

8216

Republic of the Philippines
House of Representatives
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. 826



INTRODUCED BY: HON. MARCELINO "MARCY" R. TEODORO

EXPLANATORY NOTE

Hazardous materials and radioactive wastes pose threats to lives, health and properties. Due to many issues involving said harmful wastes, strong state intervention should take place to regulate their existence in the country. Such policies should be made in order to achieve this goal.

The harmful wastes require sophisticated treatment and management in order to successfully isolate them from interacting with the biosphere. This bill, to be known as "Philippine Hazardous and Radioactive Wastes Management Act" is being proposed to ensure the safety and security of the communities. The proposed measure prohibits the entry and the transit of hazardous and radioactive wastes into the Philippine territorial boundaries. It also provides guidelines for the appropriate generation, collection, storage, transport and disposal of hazardous and radioactive wastes including emergency plans for accidents involving such wastes.

Furthermore, the bill shall empower the Department of Environment and Natural Resources to formulate a "National Hazardous and Radioactive Waste Management Framework" as the official scheme for regulating and controlling such harmful wastes through all government agencies. Particularly, Section 9 of the proposed bill requires that the owners of treatment, storage and disposal facilities shall use the best available technology and best environmental practices (BAT & BEP) in managing hazardous and radioactive wastes.

It should be recognized, however, that it is not the sole responsibility of the government entities to deal with the problem. Participation of private individuals, NGOs and corporations who invest and develop new technologies and innovative concepts to address the predicament on hazardous wastes shall be provided with monetary and non-monetary incentives.

Given the enormity of the harmful effects that hazardous materials and radioactive wastes bring to lives and communities, the immediate passage of this bill is earnestly sought.

MARCELINO "MARCY" R. TEODORO
Representative, 1st District
Marikina City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 826

Introduced by REP. MARCELINO "MARCY" R. TEODORO

AN ACT PROVIDING FOR A COMPREHENSIVE HAZARDOUS AND RADIOACTIVE
WASTES MANAGEMENT, PROVIDING PENALTIES FOR VIOLATIONS THEREOF
AND FOR OTHER PURPOSES

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

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Title.* – This Act shall be known as the "Philippine Hazardous and Radioactive Wastes Management Act of 2013".

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to advance the protection of human health and the environment from the potential risks of hazardous and radioactive wastes within the framework of sustainable development. Towards this end, the State shall:

(a) Develop and implement national and local integrated and comprehensive hazardous and radioactive wastes management programs focusing on pollution prevention and resource conservation recovery, which shall:

(1) Improve waste management techniques, organizational arrangements, methods of collection, separation and recovery of wastes;

(2) Promote environmentally safe disposal of residues;

(3) Minimize the generation of hazardous and radioactive wastes by encouraging cleaner production, process substitution, resource recovery, recycling and reuse, and treatment; and

(4) Institutionalize public participation in the development and implementation of such programs;

(b) Promulgate guidelines for the generation, collection, segregation, transport, recovery, storage, treatment and disposal of hazardous and radioactive wastes including emergency and contingency plans for accidents involving such wastes;

(c) Prohibit the entry, even in transit, of hazardous and radioactive wastes into the Philippine territorial limits for whatever purpose consistent with multilateral international agreements and protocols;

(d) Promote a national research and development program for improved hazardous and radioactive wastes management and resource conservation techniques;

(e) Formulate and enforce a system of accountability for generators, including the promotion of extended producer responsibility, product stewardship and responsible care program;

(f) Promote international environmental standards on waste management; and

(g) Strengthen the integration of hazardous and radioactive wastes management and resource conservation and recovery topics into the academic curricula of formal and nonformal education in order to promote environmental awareness and action among the citizenry.

SEC. 3. *Coverage of this Act.* – This Act shall apply to the generation, possession, collection, recovery, reuse, storage, transport, treatment and disposal of hazardous and radioactive wastes in the country for whatever purposes: *Provided*, That this Act shall cover the entry, even in transit, into Philippine territorial limits of such wastes.

SEC. 4. *Definition of Terms.* – As used in this Act:

(a) *Abandoned underground mines* shall refer to worked out mineral mines with deep shafts extending to about one to two thousand feet below the ground surface.

(b) *Best Available Techniques (BAT)* shall refer to any technology that shall take into consideration the costs and benefits of a measure as well as the precaution and prevention such as, but not limited to:

(1) The nature, effects and mass of releases concerned;

(2) The consumption and use of raw materials in the process and its energy efficiency;

(3) The need to prevent or reduce to a minimum the overall impact of releases to the environment; and

(4) The need to ensure occupational health and safety at the workplaces.

(c) *Best Environmental Practices (BEP)* shall refer to practices that are generally accepted as “environmentally friendly”, taking into consideration the nature, traditions and culture of the locality. For this purpose, technological advances and changes in scientific knowledge and understanding shall likewise be considered in determining acceptable practices in preserving the environment.

(d) *Borehole facilities* shall refer to those that entail the emplacement of solid radioactive waste in an engineered facility of relatively narrow diameter, bored and operated directly from the surface. These cover a range of design concepts with depths ranging from a few meters up to several hundred meters and its diameters can vary from a few tens of centimeters up to more than one meter.

(e) *Carcinogen* shall refer to any substance that can cause or contribute to the incidence of cancer.

(f) *Collection* shall refer to the act of removing hazardous waste from the source or from a storage point.

(g) *Construction* shall refer to the erection or building of new structures.

(h) *Contaminated site* shall refer to a place or spot where the soil quality exceeds the soil standards set pursuant to Section 17 hereof.

(i) *Corrective action* shall refer to the steps taken to assess, prioritize and clean up hazardous and radioactive wastes from the Treatment, Storage and Disposal Facilities (TSDFs) and/or contaminated sites in order to protect health and the environment.

(j) *Corrosivity* shall refer to a state where the waste has one of the following properties:

- (1) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5; or
- (2) It is liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55°C (130°F).

(k) *Degradability* shall refer to the ability of a compound to be reduced to simpler forms through a breakdown of its structure.

(l) *Deep injection well* shall refer to a well used for subsurface injection of waste fluids and solids derived from industries such as geothermal and oil and gas into an injection zone;

(m) *Department* shall refer to the Department of Environment and Natural Resources (DENR);

(n) *Disposal* shall refer to the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous and radioactive wastes into or on any land or water so that such wastes or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(o) *Generation* shall refer to the act or process of producing hazardous and radioactive wastes.

(p) *Generator* shall refer to a person, natural or juridical, who produces hazardous and radioactive wastes.

(q) *Geological repository* shall refer to the isolation of high level radioactive waste using a system of engineered and natural barriers at depths up to several hundred meters in a geologically stable formation.

(r) *Hazardous waste* shall refer to a substance discarded from commercial and industrial establishments, institutions and healthcare facilities which, because of the concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to increases in mortality or serious illnesses, or pose an unreasonable risk and potential threat to human health and the environment.

(s) *Hazardous and radioactive waste management* shall refer to the systematic administration of activities which provide for the identification, listing, collection, segregation, storage, transport, recovery, reuse, processing, reprocessing, treatment and disposal of hazardous and radioactive wastes.

(t) *Healthcare waste* shall refer to waste originating from minor or scattered sources (healthcare units) that is generated or produced as a result of the following activities: diagnosis, treatment or immunization of human beings or animals; research pertaining to the above activities; and production or testing of biologicals;

(u) *Ignitability* shall refer to the characteristic of hazardous wastes that could cause a fire during transport, storage or disposal. Waste matter exhibits the characteristics of ignitability if a sample thereof has any of the following properties:

- (1) It is a liquid matter that has flash point less than 60°C (140°F);
 - (2) It is not a liquid matter and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;
 - (3) It is an ignitable gas; or
 - (4) It is an oxidizer.
- (v) *Injection zone* shall refer to a geological formation, group of formation or a part of a

formation located below the underground source of potable water, and which receives waste fluids or solids through a deep injection well.

(w) *International environmental standards* shall refer to the requirements or standards under existing international environmental agreements to which the Philippines is a party.

(x) *Landfill* shall refer to a waste disposal site designed, constructed, operated and maintained in a manner that exerts engineering control over significant potential environmental impacts arising from the development and operation of the facility.

(y) *Land disposal* shall refer to the placement of hazardous and radioactive wastes on the surface, near surface and at depths within the soil column.

(z) *Land treatment* or *land farming* shall refer to a managed technology that involves the controlled application of waste on the soil surface and/or the incorporation of waste or contaminated soils into the upper soil zone.

(aa) *Level 1 Hospital* shall refer to an emergency hospital that provides:

(1) Initial clinical care and management to patients requiring immediate treatment, as well as primary care on prevalent diseases in the locality;

(2) Clinical services that include general medicine, pediatrics, obstetrics and nonsurgical gynecology and minor surgery;

(3) General administrative services and may provide ancillary services (primary clinical laboratory, first level radiology, pharmacy); and

(4) Nursing care for patients who require minimal category of supervised care for twenty-four (24) hours or longer.

(bb) *Level 2 Hospital* shall refer to a nondepartmentalized hospital that provides:

(1) Clinical care and management on the prevalent diseases in the locality;

(2) Clinical services that include general medicine, pediatrics, obstetrics and gynecology, surgery and anesthesia;

(3) Appropriate administrative and ancillary services (secondary clinical laboratory, first level radiology, pharmacy); and

(4) Nursing care provided in the Level 1 Hospital as well as intermediate, moderate and partial category of supervised care for twenty-four (24) hours or longer.

(cc) *Level 3 Hospital* shall refer to a departmentalized hospital that provides:

(1) Clinical care and management on the prevalent diseases in the locality as well as particular forms of treatment, surgical procedure and intensive care;

(2) Clinical services provided in the Level 2 Hospital as well as specialty clinical care;

(3) Appropriate administrative and ancillary services (tertiary clinical laboratory, second level radiology, pharmacy); and

(4) Nursing care provided in the Level 2 Hospital as well as total and intensive skilled care.

(dd) *Level 4 Hospital* shall refer to a teaching and training hospital (with at least one (1) Accredited Residency Training Program for Physicians) that provides:

(1) Clinical care and management on the prevalent diseases in the locality as well as specialized and subspecialized forms of treatment, surgical procedure and intensive care;

- (2) Clinical services provided in the Level 3 Hospital as well as subspecialty clinical care;
- (3) Appropriate administrative and ancillary services (tertiary clinical laboratory, third level radiology, pharmacy); and
- (4) Nursing care provided in the Level 3 Hospital as well as continuous and highly specialized critical care.

(ee) *Manifest or consignment note* shall refer to a form prescribed by the Department and the Philippine Nuclear Research Institute (PNRI) accompanying hazardous and radioactive wastes from the point of generation, through transport, to final disposition.

(ff) *Military munitions* shall refer to all types of both conventional and chemical ammunition products and their components produced by or for the military for national defense and security, including munitions produced by other parties under contract with, or acting as agent for, the Department of National Defense (DND).

(gg) *Mined cavities* shall refer to the emplacement of radioactive waste at some depths inside mines or caverns which are either man-made or natural.

(hh) *Mutagens* shall refer to any substances that can cause a change in genetic material.

(ii) *Near surface facilities* shall refer to the disposal site of radioactive waste with or without engineered barrier on or below ground surface where the final protective covering is of the order of a few meters thick or in caverns a few tens of meters below the earth's surface.

(jj) *On-site treatment facilities* shall refer to facilities of generators who treat their own hazardous and radioactive wastes, either by themselves or through a service provider, inside their facilities in compliance with waste acceptance criteria promulgated by the Department, the Department of Health (DOH) and the PNRI.

(kk) *Open burning* shall refer to the low temperature thermal destruction of wastes by means of direct exposure to fire. For this purpose, this shall apply to the traditional small-scale methods of community sanitation called "siga".

(ll) *Partial treatment* shall refer to any process used to modify the characteristics of a hazardous or radioactive waste without totally negating its hazardous characteristics. This may include volume reduction, conditioning, moisture reduction and neutralization, among others.

(mm) *Persistence* shall refer to the substantial length of time a compound, once introduced into the environment, stays there; or the property of a substance whose half-life in water, sediment or soil exceeds duration of fifty (50) days.

(nn) *Person(s)* shall refer to any being, natural or juridical, susceptible of rights and obligations, or of being the subject of legal relations.

(oo) *People's organization (PO)* shall refer to a nonprofit and nonstock association of citizens in a locality embracing a common goal to protect the environment and ultimately public health.

(pp) *Radioactive wastes* shall refer to materials that contain or are contaminated with radionuclides at concentrations or activities greater than clearance levels as established by the PNRI. These also refer to disused sealed sources for which no use is foreseen.

(qq) *Reactivity* shall refer to the state of a waste, or a representative sample of the waste, exhibiting any of the following properties:

- (1) It is normally unstable and readily undergoes violent change without detonating;
- (2) It reacts violently with water;
- (3) It forms potentially explosive mixtures with water;
- (4) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present danger to human health or the environment;
- (5) It is a cyanide- or sulfide-bearing waste which, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;
- (6) It is capable of detonation or explosive reaction if subjected to a strong initiating source or if reacted under confinement; or
- (7) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.

(rr) *Resource recovery* shall refer to the collection, extraction or recovery of recyclable materials from the waste stream for the purpose of recycling, generating energy or producing a product suitable for beneficial use: *Provided*, That such resource recovery facilities exclude incineration.

(ss) *Recycle* shall refer to the process of minimizing the generation of waste by recovering usable products that might otherwise become waste.

(tt) *Segregation* shall refer to a waste management practice of separating different materials found in hazardous waste in order to promote recycling and reuse of resources and to reduce the volume of waste for collection and disposal. This also refers to separating radioactive wastes according to level of activity, physical form and half-life.

(uu) *Special hazardous wastes* shall refer to substances discarded from households consisting of consumer or industrial goods or products which become hazardous at the end of its useful life by virtue of its hazardous content which may be released to the environment upon indiscriminate disposal.

(vv) *Storage* shall refer to the containment of hazardous and radioactive wastes, either on a temporary basis or for a period of years, consistent with the guidelines as prescribed by the Department and in such a manner as not to constitute disposal of such wastes.

(ww) *Surface impoundments* shall refer to pits, ponds, lagoons and dike areas that are either natural topographic depression or man-made excavations that are primarily of earthen materials. These are designed and constructed to hold or store, treat and/or dispose liquid waste or waste containing free liquids through processes such as evaporation, cooling, aeration, photo decomposition and/or settling.

(xx) *Sustainable development* shall refer to development which meets the needs of the present without compromising the ability of future generations to meet their own needs.

(yy) *Special hazardous wastes collectors* shall refer to entities which receive or collect special hazardous wastes under a take-back program or similar collection mechanism for the purpose of consolidating the wastes from households or consumers preparatory to delivery to an accredited recycling or treatment facility.

(zz) *Technical demonstration* shall refer to the initial exhibition of a new technology process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness.

(aaa) *Thermal treatment* shall refer to the controlled heating which involves a prescribed heating rate, maximum temperature and cooling cycle to produce the property and grain structure required.

(bbb) *Toxicity* shall refer to the degree of danger posed by a substance to human or animal due to its acute lethality, chronic and subchronic toxicity, carcinogenicity, teratogenicity or mutagenicity, among others.

(ccc) *Treatment* shall refer to any method, technique or process designed to change the physical, chemical or biological character or composition of any hazardous and radioactive wastes so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume.

(ddd) *Treatment, Storage and Disposal Facility (TSDF)* shall refer to a site where a hazardous substance is treated, stored or disposed.

(eee) *Waste acceptance criteria* shall refer to a list of parameters which describes the minimum characteristics which the waste should possess before it may be placed or accepted in a TSDF.

CHAPTER II

MANAGEMENT SYSTEM

SEC. 5. *Identification and Listing of Hazardous Wastes.* – Within six (6) months from the effectivity of this Act, the Department shall, after notice and public consultation, develop, formulate and publish criteria for identifying and listing the characteristics of hazardous wastes, taking into account, but not limited to, toxicity, persistence, reactivity and degradability in nature, potential for accumulation in tissue and other related factors such as ignitability, corrosivity and other hazardous characteristics. Such criteria shall be reviewed and revised every four (4) years thereafter, or as the need arises: *Provided*, That the Department, in coordination with the DOH and the PNRI, shall also identify or list those hazardous and radioactive wastes that contain certain constituents such as identified carcinogens, mutagens or teratogens that endanger human health: *Provided, further*, That the Department, in coordination with the DND and appropriate government agencies, shall formulate criteria for identifying when military munitions become hazardous and radioactive wastes. For purposes of this Act, the term “military munitions” includes chemical and conventional munitions: *Provided, finally*, That within six (6) months from the effectivity of this Act, the Department, in coordination with the Department of Trade and Industry (DTI) and the Department of the Interior and Local Government (DILG), after public consultation, shall formulate criteria for identifying and listing the categories of special hazardous waste products to be tracked and regulated, taking into account, but not limited to, the presence of toxicity, reactivity, ignitability and corrosivity.

SEC. 6. *Notification of Hazardous and Radioactive Waste Activity.* – Upon the effectivity of this Act, any person generating or managing hazardous or radioactive waste is required to notify in writing the Department, the DOH and the PNRI of their hazardous or radioactive waste activities specifying, among others, the types of waste, quantities and containers used for storage, including incidents involving hazardous and radioactive wastes.

SEC. 7. *National Hazardous and Radioactive Wastes Status Report.* – The Department, in coordination with the DOH, the PNRI and other concerned agencies, shall, within six (6) months after the formulation of the criteria for identifying and listing of hazardous and radioactive wastes pursuant to Section 6 hereof, prepare a National Hazardous and Radioactive Wastes Management Status Report which shall be used as a basis in formulating the National Hazardous and Radioactive Wastes Management Framework as provided in Section 8 of this Act. The said report shall include, but not limited to, the following:

- (a) Inventory of existing hazardous and radioactive wastes and their depots and facilities;
- (b) General waste characterization, taking into account, but not limited to, the source, type and quantity of hazardous and radioactive wastes generated;
- (c) Projection of hazardous and radioactive wastes generation including quantity for reduction, recovery and reuse;
- (d) Listing of TSDFs including transporters of hazardous and radioactive wastes; and
- (e) Listing of identified contaminated sites.

SEC. 8. *National Hazardous and Radioactive Wastes Management Framework.* – Within eighteen (18) months from the effectivity of this Act, the Department, in coordination with the DOH, the PNRI and other appropriate agencies and entities, shall prepare and formulate a National Hazardous and Radioactive Wastes Management Framework, herein referred to as the “Framework”, that shall embody policies established pursuant to this Act. Specifically, the Framework shall contain the following:

- (a) Hazardous and radioactive wastes control strategies and techniques;
- (b) Proper hazardous and radioactive wastes transport, treatment, storage and disposal systems;
- (c) Waste reduction goals and targets;
- (d) Period of compliance for waste reduction;
- (e) Information and education campaign;
- (f) Human resources development; and
- (g) Roles and responsibilities of relevant government agencies.

The Framework shall be adopted as the official blueprint for hazardous and radioactive wastes management with which all relevant government agencies must comply with.

SEC. 9. *Use of Best Available Technology and Best Environmental Practices in Hazardous and Radioactive Wastes Management.* – Generators and owners of TSDFs are required to use best available technologies and best environmental practices (BAT/BEP) in hazardous and radioactive wastes management. The Department, in coordination with the Inter-Agency Technical Advisory Council (IATAC) created herein, shall formulate criteria in assessing the proposed BAT/BEP to be used. In the formulation of these criteria, consideration shall be given, among others, to the relative economic feasibility of the technology. Further, such technology shall render the waste sufficiently low in toxicity, reactivity, corrosivity and ignitability as to present the least possible risk to human health and safety and to the environment.

SEC. 10. *Requirements for Generators of Hazardous and Radioactive Wastes.* – Within six (6) months after the effectivity of this Act, the Department, the DOH and the PNRI shall establish

requirements for generators of such hazardous and radioactive wastes necessary to protect human health and the environment. These requirements shall ensure that the generators shall be responsible for the proper management of the wastes generated and bear the costs for proper storage, transport, treatment and disposal of such wastes. Further, such requirements shall include, but not limited to, the following:

(a) Recordkeeping practices that accurately identify the quantities of such hazardous and radioactive wastes generated, the constituent thereof which are significant in quantity or in potential harm to human health or the environment, and the disposition of such wastes;

(b) Use of appropriate storage facilities and containers to prevent the release of materials to the environment;

(c) Labeling practices for any containers used for the storage, transport or disposal of such hazardous and radioactive wastes that will identify accurately such wastes;

(d) Use of a manifest or consignment note system and any other means necessary to assure that all hazardous and radioactive wastes generated are designated and/or recorded for treatment, storage or disposal in TSDFs with appropriate permit issued pursuant to this Act. The manifest shall also record transportation details of said wastes;

(e) Emergency and contingency plans for effective action to minimize damage and contain and mitigate effects of spills and accidents in connection with the generation, transport, storage or disposal of such wastes;

(f) When it is necessary to transport the wastes, the generators shall only engage the services of transporters and TSDFs holding permits issued pursuant to this Act; and

(g) The waste generator of radioactive wastes shall submit a certificate of transport from its Radiological Health and Safety Officer (RHSO) for the transport of radioactive wastes to the treatment facility.

SEC. 11. *Requirements Applicable to Transporters of Hazardous and Radioactive Wastes.* – Within six (6) months after the effectivity of this Act, the Department, in coordination with the DOH, the PNRI and the Department of Transportation and Communications (DOTC), shall establish requirements applicable to transporters of hazardous and radioactive wastes necessary to protect human health and the environment. Such requirements shall include, but not limited to, the following:

(a) Recordkeeping of such wastes transported, and their source and delivery points;

(b) Use of carriers duly registered with the DOTC;

(c) Transport of wastes only if properly labeled;

(d) Transport of wastes only to TSDF which the generator designates in the manifest form to be a facility holding the appropriate permit issued pursuant to this Act;

(e) Emergency and contingency plans for effective action to minimize the damage and contain and mitigate effects of spills and accidents in connection with the transport of such wastes; and

(f) Coordination with other concerned government agencies in the event that the transport of such hazardous and radioactive wastes to designated TSDFs requires security escort or police protection/assistance.

SEC. 12. *Requirements Applicable to Owners of Hazardous and Radioactive Wastes Treatment, Storage and Disposal Facilities.* – Within six (6) months after the effectivity of this Act, the Department, in coordination with the DOH and the PNRI, shall establish requirements applicable to owners of TSDFs of hazardous and radioactive wastes necessary to protect human health and the environment: *Provided*, That the Department, the DOH and the PNRI shall, where applicable, distinguish requirements appropriate for new and existing facilities at the time of the effectivity of this Act. Such requirements shall include, but not limited to, the following:

(a) Performance standard for the design, construction, operation, maintenance and monitoring of the facility;

(b) Requirements and standards to ensure adequate resources, including human and financial, throughout the life cycle of the facility;

(c) Requirements and standards for the closure, decommissioning and post-closure care, monitoring and maintenance and use of the facility;

(d) Waste acceptance requirements and procedures, approved by the Department, the DOH and the PNRI, for different types of hazardous and radioactive wastes packages; and

(e) Management, engineering controls and use of personnel protective equipment to minimize the exposure of workers to the hazardous wastes and medical surveillance of workers directly involved in the collection, transport, storage or disposal of hazardous wastes.

SEC. 13. *Categories of TSDFs for Hazardous and Radioactive Wastes.* – Within six (6) months after the effectivity of this Act, the Department shall formulate specific, relevant and appropriate standards, including waste acceptance criteria, for the various categories of TSDFs identified hereunder: *Provided*, That no waste shall be accepted unless it complies with the waste acceptance criteria formulated pursuant to this Act: *Provided, further*, That the Department shall revise, as the need arises, the regulations, standards and guidelines applicable to the categories listed hereunder, taking into account the improvements in the technology of control and measurement: *Provided, finally*, That such regulations shall specify criteria for the acceptable location of new and existing TSDFs as necessary to protect human health and the environment. The categories of TSDFs are as follows:

(a) Facilities that conduct on-site storage, treatment and disposal of hazardous wastes generated or produced at the premises through industrial or commercial processes and activities other than disposal via sewer.

The Department shall encourage on-site treatment of hazardous wastes by, among other things, providing for incentives: *Provided*, That generators who undertake partial treatment of wastes shall not be considered as on-site facility operators for purposes of this category: *Provided, however*, That mining operations shall fall under this category;

(b) Commercial or industrial hazardous waste thermal treatment facilities.

TSDFs in this category are facilities that conduct on-site and off-site thermal treatment: *Provided*, That the Department shall promulgate regulations on hazardous wastes used as fuel and raw materials: *Provided, further*, That the Department may also exempt from the requirements hereof facilities which burn *de minimis* quantities of hazardous wastes as fuel, as defined by the Department,

if:

- (1) The wastes are burned at the same facility at which such wastes are generated;
 - (2) The waste is burned to recover useful energy, as determined by the Department, on the basis of the design and operating characteristics of the facility and the heating value and other characteristics of the waste; and
 - (3) The waste is burned in a type of device determined by the Department to be designed and operated at a sufficient destruction and removal efficiency such that the protection of human health and the environment is assured;
- (c) Landfills that accept hazardous wastes for disposal.

The Department shall, after due review and public consultation, promulgate regulations concerning the prohibition of specified hazardous wastes in landfills: *Provided*, That the placement of such specified hazardous wastes in landfills may be allowed upon determination by the Department that the prohibition for disposal of such wastes in landfills is not required in order to protect human health and the environment for as long as the wastes remain hazardous, taking into account the following factors:

- (1) The long-term uncertainties associated with land disposal;
- (2) The goal of managing hazardous wastes in an appropriate manner in the first instance; and
- (3) The persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous wastes and their hazardous constituents.

For this purpose, the disposal of hazardous wastes in landfills is deemed to be protective of human health and the environment if it is determined that there will be no migration of hazardous constituents of the wastes from the disposal unit or injection zone: *Provided, however*, That the disposal of any liquid in landfills shall be prohibited: *Provided, further*, That the disposal in landfills of wastes containing hazardous solvents, pesticides and polycyclic hydrocarbons such as, among others, furans and dioxins, as determined by the Department, after public consultation, are prohibited, unless the Department determines the prohibition of the disposal of such wastes is not required in order to protect human health and the environment for as long as the wastes remain hazardous, taking into account the factors referred to in subparagraphs (1) to (3) of this category.

Within six (6) months from the preparation of the status report, the Department shall review, classify and rank, subject to public consultations, all hazardous wastes listed pursuant to this Act other than those wastes which are referred to in paragraph 3 of this category or deep injection wells. Within twelve (12) months thereafter, the Department, when necessary, shall promulgate regulations prohibiting disposal in landfills of such hazardous wastes listed and ranked: *Provided*, That the Department shall promptly publish in a newspaper of general circulation notice of such determination, together with an explanation of the basis for such determination: *Provided, further*, That the storage of hazardous and radioactive wastes in landfills is hereby prohibited;

(d) Facilities that recycle or reprocess hazardous wastes which are not generated or produced at the premises.

The Department, in coordination with the Department of Science and Technology (DOST), shall promulgate standards for this category of TSDFs. Facilities in this category are those that receive off-

site treatment of hazardous wastes and recover valuable materials from hazardous wastes, use hazardous wastes as input materials or fuel for production, or produce compost by biological treatment of hazardous wastes. It also includes, but not limited to, reclaimers of spent lead-acid batteries, precious metals and oil recyclers;

(e) Other off-site treatment facilities.

Facilities in this category are those facilities that receive hazardous wastes outside the premises and transform physical and/or chemical characteristics of hazardous wastes by physicochemical or thermal treatment other than incineration in order to dispose of them into landfills;

(f) Facilities that store hazardous and radioactive wastes which are not generated or produced at the premises within allowable period.

The storage of any hazardous and radioactive waste is prohibited, unless such storage is solely for the purpose of the accumulation of such quantities of hazardous wastes as are necessary to facilitate the proper recovery, treatment or disposal but shall not be longer than what is prescribed by the Department; and

(g) Other land disposal facilities.

Facilities under this category shall include, among others, deep injection wells, borehole facilities, near surface facilities, mined cavities, surface impoundments, land treatment units/land farming and abandoned underground mines.

SEC. 14. *Closure Plan.* – The owner of a TSDF shall submit a closure plan, including the funds and human resources necessary for the same, subject to the review and approval of the Department.

SEC. 15. *Post-Closure of Facility.* – The owner of a TSDF must close the facility upon the termination of its operation and shall, after such closure, provide for its protection during a post-closure care period, in accordance with the requirements of the Department and the closure plan, including the funds and human resources necessary for the same. The protection shall include, but not limited to, monitoring, repair and maintenance. The owner shall maintain a hazardous waste facility permit for the post-closure care period pursuant to Chapter VII hereof.

SEC. 16. *Environmental Impact Statement (EIS) System.* – Prior to the establishment of TSDFs, all government agencies and private corporations, firms and entities which intend to set up TSDFs shall be subject to the Environmental Impact Statement (EIS) System pursuant to the provisions of Presidential Decree No. 1586 and its implementing rules and regulations.

SEC. 17. *Formulation of Soil Quality Standards for Identification of Contaminated Sites.* – Within six (6) months from the effectivity of this Act, the Department, in coordination with other relevant government agencies, shall formulate soil quality standards which shall be used to determine contaminated sites.

SEC. 18. *Registry of Contaminated Sites.* – The Department shall maintain a registry of confirmed contaminated sites in the country based on the soil quality standards set pursuant to Section 17 hereof: *Provided*, That the Department shall take all necessary actions to insure that the registry provides a complete listing of all such sites, their exact locations and the types of waste found at each site: *Provided, further*, That in developing and maintaining the registry, the Department shall assess, based upon new information received, the relative priority of the need for action at each site to

remedy environmental and health problems resulting from the presence of hazardous and radioactive wastes at such sites: *Provided, finally*, That any site classified as properly closed or remediated where no evidence of present or potential adverse impact exists shall be deleted from the registry.

SEC. 19. *Import and Export of Hazardous and Radioactive Wastes.* – In accordance with Section 2(c) hereof, the Department and the PNRI shall promulgate the rules and regulations on the import and export of hazardous and radioactive wastes consistent with relevant multilateral international agreements and protocols.

SEC. 20. *Market-Based Instruments, Responsible Care and Product Stewardship Program.* – Within six (6) months from the effectivity of this Act, the Department shall, in coordination with the manufacturers of commercial or industrial products, identify and implement market-based instruments, extended producer responsibility, responsible care and products stewardship programs that shall promote cleaner production, waste minimization and resource recovery: *Provided*, That the Department shall identify and list products that shall be covered by such programs.

CHAPTER III

RADIOACTIVE WASTES

SEC. 21. *Listing of Radioactive Wastes.* – Within six (6) months from the effectivity of this Act, the DOST and the PNRI, in coordination with the Department, after public consultation, shall formulate and publish the criteria for identifying and listing the types of radioactive wastes to be monitored and regulated.

SEC. 22. *Classification of Radioactive Wastes.* – The PNRI shall establish the waste classification system based on internationally acceptable guidelines. The classification system shall be based primarily on the safety aspects of radioactive waste disposal: *Provided*, That other stages of radioactive waste management may also be developed by the PNRI.

SEC. 23. *Management of Radioactive Wastes.* – Pursuant to Sections 10, 11 and 12 hereof, the PNRI shall promulgate the rules and regulations on radioactive wastes management. The rules and regulations shall be based on the Best Available Technique to limit the outflow of radioactive substances to the environment, taking into account the benefits as well as the cost of the measures to be undertaken. The measures shall be both technically and economically feasible: *Provided*, That said rules and regulations may be based on, but not limited to, the following methods of managing radioactive waste:

(a) Dilute and Disperse. – Radioactive waste with activity level that can be disposed of as ordinary waste into the sewage and municipal landfills, among other areas;

(b) Delay and Decay. – Storage of short-lived radionuclides under well-controlled conditions until the radioactivity has decayed to a level which meets the established exemption or clearance limits for such waste; and

(c) Characterization, Segregation, Treatment, Conditioning, Transport, Storage and Disposal. – Management of radioactive waste containing long-lived radionuclides, including disused sealed sources, and other wastes that cannot be managed under subsections (a) and (b) of this section.

The acceptable storage period for conditioned wastes prior to the establishment of a final

disposal repository shall be for a maximum period of fifty (50) years.

SEC. 24. *Guidelines for the Acceptance of Radioactive Wastes by Transporters and TSDFs.* – Within six (6) months after the effectivity of this Act, the PNRI shall formulate specific, relevant and appropriate waste acceptance criteria for transporters and TSDFs of radioactive wastes: *Provided*, That no radioactive waste shall be accepted unless it complies with the waste acceptance criteria formulated pursuant hereof.

SEC. 25. *Site Requirements and Selection Criteria.* – The PNRI shall develop and promulgate the generic site requirements for locating a final repository for radioactive wastes.

SEC. 26. *Safety Assessment and Environmental Impact Assessment.* – The PNRI shall develop and promulgate the criteria and regulations on the performance requirements and safety assessment of TSDFs: *Provided*, That the safety assessment shall, among others, address both radiological and nonradiological risks: *Provided, further*, That nonradiological environmental impact assessment shall be carried out in accordance with relevant environmental laws.

SEC. 27. *Emergency Preparedness.* – The PNRI shall promulgate the requirements and guidelines on the formulation of emergency plans commensurate to the seriousness of the accidents that could occur at the TSDFs.

SEC. 28. *Security.* – The PNRI shall promulgate the guidelines on security arrangements to be put in place to ensure that radioactive waste is not accidentally or deliberately removed from its proper location. Particular attention shall be given to materials of intrinsic value that could pose a serious threat to human health and the environment if control is lost.

CHAPTER IV

HAZARDOUS HEALTHCARE WASTES

SEC. 29. *Listing of Hazardous Healthcare Wastes.* – Within six (6) months from the effectivity of this Act, the DOH, in coordination with the Department and the DILG, after public consultation, shall formulate the criteria for identifying and listing the categories of hazardous healthcare wastes to be tracked and regulated. In the formulation of such criteria, the DOH shall take into account, but not limited to, the presence of infectious agents, toxicity, reactivity, ignitability and corrosivity.

SEC. 30. *Management of Hazardous Healthcare Wastes in Hospitals and Other Healthcare Facilities.* – Pursuant to Sections 10, 11 and 12 hereof, the DOH shall promulgate the rules and regulations on the effective management of hazardous healthcare wastes in hospitals and other healthcare facilities. The rules and regulations shall include, but not limited to, the following:

- (a) Hospitals and other healthcare facilities shall practice or implement waste minimization and segregation;
- (b) Segregation at source shall be the responsibility of the waste generator;
- (c) Appropriate storage receptacles or bins shall be provided for each healthcare waste category;
- (d) Labeling of receptacle per waste category shall likewise be implemented for identification of waste and management measures in case of accidents;
- (e) All hazardous healthcare wastes shall be collected and stored in designated on-site storage areas until transported to a TSDF;
- (f) Treatment of hazardous healthcare wastes on-site shall be done through appropriate

treatment methods;

(g) Upon the approval of the Department, healthcare facilities with capacity to manage hazardous healthcare wastes on-site may also treat for a fee the hazardous healthcare wastes generated by other healthcare facilities: *Provided*, That in the case of treatment of radioactive healthcare wastes, approval of the PNRI shall be secured;

(h) For hazardous healthcare liquid waste, all healthcare facilities shall provide wastewater treatment facilities and comply with the effluent standards set by the DENR. The treatment and disposal of sludge shall conform to the provisions of this Act; and

(i) To ensure the proper management of hazardous healthcare wastes, a committee on hazardous healthcare waste management may be created in all healthcare facilities: *Provided*, That in all Level 1, Level 2, Level 3 and Level 4 Hospitals, the creation of a committee on hazardous healthcare waste management shall be mandatory. The committee shall also develop an emergency plan to ensure an immediate and appropriate action once an emergency occurs. For other healthcare establishments, a hazardous healthcare waste management officer shall be designated.

CHAPTER V

SPECIAL HAZARDOUS WASTES

SEC. 31. *Collection of Special Hazardous Wastes.* – The local government units (LGUs) shall be responsible for the collection of special hazardous wastes, as listed by the Department in accordance with Section 5 hereof, from persons and households: *Provided*, That the LGUs may enter into agreement with entities duly accredited by the Department for the collection of special hazardous wastes.

SEC. 32. *Responsible Care Program for Special Hazardous Wastes.* – The LGUs shall enact appropriate ordinances implementing responsible care, extended producer responsibility or product stewardship program that shall include, but not limited to, take-back or return-to-supplier schemes that shall promote cleaner production, waste minimization and resource recovery.

SEC. 33. *Transport, Treatment, Storage and Disposal of Special Hazardous Wastes.* – Upon collection of special hazardous wastes by the LGUs pursuant to Section 31 hereof, the transport, treatment, storage and disposal of special hazardous wastes shall be regulated in accordance with this Act.

CHAPTER VI

INSTITUTIONAL MECHANISM

SEC. 34. *Lead Agency.* – The Department shall be the primary government agency responsible for the implementation and enforcement of this Act, including in Philippine Economic Zone Authority (PEZA) areas, special economic zones and freeports, unless otherwise provided herein. As such, it shall have the following functions, powers and responsibilities:

- (a) Prepare a National Hazardous and Radioactive Wastes Report;
- (b) Prepare a National Hazardous and Radioactive Wastes Management Framework;
- (c) Develop and promulgate criteria for identifying and listing the characteristics of hazardous and radioactive wastes;
- (d) Establish, enforce, review and revise standards for generators of hazardous and radioactive

wastes;

(e) Establish, enforce, review and revise standards for transporters of hazardous and radioactive wastes;

(f) Establish, enforce, review and revise standards applicable to owners and operators of facilities for the treatment, storage and disposal of hazardous and radioactive wastes;

(g) Exercise jurisdiction over all aspects of generation, possession, collection, destruction, recovery, use, storage, transportation, entry into, even in transit, treatment and disposal of hazardous and radioactive wastes;

(h) Evaluate applications for and issue permits and licenses pursuant to this Act;

(i) Revoke, modify or deny, in accordance with the standards, rules and regulations, hazardous waste transporter licenses, TSDFs permits and other permits/licenses issued in accordance with this Act;

(j) Establish a cooperative effort among the national government, LGUs, academic institutions, civil society and the private sector to attain the objectives of this Act;

(k) Develop and implement programs to achieve goals and objectives set under this Act;

(l) Accept, receive and administer grants or other funds or gifts from public and private agencies for the purpose of carrying out the provisions of this Act. Funds received by the Department pursuant to this section shall accrue to the Hazardous and Radioactive Wastes Management Fund;

(m) Secure necessary scientific, technical, including laboratory facilities, by contract or otherwise;

(n) Encourage, coordinate, participate in or conduct studies, investigations, research and technical demonstrations relating to hazardous and radioactive wastes management as it may deem advisable and necessary for the discharge of its duties pursuant to this Act;

(o) Encourage waste reduction, resource recovery, exchange and energy conservation in hazardous and radioactive wastes management;

(p) Oversee any corrective action work undertaken pursuant to the rules and regulations issued in accordance with this Act;

(q) Formulate and undertake the appropriate protocol with other concerned agencies for immediate coordinated responses to hazardous and radioactive wastes-related emergency incidents;

(r) Issue order against any person or entity and impose fines, penalties and other administrative sanctions to compel compliance with the provisions hereof, standards, rules and regulations issued pursuant to this Act; and

(s) Exercise such powers and perform such other functions as may be necessary to carry out the objectives of this Act.

SEC. 35. Role of the DOH. – The DOH shall be primarily responsible in performing the following duties and responsibilities:

(a) Develop, promulgate and publish criteria in identifying and listing the categories of hazardous healthcare wastes to be monitored and regulated;

(b) Develop and promulgate the rules and regulations on the effective management of hazardous healthcare wastes in hospitals and other healthcare facilities; and

(c) Exercise such powers and perform such other functions as may be necessary to carry out the provisions of this Act.

SEC. 36. Role of the PNRI. – The PNRI shall be primarily responsible in performing the following duties and responsibilities:

(a) Develop and promulgate regulations establishing a program for the monitoring of the radioactive wastes listed pursuant to this Act;

(b) Develop, promulgate and publish the criteria for identifying and listing the types of radioactive wastes to be monitored and regulated;

(c) Develop and promulgate the rules and regulations on the radioactive waste management pursuant to Section 23 hereof;

(d) Formulate specific, relevant and appropriate waste acceptance criteria for transporters and TSDFs of radioactive wastes pursuant to Section 24 hereof;

(e) Exercise jurisdiction over all aspects of generation, possession, collection, recovery, transport, entry, even in transit, into Philippine territory, treatment, storage and disposal of radioactive wastes; and

(f) Exercise such powers and perform such other functions as may be necessary to carry out the provisions of this Act.

SEC. 37. Role of the LGUs. – The LGUs shall have the following duties and responsibilities:

(a) Share the responsibility for the implementation, enforcement and monitoring of the provisions of this Act within their territorial jurisdiction such as the registration and compliance monitoring of generators, transports and TSDFs;

(b) Prepare a compliance scheme in accordance with their special hazardous waste management program;

(c) Segregation and collection of special hazardous wastes;

(d) Emergency preparedness and response;

(e) Participate in all efforts concerning hazardous and radioactive wastes management; and

(f) Enact appropriate ordinances to implement the LGUs' role in this Act.

SEC. 38. Inter-Agency Technical Advisory Council (IATAC). – For purposes of policy integration and harmonization and coordination of functions, there is hereby created an inter-agency technical advisory council (IATAC) attached to the Department which shall be composed of the following officials or their duly authorized representatives:

(a) Secretary of Environment and Natural Resources, as Chairperson;

(b) Secretary of Health, as Co-chairperson;

(c) Secretary of Science and Technology, as Co-chairperson;

(d) Secretary of Agriculture, as member;

(e) Secretary of Finance;

(f) Secretary of Trade and Industry;

(g) Secretary of National Defense;

(h) Secretary of Foreign Affairs;

(i) Secretary of Transportation and Communications;

- (j) League of Cities;
- (k) League of Municipalities;
- (l) League of Provinces;
- (m) League of Barangays;
- (n) Director General of the Philippine Export Zone Authority;
- (o) Representative from civil society organizations;
- (p) Representative from the industry;
- (q) Representative from the TSDF operators; and
- (r) Representative from the academe.

The IATAC shall have the following functions, among others:

- (1) Develop and promulgate the criteria in assessing the proposed BAT/BEP to be used in accordance with Section 9 hereof; and
- (2) Constitute and authorize a multidisciplinary body to conduct an annual audit to determine the compliance of TSDF operators with the terms and conditions in the permits and licenses issued pursuant to this Act.

Representatives of civil society organizations, the academe, TSDF operators and the industry shall be nominated through a process designed by the IATAC and shall be appointed by the President for a term of three (3) years.

SEC. 39. The IATAC Technical Working Group. – The IATAC shall be supported by a technical working group (TWG) which shall be composed of representatives from the following:

- (a) Environmental Management Bureau (EMB) of the Department;
- (b) Environmental and Occupational Health Office of the DOH;
- (c) PNRI of the DOST;
- (d) Industrial Technology Development Institute of the DOST;
- (e) Bureau of Health Facilities and Services of the DOH;
- (f) Bureau of Soil and Water Management of the Department of Agriculture (DA);
- (g) Fertilizer and Pesticide Authority of the DA;
- (h) Bureau of Customs of the Department of Finance (DOF);
- (i) Bureau of International Trade Relations of the DTI;
- (j) Board of Investments of the DTI;
- (k) Bureau of Import Services of the DTI;
- (l) DND;
- (m) Land Transportation Office (LTO) of the DOTC;
- (n) Occupational Health and Safety Center of the Department of Labor and Employment (DOLE);
- (o) Philippine Coast Guard;
- (p) civil society organizations;
- (q) industry; and
- (r) academe.

The TWG shall provide technical support to the IATAC. Representatives of civil society

organizations, the industry and the academe shall be nominated through a process designed by the IATAC.

SEC. 40. *Linkage Mechanism.* – The Department and its concerned agencies may coordinate and enter into agreement with other government agencies, civil society, industrial sector and other concerned sectors in the furtherance of the policies of this Act: *Provided*, That the Department shall coordinate with the DILG and the Philippine National Police (PNP) in the enforcement of the requirements for transporters issued pursuant to this Act.

SEC. 41. *Visitorial Powers.* – The Department, the PNRI and the DOH or their duly authorized representatives shall have access to, and the right to copy therefrom, the records required to be maintained pursuant to the provisions of this Act. The Secretary of the Department and the DOH and the Director of the PNRI or their authorized representatives shall likewise have the right to enter the premises of any generator, transporter or TSDF any time to question any employee or investigate any fact, condition or matter which may be necessary to determine any violation, or which may aid in the effective enforcement of this Act and its implementing rules and regulations. This section shall not apply to private dwelling places unless the visitorial power is otherwise judicially authorized.

CHAPTER VII

PERMITS AND FEES

SEC. 42. *Permits for Treatment, Storage or Disposal of Hazardous and Radioactive Wastes.* – (a) Any person owning an existing or a new TSDF of hazardous or radioactive wastes identified or listed pursuant to this Act is required to secure a permit or license pursuant to this section. The Department and the PNRI shall prescribe reasonable fees for the issuance of the said permit or license.

(b) *Duration of Permit.* – Any permit under this section shall be issued annually during the first three (3) years of operation as a TSDF. Thereafter, the Department and the PNRI may issue a permit or license which is valid for five (5) years to a TSDF which has satisfactorily complied with the rules and regulations issued pursuant to this Act for the first three (3) years of operation: *Provided*, That an annual audit shall be conducted by a multidisciplinary body constituted and authorized by the IATAC created pursuant hereof.

(c) *Permit Modification, Suspension and Revocation.* – The Department and the PNRI shall modify, suspend and revoke such permit upon a determination of noncompliance by a TSDF with the relevant provisions of this Act or the terms and conditions of the permit.

(d) *Interim Status.* – A permit to operate a TSDF issued prior to this Act shall be valid and in force for a period of twelve (12) months after the effectivity of this Act: *Provided*, That the required application for the TSDF permit or license shall have been filed within the said twelve (12)-month period: *Provided, further*, That this paragraph shall not apply to any facility which has been previously denied a TSDF permit or license or if the authority to operate the facility has been previously terminated.

SEC. 43. *Hazardous and Radioactive Waste Transporter License.* – (a) Any person transporting any hazardous and radioactive waste is required to secure a waste transporter license from the Department, subject to payment of a reasonable fee.

(b) Duration of License. – A waste transporter license issued under this section shall be valid for a period of one (1) year.

(c) License Modification, Suspension and Revocation. – The Department and the PNRI shall modify, suspend and revoke such license upon a determination of noncompliance by a transporter with the relevant provisions of this Act or the terms and conditions of the permit.

A license is not required for the transport of any hazardous or radioactive waste on the premises where it is generated or onto a property owned by the generator thereof located within a one (1) kilometer radius from said premises or within the same industrial estate: *Provided*, That the Department is notified in writing prior to the transfer and a week after the transfer has been completed. Nothing in this section shall be interpreted to preclude the Department and the PNRI from inspecting unlicensed hazardous waste transporting equipment and requiring that it be adequate to provide protection for the health of humans and the environment.

SEC. 44. *Hazardous Waste Disposal Fee.* – All hazardous waste disposal facilities shall collect, on behalf of the government, from each hazardous waste generator or transporter disposing such waste at the disposal site, a fee that shall accrue to the hazardous waste management fund. The fee shall be established by the Department, taking into consideration the following:

- (a) Strong economic inducement for generators to modify their production or management processes;
- (b) Cost of administering hazardous and radioactive wastes management;
- (c) Cost of damages caused by hazardous and radioactive wastes on the surrounding environment, including that of rehabilitation;
- (d) Category of waste; and
- (e) Classification of waste.

The fee, which shall be established after due public consultation, shall be based on the quantity of waste disposed.

CHAPTER VIII

FINANCING HAZARDOUS WASTES MANAGEMENT

SEC. 45. *Financial Liability for Environmental Rehabilitation.* – The Department shall require generators and owners of TSDFs to put up an Environmental Guarantee Fund (EGF) as part of the Environmental Management Plan attached to the Environmental Compliance Certificate (ECC) pursuant to Presidential Decree No. 1586 and its implementing rules and regulations. The EGF shall finance the needs of emergency response, clean up or rehabilitation of areas that may be damaged during the generation, transport, treatment, storage or disposal of hazardous and radioactive wastes. Liability for damages shall continue even after the termination of the project and until the lapse of a given period indicated in the ECC, as determined by the Department.

The EGF may be in the form of a trust fund, environmental insurance, surety bonds, letters of credit, self-insurance and any other instrument which may be identified by the Department. The choice of the guarantee instrument or combinations thereof shall depend, among others, on the assessment of the risks involved. Proponents required to put up guarantee instruments shall furnish the Department with evidence of availment of such instruments.

SEC. 46. *Performance Bond.* – Prior to the issuance of the required permit to operate, the Department shall require transporters, owners of treatment/storage facilities to post performance bonds. The performance bond shall be forfeited in the event of abandonment of sites and/or

nonperformance of post-closure requirements issued pursuant to Section 15 hereof: *Provided*, That this provision shall not apply to state-owned treatment/storage facilities and to recyclers identified and listed as such pursuant to this Act.

CHAPTER IX

INCENTIVES

SEC. 47. *Rewards*. – Rewards, monetary or otherwise, shall be provided to individuals, private organizations and entities, including nongovernment organizations (NGOs) that have undertaken outstanding and innovative projects, technologies, processes and techniques or activities in hazardous and radioactive wastes management. The rewards shall be sourced from the Hazardous and Radioactive Wastes Management Fund herein created.

SEC. 48. *Incentives Scheme*. – An incentive scheme is hereby provided for the purpose of encouraging enterprises, private entities, LGUs and NGOs to develop or undertake an effective hazardous and radioactive wastes management, or actively participate in any program geared towards the promotion thereof, consistent with the objectives of this Act.

(a) *Tax and Duty Exemption on Imported Capital Equipment*. – Within five (5) years upon the effectivity of this Act, registered enterprises, LGUs and NGOs shall enjoy tax- and duty-free importation of machinery, equipment, technology, vehicles and spare parts used for transport, processing, storage and treatment of hazardous and radioactive wastes including cleaner production and waste minimization technologies: *Provided*, That the importation of such machinery, equipment, technology and spare parts shall comply with the following conditions:

(1) These are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices;

(2) These are reasonably needed and will be used actually, directly and exclusively for the abovementioned activities; and

(3) The approval of the Board of Investments (BOI) of the DTI for the importation of such machinery, equipment, technology and spare parts: *Provided, further*, That the sale, transfer or disposition of such machinery, equipment, technology, vehicles and spare parts, without prior approval of the BOI, within five (5) years from the date of acquisition shall be prohibited; otherwise, the registered enterprise, LGU or NGO concerned and the buyer, transferee or assignee shall be solidarily liable to pay twice the amount of tax and duty exemption given it.

(b) *Exemption from Value-Added Tax (VAT) on the Sale of Domestic Capital Equipment*. – Within five (5) years from the effectivity of this Act, the sale of domestic capital equipment, including its spare parts to registered enterprises, LGUs and NGOs to be used for the processing, storage and treatment of hazardous and radioactive wastes, shall be exempted from the VAT imposed under the National Internal Revenue Code of 1997, as amended: *Provided*, That the said incentive shall be subject to the same conditions and prohibitions cited in the preceding paragraph.

(c) *Tax Exemption of Donations, Legacies and Gifts*. – All donations, gifts and legacies made by any person or entity in favor of the registered enterprises, LGUs and NGOs, for the support and maintenance of the program for effective hazardous and radioactive wastes management, shall be exempt from the donor's tax and such amount of donation shall be deductible from the gross income of the donor pursuant to Section 34, paragraph (h) of the National Internal Revenue Code of 1997, as amended.

(d) *Financial Assistance Program*. – Government financial institutions such as the Development Bank of the Philippines (DBP), the Land Bank of the Philippines (LBP), the Government Service Insurance System (GSIS) and such other government institutions providing financial services shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to extending financial services to

individuals, enterprises or private entities engaged in hazardous, radioactive, medical and special hazardous wastes management.

(e) Extension of Grants to LGUs. – Cities or municipalities whose special hazardous wastes management programs have been duly accredited by the Department or have adopted innovative waste management programs may be entitled to receive grants for the purpose of developing their technical capacities toward actively participating in the program for effective and sustainable waste management.

(f) Tax Exemption on Hazardous Wastes Generated Within PEZA Areas, Freeports and Other Special Ecozones. – Hazardous waste materials generated within PEZA areas, freeports and other special ecozones shall be allowed to be brought to the Philippine customs territory for the sole intention of recycling and/or treatment and shall be exempted from the payment of any tax due on said hazardous wastes: *Provided*, That said recyclable hazardous waste materials are identified and listed in accordance with Section 5 of this Act.

CHAPTER X

CIVIL LIABILITY AND PENAL PROVISIONS

SEC. 49. *Generator's Liability.* – The generator is primarily responsible for the management of hazardous and radioactive wastes until said wastes have been certified as properly treated or disposed by duly accredited TSDFs: *Provided*, That for wastes that are exported outside of the country and treated and disposed in accordance with international agreements, the TSDFs in the country of destination shall issue the certificate of treatment and disposal. All other environmental service providers involved in the transport, treatment, storage and disposal of said wastes shall be jointly and severally liable with the generator in the event of any adverse environmental impacts due to the improper management of the wastes.

SEC. 50. *Prohibited Acts.* – The following acts are prohibited:

(a) Discarding, throwing or dumping of hazardous or radioactive wastes listed pursuant to this Act in public places such as roads, sidewalks, canals, esteros, parks, establishments and municipal solid waste facilities, or causing or permitting the same;

(b) Undertaking activities involving the collection or transport of hazardous or radioactive wastes in violation of the standards and other requirements or permits set forth in this Act;

(c) Causing or permitting the collection of nonsegregated or unsorted hazardous waste;

(d) Operating TSDFs without permits issued pursuant to this Act;

(e) Transporting hazardous or radioactive wastes without the required permit or license pursuant to this Act;

(f) The mixing of source-separated recyclable material with other hazardous waste in any vehicle, box, container or receptacle used in hazardous or radioactive waste collection or disposal;

(g) Disposal of hazardous or radioactive wastes in open and controlled dumps as enjoined in this Act, or causing and permitting the same;

(h) Establishment and operation of open and controlled dumps for hazardous or radioactive wastes;

(i) Transporting and dumping of collected hazardous or radioactive wastes in areas other than facilities prescribed under this Act;

(j) Open burning of hazardous or radioactive wastes;

(k) Transporting any hazardous or radioactive wastes to a TSDF which is not authorized to

receive such wastes pursuant to this Act;

(l) Treating, storing or disposing of any hazardous or radioactive waste without permit or license to do so pursuant hereto, or in knowing violation of any material condition or requirement of such permit or license, or in violation of any standard promulgated pursuant to this Act;

(m) Making any false material statement, representation or certification in any application, label, permit, record, report, manifest or other document filed, maintained or required to be maintained under this Act;

(n) Falsifying, tampering with or rendering inaccurate any monitoring device or result therefrom used, filed, maintained or required to be maintained under this Act;

(o) Generating, treating, storing, transporting, disposing of or handling any hazardous or radioactive waste, and who, in connection therewith, knowingly destroying, altering or concealing any record required to be maintained pursuant to this Act;

(p) Owning, maintaining or operating any hazardous or radioactive waste disposal facility in a manner which permits any act or hazardous waste management practice in violation of standards or rules and regulations issued pursuant to this Act;

(q) Failing to notify the Department, the DOH and the PNRI of hazardous or radioactive waste activities pursuant to Section 6 hereof;

(r) Importing or causing or permitting the entry, even in transit, of any hazardous or radioactive waste into Philippine territory in violation of the provisions of this Act and its implementing rules and regulations and relevant international agreements and protocols;

(s) Constructing, substantially altering or operating, including all post-closure activities and operations specified in the rules and regulations, a hazardous or radioactive waste TSDF without first obtaining a permit as specified in this Act; and

(t) Site preparation, construction, expansion or operation of TSDFs without an ECC required pursuant to Presidential Decree No. 1586 and this Act.

For purposes of this provision, the term "hazardous waste" shall include special hazardous and healthcare waste.

Sec. 51. *Fines, Damages and Penalties.* – Unless otherwise provided herein, any person who commits any of the prohibited acts provided in the immediately preceding section or violates any of the provisions of this Act or its implementing rules and regulations shall be fined by the Pollution Adjudication Board (PAB) in the amount of not less than Ten thousand pesos (P10,000.00) but more than One hundred thousand pesos (P100,000.00) for every violation: *Provided, That for* violation of Section 50 involving prohibited acts under paragraphs (a), (g), (h), (i), (l), (p), (s) and (t), the fine shall be imposed for every day of violation.

For purposes of the application of the fines, the PAB, within one (1) year upon the effectivity of this Act, shall establish a fine rating system to adjust the maximum fine based on the violator's ability to pay, degree of willfulness, degree of negligence, degree of severity of the offense, history of noncompliance and degree of recalcitrance.

The fines herein prescribed shall be reviewed and revised, whenever necessary, every three (3) years to compensate for inflation and to maintain the deterrent function of such fines.

The PAB may order the closure, suspension of development or construction, or cessation of operations until such time that proper environmental safeguards are put in place and/or compliance with this Act or its rules and regulations are undertaken, without prejudice to the issuance of an *ex parte* order for such closure, suspension of development or construction, or cessation of operations during the pendency of the case: *Provided*, That if the prohibited act undertaken shall require clean-up and rehabilitation, the offender shall also be required to restore or compensate for the restoration of the area. The PAB may also award such damages as it may deem just under the circumstances in favor of the private complainant in the case.

In case of gross violation of this Act, the PAB shall issue a resolution recommending that the proper government agencies file criminal charges against the violators. Gross violation shall mean any of the following:

(a) Deliberate disposal of hazardous or radioactive wastes without the required permit issued pursuant to this Act;

(b) Three (3) or more violations of paragraphs (a), (d), (e), (g), (k), (l) and (m) of Section 50 hereof within a period of two (2) years; or

(c) Blatant disregard of the orders of the PAB such as the nonpayment of fines, breaking of seals or operation of the source of pollution despite the existence of an order for closure, discontinuance or cessation of operation or the unjustified refusal for the entry or access to any premises of an authorized Department representative.

In these cases, the offender shall be punished a fine of not less than One hundred thousand pesos (₱100,000.00) but not more than Three million pesos (₱3,000,000.00) and/or with imprisonment of not less than three (3) years but not more than ten (10) years at the discretion of the court. If the offender is a juridical person, the chief executive officer and the pollution control officer or its equivalent shall suffer the penalty herein provided: *Provided*, That the officers and incorporators of TSDFs who violated the post-closure requirements issued pursuant to Section 15 hereof shall be banned from setting up TSDFs and hazardous and radioactive wastes transport companies, and engaging in the operation of the same.

If the offender is an alien, he or she shall, after service of the sentence prescribed above, be deported without further administrative proceedings.

The fines herein prescribed shall be reviewed and revised, whenever necessary, every three (3) years to compensate for inflation and to maintain the deterrent function of such fines.

SEC. 52. Administrative Sanctions. – Local government officials and officials of government agencies concerned who fail to comply with and enforce rules and regulations promulgated relative to this Act shall be charged administratively in accordance with Republic Act No. 7160 or the Local Government Code and other existing laws, rules and regulations.

SEC. 53. Administrative Action. – Without prejudice to the right of any affected person to file an administrative action, the Department, the DOH and the PNRI shall, on its own instance or upon verified complaint by any person, institute administrative and civil proceedings against any person who violates:

(a) Standards or limitations provided under this Act; or

(b) Any order, rule or regulation issued by the Department, the DOH or the PNRI with respect

to such standards or limitations.

SEC. 54. *Citizen Suit.* – For purposes of enforcing the provisions of this Act or its implementing rules and regulations, any citizen may file an appropriate civil, criminal or administrative action in the proper courts or bodies against the following:

(a) Any person who violates or fails to comply with the provisions of this Act or its implementing rules and regulations; or

(b) The Department or other implementing agencies with respect to orders, rules and regulations issued inconsistent with this Act; or

(c) Any public officer who willfully or grossly neglects the performance of an act specifically enjoined as a duty by this Act or its implementing rules and regulations, or abuses his authority in the performance of his duty, or, in any manner, improperly performs his duties under this Act or its implementing rules and regulations: *Provided, however,* That no suit can be filed until after a thirty (30)-day notice has been given to the public officer and the alleged violator concerned and no appropriate action has been taken thereon.

The court shall exempt such action from the payment of filing fees, except fees for actions not capable of pecuniary estimations, and shall, likewise, upon *prima facie* showing of the nonenforcement or violation complained of, exempt the plaintiff from the filing of an injunction bond for the issuance of a preliminary injunction.

Within thirty (30) days, the court shall make a determination if the complaint herein is malicious and/or baseless and shall accordingly dismiss the action and award attorney's fees and damages.

SEC. 55. *Suits and Strategic Legal Action Against Public Participation (SLAPP) and the Enforcement of this Act.* – Where a suit is brought against a person who filed an action as provided in Section 54 of this Act, or against any person, institution or government agency that implements this Act, it shall be the duty of the investigating prosecutor or the court, as the case may be, to immediately make a determination not exceeding thirty (30) days whether the said legal action has been filed to harass, vex, exert undue pressure or stifle such legal recourses of the person complaining of or enforcing the provisions of this Act. Upon determination thereof, evidence warranting the same, the court shall dismiss the case and award attorney's fees and double damages.

This provision shall also apply and benefit public officers who are sued for acts committed in their official capacity, there being no grave abuse of authority, and done in the course of enforcing this Act.

CHAPTER XI

MISCELLANEOUS PROVISIONS

SEC. 56. *Mandatory Public Hearings.* – Mandatory public hearings for the Framework shall be undertaken in accordance with the process to be formulated by the Department.

SEC. 57. *Research on Hazardous and Radioactive Wastes Management.* – The Department, after consultations with the cooperating agencies, shall encourage, cooperate with and render financial and other assistance to appropriate government and private agencies, institutions and individuals in the conduct and promotion of researches, experiments and other studies on hazardous and radioactive wastes management, particularly those relating to:

- (a) Adverse health welfare effects of the release into the environment of hazardous and radioactive wastes, and methods to eliminate said effects or minimize the health risks;
- (b) The operation and financing of hazardous and radioactive wastes disposal programs;
- (c) The planning, implementation and operation of resource recovery and resource conservation systems;
- (d) The production of usable forms of recovered resources, including fuel from hazardous waste;
- (e) The development and application of new and improved methods of collecting, separating and disposing of hazardous and radioactive wastes, and processing and recovering materials and energy from hazardous and radioactive wastes;
- (f) Cleaner production technologies;
- (g) Improvements in land disposal practices for hazardous and radioactive wastes; and
- (h) Development of new uses of recovered resources and identification of existing or potential markets of recovered resources.

In carrying out hazardous and radioactive wastes researches and studies, the Department, the DOH and the PNRI or their authorized representatives may award grants or enter into contracts with government agencies, NGOs and private persons.

SEC. 58. Public Education and Information. – The Department, the DOH and the PNRI, in coordination with the Department of Education (DepED), the TESDA, the Commission on Higher Education (CHED), the DILG, the Philippine Information Agency (PIA) and the LGUs, shall conduct a continuing education and information campaign on hazardous and radioactive wastes management. Such education and information program shall:

- (a) Aim to develop public awareness of the impacts of hazardous and radioactive wastes and how to prevent or minimize their adverse effects;
- (a) Concentrate on activities which are feasible and which will have the greatest impact on the hazardous and radioactive wastes management; and
- (b) Encourage the general public, accredited NGOs and POs to publicly endorse and patronize environment-friendly products.

SEC. 59. Environmental Education in the Formal and Nonformal Sectors. – The national government, through the DepED and in coordination with concerned government agencies, NGOs and private institutions, shall strengthen the integration of environmental concerns in school curricula at all levels, with particular emphasis on hazardous and radioactive wastes management principles in order to promote environmental awareness and action among the citizenry.

SEC. 60. Business and Industry Role. – The Department, the DOH and the PNRI shall encourage commercial and industrial establishments, through appropriate incentives other than tax incentives, to initiate, participate and invest in integrated hazardous and radioactive wastes management projects; to manufacture environment-friendly products; to introduce, develop and adopt innovative processes that shall recycle and reuse materials, conserve raw materials and energy, reduce waste and prevent pollution; and to undertake community activities to promote and propagate effective hazardous and radioactive wastes management practices.

CHAPTER XII

FINAL PROVISIONS

SEC. 61. *Appropriations.* – The Secretaries of the Department of Environment and Natural Resources, the DOH and the DOST shall include in their respective programs the implementation of this Act, the funding of which shall be included in the annual General Appropriations Act.

In addition, the Departments may accept donations, contributions, grants, requests or gifts, in cash or in kind, from various sources, domestic or foreign, for purposes relevant to hazardous and radioactive wastes management functions: *Provided, That*, in case of donations from foreign governments, acceptance thereof shall be subject to prior clearance and approval of the President of the Philippines upon the recommendation of the Secretary of Foreign Affairs.

Receipts from donations shall be accounted for in the books of the recipient government agency in accordance with pertinent accounting and auditing rules and regulations.

SEC. 62. *Implementing Rules and Regulations.* – Within one (1) year after the effectivity of this Act, the Department, the DOH and the PNRI, respectively, shall promulgate the implementing rules and regulations of this Act: *Provided, That* rules and regulations issued by other government agencies and instrumentalities relative to hazardous and radioactive wastes management consistent with this Act shall supplement the rules and regulations issued by the DENR, the DOH and the PNRI pursuant to the provisions of this Act.

There shall be a mandatory review of the implementing rules and regulations and standards set pursuant to the provisions of this Act.

SEC. 63. *Joint Congressional Oversight Committee.* – There is hereby created a Joint Congressional Oversight Committee to monitor the implementation of this Act. The Committee shall be composed of five (5) Senators and five (5) Representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall be co-chaired by a Senator and a Representative designated by the Senate President and the Speaker of the House of Representatives, respectively.

The oversight committee created under this act shall exist for a period not exceeding five (5) years from the effectivity of this Act, after which the oversight functions shall be performed by the Committee on Health and Demography of the Senate and the Committee on Health of the House of Representatives.

SEC. 64. *Transitory Provision.* – Pending the establishment of the Framework under Section 8 hereof and the promulgation of the implementing rules and regulations of this Act, pertinent existing laws, regulations, programs and projects on hazardous and radioactive wastes management shall be enforced: *Provided, That*, for specific undertakings, these may be revised in the interim in accordance with the intentions of this Act.

SEC. 65. *Report to Congress.* – The Department shall report to Congress not later than March 30 of every year following the approval of this Act, giving a detailed account of its accomplishments and progress on hazardous and radioactive wastes management during the year and make the necessary recommendations in areas where there is need for legislative action.

SEC. 66. *Separability Clause.* – If any provision of this Act or the application of such provision to any person or circumstance is declared unconstitutional, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SEC. 67. *Repealing Clause.* – Republic Act No. 6969, Executive Order No. 192, Republic Act No. 9003, Republic Act No. 7160 and Republic Act No. 2067, as amended, are partly modified. All laws, decrees, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 68. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,