



LEGAL PROCEDURES ON ENVIRONMENTAL VIOLATIONS AND CASES

Maria Rizza Carmela T. Ranjo

Senior Environmental Management Specialist

Legal Unit, Office of the Regional Director

EMB MANDATES

The EMB is mandated to implement the following national environmental laws:

- PD 1586 (Environmental Impact Statement System)
- RA 6969 (Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990) RA 9003 (Ecological Solid Waste Management Act of 2000)
- RA 9275 (Philippine Clean Water Act of 2004)
- RA 8749 (Clean Air Act of 1999)
- RA 9512 (Environmental Awareness and Education Act of 2008)



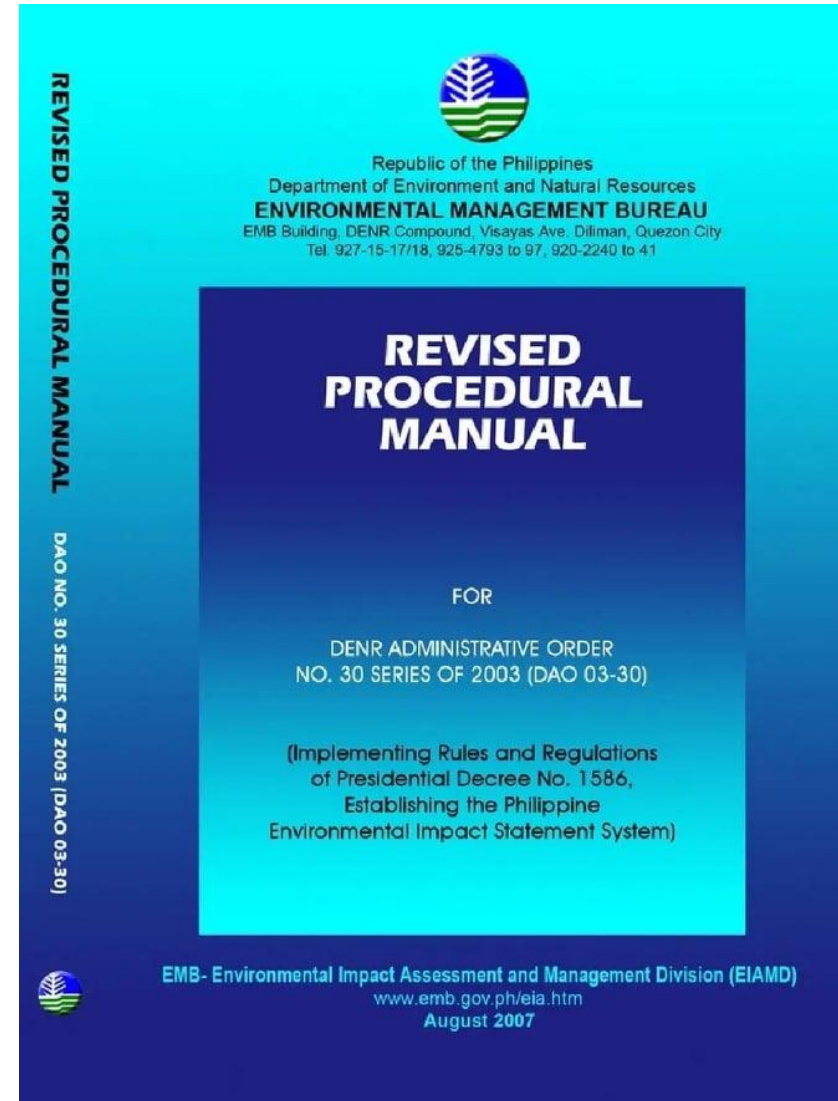
PD 1586

- Established to facilitate the attainment & maintenance of a rational & orderly balance between socio-economic growth & environmental protection
- Introduced the concepts of Environmentally Critical Projects (ECP) and projects within Environmentally Critical Areas (ECA) as projects requiring the submission of an Environmental Impact Statement (EIS)



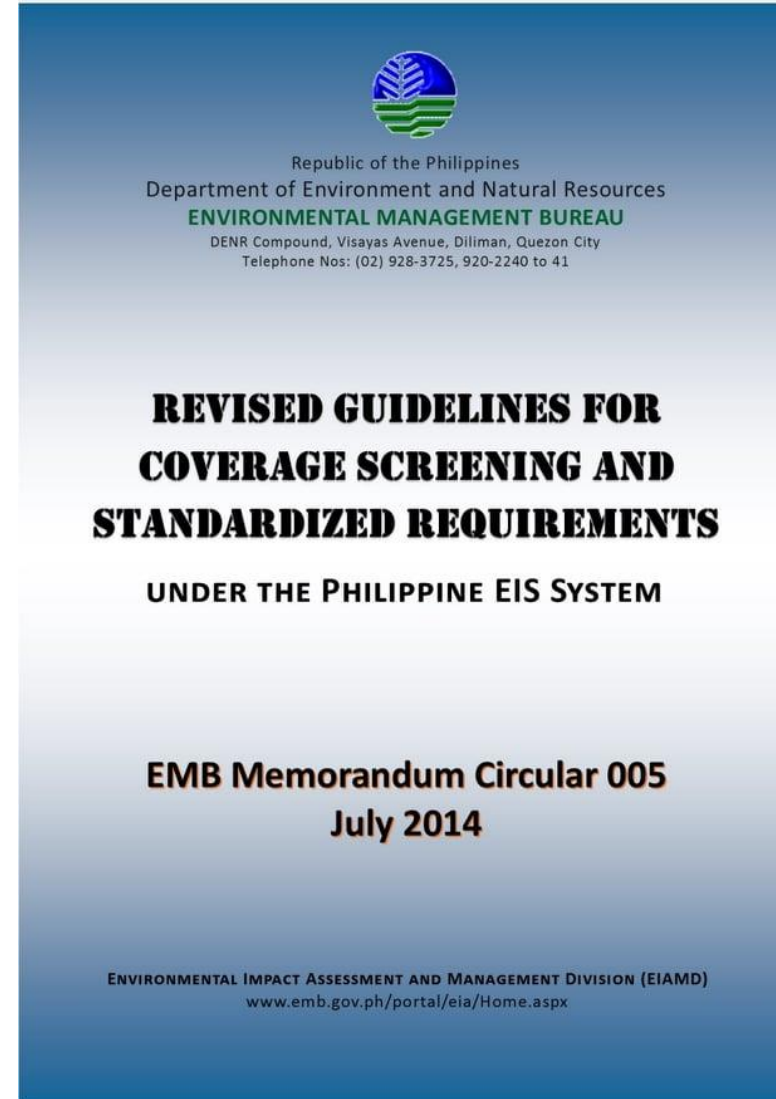
PD 1586

- DAO 2003-30
- Implementing Rules and Regulations (IRR) for the Philippine Environmental Impact Statement (EIS) System



PD 1586

- MC 005-2014 provided clearer and updated technical definitions and description of undertakings
- Provided procedure for determining categories of projects
- Project Thresholds for Coverage Screening and Categorization (Annex A)



PD 1586

Section 4 of PD 1586 states that *“no person partnership or corporation shall undertake or operate any environmentally critical project or operate in an environmentally critical area without first securing an Environmental Compliance Certificate”*.

Penalty for Operating Without an ECC : FIFTY THOUSAND PESOS (P50,000.00)

Violation of ECC Condition: FIFTY THOUSAND PESOS (P50,000.00) per condition per violation





SAMPLE NOV FOR
PD 1586 : Operating
without ECC

NAME
Designation
PROJECT NAME
Address

NOTICE OF VIOLATION

Notice is hereby served upon you for undertaking the **PROJECT NAME** project located at ADDRESS in violation of Section 4 of Presidential Decree No. 1586, otherwise known as the "Philippine Environmental Impact Statement System" based on report of inspection by this Office dated 03 July 2023.

ACT CONSTITUTING VIOLATION	
Findings	Governing Law, Rules and Regulations
Undertaking Road Construction Project without first securing an Environment Compliance Certificate (ECC)	Section 4 of PD 1586 states that "no person partnership or corporation shall undertake or operate any environmentally critical project or operate in an environmentally critical area without first securing an Environmental Compliance Certificate". Based on Item no. 3.4.1 of Annex A "Project Thresholds for Coverage Screening and Categorization of EMB MC 005 of the Revised Procedural Manual for DAO 2003-30 dated July 2014," All new Road construction with length of more than 2km are required to secure an Environmental Compliance Certificate (ECC)

In view of the foregoing, Respondent is hereby directed to submit with the Environmental Management Bureau – MIMAROPA Region (EMB-MIMAROPA) satellite office, at 6th Floor, DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila, a notarized position paper within **fifteen (15) days** upon receipt hereof, why no penalties in an amount not to exceed **FIFTY THOUSAND PESOS (P50,000.00)** should be imposed against you pursuant to Section 9 of P.D. 1586 and Section 16b, Article IV of DENR Administrative Order No. 2003-30. Furthermore, all activities and/or operations are hereby ordered suspended unless and until an Environmental Compliance Certificate has been secured from this Office.

Failure to submit the required position paper within the reglementary period shall be considered by this Office as a waiver of your right to be heard and present evidence on your behalf. Thus, the case will be resolved according to the available documents on record.

The **Chief, Provincial Environmental Management Unit – Palawan** or her duly authorized representative is directed to serve this notice of violation within seventy-two (72) hours from receipt hereof. A report shall likewise be submitted to the undersigned within forty-eight (48) hours upon execution thereof stating the proceedings taken therein.

JOE AMIL M. SALINO
Regional Director

Copy furnished:

Provincial Environmental Management Unit – Palawan
PENRO Compound, Sta. Monica, Puerto Princesa City, Palawan

PENRO Compound, Brgy. Saqui, Calapan City, Oriental Mindoro
Regional Satellite Office: 6th Floor DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila
Office of the Regional Director: (02) 8536 9786; Administrative and Finance Division: (02) 8536 9786
Environmental Management and Enforcement Division: (02) 8633 2587; Clearance and Permitting Division: (02) 8633 2587
Records Management Unit: (02) 8633 8900
E-mail Address: embmimaropa@emb.gov.ph
Website: www.mimaropa.emb.gov.ph





SAMPLE NOV FOR

PD 1586 : Violation of ECC Conditions

Ms.
Managing Head
Project Name
Address

NOTICE OF VIOLATION

Notice is hereby served upon Respondent's Project Name with Environmental Compliance Certificate No. ECC-R4B-XXXX-XXXX issued on 30 September 2009 located at Project Address for the violations of the ECC conditions based on the result of inspection conducted by this Office last 09 May 2023, to wit:

GENERAL CONDITIONS	NATURE OF VIOLATION
2. An Environmental Officer (EO)/Pollution Control Officer (PCO) must be appointed to handle environmental impact management related aspects of the project as specified in the Impact Management Plan (IMP) and the Environmental Monitoring Plan (EMoP).	Failed to designate an accredited Pollution Control Officer
4. The project operations shall conform to the applicable provisions of RA 6969 (Toxic Substances, Hazardous Waste Control Act of 1990), RA 8749 (Philippine Clean Air Act of 1999), RA 9003 (Ecological Solid Waste Management Act of 2000), RA 9275 (Philippine Clean Water Act of 2004).	RA 6969 Failed to register online as a Hazardous waste Generator. RA 9275 Operating without Discharge Permit

Item 33 (c) of the Revised Procedural Manual for Department Administrative Order No. 30 Series of 2003, Implementing Rules and Regulations of Presidential Decree No. 1586 Establishing the Philippine Environmental Impact Statement System, provides that -

*"In case of violation of ECC conditions, EMP, or EIS rules and regulations: The sum of **P50,000.00** is set as the maximum amount of fine **per violation**. Violation of one condition in the ECC is an offense separate and distinct from the violation of another condition."*

Likewise, your Environmental Compliance Certificate clearly states that -

*"Non-compliance with any of the provisions of this ECC shall be a sufficient cause for the cancellation or suspension of this certificate and/or imposition of a fine in an amount not to exceed **FIFTY THOUSAND PESOS (P50,000.00) FOR EVERY VIOLATION THEREOF.**"*

In view of the foregoing, Respondent is hereby directed to submit with the Environmental Management Bureau – MIMAROPA Region (EMB-MIMAROPA) satellite office, at 6th Floor, DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila, a notarized position paper within **fifteen (15) days** upon receipt hereof, why you should not be held liable under PD 1586, and that no Order shall be



RA 6969

- It has been recognized that the public and the environment are at risk in the use or exposure to chemicals as well as the long-term damage brought about by careless handling or disposal of hazardous wastes.
- To control, supervise and regulate activities on toxic chemicals and hazardous waste. Under this act importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal of all chemical substances and mixtures in the Philippines, as well as the entry even in transit, or storage and disposal of hazardous and nuclear wastes are regulated. (generation, transport, storage, re-use/recycling, treatment and disposal)

RA 6969

11.0 PROHIBITED ACTS AND PENALTIES

11.1 ADMINISTRATIVE VIOLATIONS

Administrative violations as provided for under Section 41 of DAO 92-29 related to hazardous waste management is hereby amended to include but not limited to the following:

Table 11.1 Fines for Administrative Violations

Administrative Violation	Fines (PhP)
a) Failure to provide appropriate information to the DENR upon registration	50,000.00
b) Submission of documents containing false information;	50,000.00
c) Failure to comply with reporting requirements under the law	50,000.00
d) Failure to comply with the conditions of a permit, except those specified herein	50,000.00/ condition violated
e) Failure to comply with labeling requirements	50,000.00
f) Failure to place placards on the conveyance/vehicle	50,000.00
g) Failure to comply with the subpoena or subpoena duces tecum issued by the Secretary or his duly authorized representative	50,000.00



RA 6969

h) Failure to provide required information within the period mandated by these regulations	50,000.00
i) Violation of any of the provisions on the Governing Rules and Regulations	10,000.00
j) In addition to the above stated penalties, violation of any of the provisions on any of the Governing Rules and the rules covering the Contingency Program shall result in the immediate suspension of the Permit issued to said violator	
Waste Generators	
a) Failure to submit a completed copy of the Hazardous Waste Manifest Form to the DENR	50,000.00
b) Performs the functions of a TSD Facility without the appropriate TSD Facility Permit	50,000.00
Waste Transporters	
a) Conveys or transports hazardous wastes without the proper manifest forms	50,000.00
b) Conveys or transports hazardous wastes without the proper labels and placards	50,000.00

RA 6969

Revised Procedures and Standards for the Management of Hazardous Wastes (Revising DAO 2004-36)

Administrative Violation	Fines (PhP)
c) Conveys or transports hazardous wastes in transports not suitable for the hazardous waste being transported	50,000.00
TSD Facilities	
a) Accepts hazardous wastes without the proper manifest	50,000.00
b) Stores, recycles, reprocesses, treats or disposes of hazardous wastes at a TSD facility without the appropriate TSD facility permit	50,000.00
c) Failure to notify the DENR of the residuals generated as a consequence of its recycling, reprocessing or treatment activities	50,000.00
Importers and Exporters	
a) Importing recyclable materials containing hazardous substances without securing import clearance from the DENR	50,000.00
b) Exporting hazardous wastes or materials containing hazardous substances without securing an export clearance from the DENR	50,000.00



SAMPLE NOV FOR

RA 6969 : Failure to register as a Hazardous Waste Generator online



Department of Environment and Natural Resources
Environmental Management Bureau
MIMAROPA Region

Mr.
Managing Head
Project Name
Address

NOTICE OF VIOLATION

Notice is hereby served upon you for having violated Republic Act 6969 otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990", particularly 3.3 of DAO 2013-22, IRR of RA 6969, requiring waste generators to register and pay the registration fee to the EMB Regional Office having jurisdiction over the location of the waste generator.

The result of inspection conducted by this Office on 13 May 2023 revealed that your **project name or project type** located in **address** failed to register online as a hazardous waste generator online.

11.1 of DAO 2013-22, the implementing rules and regulations of RA 6969, provides for the fines for administrative violations. 11.1(i) states that violation of any of the provisions on the Governing Rules and Regulations is PhP10,000.00.

The foregoing considered, you are directed to submit with the Environmental Management Bureau – MIMAROPA Region (EMB-MIMAROPA) satellite office, at 6th Floor, DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila, a **notarized position paper within fifteen (15) days** upon receipt hereof, why you should not be held liable for a total fine amounting to **Ten Thousand Pesos (PhP10,000.00)** for the above violations pursuant to Section 15 of RA 6969 and 11.1 of DAO 2013-22.

Failure to submit the required position paper within the reglementary period shall be considered by this Office as a waiver of your right to be heard and present evidence on your behalf. Thus, the case will be resolved according to the available documents on record.

The **Chief, Provincial Environmental Management Unit-Oriental Mindoro** or her duly authorized representative is directed to serve this notice of violation within seventy-two (72) hours from receipt hereof. A report shall likewise be submitted to the undersigned within forty-eight (48) hours upon execution thereof stating the proceedings taken therein.

JOE AMIL M. SALINO
Regional Director

Copy furnished:

Provincial Environmental Management Unit-Oriental Mindoro
Sitio II, Ilang – Ilang St., Brgy. Suqui, Calapan City, Oriental Mindoro



FENRO Compound, Brgy. Suqui, Calapan City, Oriental Mindoro
Regional Satellite Office: 6th Floor DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila
Office of the Regional Director: (02) 8536 9786; Finance and Administrative Division: (02) 8536 9786;
Environmental Management and Enforcement Division: (02) 8633 2587;
Clearance and Permitting Division: (02) 8633 2587; and
Records Management Unit: (02) 8633 8909
E-mail Address: embmimaropa@emb.gov.ph
Website: www.mimaropa.emb.gov.ph



RA 9003

- Declares the policy of the state in adopting a systematic, comprehensive and ecological solid waste management program that ensures the protection of public health and the environment and the proper segregation, collection, transport, storage, treatment and disposal of solid waste
- Under RA 9003, LGUs are **primarily responsible for the effective and efficient solid waste management, particularly garbage segregation and disposal**. Every LGU is required to develop a 10-year Solid Waste Management Plan (SWMP), including the establishment of materials recovery facilities (MRF) and sanitary landfills.



RA 9003

Prohibited Acts

- Littering, throwing and dumping of waste matters in public places and water
- Open burning of solid waste
- Collection and transport of non-segregated or unsorted waste
- Squatting in open dumpsite and landfills
- Open dumping, burying of biodegradable & non-biodegradable materials in flood prone areas
- Unauthorized removal of recyclable materials for collection by authorized persons



RA 9275

- The Philippine Clean Water Act of 2004 (Republic Act No. 9275) aims to protect the country's water bodies from pollution from land-based sources (industries and commercial establishments, agriculture and community/household activities).
- It provides for a comprehensive and integrated strategy to prevent and minimize pollution through a multi-sectoral and participatory approach involving all the stakeholders.



RA 9275

Prohibited Acts *(samples; refer to Sec. 27)*

- Failure to appoint or designate a Pollution Control Officer
- Failure to submit the required Self Monitoring Reports (SMRs)

Penalty

💧 23,579.48 per year

💧 23,579.48 per report



RA 9275

Prohibited Acts *(samples; refer to Sec. 27)*

- Operating facilities that discharge regulated water pollutants without the valid required permits or after the permit was revoked.
- Failure to undertake clean-up operations

Penalty

- 23,579.48 per year
- Imprisonment not less than 2 yrs. But not more than 4 yrs and/or a fine of not less than PhP50,000 but not more than PhP100,000 per day of violation

RA 9275

Prohibited Acts *(samples; refer to Sec. 27)*

- Failure or refusal which results in serious injury or loss of life and/or irreversible water contamination of surface, ground, coastal and marine water

Penalty

- 💧 Imprisonment of not less than six (6) years and one day and not more than twelve (12) years, and a fine of Five Hundred Thousand Pesos (P500,000.00) per day for each day during which the omission and/or contamination continues.





**SAMPLE NOV FOR
RA 9275 : Operating
without DP**

Ms.
Managing Head
Project Name
Address

NOTICE OF VIOLATION

Notice is hereby served upon you for having violated the provision of Republic Act 9275 or the "Philippine Clean Water Act of 2004" based on the findings of the monitoring and verification conducted by this Office last 10 July 2023.

ACTS CONSTITUTING VIOLATION

Findings	Governing Law, Rules, and Regulations
Operating without Discharge Permit (Established: 2021)	Section 14 of RA 9275, requiring owners or operators of facilities that discharge regulated effluents to secure a Permit to Discharge. PAB Resolution No. 5, series of 2021 provides that, a fine of Twenty-Three Thousand Five Hundred Seventy-Nine Pesos and Forty-Eight Centavos (PhP 23,579.48) shall be imposed for every year of violation from 2022 onwards. (While Ten Thousand Pesos shall be imposed for every year operating without a valid permit for years 2012-2019 and Nineteen Thousand Five Hundred Pesos for every year operating without a valid permit for years 2020-2021). <i>2021 : Php 19,500.00</i> <i>2022 : Php 23,579.48</i> Fine: Php 43,079.48
Failure to designate an accredited Pollution Control Officer	Section 27 (n) of RA 9275, requiring establishment to designate Pollution Control Officer. PAB Resolution No.5, series of 2021 provides that, a fine of Twenty-Three Thousand Five Hundred Seventy-Nine and 48/100 Pesos (PhP23,579.48) shall be imposed for the violation. Fine: Php 23,579.48

The foregoing considered, you are directed to submit with the Environmental Management Bureau – MIMAROPA Region (EMB-MIMAROPA) satellite office, at 6th Floor, DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila, a **notarized position paper within fifteen (15) days** upon receipt hereof, why you should not be held liable for a total fine amounting to **Sixty-Six Thousand Six Hundred Fifty-Eight Pesos and Ninety-Six Centavos (Php 66,658.96)** pursuant to *Section 28 of RA 9275*, as amended by Pollution Adjudication Board (PAB) Resolution No. 5, Series of 2021.

Failure to submit the required position paper within the reglementary period shall be considered by this Office as a waiver of your right to be heard and present evidence on your behalf. Thus, the case will be resolved according to the available documents on record.

The **Chief, Environmental Management Services – Romblon** or his duly authorized representative is directed to serve this notice of violation within seventy-two (72) hours from

PENRO Compound, Brgy. Suqui, Calapan City, Oriental Mindoro
Regional Satellite Office: 6th Floor DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila
Office of the Regional Director: (02) 8536 9786; Administrative and Finance Division: (02) 8536 9786
Environmental Management and Enforcement Division: (02) 8633 2587; Clearance and Permitting Division: (02) 8633 2587
Records Management Unit: (02) 8633 8900
E-mail Address: embmimaropa@emb.gov.ph
Website: www.mimaropa.emb.gov.ph



RA 8749

- Republic Act No. 8749, otherwise known as the Philippine Clean Air Act, is a comprehensive air quality management policy and program which aims to achieve and maintain healthy air for all Filipinos.
- Created to protect public health and welfare from different types of air pollution caused by a diverse array of pollution sources

RA 8749

Prohibited Acts;

- for violation of actual exceedance of air quality standards
- Operating air pollution source installations without a valid permit

Penalty

- 💧 Not less than 19,500.00 but not more than 100,000.for every day of violation against the owner of the source. Cease and desist order shall also be issued.
- 💧 19,500.00 per five (5) years)

SAMPLE NOV FOR

RA 8749 : Operating without PTO



Department of Environment and Natural Resources
Environmental Management Bureau
MIMAROPA Region

NAME
Managing Head
PROJECT NAME
Address

NOTICE OF VIOLATION

Notice is hereby served upon you for having violated the provision of Republic Act No. 8749 or the Clean Air Act of 1999 based on the findings of the monitoring conducted by this Office last 11 April 2023;

ACTS CONSTITUTING VIOLATION

Findings	Governing Law, Rules, and Regulations
Operating air pollution source installation with expired Permit to Operate	Section 1 of DAO No. 2004-26 requires all sources of air pollution to have a valid permit to operate issued by the EMB Regional Director PAB Resolution No. 1, series of 2019 provides that, a fine of Nineteen Thousand Five Hundred Pesos (PhP19,500.00) shall be imposed for every five years of violation. Fine: Php 19,500.00

The foregoing considered, you are directed to submit with the Environmental Management Bureau – MIMAROPA Region (EMB-MIMAROPA) satellite office, at 6th Floor, DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila, a **notarized position paper within fifteen (15) days** upon receipt hereof, why you should not be held liable for a total fine amounting to **Nineteen Thousand Five Hundred Pesos only (PhP 19,500.00)** for the above violation pursuant to Section 47, Chapter VI of R.A. 8749 and PAB Resolution No. 1, Series of 2019.

Failure to submit the required position paper within the reglementary period shall be considered by this Office as a waiver of your right to be heard and present evidence on your behalf. Thus, the case will be resolved according to the available documents on record.

The **Chief, Provincial Environmental Management Unit-Oriental Mindoro** or her duly authorized representative is directed to serve this notice of violation within seventy-two (72) hours from receipt hereof. A report shall likewise be submitted to the undersigned within forty-eight (48) hours upon execution thereof stating the proceedings taken therein.

JOE AMIL M. SALINO
Regional Director

Copy furnished:

Provincial Environmental Management Unit-Oriental Mindoro
Sitio II, Itang – Itang St., Brgy. Suqui, Calapan City, Oriental Mindoro



PENRO Compound, Brgy. Suqui, Calapan City, Oriental Mindoro
Regional Satellite Office: 6th Floor DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila
Office of the Regional Director: (02) 8536 9786; Finance and Administrative Division: (02) 8536 9786;
Environmental Management and Enforcement Division: (02) 8633 2587;
Clearance and Permitting Division: (02) 8633 2587; and
Records Management Unit: (02) 8633 8900
E-mail Address: embmimaropa@emb.gov.ph
Website: www.mimaropa.emb.gov.ph



NOVs Issued for violation
of

PD 1586,

RA 6969,

RA 9275,

RA 8749

EMB MEMORANDUM CIRCULAR

No. 2020 - 21

**SUBJECT : SUPPLEMENTAL RULES OF THE EMB MANUAL FOR
UNIFORM PROCEDURES FOR COVID-19 PANDEMIC**

Pursuant to Proclamation No 922, “*Declaring a State of Public Health Emergency throughout the Philippines*”, and the implementation of Enhanced Community Quarantine and General Community Quarantine over the entire Island of Luzon and other areas of the Philippines in view of the measures adopted to combat COVID-19, and the need for the continuity of operations for the enforcement of laws in the Environmental Management Bureau, the following supplemental rules are herein adopted:



ITEM I – GENERAL PROVISIONS

NOVs Issued for violation
of

PD 1586,

RA 6969,

RA 9275,

RA 8749

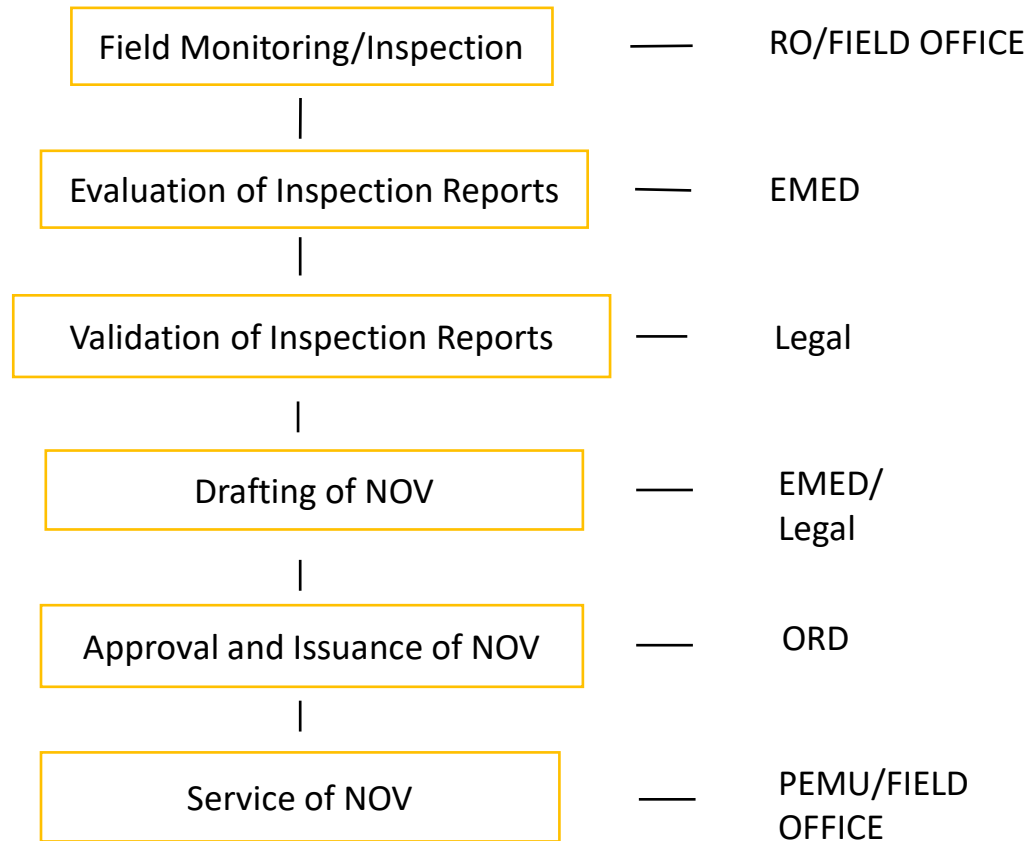
Section 1. *Title of the Rules.* These Rules shall be known and cited as the Supplemental EMB Uniform Procedure for COVID-19 Pandemic.

Section 2. *In What Offices Applicable.* These Rules shall apply in the Regional and Central Offices of the Environmental Management Bureau.

Section 3. *Construction.* These Rules shall be liberally construed in order to promote their objective of securing a just, speedy, and inexpensive disposition of every action and proceeding.



Process of Issuance of NOVs



Section 1. *Personal Service.* As far as practicable and if convenient, all notices, communications, pleadings, may be personally served by officers of EMB.

All orders, decisions, or resolutions, shall be personally served by officers of EMB. Acknowledgment of receipt of such a document must be acquired by the officer.

Section 2. *Substituted Service.* In case of difficulty in conducting the personal service of all notices, communications, pleadings, orders, decisions, or resolutions, shall be served by officers of EMB, the office may serve the same through registered mail or courier service. A Cease and Desist Order (CDO), however, must be served personally by EMB Officer. Acknowledgment of receipt of such a document must be ensured to be acquired by the officer from such registered mail or courier service.

Section 3. *Electronic Service.* In case that the notices, communications, and other pleadings shall be served to the official electronic mail address of the respondent or its Pollution Control Officer, service must be done through the official electronic mail address of the Records Office of the EMB Office concerned, or through the OPMS, as the case may be.



ITEM VI – ANSWER

Section 1. *When must the Answer be filed.* Within fifteen (15) days from the receipt of the Notice of Violation, or upon attendance to the date of the technical conference, the respondent must file his answer, raising his defenses and position to the allegations on the Notice of Violation.

Section 2. *Form of Answer.* The answer must specifically respond to each of the allegations made on the Notice of Violation, supported by documents or proof, and the same be signed by the party or counsel representing him, stating, in either case, his address which should not be a post office box.

Section 3. *How to File Answer.* The respondent may file his responsive pleading by either personal or substituted service to the EMB Office concerned, or through the official electronic mail of the EMB Office, copy furnished the complainant.

Section 4. *Failure to File Responsive Pleading.* In case the respondent fails to submit its Answer to the Notice of Violation, the case shall be decided based on the merits and records of the proceedings of the case.



ITEM VII – TECHNICAL CONFERENCE

Section 1. *Purpose.* A technical conference is a consultation or a formal meeting called or convened by the EMB Central or Regional Office primarily for:

- a. Allowing the respondent or his duly authorized representative to contest the basis of a Notice of Violation;
- b. Informing the respondent of the possibility of imposition and/or accrual of fines;
- c. Simplification of facts and issues;
- d. Obtaining a commitment from the respondent to implement remedial measures to abate or mitigate the pollution complained of, or undertake to comply with the required licensing or permitting conditions or requirements or requirements of the regulations, as applicable, among others.

Section 2. *When conducted.* Upon motion of the complainant, or order of the EMB Director or Regional Director, the technical conference may be held in a place or manner specified, and as far as practicable, within fifteen (15) days from the receipt of the Notice of Violation.

Section 3. *How conducted; Social Distancing Measures; E-TechCon.* Parties to the case must appear before the Hearing Officer in a place and to the date designated by the EMB Office.

The EMB Central or Regional Offices may adopt physical attendance with social distancing measures, or video-conferencing, or a combination of both, for the conduct of Technical Conference.





EMB MEMORANDUM CIRCULAR
 No. 2021 - **10**

SUBJECT: GUIDELINES FOR PAYMENT OF FINES AND PENALTIES FOR VIOLATION OF ENVIRONMENTAL LAWS, RULES, AND REGULATIONS DURING THE IMPLEMENTATION OF COMMUNITY QUARANTINE

In view of the outbreak of the Coronavirus Disease 2019 (COVID-19) and pursuant to the policy of the State to promote a just and dynamic social order that will ensure the prosperity of the nation and free the people from poverty, particularly in the aftermath of natural and man-made disasters, the following guidelines for payment of fines and penalties for permitting and administrative violations are hereby temporarily implemented.

SECTION I. SCOPE AND COVERAGE

This Circular shall provide guidelines for the staggered payment of fines and penalties imposed against the establishments /development projects nationwide covered by Presidential Decree No. 1586 or the Philippine Environmental Impact Statement System, Republic Act No. 6969 or the Toxic Substances and Hazardous and Nuclear Wastes Control Act, and its respective Implementing Rules and Regulations which were found administratively liable for operation without a valid permit/clearance/certificate/registration and/or violation of the terms and conditions provided therein prior or during the implementation of community quarantine. *Provided*, the order, decision, or resolution imposing fines and penalties is issued within the duration of community quarantine.

SECTION II. EXCLUSION

Permitting and administrative violation under Republic Act No. 8749 (RA 8749) or the Philippine Clean Air Act and Republic Act No. 9275 (RA 9275) or the Philippine Clean Water Act shall be excluded from the applicability of this Memorandum Circular and shall be governed by applicable Pollution Adjudication Board (PAB) guidelines.

SECTION III. PROCEDURE FOR STAGGERED PAYMENT

Establishments/ development projects being imposed with fines and penalties for permitting and administrative violations may opt to pay on a staggered basis during the community quarantine in the following manner:

- a. With penalties up to Php100,000.00, 20% initial payment upon the filing of an application for the required permit/clearance/certificate/registration and the balance may be paid within twelve (12) months installments from the availment of such either in cash or by issuing post-dated checks for the corresponding months;



Page 1 of 3

- b. With penalties exceeding Php 100,000.00, the establishment shall settle the 20% initial payment upon the filing of an application for the required permit/clearance/certificate/registration, and the balance may be paid within twelve (12) months installments from the availment of such either in cash or by issuing post-dated checks for the corresponding months or it may be paid in installments with the installment payment to the mosaic, etc., but in no case shall exceed the duration of the permit/clearance/certificate/registration.

- c. In case the establishment/development projects opted to pay the fines in accordance with this Section but fail to pay the same for at least one (1) installment or the issued post-dated check is dishonored by the bank due to insufficient funds, the full amount shall immediately be due and demandable without prejudice to the filing of a criminal case pursuant to applicable penal laws. Should the respondent still fail to settle its obligation, the second paragraph of the next Section shall apply.

Provided, the establishment/development projects shall comply with all environmental laws, rules, and regulations mandated by the EMB, and violation of the same within the duration of approved installments shall be a ground to demand from the respondent the full payment of the balance of imposed fines and penalties and/or revocation/cancellation/suspension of issued permits/clearance/certificate/ registration.

SECTION IV. NON-IMPOSITION OF FINES AND PENALTIES

The Bureau shall desist from imposing fines and other monetary penalties¹ during the existence of the community quarantine starting from 15 March 2020 until the same is lifted for non-filing or late filing of reportorial requirements such as but not limited to Compliance Monitoring Report (CMR), Self-Monitoring Report (SMR) as required by applicable environmental laws, rules, and regulations covered by this Memorandum Circular.

SECTION V. APPROVAL OF NEW AND PENDING APPLICATION

All pending new and renewal applications for permits/ clearances/certificates/registrations of the establishments/development projects which were found administratively liable for administrative and permitting violations shall be acted upon the effectivity of this Circular subject to Section 3, Item V of EMB Memorandum Circular No. 2020-21. *Provided*, it has been verified that the establishment/development projects applying for such permit/clearance/certificate/ registration do not have a pending case before the PAB for violation of RA 8749 and RA 9275, other than permitting and administrative violations. *Provided further*, the establishment already settled the initial payment for the imposed fines and penalties as set forth in this Circular.

SECTION VI. OPTION TO AVAIL STAGGERED PAYMENT

The Order, Decision, or Resolution to be issued by the EMB office imposing the fines and penalties for operating without a valid permit/clearance/certificate/registration or violation of the conditions of the permit/clearance/certificate/registration shall include in its dispositive portion that the establishment/development project may manifest through a letter to apply for staggered payment scheme within fifteen (15) days from receipt pursuant to these guidelines in the manner provided under Section III of this Circular. Failure to manifest to avail this payment scheme within the prescribed period shall be understood that the fines shall be paid in full.

¹ Sec. 4 (www) of the Bayanihan to Recover as One Act



Page 2 of 3



Upon availment of this payment scheme, no succeeding renewal applications, if applicable, shall be acted upon unless full payment of fines and penalties in accordance with this Circular has been made on or before the expiration of such permit/clearance/certificate/registration being applied for.

In case the establishment/development project opts to pay the imposed fines through staggered payment the same shall be a condition to the permit/clearance/certificate/registration that will be issued to it.

SECTION VII. DISCOVERY OF THE VIOLATION COMMITTED

The establishments/development projects, which operated during the community quarantine without a valid permit/clearance/certificate/registration, but such violation was discovered by the EMB after the lifting of this Circular, shall not be entitled to avail this payment scheme. Instead, the fines and penalties shall be paid in full upon finality of the decision ordering payment for said violations.

SECTION VIII. REPORTORIAL REQUIREMENTS

The Regional Offices shall submit a monthly report to the EMB-Central Office of the establishments/development projects availing the staggered basis of payment for violation of PD 1586 and RA 6969 and to the PAB for violation of RA 8749 and RA 9275.

SECTION IX. LIFTING OF THE DECLARATION OF COMMUNITY QUARANTINE

These guidelines shall cease to have force and effect in regions that formally lifted the declaration of community quarantine. However, establishments/development projects which availed the payment of fines and penalties in accordance with these provisions shall continue to pay the said penalties within the period as herein provided even after the lifting of this Circular.

SECTION X. SEPARABILITY CLAUSE

If any provision of this Memorandum Circular is declared unconstitutional or invalid by a competent court, other sections or provisions hereof which are not affected thereby shall continue to be in full force and in effect as if the provisions/sections so canceled had never been incorporated herein.

SECTION XI. EFFECTIVITY

This Memorandum Circular shall take effect immediately after its publication in a newspaper of general circulation and upon acknowledgment of receipt of a copy thereof by the Office of the National Administration Registrar (ONAR), UP Law Center.

Issued this 1st day of July 2021.

ENCR. WILLIAM P. CUÑADO
 Director



PAB

- The Pollution Adjudication Board (PAB) has the exclusive and original jurisdiction with respect to adjudication of air and water pollution cases
- Quasi-judicial body created under Section 19 of Executive Order 192 for the adjudication of pollution cases
- **Composition:**
 - DENR Secretary as the Chairman
 - 2 DENR Undersecretaries
 - EMB Director
 - 3 others designated by the Secretary as its members.



PAB

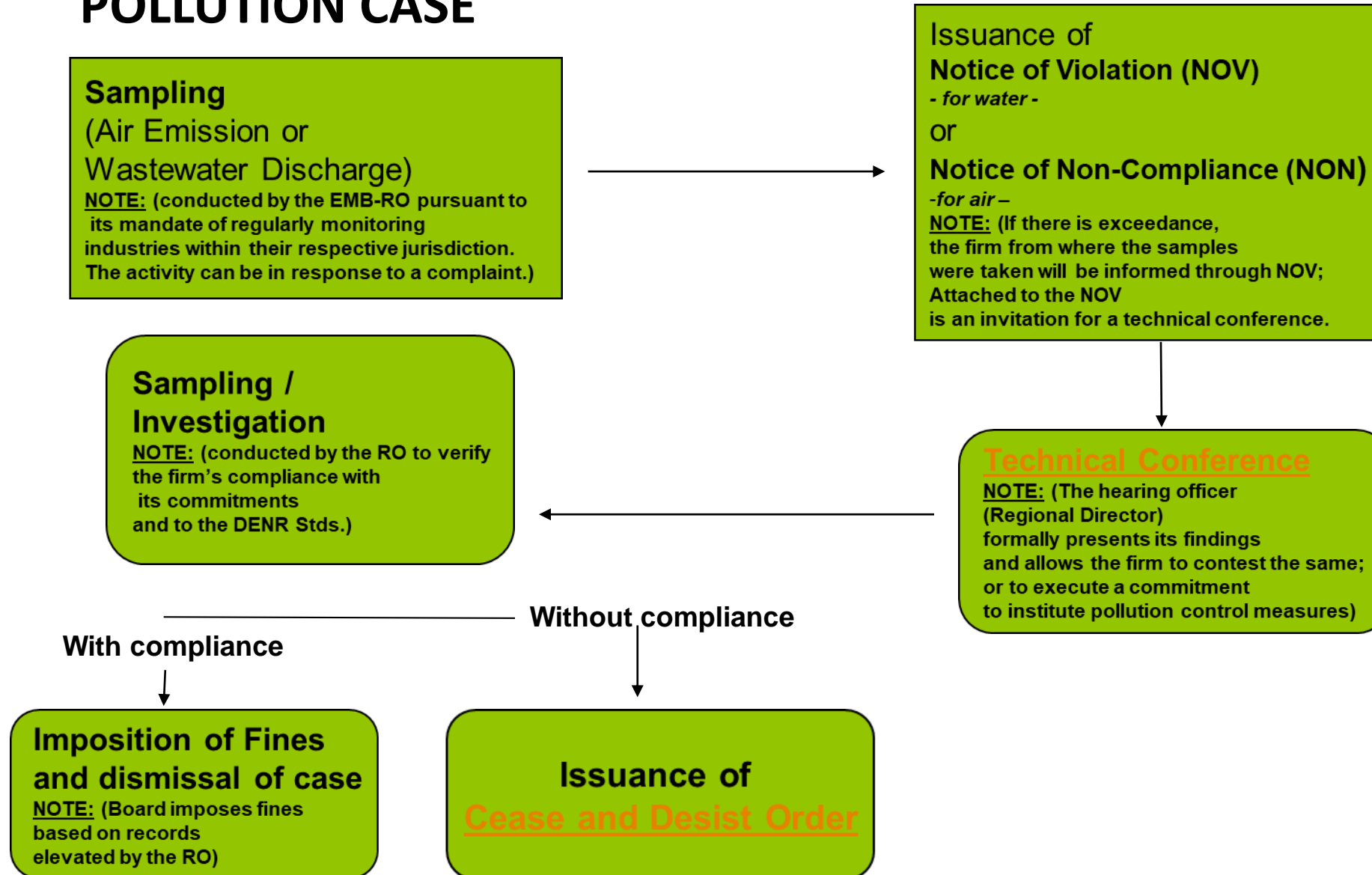
- Issue orders or decisions to compel compliance with the provisions of this Decree and its implementing rules and regulations only after proper notice and hearing.
- Make, alter or modify orders requiring the discontinuance of pollution specifying the conditions and the time within which such discontinuance must be accomplished.
- Issue, renew, or deny permits, under such conditions as it may determine to be reasonable, for the prevention and abatement of pollution, for the discharge of sewage, industrial waste, or for the installation or operation of sewage works and industrial disposal system or parts thereof.

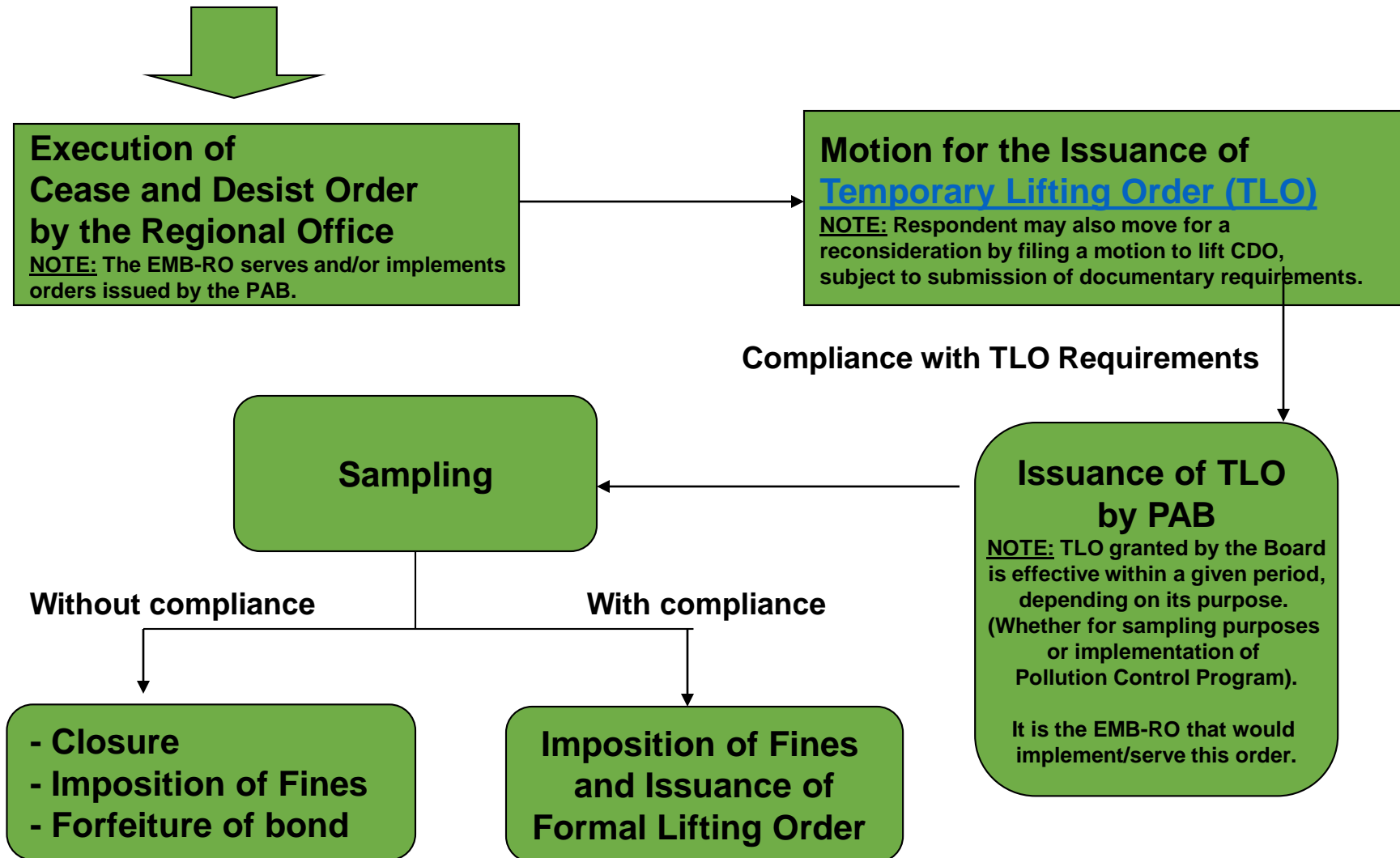
PAB

- Serve as arbitrator for the determination of reparations, or restitution of the damages and losses resulting from pollution.
- Deputize in writing or request assistance of appropriate government agencies or instrumentalities for the purpose of enforcing this Decree and its implementing rules and regulations and the orders and decisions of the Commission.
- Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Decree.



EVENTS FLOWCHART IN THE DEVELOPMENT OF POLLUTION CASE





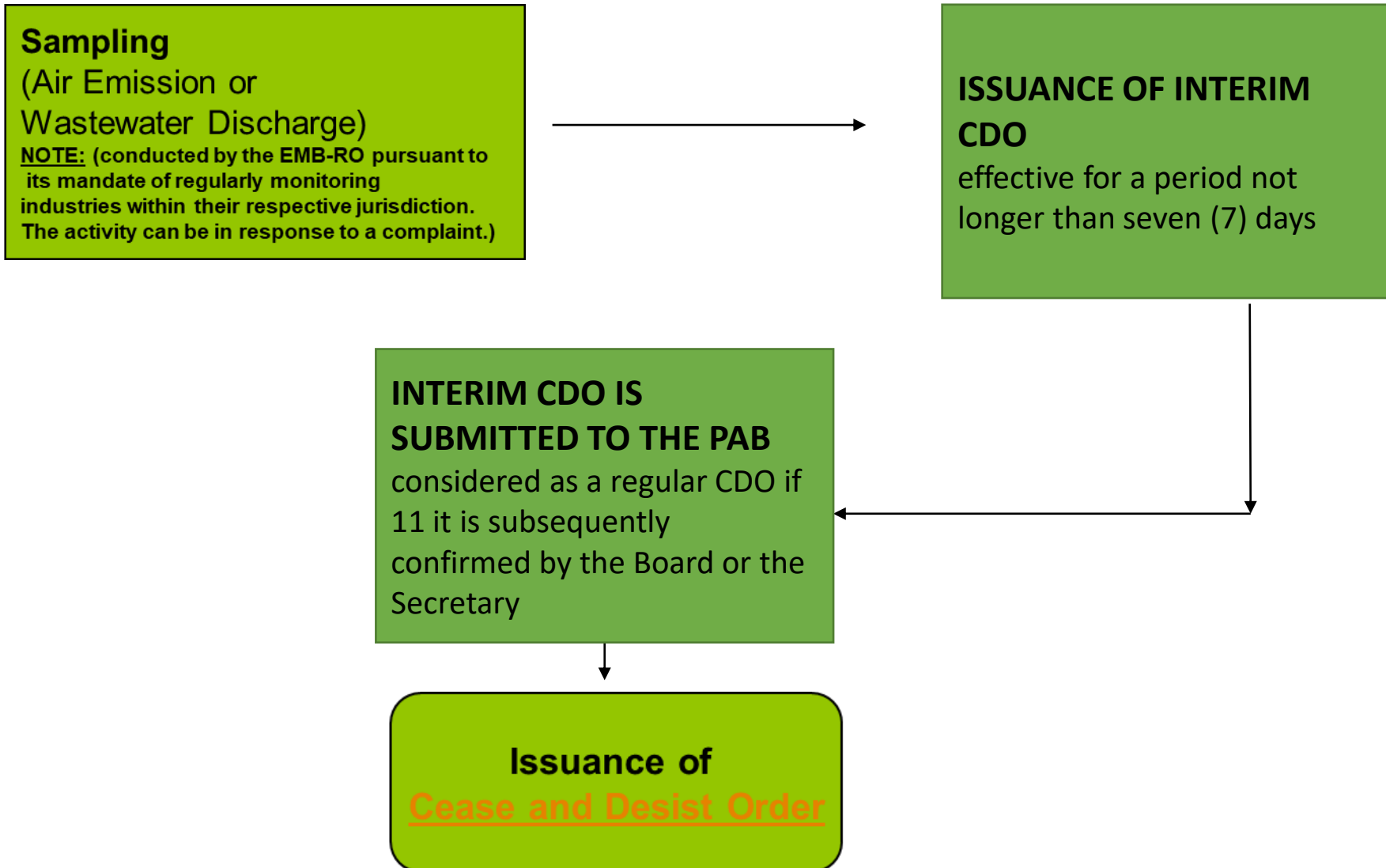
PAB

GROUND FOR THE INTERIM CDO

- there is prima facie evidence that the emission or discharge of pollutants constitutes and immediate threat to life, public health, safety or welfare, or to animal or plant life, or
- Discharge greatly exceeds the allowable DENR Standards, as provided in guidelines established by the Board



INTERIM CDO



PAB

- **Venue:** The hearing or deliberation of cases by the Board shall be held at the main office of the Department or in such other place as may be designated by the Board.
- **Who may be parties:** Any person who has an interest in the subject of the action may be a party to a case or proceeding before the Board or the Regional Office.
- Any party who claims to have an interest or may be adversely affected by the proceedings, may file a motion for intervention stating concisely the grounds relied upon and the remedy sought, serving copies of the same on the complainant and the respondent. The motion may be filed at any time before the case is deemed submitted for decision.



TYPES OF TEMPORARY LIFTING ORDERS

- for sampling purposes
- for purposes of implementing pollution control programs

PAB

REQUIREMENTS FOR ISSUANCE OF TLO FOR IMPLEMENTING POLLUTION CONTROL PROGRAMS

- comprehensive pollution control program, including plans and specifications of the firm's anti-pollution facility, budget and Gantt chart of activities relative thereto
- surety bond equivalent to 25% of the total cost of the pollution control program
- detailed description of the interim remedial measure to be instituted to mitigate pollution pending the completion of the pollution control program
- proof of employment of a pollution control officer duly accredited by the DENR pursuant to DAO No 26, Series of 1992
- notarized undertaking signed by respondent or its duly empowered managing head to comply with the conditions set by the Board
- such other conditions which the Board may deem appropriate under the circumstances



PAB

SUBPOENA AND SUBPOENA DUCES TECUM

Any party may request the issuance of the necessary subpoena or subpoena duces tecum at least five (5) days prior to the scheduled hearing

OCULAR INSPECTION

Whenever essential to the determination of the issues surrounding the case, the Board or Hearing Officer may direct the conduct of an ocular inspection.



PAB

ORDER, RESOLUTION OR DECISION OF THE BOARD

Every decision promulgated by the Board shall be in writing and under the seal of the Board, signed by a majority of its members, and shall clearly and distinctly state the facts and the law on which it is based.



PAB

MOTION FOR RECONSIDERATION

- respondent may move for the reconsideration of an order, resolution or decision of the Board by filing an appropriate motion specifically indicating the grounds therefore, with proof of service of copies thereof to the Regional Office and the other parties, within fifteen (15) days from the receipt thereof.
- only one motion for reconsideration shall be allowed.
- movant shall file fourteen (14) copies of the motion for reconsideration with the Board.



PAB

UPDATES

- **PAB Resolution No. 03 S. 2021** - Guidelines for Payment of Fines and Penalties for Permitting and Administrative Violations of R.A. 8749 and R.A. 9275 Imposed during the Implementation of the Community Quarantine (CQ)
- **PAB Resolution No. 04 S. 2021** - Revised Rules on Pleadings, Practice and Procedure of the Pollution Adjudication Board (PAB) in the Adjudication of Pollution Cases
- **PAB Resolution No. 05 S. 2021** - Guidelines on the Graduated Schedule of Penalty under R.A. 9275 and its Implementing Rules and Regulations



PAB

UPDATES

- **PAB Resolution No. 02-2021-** Procedure on Appeals submitted to the PAB : PAB exercises appellate jurisdiction on decisions made by the EMB RO relative to violations on RA 9275 and RA 8749. A verified notice of appeal and payment of appeal fee should be submitted within 15 days from receipt of the Order from EMB RO. Only 1 Motion for extension of time for meritorious reason is allowed. Only 1 MR shall be allowed.



Year	Minimum	Maximum
2004	10,000.00	200,000.00
2005	10,000.00	200,000.00
2006	11,000.00	220,000.00
2007	11,000.00	220,000.00
2008	12,100.00	242,000.00
2009	12,100.00	242,000.00
2010	13,310.00	266,200.00
2011	13,310.00	266,200.00
2012	14,641.00	292,820.00
2013	14,641.00	292,820.00
2014	16,105.10	322,102.00
2015	16,105.10	322,102.00
2016	17,715.61	354,312.20
2017	17,715.61	354,312.20
2018	19,487.17	389,743.42
2019	19,487.17	389,743.42
2020	21,435.89	428,717.76
2021	21,435.89	428,717.76
2022	23,579.48	471,589.54
2023	23,579.48	471,589.54
2024	25,937.42	518,748.49
2025	25,937.42	518,748.49
2026	28,531.17	570,623.34
2027		570,623.34
2028		627,685.68
2029		627,685.68
2030	34,522.71	690,454.24



RPEC

Rules of Procedure on Environmental Cases (A.M. 09-6-8-SC, April 29, 2010)

- Scope and Applicability :

Governs the procedure in civil, criminal and special civil actions before the RTCs, MeTCs, MTCs, and MCTSs involving enforcement or violations of environmental and other related laws, rules and regulations.



RPEC

- **I. Civil Action**
 - Citizen suits
 - TEPO
 - EPO
 - SLAPP
- **II. Special Civil Action**
 - Writ of Kalikasan
 - Writ of Continuing Mandamus
- **III. Criminal Actions**



RPEC

- Who may file?

Any real party in interest, including the government and juridical entities authorized by law, may file a civil action involving the enforcement or violation of any environmental law.

- Citizen Suit

- Any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or obligations under environmental laws.
- The court will require the interested party to manifest their interest to intervene within 15 days from notice.



RPEC

- **Environmental Protection Order (EPO)**

- Order issued by the court directing or enjoining any person or government agency to perform or desist from performing an act in order to protect, preserve, or rehabilitate the environment

- **SLAPP**

An action whether civil, criminal or administrative, brought against any person, institution or any government agency or local government unit or its officials and employees, with the intent to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.



RPEC

- **Writ of Kalikasan**

- Applies when there is damage in violation of environmental law, rule or regulation,
- where damage is of such magnitude as to prejudice the life, health or property of inhabitants in 2 or more cities or provinces
- A natural or juridical person, entity authorized by law, PO, NGO, or any public interest group accredited by or registered with any government agency, on behalf of persons whose constitutional right to a balanced and healthful ecology is violated or threatened with violation. (Note: Requirement of accreditation is to guarantee legal existence of group or NGO.)



RPEC

- **Prohibited Pleadings**

- (a) Motion to dismiss;
- (b) Motion for extension of time to file return;
- (c) Motion for postponement;
- (d) Motion for a bill of particulars;
- (e) Counterclaim or cross-claim;
- (f) Third-party complaint;
- (g) Reply; and
- (h) Motion to declare respondent in default

* *A motion for intervention* is not a prohibited pleading. Thus, any interested party may file such a motion which affirms the public interest nature of the Writ of Kalikasan



RPEC

● Reliefs/Prayer

- Permanent Cease and Desist Order
- Order for rehabilitation or Restoration of damage
- Order for respondent to monitor strict compliance with court orders and decisions
- Order for respondent to make periodic reports on strict compliance with court orders and decisions.
- Such other reliefs (except award of damages to individual petitioners)
- NOTE: *The Court will not grant an award for personal damages which may be claimed in a separate civil action.*



RPEC

● Possible Defenses

- No environmental damage
- Environmental damage caused by another
- Not an environmental case
- Not violate environmental law
- Not prejudice life, health or property of inhabitants
- Does not affect 2 or more cities or provinces
- No evidence
- No causal link between act and damage
- Compliance with all laws, rules, and regulations
- Compliance with all ECC Conditions
- Case amounts to SLAPP



RPEC

● Jurisprudence

- West Tower Condominium Corp. et. al. vs. First Philippine Industrial Corp. et. al. (G.R. No. 194239)
- Cosalan et. al. vs. City of Baguio et. al. (CA- G.R SP No. 00006)
- Greenpeace Southeast Asia (Philippines) et.al. vs. Environmental Management Bureau et. al.
- Agham Party List et.al. vs. Sec. Ramon Paje et. al. (CA- G.R SP No. 00007)
- Metro Manila Development Authority vs. Concerned Citizens of Metro Manila (G.R. Nos. 171947-48, December 18, 2008)





♪ ♪ SPINNING AROUND ♪ ♪