

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13th Congress
First Regular Session

House Bill No. 3253



Introduced by Hon. Gilbert C. Remulla

EXPLANATORY NOTE

The proposed measure seeks to introduce improvements in the Environmental Impact Statement (EIS) System in order to reinforce the objectives of Presidential Decree 1586 towards “the pursuit of a comprehensive and integrated environmental protection program... whereby the exigencies of socio-economic undertakings can be reconciled with the requirements of environmental quality”.

P.D.1586 supported the requirement of PD 1151 for “all agencies and instrumentalities of the national government, including government-owned or controlled corporations, as well as private corporations, firms and entities to submit and review the environmental impact statement for “every proposed project and undertaking which significantly affects the quality of the environment”.

Since 1978, various agencies implementing the EIS System have been criticized for “overly liberal” interpretation of the broad provisions of these laws. This has unfortunately led to doubts regarding the legality of provisions of implementing rules and regulations and procedures pertaining to gray areas of the law.

Twenty-five years after P.D.1586 came into effect, the Environmental Management Bureau of the Department of Environment and Natural Resources undertook a long-overdue review which found the fundamental purposes and guiding principles of the law supportive of the goals of sustainable development, accountability and public participation in decision making. However, there was general agreement among diverse stakeholders that the process needed improvement in many ways.

In particular, the business sector mounted a lobby to reform a process that had grown lengthy, uncertain and costly. The subsequent issuance of Malacañang Administrative Order No. 42, authorizing the Director of the Environmental Management Bureau, as well as its Regional Directors, in addition to the President and the Department Secretary, to grant or deny the issuance of Environmental Compliance Certificates (ECCs) was welcomed.

The proposed measure is, in great part, a product of the EMB project. It restates government policy to strengthen the capability of the System to achieve environmental protection within the context of sustainable development through increased multipartite participation from planning to monitoring, a stronger monitoring mechanism, EIS review for policies, plans and programs, development of an environmental information system or database, a revolving fund to sustain budgetary requirements for reforms, and a program for rational devolution of functions and local implementation.

The bill presents a streamlined process that is fair, timely and consistent without sacrificing the quality of assessment. Imbued with the vision that adverse environmental impacts of projects will be reduced if pollution prevention measures are considered at the planning stage, it seeks to further trim the EIA process for small routine projects through class screenings that are based on accumulated knowledge of the environmental effects of given types of projects and identified measures known to address those effects. It is also assumed that rules for non-coverage will regulate minor projects and set satisfactory conditions for exemption.

The focus on high-risk projects will free up scarce public resources and time otherwise devoted to numerous project-specific assessments. Overlap and duplication will be prevented through interagency coordination and transparency ensured by the increased involvement of all concerned sectors.

The proposed measure rationalizes the institutional arrangement for the implementation of the System through the establishment of the Environmental Impact Assessment Division within the EMB, now a line bureau, and the DENR-EMPAS in the regions. It mandates a national program to build capacity for its implementation and sets a professional standard for trainers and assessors. To ensure availability of funds for administrative costs, equipment purchases, leases and other expenses, it creates a revolving fund.

Proponents shall provide guarantee mechanisms to address financial liability for clean-up and rehabilitation. Sanctions for violations proposed by the EMB include closure, suspension of development or construction or cessation of operations, plus a fine of P10M minimum to P50M maximum and 5 to 10 years imprisonment for operating an environmentally critical project without an ECC.

In summary, the bill reinforces the objectives of the EIA System and proposes measures to make the process more responsive to the sustainable development agenda, and in so doing, also provides a major venue for broad multi-sector participation in the task of nation-building.

The early approval of this bill is, therefore, earnestly sought.


GILBERT C. REMULLA

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**AN ACT
TO STREAMLINE THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA)
SYSTEM, AMENDING P.D. 1586, AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:*

CHAPTER I

GENERAL PROVISIONS

Section 1. *Short Title.* This Act shall be known and referred to as the “Environmental Impact Assessment Act of 2004”.

Sec. 2. *Declaration of Policy.* The State shall pursue a policy based on the principle of sustainable development in the implementation of this law. To this end, balanced consideration of environmental protection and economic issues relating to development projects shall be ensured by government through the assessment of serious environmental impacts and the prescription of appropriate protection and control measures. The implementation of this State policy shall be achieved primarily through the Environmental Impact Assessment System, or the System as it shall hereinafter be referred to, and shall be guided by the following principles:

- a) A systems-oriented and integrated approach in the analysis and solution to environmental concerns vis-à-vis national development programs;
- b) A concern for inter-generational equity;
- c) A concern not to exceed the carrying capacity of ecosystems;
- d) Maintenance or strengthening of vital ecosystem functions in every development activity;

- 1 e) Promotion of citizen participation in environmental impact assessment and
2 monitoring of projects and decentralization of implementation;
- 3 f) Strengthening of the System as a tool for predicting and preventing environ-
4 mental damage through the review of environmental impact statements for policies, plans
5 and programs;
- 6 g) Strengthening environmental monitoring mechanisms;
- 7 h) Development and utilization of local environmental expertise;
- 8 i) Development and updating of an environmental information system, including
9 environmental database management, to disseminate information about the System, pro-
10 vide for on-line ECC application and the use of the electronic information highway to
11 streamline the review, evaluation and monitoring of projects;
- 12 j) Establishment of an environmental revolving fund to sustain the budgetary re-
13 quirements of the System;
- 14 k) Integration of environmental valuation and cost-benefit analysis in the Sys-
15 tem; and
- 16 l) Development and integration of environmental and natural resource accounts
17 into the System and the country's system of national accounting.

18 Sec. 3. *Definition of Terms.* For the purposes of this Act, the following terms shall
19 be defined as stated below:

20 A. *Areas of Critical Environmental Concern* shall refer to areas wherein uncon-
21 trolled development may result in irreparable damage to important historic, cultural or
22 aesthetic values or natural systems or processes of national significance;

23 B. *Bureau* shall refer to the Environmental Management Bureau (EMB);

24 C. *Co-located Project* shall refer to a project located with other similar or unre-
25 lated activities within a contiguous area;

26 D. *Critical Projects* shall include all declared environmentally critical projects
27 (ECPs) and all projects or activities in environmentally critical areas (ECAs), whether or
28 not classified as ECP, which may have significant impact on ECAs;

29 E. *Department* shall refer to the Department of Environment and Natural Re-
30 sources;

31 F. *Environmental Compliance Certificate (ECC)* shall refer to the document is-
32 sued by the DENR Secretary or the EMB Director certifying that based on the represen-
33 tations of the proponent and the preparers, as reviewed and validated by the EIARC, the

1 proposed project or undertaking will not cause a significant negative environmental im-
2 pact in consideration of the mitigation measures as proposed, the proponent has complied
3 with all the requirements of the EIS System and has committed to implement its approved
4 Environmental Management Plan.

5 The ECC shall contain the scope and limitations of the approved operations, con-
6 ditions to address critical environmental issues with regards to the project, the condition
7 on the compliance to the approved Environmental Management Plan and the setting up of
8 the EMF and EGF, if deemed applicable in accordance with the implementing rules and
9 regulations, and the timeframe until permitting agencies take over the monitoring of pro-
10 jects during full scale operation.

11 G. *Environmental Impact Assessment (EIA)* shall refer to the processes of identi-
12 fying, forecasting and evaluating the future state of the environment as a consequence of
13 a particular activity and with reference to a comparative assessment of the environment's
14 future state without the activity;

15 H. *Environmental Impact Statement (EIS)* shall refer to the document of studies
16 on the environmental impacts of a project including the discussions on direct and indirect
17 consequences upon human welfare and ecological and environmental integrity. The EIS
18 may vary from project to project but shall contain in every case all relevant information
19 and details about the proposed project or undertaking, including the appropriate mitigat-
20 ing and enhancement measures to address the identified environmental impacts.

21 I. *Environmental Management Plan (EMP) /Program (EMP)* – shall refer to a
22 section in the EIS that details the prevention, mitigation, compensation, contingency and
23 monitoring measures to enhance positive impacts and minimize negative impacts of a
24 proposed project or undertaking. For operating projects, the EMP can also be derived
25 from an environmental management system.

26 J. *Environmentally Critical Areas (ECAs)* shall refer to all declared protected ar-
27 eas, including but not limited to those declared under Republic Act No. 7586 (National
28 Integrated Protected Areas System Act of 1992) and other areas which are ecologically
29 important or especially sensitive to degradation, such as watersheds, fish sanctuaries, etc.;

30 K. *Environmentally Critical Projects (ECPs)* shall refer to those projects which
31 have high potential for negative environmental impacts and are declared as such pursuant
32 to the provisions of this environmental policy;

L. *Existing Project* shall refer to one that is currently operating or has temporarily stopped but may be planned for revival or expansion;

M. *Programmatic Compliance* shall refer to the process of review and evaluation by the Department of projects located on contiguous areas, where the focus of the review process is the carrying capacity of the area with respect to the projects to be sited there and on the applicability and appropriateness of the proposed management program;

N. *Programmatic Environmental Impact Statement Compliance* shall refer to the documentation of comprehensive studies on environmental information on the baseline conditions of a contiguous area. This includes the assessment of the carrying capacity of the area to absorb impacts from co-located projects such as those in industrial estates or economic zones (ecozones);

O. *Proponent* shall refer to a person seeking to implement a relevant project; in the case of a project implemented by the national government, the proponent shall be the head of the administrative organization implementing the project and its local sub-branches, or, in the case of a consigned project, the person seeking to consign the project;

P. Scoping – shall refer to the stage in the EIS System where information and assessment requirements are established to provide the proponent with the scope of work and terms of reference for the EIS;

Q. *Single or Stand-Alone Project* shall refer to a project located separately from similar or unrelated projects;

R. *System* shall refer to the Environmental Impact Assessment, or EIA, System.

CHAPTER 2

ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM

Sec. 4. *Environmental Impact Assessment*.. – All persons, whether natural or juridical, including national government agencies and local government units, who intend to undertake any program or project which may have significant impacts on the environment shall undertake environmental impact assessment and shall disclose all findings in an environmental impact assessment report for public review. The assessment shall be conducted as early as possible but not later than the feasibility study phase of the proposed program or project so that the assessment and its findings shall be considered in the final total design of the program or project.

For purposes of this Act, an environmental impact assessment shall be conducted to identify, forecast and evaluate the future state of the environment as a consequence of

1 a particular activity and with reference to a comparative assessment of the environment's
2 future state without the activity. The EIA shall address constraints as well as opportuni-
3 ties to the environment that the success of the proposed activity may cause, thereby en-
4 suring that expected benefits are obtained in a sustainable manner or with minimal dam-
5 age to the environment.

6 The EIA, as a planning tool, shall hereby be an integral part of the planning proc-
7 ess. It shall also serve as a tool for informed and effective public participation. EIA re-
8 ports shall be evaluated on the basis of prescribed review criteria including the technical
9 merits of the assessment, the use and timeliness of public participation and the actual in-
10 fluence of the EIA on the project design. To effect the latter, the environmental manage-
11 ment plan resulting from the EIA shall include a costing of the recommended mitigation
12 measures to be incorporated in the financial and economic analysis.

13 The EIA shall be part of the environmental permitting system enforced by the
14 Department. As the technical basis for project review and issuance of Environmental
15 Compliance Certificates (ECCs) to proponents, categories of assessment shall be deter-
16 mined and applied to appropriate classifications of programs and projects covered by the
17 EIA System. The rules and regulations shall define steps, conditions and safeguards for
18 delegating the review of EIAs and issuance of ECCs for certain types of development
19 projects to other lead agencies as well as local government units capable of assuming
20 such responsibility.

21 *Sec. 5. Coverage of the EIA System.* – The EIA System, or the System, as it shall
22 henceforth be referred to herein, shall cover all critical projects, whether classified as En-
23 vironmentally Critical Projects (ECPs) or as activities to be located in Environmentally
24 Critical Areas (ECAs). It is the intent of this law to require proponents of all critical pro-
25 grams and projects that pose significant potential impact to the environment to undergo
26 assessment and review and to secure ECCs.

27 *Sec. 6. Classification of Projects and Categories of Assessment.* – A rational clas-
28 sification scheme shall guide the determination of document requirements to facilitate the
29 review and issuance of ECCs and Certificates of Non-Coverage (CNCs) to programs and
30 projects under the System. All existing and new information on the nature or characteris-
31 tics of a project and its potential to generate adverse impact on the environment and the
32 sensitivity or vulnerability of environmental resources in the project area shall be primar-
33 ily considered. In this regard, projects may be categorized as those falling within the

1 scope of the system and those outside the scope of the system. Those falling within the
2 scope are presumed to pose significant negative impacts on the environment because of
3 the nature and /or scale of the project operation and because of the sensitivity of the pro-
4 ject site to negative environmental impacts. Those falling outside the scope of the system
5 are deemed unlikely to pose serious negative impacts on the environment. In this regard,
6 the following shall be the major categories of projects and programs:

7 1. Environmentally critical projects (ECPs) with significant potential to cause
8 negative environmental impacts;

9 2. Projects that are not environmentally critical in nature but which may cause
10 negative environmental impacts because they are located in environmentally critical areas
11 (ECAs);

12 3. Projects intended to directly enhance environmental quality or address exist-
13 ing environmental concerns;

14 4. Projects unlikely to cause diverse environmental impacts and do not fall in
15 any of the above categories;

16 Projects shall be further classified as: (a) "Single or Stand-alone Projects", and
17 (b) "Co-located Projects" and/or as (i) "New" or (ii) "Existing" Projects.

18 New Projects shall be those proposed for development and are applying for an
19 environmental compliance certificate for the first time. New projects as prescribed by law
20 if falling under the scope of the EIS System need to secure an ECC prior to any develop-
21 ment activity.

22 Existing projects are those which are currently operating or have operated even
23 before the effectivity of the EIA system and for some reasons have not secured an ECC.
24 It is the intent of this law to require any operating project that falls under the scope of the
25 System to secure an ECC.

26 *Sec. 7. Review of Classification of Projects and Categories of Assessment.* - The
27 Department, through the Bureau, shall, from time to time and as deemed necessary to
28 mitigate hazards to public health and welfare and the environment, review and update the
29 initial classification of programs and projects within the coverage of the System; *Pro-*
30 *vided,* That, in classifying other projects or programs for coverage and/or for non-
31 coverage additional to the initial classification herein, the Department shall take into con-
32 sideration the potential of such development activities to create adverse impact on the
33 environment as well as information from previously implemented similar activities; *Pro-*

1 *vided further*, That the Department shall also consider the vulnerability of certain types of
2 areas to ecological damage and define, where appropriate, an area-based coverage for the
3 System as a complement to the basic coverage scheme of classification of programs and
4 projects.

5 In order to facilitate economic development within an ecological framework, the
6 Department shall undertake such review and updating of the technical implementing
7 guidelines of the System in coordination with the Department of Trade and Industry and
8 other concerned government agencies.

9 *Sec. 8. Environmental Impact Reports.* – All proponents of programs and projects
10 which are considered environmentally critical shall be required to conduct scoping ses-
11 sions with the Department, relevant agencies and major stakeholders and to submit a full-
12 blown EIS wherein the scope that was agreed upon shall be defined.

13 Proponents of programs or projects which are covered by the System but are not
14 included in the above classification may first conduct a preliminary assessment in the
15 form of an Initial Environmental Examination (IEE) and submit the IEE findings to the
16 Department for determination of the need to carry out a full EIA. After evaluating the
17 findings contained in the IEE Report, the Department may, on the basis of the IEE Re-
18 port, already issue an ECC; *Provided*, That in case the Department determines the need
19 for a full EIA, it shall specify which issues the EIA should resolve and instruct the pro-
20 ponent in writing to proceed with a full EIA; *Provided further*, That in both cases, the
21 Department may still require provision of mitigating measures to minimize the significant
22 environmental impacts of the program or project, whether or not it is classified as envi-
23 ronmentally critical.

24 In order to ensure the quality of environmental assessments and reports required
25 by the System, proponents shall undertake EIA with qualified environment professionals
26 who are accredited by professional organizations in various fields of environmental man-
27 agement. The Bureau shall prepare, update and publish, or otherwise make available to
28 the public, a register of accredited environment professionals and of professional accred-
29 iting organizations and institutions and their respective contact information.

30 *Sec. 9. Environmental Compliance Certificate (ECC).* – An ECC shall be issued
31 by the Department only after favorable evaluation of the environmental impact report
32 within a reasonable time. Programs or projects covered under the System shall not be im-
33 plemented without first securing an ECC. The Department may seek the assistance of

1 other government agencies, environment professionals and other concerned sectors to
2 help evaluate environmental impact reports. ECC processing requirements shall focus on
3 information needed to assess critical environmental impacts of projects. To ensure that
4 only essential and highly relevant information about the project shall be required, the
5 processing requirements shall be customized based on the project categories.

6 The issuance of either an ECC or a CNC for a project under the System does not
7 exempt the proponent from securing other government permits and clearances as required
8 by other laws.

9 Sec. 10. *Programmatic Compliance.* – The Department may require program-
10 matic compliance under the System in the following cases:

11 (a) A program consisting of a series of similar projects or a project subdivided
12 into several phases and/or stages whether situated in a contiguous area or geographically
13 dispersed; and

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

16 Programmatic compliance requirements and conditions under the System shall be
17 guided by assessments of the cumulative impacts and risks of development and, where
18 available, also of the carrying capacity as may be determined from ecological profiles of
19 subject areas. Ecological profiles shall identify environmental constraints and opportuni-
20 ties in areas considered for programmatic compliance.

21 Consistent with the provisions of the Local Government Code, the Department
22 may enter into agreement with the local government units to incorporate programmatic
23 EIA into the preparation of local land use and development plans for the purpose of de-
24 veloping integrated land use cum environmental management plans for the basis of such
25 plans and their enabling ordinances. The Department, in consultation with the local gov-
26 ernment units (LGUs), shall facilitate the proper devolution of environmental manage-
27 ment functions related to the local implementation of the System to the Provincial Envi-
28 ronment and Natural Resources Offices (PENROs), the Community/City Environment
29 and Natural Resources Offices (CENROs), and the LGUs; *Provided*, that adequate local
30 resources shall be made available for building the required technical and administrative
31 capacity. Issuance of ECCs to certain types of local projects in areas covered by inte-
32 grated land use and environmental management plans may immediately be delegated to
33 the PENROs, the CENROs, or the LGUs upon the discretion of the Department and in

1 accordance with the provisions of Section 18 hereof. In case conflict of coverage shall
2 arise between or among LGUs, ECC approval shall remain with the Department.

3 Sec. 11. *EIA at the Policy Level.* – It is hereby declared a policy of the state to en-
4 sure the systematic application of environmental impact assessment concepts and tech-
5 niques as tools for environmentally sound policy formulation by all national agencies and
6 instrumentalities of government. Towards this end, the Department, within one (1) year
7 after the effectivity of this Act, shall publish guidelines for defining, identifying, assess-
8 ing and mitigating potential environmental impacts of national policies that have a bear-
9 ing on the use of natural resources and the environment. Such guidelines shall be re-
10 viewed and/or revised from time to time in order to incorporate new information and les-
11 sons learned from experience and to enhance the quality of EIA as a policy and planning
12 tool.

13 The objective of using EIA in the policy level is for systematic integration of en-
14 vironmental concerns into the development process through incorporation of environ-
15 mental safeguards from a very early stage of the process. Policy EIAs, while utilizing the
16 EIA framework, may not necessarily be required to submit environmental impact reports
17 or formally secure ECCs.

18 The Department shall conduct periodic assessment of the effectiveness with
19 which the EIA has become an integral part of the planning and development process, and
20 shall, on the basis of findings and appropriate recommendations, initiate simplification of
21 the regulatory aspects of the System. The Department shall continue to support the pri-
22 mary function of the EIA for planning and for policy, program and project development.

23 Sec. 12. *Consultation and Public Participation.* – All proponents of programs and
24 projects shall identify the LGUs and communities that will potentially be affected by the
25 development activity and likewise inform and consult them. Proponents may use various
26 forms of consultation and direct public participation in the EIA process in order to en-
27 hance understanding and acceptance of the proposal.

28 The Department may, *motu proprio*, conduct formal consultations upon due no-
29 tice to stakeholders and proponents. Information on the development proposal, including
30 environmental impacts, shall be disseminated in a manner and language understandable
31 to the public.

32 Issues and problems raised by various sectors potentially affected by the envi-
33 ronmental impact of the proposed development shall be formally recognized through a

1 scoping process. All legitimate issues and concerns raised during scoping shall be ad-
2 dressed in the EIA and the resolution of such issues shall be used by the Department as
3 basis for evaluating the acceptability of the environmental impact report. The Department
4 may require on-site public hearing prior to the issuance of an ECC.

5 Sec. 13. *Review Committee.* –The Department shall organize Review Committees
6 composed of experts from relevant fields of practice in environmental management and
7 the sciences whose main task will be to assist the Department in the evaluation of the
8 technical merits of environmental impact reports. In addition to the evaluation of proce-
9 dural compliance by the proponent with the rules and regulations of the System, the sub-
10 stantive review of the EIA’s technical merits by the Review Committee shall be used as
11 basis by the Department for the issuance of the ECC. EIS review shall be guided by three
12 general criteria: (1) that environmental considerations are integrated into the overall pro-
13 ject planning, (2) that the assessment is technically sound and proposed environmental
14 mitigation measures are appropriate and effective, and (3) that social acceptability is
15 based on informed public participation.

16 The proponent, through arrangements by a third party, may set up a Review Fund
17 to cover costs of review.

18 Sec. 14. *Multi-partite Monitoring Body.* – The Department shall require the crea-
19 tion of multi-partite monitoring bodies to monitor compliance of proponents with condi-
20 tionalities it may incorporate in the ECC and the implementation of the Environmental
21 Management Plan. The Department shall formulate guidelines for the formulation of such
22 multi-partite monitoring bodies within a year from the date of approval of this Act. Ad-
23 hoc monitoring bodies already created under existing ECCs shall conform to these guide-
24 lines.

25 The Department shall require the proponent to set aside funds to cover the cost of
26 monitoring and other reasonable expenses of the multi-partite monitoring body.

27 Sec. 15. – *Financial Liability for Environmental Rehabilitation.* – As part of the
28 ECC conditionalities, the Department may require program and project proponents to put
29 up financial guarantee mechanisms to respond to the need for clean-up or rehabilitation
30 of areas that may be damaged during project implementation or even after termination
31 when such damages are attributable to either the program or the proponent.

1 Provisions for financial liability shall ensure just and timely compensation for any
2 adverse effect which program or project implementation may directly or indirectly cause
3 on the environment and/or the community.

4 The instruments acceptable for compliance with this provision are trust funds, en-
5 vironmental insurance, cash funds, self-insurance and other guarantee instruments. The
6 choice of guarantee mechanisms, or of combinations thereof, shall depend primarily on:
7 a) the probability and magnitude of the risks involved, as culled from new and existing
8 information and determined through environmental and health risk assessment, and b) the
9 financial capability of the proponent; *Provided*, that such proponent shall show proof of
10 compliance with the requirement for contingent liability by furnishing the Department
11 with evidence of availment of such mechanism.

12 Sec. 16. *Sanctions for Violations.* – Any project classified as ECP which shall op-
13 erate without the required ECC shall face closure, suspension of development or con-
14 struction or cessation of operations until such time that proper environmental safeguards
15 are put in place and the necessary ECC has been issued; *Provided*, that the project propo-
16 nent shall be fined an amount not less than Ten Million Pesos (Php10,000,000.00) but not
17 more than Fifty Million Pesos (Php50,000,000.00) depending on the magnitude of the
18 environmental risks and upon the final decision of the Environmental Management Bu-
19 reau of the Department or of the DENR-EMPAS in the regions; *Provided further*, that the
20 chief operating or executive officer of the proponent firm shall be held criminally liable
21 and shall be imprisoned for a period not less than five (5) years but not more than ten (10)
22 years, at the discretion of the Court.

23 Any project classified as ECA which shall operate without the required ECC shall
24 face closure, suspension of development or construction or cessation of operations until
25 such time that proper environmental safeguards are put in place and the necessary ECC
26 has been issued. In addition, the project proponent shall be fined an amount not less than
27 Two Hundred Fifty Thousand Pesos (Php250,000.00) but not more than Ten Million Pe-
28 sos (Php10,000,000.00), depending on the magnitude of the environmental risks and
29 upon the final decision the Environmental Management Bureau of the Department or of
30 the DENR-EMPAS in the regions. Further, the chief operating or executive officer of the
31 proponent firm shall be held criminally liable and shall be imprisoned for a period not
32 less than two (2) years but not more than five (5) years, at the discretion of the Court.

1 Any project proponent found in violation of the delimiting conditions of the ECC
2 shall be fined a minimum of Fifty Thousand Pesos (Php50,000.00) for every violation,
3 depending upon the type and impact of the violation, a maximum 10% of project cost or
4 One Hundred Thousand Pesos (Php100,000.00) per violation, whichever is higher, plus
5 cost of damages, shall be imposed at the discretion of the Bureau.

6 Any government official tasked with the implementation of the System or any of
7 its components who fails to enforce the provisions of this Section shall be charged admin-
8 istratively and, if found guilty, be subject either to suspension from duty for a minimum
9 period of one (1) year without pay or to separation from service without benefits, subject
10 to existing civil service laws. Further, the violator shall be held criminally liable and shall
11 be imprisoned for a period not less than two (2) years but not more than five (5) years, at
12 the discretion of the Court.

13 CHAPTER 3

14 INSTITUTIONAL ARRANGEMENT

15 Sec. 17. *Lead Agency.* - The Department shall serve as the primary implementing
16 agency in the evaluation of environmental impact reports and the issuance of ECCs. It
17 may secure the assistance of environmental units of other government agencies, academic
18 and research institutions and environment professionals for purposes of evaluating the
19 technical aspects of the EIA.

20 Environmental impact reports shall be evaluated on the basis of both the technical
21 merits of the EIA and the compliance of the proponent with the procedural or regulatory
22 aspects of the System as provided in Sections 6 and 8 of this Act.

23 Sec. 18. *Creation of the Environmental Impact Assessment Division.* - The key
24 implementors of the System shall be the Bureau and the Regional Offices of the Depart-
25 ment. An EIA Division which shall be primarily responsible for the national and the local
26 implementation of this Act is hereby created at each of these offices.

27 Sec. 19. *Devolution of Functions.* - The Department shall, within one (1) year
28 from the effectivity of this Act, develop guidelines for the decentralization of EIA func-
29 tions to the Regional Offices, the PENROs, and the CENROs.

30 In this regard, the Department, in coordination with the Department of Interior
31 and Local Government (DILG), the Department shall, within two (2) years from the ef-
32 fectivity of this Act, provide technical resources and leadership to assist local government
33 entities in acquiring capacity and expertise for rational and effective devolution of func-

tions under the System, or a component of the System. The delegation of functions shall be made after the concerned entities have been assessed to be technically capable of such functions.

Sec. 20. *Local Capacity Building in Environmental Impact Assessment.* – The Department, through the Bureau, shall, in consultation and coordination with the DILG, lead development and implementation of a national capacity building program in environmental impact assessment. To ensure the rational devolution of functions mandated in Section 19 hereof, the program shall be operational within two (2) years from the effectivity of this Act.

The national program for capacity building shall identify target entities as well as functions for devolution and prepare the target entities for the local implementation of the System or its components in accordance with the objectives of this Act. In order to ensure the quality of EIS Reports, trainers in EIA shall be qualified environment professionals accredited by professional accrediting organizations in various fields of environmental management.

CHAPTER 4

ESTABLISHMENT OF AN EIA MANAGEMENT FUND

Sec. 21. *Creation of an EIA Management Fund.* - There is hereby established a trust fund to be known as the EIA Management Fund, or the Fund as it shall be referred to hereinafter. The Fund shall primarily be used as a revolving fund for defraying administrative expenses, equipment purchases or leases and other program costs directly incurred in EIA review, assessment and monitoring. The Fund may be sourced from donations, endowments and grants in the form of contributions. Such endowments shall be exempt from income or gift taxes and all other taxes, charges or fees imposed by the government or any political subdivision, instrumentality or agency. All income likewise generated from fees, fines and penalties directly related to the implementation of the EIA System shall accrue to the Fund and may be utilized directly by the Department for the above purpose. This authority is a specific exception to the requirement, otherwise operative, under PD 1234 that such charges and fees must revert to the National Treasury.

All information regarding the Fund, including, but not limited to, its transactions and its status shall be accessible to the public at any time; *Provided*, That all fund transactions shall be subject to the usual auditing procedures in accordance with existing laws; *Provided further*, That in addition to the regular annual audit, an audit of the Fund shall

1 be conducted by an independent auditor immediately upon the assumption of office of a
2 new head of the Department; *Provided finally*, That a report of such audit shall be sub-
3 mitted to the Office of the President no later than three (3) months after completion of the
4 audit.

5 Sec. 22. *National Pre-Emption.* – With the establishment of the Fund, the national
6 system shall pre-empt the imposition of such fees on industry for similar purposes by any
7 other entity of the government; *Provided*, That a sharing scheme among national, local
8 and other concerned agencies shall be established and based upon a formula that takes
9 into consideration the responsibilities of such entities in the implementation of this Act;
10 *Provided further*, That the Department shall develop, in a fully participative manner, with
11 other appropriate governmental entities, such a sharing system to apportion the economic
12 and financial benefits for the promotion of environmental enhancement among the major
13 participants.

CHAPTER 5

FINAL PROVISIONS

16 Sec. 23. *Separability Clause.* – Should any provision herein be subsequently de-
17 clared unconstitutional, the same shall not affect the validity or legality of the other pro-
18 visions of this Act.

19 Sec. 24. *Repealing Clause.* – All laws, orders, rules and regulations or any part
20 thereof which are inconsistent with the provisions of this Act are hereby repealed or
21 amended.

22 Sec. 25. *Date of Effectivity.* – This Act shall take effect fifteen (15) days after its
23 publication in the official Gazette or in two (2) newspapers of general circulation.

24 Approved,