). For projects which do
   not require construction, implementation of the project starts when the
   machines are operated;
2. The maximum penalty for implementing a project without an ECC is Php
   50,000.00. Whether or not a project is in actual operation, a project that
   has commenced its implementation, is deemed “operating without an
   ECC”, and may be subjected to penalty as computed based on MC 2002-15;
   and
3. Since the table under paragraph 2 of Chapter 11, Section 11.2 refers to
   MC 15 Series of 2002, computation of Fines shall be used in reducing
   penalties for projects operating without an ECC and not for violations of
   ECC conditions.

Please be guided accordingly.

ATTY. LOLIBETH R. MEDRANO