

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 08

Introduced by Hon. Irvin M. Alcala

EXPLANATORY NOTE

The Philippine Environmental Impact Statement (EIS) System consists of laws, policies, rules and regulations governing the conduct of Environmental Assessment (EA) in the country. Since the issuance of Presidential Decree (PD) 1586 in 1978, EIA rules and regulations have undergone several rounds of revisions which resulted in a quite elaborate and complex system. The latest policy issuance, the Presidential Administrative Order No. 42 series of 2002, has called for the implementation of a systems-oriented and integrated approach in the analysis and solution to environmental concerns vis-à-vis national development program. It also urged that the incorporation of environmental concerns in the country's efforts for national development should be done in the most efficient manner so that neither the environment nor national development is compromised. The latest revisions on the rules and regulations supposedly reflecting this policy is contained in the Department of Environment and Natural Resources (DENR) Administrative Order No. 30-2003 which was issued in 2003. Notwithstanding the existence of all these rules and regulations, the legal framework of the EIS System remain shaky and inadequate because the main law, i.e. PD1586, does not provide a comprehensive framework which can address the complexity of the system. Hence, there is a need to enact one legislative measure that shall cover the entire spectrum that comprises the EIS system.

This bill seeks to achieve a balance among environmental protection, human health and socio-economic developments through the assessment of significant environmental impacts, not only of specific projects, but more importantly of policies, plans and programs, and the prescription of appropriate protection and control measures. It improves on the existing system by establishing the Environmental Assessment System (EAS) which shall cover Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA). The EAS shall be implemented for purposes of identifying, analyzing, evaluating, and managing the direct and indirect impacts of a policy, plan, program or project on the biophysico-chemical environment, health and socio-economic issues and ensuring that these impacts are addressed by appropriate environmental protection and enhancement measures. It shall help identify the most practicable alternatives for achieving positive outcomes and minimizing potentially adverse effects of policies, plans, programs, and projects. Except for certain exemptions, the SEA shall be required for a policy, plan or program proposal when all of the following conditions exist:

- a) the proposal relates, but not be limited, to agriculture, forestry, fisheries, energy, health, manufacturing, resource exploration and extraction, infrastructure, transport, waste management, water management, telecommunications, tourism, coastal zone management, national, regional, provincial and municipal / city development planning or land use; and

- b) implementation of the proposal may result in important adverse environmental implications, including health impact, as determined in the preliminary scan.

The importance of SEA in providing a context and framework for project-specific EA is increasingly recognized throughout the Asian region. A number of developing countries in Southeast Asia have enacted SEA requirements for certain categories of projects.¹

On the other hand, critical projects shall undertake an EIA for specific project. These critical projects are presumed to pose significant negative impacts on the environment. For purposes of determining critical projects, the nature of the project and its potential to cause significant negative environmental impacts, and the sensitivity or vulnerability of environmental resources in the project area shall be considered. Projects that are deemed unlikely to pose significant negative impacts on the environment are exempt from the coverage of the EAS and shall not undertake EIA for specific project.

The need to update and enhance the Philippine EIS System is urgent if we want to cope with the increasing number of challenges to our environment. Hence, I urge all my colleagues in Congress to enact this legislative measure in the soonest time possible.



IRVIN M. ALCALA

¹ <http://siteresources.worldbank.org/INTEAPREGTOPENVIRONMENT/Resources/EIA&SEA-regional-review.pdf>

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**AN ACT
TO ESTABLISH THE PHILIPPINE ENVIRONMENTAL ASSESS-
MENT SYSTEM, AND FOR OTHER PURPOSES**

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

**Title I
Chapter One**

GENERAL PROVISIONS

Section 1. *Short Title.* This Act shall be known and referred to as the "Philip-
pine Environmental Assessment Act of 2010".

Sec. 2. *Declaration of Policy.* The State shall adhere to the principles of sus-
tainable development. To this end, balanced consideration of environmental protec-
tion, human health, and socio-economic developments shall be ensured by govern-
ment through the assessment of significant environmental impacts of policies, plans,
programs and projects and the prescription of appropriate protection and control
measures. The implementation of this State policy 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) Maintenance and enhancement of vital ecosystem functions in all phases
of development activity;

c) Importance of the ecological functions of tropical rainforests in sustaining
life on earth especially in mitigating global warming; Tropical rainforests as the most
important habitat of endemic endangered and threatened species of plants and ani-
mals found nowhere else in the world.

d) Promotion of public participation in environmental assessment system;

e) Adoption of efficient system of decentralization of environmental assess-
ment implementation;

f) Integration of environmental assessment process in the formulation of pol-
icies, plans, programs and projects;

g) Strengthening environmental monitoring and audit mechanisms;

- 1 h) Development and institutionalization of local environmental expertise;
2 i) Implementation of a transparent environmental assessment system; and,
3 j) Establishment of a mechanism to sustain the environmental assessment
4 system.

5 **Title I**
6 **Chapter Two**

7 **DEFINITION OF TERMS**

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

10 A. *Agency concerned* shall refer to government agency, including govern-
11 ment owned and controlled corporation, that has jurisdiction or mandate over the
12 preparation, evaluation, approval, implementation or monitoring of a policy, plan,
13 program or project.

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

15 C. *Co-located Projects* shall refer to projects, or series of similar projects or a
16 project subdivided to several phases and/or stages by the same proponent, located
17 in contiguous areas;

18 D. *Critical Project* shall refer to a project or activity that has high potential for
19 significant negative environmental impact or located within an area delineated as
20 environmentally sensitive such that significant environmental impacts are expected if
21 the project or program is located, developed or implemented in it.

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

24 F. *Environmental Assessment* shall refer to a process of systematic analysis,
25 evaluation and management of the potential environmental and social effects of poli-
26 cy, plan, program or project prior to a decision being made.

27 G. *Environmental Impact Assessment (EIA)* shall refer to the environmental
28 assessment of a project which involves evaluating and predicting the likely impacts
29 of the project on the environment during construction, commissioning, operation and
30 abandonment.

31 H. *EIA Report* shall refer to the document of studies on the environmental
32 impacts of a project including the discussions on direct and indirect consequences
33 upon human welfare and ecological and environmental integrity. The EIA Report
34 may vary from project to project but shall contain in every case all relevant informa-
35 tion and details about the proposed project or undertaking, including the appropriate
36 mitigating and enhancement measures to address the identified environmental im-
pacts.

1 I. *Environmental Compliance Certificate (ECC)* shall refer to the document
2 issued by the Department Secretary or the Bureau Director certifying that based on
3 the representations of the proponent and the EIA report preparers, as reviewed and
4 validated by the Review Committee, the proposed project or undertaking will not
5 cause a significant negative environmental impact in consideration of the mitigation
6 measures as proposed, the proponent has complied with all the requirements of the
7 EIA and has committed to implement its approved Environmental Management Plan
8 (EMP).

9 The ECC shall contain the scope and limitations of the approved operations,
10 conditions to address critical environmental issues with regard to the project, the
11 condition on the compliance to the approved EMP and the setting up of a financial
12 guarantee mechanism, and the timeframe until permitting agencies take over the
13 monitoring of projects during full scale operation.

14 J. *Environmental Impact* shall refer to any change that the policy, plan, pro-
15 gram or project may cause in the environment, including any effect of any such
16 change on health and socio-economic conditions, on physical and cultural heritage,
17 on the current use of lands and resources for traditional purposes by indigenous
18 peoples, or on any structure, site or thing that is of historical, archaeological, paleon-
19 tological or architectural significance.

20 K. *Environmental Management Plan (EMP) /Program (EMP)* – shall refer to a
21 section in the EIA Report that details the prevention, mitigation, compensation, con-
22 tingency and monitoring measures to enhance positive impacts and minimize nega-
23 tive impacts of a proposed project or undertaking. For operating projects, the EMP
24 can also be derived from an environmental management system.

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

27 M. *Policy, Plan or Program* shall refer to strategies, policies, plans, programs,
28 including their modifications and those co-financed by international organizations,
29 submitted to an Agency Head or the local chief executive of the local government
30 unit (LGU) for approval.

31 N. *Proponent* shall refer to any person seeking to implement a relevant poli-
32 cy, plan, program or project. This includes government agencies, government
33 owned and controlled corporations, LGUs or private entities.

34 O. *Preliminary Scan* shall refer to the process of quickly identifying potential
35 significant environmental effects, whether they are positive or negative

36 P. *Scoping* – shall refer to the stage in the EAS where information and as-
37 sessment requirements are established to provide the proponent with the scope of
38 work and terms of reference for the EIA Report;

1 Q. *SEA Report* shall refer to the document of studies on the environmental
2 impacts of a policy, plan or program including the discussions on direct and indirect
3 consequences upon human welfare and ecological and environmental integrity.

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

6 S. *Strategic Environmental Assessment (SEA)* shall refer to the systematic
7 process for evaluating the environmental consequences of proposed policy, plan or
8 program initiatives in order to ensure they are fully included and appropriately ad-
9 dressed at the earliest appropriate stage of decision-making on par with economic
10 and social considerations.

11 TITLE II

12 ENVIRONMENTAL ASSESSMENT SYSTEM

13 Chapter One

14 GENERAL PROVISIONS

15 *Sec. 4. Environmental Assessment System.* - The Environmental Assess-
16 ment System (EAS) is hereby established which shall cover Environmental Impact
17 Assessment (EIA) and Strategic Environmental Assessment (SEA). The EAS shall
18 be implemented for purposes of identifying, analyzing, evaluating, and managing the
19 direct and indirect impacts of a policy, plan, program or project on the biophysico-
20 chemical environment, health and socio-economic issues and ensuring that these
21 impacts are addressed by appropriate environmental protection and enhancement
22 measures. It shall help identify the most practicable alternatives for achieving posi-
23 tive outcomes and minimizing potentially adverse effects of policies, plans, pro-
24 grams, and projects.

25 *Sec. 5. Coverage of the Environmental Assessment System.* – Any policy,
26 plan, program or project which may have significant impact on the environment shall
27 be covered by the EAS.

28 Chapter Two

29 STRATEGIC ENVIRONMENTAL ASSESSMENT

30 *Sec. 6. Applicability of the SEA.* The SEA shall be required for a policy, plan
31 or program proposal when all of the following conditions exist:

- 32 a) the proposal relates, but not be limited, to agriculture, forestry, fisheries,
33 energy, health, manufacturing, resource exploration and extraction, infrastruc-
34 ture, transport, waste management, water management, telecommunications,
35 tourism, coastal zone management, national, regional, provincial and munici-
36 pal / city development planning or land use; and
37 b) implementation of the proposal may result in important adverse environmental
38 implications, including health impact, as determined in the preliminary scan.

1 Sec. 7. *Exemptions from the SEA.* SEA shall not be required for policy, plan
2 or program in the following cases:

- 3 a. Proposals prepared in response to a clear emergency where time is insuffi-
4 cient to undertake a strategic environmental assessment. In such cases,
5 every effort should be made to undertake an SEA once the policy, plan, or
6 program proposal has been approved, as well as on any implementation plan
7 or strategy resulting from the proposal; or,
8 b. Proposals involving national security;

9 Sec. 8. *Notification.* – Within a reasonable time before the beginning of the
10 planning process, proponents who intend to formulate policy, plan or program re-
11 ferred to Section 6 shall notify the head of the concerned agency or the chief execu-
12 tive of the concerned LGU with the following information:

- 13 a. The identified objectives of the envisaged policy, plan or program, its
14 territorial and temporal scope and activities to be proposed;
15 b. Degree to which the envisaged policy, plan or program is likely to set a
16 framework for other proposal or projects;
17 c. Environmental, including health, issues that are considered as relevant
18 to the envisaged policy, plan or program and description of how the
19 same shall be addressed during its formulation.

20 Sec. 9 *Preliminary Scan* – Upon notification, the concerned agency or LGU
21 shall conduct a preliminary scan based on the notification referred to in Section 8 for
22 purposes of determining whether the envisaged policy, plan or program may have
23 significant environmental effects. The preliminary scan shall consider the following
24 factors:

- 25 a. The relevance of the policy, plan or program to the integration of envi-
26 ronmental, and health considerations and promotion of sustainable de-
27 velopment.
28 b. The degree to which the policy, plan or program will affect environmen-
29 tal critical areas.
30 c. The nature of the environmental and health effects and risks such as
31 probability, duration, frequency, reversibility, magnitude and extent and
32 population likely to be affected.

33 Where the preliminary scan indicates that implementation of the proposed
34 policy, plan or program will result in significant environmental effects, SEA shall be
35 undertaken by the proponent upon determination of the scope of the SEA by the
36 concerned agency or LGU in accordance with Section 10 of this Act.

37 Where the preliminary scan indicates that the implementation of the proposed
38 policy, plan or program will not result in important environmental effects, the con-

cerned agency or LGU shall determine environmental issues that shall be considered in the formulation and implementation of the policy, plan or program.

The results of the preliminary scan shall be accessible to the public.

Sec. 10. Undertaking SEA. The proponent shall conduct the SEA as part of the formulation of the policy, plan or program for the purpose of identifying the most practicable alternatives for achieving positive outcomes and minimizing potentially adverse effects of the policy, plan or program. SEA may be carried out in stages corresponding to the stages of policy, plan or program formulation and may involve sequential assessments of various components of the policy, plan or program. The scope of the SEA to be undertaken shall specify, but not be limited to, the following:

- a. relevant environmental objectives that should be considered within the SEA,
- b. environmental impacts that should be analyzed
- c. validity of the data to be used in the assessment
- d. study areas and future development trends that should be considered
- e. consultations with relevant agencies and the public during SEA
- f. options and alternatives

Sec. 11. SEA Report. The SEA report shall be consistent with the guidelines that shall be formulated by the NEDA-ICC in coordination with DENR pursuant to this Act and scoping advice referred to in Section 10. Provided, that the SEA report shall provide, but not be limited to, the following information which may be reasonably required giving the nature and the level of detail of the policy, plan or program:

- a. Summary of the proposal: Main objectives of the proposal, its link with other PPPs and an outline of the reasons for selecting the alternatives dealt with;
- b. Summary of the SEA: Main issues addressed in the SEA (with reference to any recommendations from preceding assessments), inputs provided to the proponent during elaboration of the proposal and summary of key outstanding issues for consideration;
- c. Relevant trends in the state of the environment, including health, and the likely evolution thereof should the proposal not be implemented;
- d. Environmental objectives and targets established at international, national and other levels which are relevant to the proposal, and estimated positive and negative attribution of the proposal and its alternatives to their attainment;
- e. Specific impacts of the proposal and its alternatives, direct, indirect, cumulative, synergistic, short-, medium- and long-term, permanent and temporary, positive and negative impacts;

- f. Difficulties encountered in the SEA such as lack of data, unknown future trends or lack of knowledge;
- g. Environmentally preferred option and measures proposed to prevent, reduce or mitigate any significant adverse effects of the future on the environment which may result from the implementation of the proposal;
- h. Recommended focus of any subsequent SEAs or EIAs; and,
- i. Measures for monitoring environmental effects of the implementation of the proposal;

Sec. 12. *Integration of SEA results in the policy, plan or program.* Any policy, plan or program subject to SEA shall be approved and implemented only upon integration of the SEA results. The SEA report shall be disclosed to the public by the proponent.

Sec. 13. *SEA Monitoring and Evaluation.* The concerned agency or LGU shall undertake monitoring and evaluation of the implementation of the policy, plan or program in accordance with the recommended measures in the SEA report. The monitoring and evaluation shall include the following:

- a. Checking of assumptions;
- b. Monitoring the progress of measures recommended in SEA ensuring their implementation;
- c. Defining additional measures if necessary based on updated information;
- d. Allowing provision of feedbacks to higher levels of review;
- e. Ensuring reviews or further assessments be triggered if real situations significantly different from previous assumptions adopted

Title II
Chapter Three
ENVIRONMENTAL IMPACT ASSESSMENT (EIA)
FOR SPECIFIC PROJECT

SEC. 14. *Applicability of EIA.* Critical projects, as determined by the Department in accordance with this Act, shall undertake an EIA for specific project. These critical projects are presumed to pose significant negative impacts on the environment. For purposes of determining critical projects, the Department shall consider the nature of the project and its potential to cause significant negative environmental impacts, and the sensitivity or vulnerability of environmental resources in the project area. Projects that are deemed unlikely to pose significant negative impacts on the environment are exempt from the coverage of the EAS and shall not undertake EIA for specific project.

Sec. 15. *Projects exempt from EIA.* Upon review and evaluation of the SEA report by the Bureau, all component projects and activities of policy, plan or program

1 that have passed through the SEA process shall not be required to undergo the
2 project EIA process. Provided, that upon evaluation of the SEA report, the Bureau
3 may require otherwise on the ground that environmental impacts of said projects
4 have not been adequately addressed in the SEA.

5 Sec. 16. *EIA Requirements.* The determination of EIA requirements to facili-
6 tate the review, assessment and evaluation of projects required to undertake EIA
7 shall be based on the nature, scale and location of the project, among others. Exist-
8 ing and new information on the nature or characteristics of a project and its potential
9 to generate adverse environmental impacts and the sensitivity or vulnerability of en-
10 vironmental resources in the project area shall be primarily considered. Provided,
11 that health and social impacts shall also be taken into consideration.

12 New projects that are considered critical under this section shall undergo an
13 EIA prior to any development. Existing critical projects may be required to undergo
14 an EIA prior to or expansion as determined by the Bureau.

15 Sec. 17. *EIA Preparation and Review.* The EIA process shall include screen-
16 ing, scoping, baseline data gathering and impact assessment. The same shall be
17 reviewed by the Bureau.

18 For purposes of scoping, the proponent in coordination with the Bureau may
19 conduct formal consultations upon due notice to stakeholders. The Bureau, however,
20 may, *motu proprio*, conduct scoping, where appropriate. Information on the proposal,
21 including environmental impacts, shall be disseminated in a manner and language
22 understandable to the public. Issues and problems raised by various sectors poten-
23 tially affected by the environmental impact of the proposal shall be formally recog-
24 nized through the scoping process. Possible measures shall be identified in the EIA
25 to address legitimate issues and concerns raised during scoping which shall be used
26 by the Bureau as basis for evaluating the acceptability of the EIA report.

27 Sec. 18. *Environmental Impact Assessment Preparer and Reviewer.* In order
28 to ensure the quality of environmental assessments and reports required under this
29 Chapter, proponents shall undertake EIA with qualified environment professionals.
30 The Bureau shall develop a registration procedure for reviewer and prepare, update
31 and make available to the public, a registry of reviewers and their respective contact
32 information.

33 Sec. 19. *Review Committee.* – Where necessary, the Bureau shall organize
34 Review Committees composed of experts in the environmental sciences and man-
35 agement and relevant fields of expertise whose main task shall be to assist the Bu-
36 reau in the evaluation of the environmental impact assessment reports. The substan-
37 tive review of the reports' technical merits by the Review Committee shall be taken
38 into consideration by the Bureau for the issuance or non-issuance of the Environ-

1 mental Compliance Certificate (ECC). The EIA report review shall be guided by two
2 general criteria: (1) conformity of the EIA report with the outcomes of scoping and
3 the established and accepted environmental assessment practices inclusive of pro-
4 tocols and relevant methodologies; and, (2) sufficiency of considered alternatives
5 and effectiveness of proposed mitigation measures and environmental management
6 plan. The Review Committee shall additionally ensure the environmental soundness
7 and validity of the EIA report inclusive of its appropriateness in addressing social and
8 health consequences. The Review Committee after the review of the EIA report shall
9 recommend the issuance or non-issuance of an ECC for a project.

10 Sec. 20. *Consultation and Public Participation.* – All proponents of projects
11 shall inform and consult the LGUs and communities that will be potentially affected
12 by the development activity subject of the EIA process at the earliest possible time to
13 ensure that environmentally relevant concerns are taken into consideration in the
14 EIA study and the formulation of the management plan. Proponents may use various
15 forms of consultation and direct public participation in the EIA process in order to
16 enhance understanding and acceptance of the proposal. All public consultations or
17 other alternative dispute resolution processes conducted are to be documented and
18 shall form part of the records of the EIA process.

19 The Bureau may require locally appropriate consultations or other alternative
20 dispute resolution processes prior to the issuance of an ECC.

21 Sec. 21. *Issuance of an Environmental Compliance Certificate (ECC).* – An
22 ECC shall be issued by the Director of the Bureau, or his/her authorized representa-
23 tive, only after a thorough assessment of impacts taking into consideration (i) the
24 significance of environmental impacts and risks; (ii) the carrying capacity of the envi-
25 ronment; (iii) equity issues with respect to the use of natural resources; and (iv) the
26 proponent's commitment to institute effective environmental management measures
27 within a reasonable time. The ECC outlines the commitments of the proponent which
28 are necessary for the project to comply with existing environmental regulations or to
29 operate within best environmental practice that are not currently covered by existing
30 laws. Projects covered under this Chapter shall not be implemented without first se-
31 curing an ECC. The issuance of an ECC does not exempt the proponent from secur-
32 ing other government permits and clearances as required by other applicable laws.

33 Sec. 22. *EIA for Co-located Projects.* . The Department may require pro-
34 grammatic compliance in the following cases:

- 35 a. A program consisting of a series of similar projects or a project subdivided
36 into several phases and/or stages whether situated in a contiguous area or
37 geographically dispersed; and,

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

3 Programmatic compliance requirements and conditions under the EAS shall
4 be guided by assessments of the cumulative impacts and risks of development and,
5 where available, also of the carrying capacity as may be determined from ecological
6 profiles of subject areas.

7 Ecological profiles shall identify environmental constraints and opportunities in
8 areas considered for programmatic compliance.

9 Consistent with the provisions of the Local Government Code, the Depart-
10 ment may enter into agreement with the local government units to incorporate pro-
11 grammatic EIA into the preparation of local land use and development plans for the
12 purpose of developing integrated land use cum environmental management plans
13 for the basis of such plans and their enabling ordinances.

14 The Department, in consultation with the LGUs, shall facilitate the proper de-
15 volution of environmental management functions related to the local implementation
16 of the EAS to the Provincial Environment and Natural Resources Offices (PENROs),
17 the Community/City Environment and Natural Resources Offices (CENROs), and the
18 LGUs; Provided, that adequate local resources shall be made available for building
19 the required technical and administrative capacity.

20 Issuance of *ECC under the Programmatic EIA shall be issued by the DENR*
21 *Secretary.* Sec. 23. *Environmental Monitoring Evaluation and Audit System.* – The
22 Department shall require the establishment of an environmental monitoring, evalua-
23 tion and audit system including the creation of multi-partite monitoring bodies to
24 monitor compliance of proponents with the requirements in the ECC, to monitor the
25 implementation of the Environmental Management Plan (EMP) and to serve as focal
26 group to handle complaints from stakeholders at the local level. The proponent shall
27 set up an Environmental Monitoring Fund to shoulder the cost of the monitoring of
28 specific projects. The Department shall formulate guidelines for the formulation and
29 operationalization of such multi-partite monitoring bodies within a year from the ef-
30 fectivity of this Act. Multipartite Monitoring Teams already created under existing
31 ECCs issued prior to the effectivity of this Act shall conform to these guidelines.

32 Sec. 24 *Financial Liability for Environmental Rehabilitation.* – The proponent
33 shall take full responsibility for environmental damage caused by the implementation
34 of the project unless the damage is caused by fortuitous event or force majeure. As
35 part of the ECC requirements, the Department may require project proponents to put
36 up financial guarantee mechanisms to respond to the need for clean-up or rehabilita-
37 tion of areas that may be damaged during project implementation or even after ter-
38 mination when such damages are attributable to the project or the proponent.

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

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

TITLE III

Miscellaneous Provisions

Chapter One

Fines and Penalties

Sec. 25. Sanctions for Violations. – Any critical projects which shall operate without the required ECC shall face closure, suspension of development or construction or cessation of operations until such time that proper environmental safeguards are put in place and the necessary ECC has been issued; *Provided*, that the project proponent shall be fined an amount not less than One Hundred Fifty Thousand Pesos (Php100,000.00) but not more than Twenty Million Pesos (Php20,000,000.00) depending on the magnitude of the environmental risks and upon the final decision of the Bureau. *Provided also*, that the chief operating or executive officer of the proponent firm shall be held criminally liable and shall be imprisoned for a period not less than two (2) years but not more than ten (10) years, at the discretion of the Court.

Any project proponent found in violation of the conditions of the ECC shall be fined a minimum of Fifty Thousand Pesos (Php50,000.00) for every violation, depending upon the type and impact of the violation, a maximum of Ten Million Pesos (Php10,000,000.00) per violation, whichever is higher, plus cost of damages, shall be imposed at the discretion of the Bureau. *Provided*, that the DENR Secretary, upon recommendation of the PAB may order the closure, suspension of development or construction, or cessations of operations if the violation of ECC condition is continued.

Any government official tasked with the implementation of the EAS or any of its components who fails to enforce the provisions of this Section shall be charged administratively and, if found guilty, be subject either to suspension from duty for a

1 minimum period of one (1) year without pay or to separation from service without
2 benefits, subject to existing civil service laws. Further, the violator shall be held cri-
3 minally liable and shall be imprisoned for a period not less than two (2) years but not
4 more than five (5) years, at the discretion of the Court.

5 TITLE III

6 Chapter Two

7 INSTITUTIONAL ARRANGEMENT

8 Sec. 26. *Lead Agency.* - The Department shall serve as the primary imple-
9 menting agency in the implementation of the EAS, evaluation of EIA reports and the
10 issuance of ECCs. It may secure the assistance of environmental units of other gov-
11 ernment agencies, academic and research institutions and environment profession-
12 als in undertaking its responsibilities under this Act.

13 In order to facilitate economic development within an ecological framework,
14 the Department shall undertake such review and updating of the technical imple-
15 menting guidelines of the EAS in coordination with the Department of Trade and In-
16 dustry and other concerned government agencies.

17 Sec. 27. *Establishment of Appropriate Permanent Structures.* - The key im-
18 plementors of the EAS shall be the Bureau and the Regional Offices of the Depart-
19 ment and other government agencies performing EA functions pursuant to this Act.
20 For this purpose, concerned government agencies shall establish appropriate per-
21 manent structures and systems to address the requirements of the EAS.

22 Where the proponent is a private entity, the same shall be provided technical
23 assistance and relevant data by the Bureau and other concerned government agen-
24 cies .

25 Sec. 28. *Devolution of Functions.* - The Department shall, within one (1) year
26 from the effectivity of this Act, develop guidelines for the decentralization of functions
27 of the Bureau under this Act to the Regional Offices, the Provincial Environment Of-
28 ficers (PENROs), and the Community Environment Officers (CENROs) of the De-
29 partment.

30 The Department, in coordination with the Department of Interior and Local
31 Government (DILG), shall, within two (2) years from the effectivity of this Act, provide
32 technical resources and leadership to assist LGUs and entities in acquiring capacity
33 and expertise for rational and effective devolution of functions under the EAS. The
34 devolution of functions shall be made after the concerned LGUs and entities have
35 been assessed to be technically capable of such functions.

36 Sec. 29. *Local Capacity Building in Environmental Assessment System.* - The
37 Department, through the Bureau, shall, in consultation and coordination with the
38 DILG, lead the development and implementation of a national capacity building pro-

1 gram in environmental assessment, including, among others, capacity to conduct
2 preliminary scans and scoping for strategic environmental assessment. To ensure
3 the rational devolution of functions mandated in Section 29 hereof, the program shall
4 be operational within two (2) years from the effectivity of this Act.

5 The national program for capacity building shall identify target entities as well
6 as functions for devolution and prepare the target entities for the local implementa-
7 tion of the EAS or its components in accordance with the objectives of this Act.

8 Sec. 30. *Knowledge Management System.* The Bureau shall establish a da-
9 tabase management system for purposes of gathering, keeping, disseminating and
10 updating all information relative to the implementation of the EAS. As part of the da-
11 tabase management system, the Bureau shall create a public registry of all ECCs
12 issued.

13 Sec. 31. *Public accessibility to information.* All outcomes of preliminary
14 scans, SEA reports, EIA reports, ECCs, EMPs, monitoring and evaluation reports
15 and other documents generated as part of the EAS shall be accessible to the public
16 upon request made during office hours.

17 TITLE III

18 Chapter Three

19 ESTABLISHMENT OF AN EAS MANAGEMENT FUND

20 Sec. 32. –Environmental Revolving Fund (ERF). The ERF created under
21 Presidential Decree No.1586 and remain to be operational. It shall be used primarily
22 for defraying administrative expenses, equipment purchases or leases and other
23 program costs directly incurred in the review, assessment and monitoring of the
24 EAS. The ERF may be sourced from donations, endowments and grants in the form
25 of contributions. Such endowments shall be exempt from income or gift taxes and all
26 other taxes, charges or fees imposed by the government or any political subdivision,
27 instrumentality or agency. It shall also include funds to be provided by proponents for
28 the review of specific projects. All income likewise generated from fees, fines and
29 penalties directly related to the implementation of the EAS shall accrue to the ERF
30 and may be utilized directly by the Department for the above purposes. This authori-
31 ty is a specific exception to the requirement, otherwise operative, under PD 1234
32 that such charges and fees must revert to the National Treasury.

33 All information regarding the ERF, including, but not limited to, its transactions
34 and its status shall be accessible to the public at any time; *Provided*, That all fund
35 transactions shall be subject to the usual auditing procedures in accordance with ex-
36 isting laws; *Provided further*, That in addition to the regular annual audit, an audit of
37 the ERF shall be conducted by an independent auditor immediately upon the as-
38 sumption of office of a new head of the Department; *Provided finally*, That a report of

1 such audit shall be submitted to the Office of the President no later than three (3)
2 months after completion of the audit.

3 Sec. 33. *Sharing Scheme.* – The ERF shall be shared among national, local
4 and other concerned agencies under a sharing scheme that shall be established and
5 based upon a formula that takes into consideration the responsibilities of such enti-
6 ties in the implementation of this Act; *Provided, That* the Department shall develop,
7 in a fully participative manner, with other appropriate government entities, such a
8 sharing system to apportion the economic and financial benefits for the promotion of
9 environmental enhancement among the major participants.

10 Sec. 34. *Appropriations.* An amount of One hundred million pesos
11 (P100,000,000.00) shall be appropriated for the initial implementation of this Act.

12 Sec. 35. *Transitory provision.* Non-Highly Urbanized Cities, 3rd, 4th and 5th
13 class municipalities shall be given a five (5) year grace period for compliance with
14 the provisions of this Act on SEA.

15 Sec. 36. *Implementing Rules and Regulations.* The Department, in coordina-
16 tion with the Committees on Environment and Ecology of the Senate and the House
17 of Representatives, respectively, and other concerned agencies, shall promulgate
18 the implementing rules and regulations of this Act, within one (1) year after its effec-
19 tivity.

20 Sec. 37. *Joint Congressional Oversight Committee.* There is hereby created
21 a Joint Congressional Oversight Committee to monitor the implementation of the Act.
22 The Committee shall be composed of five (5) Senators and five (5) Representatives
23 to be appointed by the Senate President and the Speaker of the House of Repre-
24 sentatives, respectively. The Oversight Committee shall be co-chaired by a Senator
25 and a Representative designated by the Senate President and the Speaker of the
26 House of Representatives, respectively.

27 **TITLE III**

28 **Chapter Four**

29 **FINAL PROVISIONS**

30 Sec. 38. *Separability Clause.* – Should any provision herein be subsequently
31 declared unconstitutional, the same shall not affect the validity or legality of the other
32 provisions of this Act.

33 Sec. 39. *Repealing Clause.* – Presidential Decree 1586 except Sec.10, Presi-
34 dential Proclamation No. 2146, Executive Order No. 291 and Office of the President
35 Administrative Order No. 42, series of 2002 are hereby repealed. All laws, orders,
36 rules and regulations or any part thereof which are inconsistent with the provisions of
37 this Act are hereby amended or modified accordingly.

1 Sec. 40. *Date of Effectivity.* – This Act shall take effect fifteen (15) days after
2 its publication in the official Gazette or in two (2) newspapers of general circulation.
3 Approved,
4]