

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session

8 JUL -9 AM 1:47

SENATE
S.B. No. 2432



RECEIVED BY: _____

[Signature]

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

Article II Section 16 of the Constitution provides that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. This policy has long been integrated into the planning of projects with the enactment of Presidential Decree No. 1151 otherwise known as the Philippine Environmental Policy in 1977. In the following year, Presidential Decree No. 1586 established the Environmental Impact Statement System (EISS) with the end in view of ensuring that the exigencies of socio-economic undertakings can be reconciled with the requirements of environmental quality.

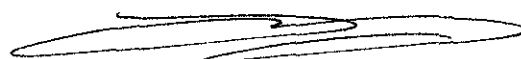
Three decades thereafter, the EISS has been considered a vital tool of the national government in its pursuit of sustainable development. The EISS has become a prescribed component in the conceptualization and preparation of any project and, when properly carried out, the results of an environmental assessment can even help improve the project design and mechanics of implementation that places premium on the need to protect our environment and natural resources from possible abuse and exploitation by project proponents. In fact, the Environmental Compliance Certificate (ECC) which the Department of Environment and Natural Resource is mandated to issue, after making sure that all possible adverse impacts of a project have been fully addressed and dealt with, has become a powerful instrument through which the government can effectively enforce the existing environmental laws.

A joint report undertaken by the World Bank and the Asian Development Bank, while underscoring the importance of the EISS as a tool to achieve sustainable development, identified the gaps and weakness in the current EISS. It was found out that while the EISS was applicable to a wide range of business activities, majority of these are only small- to medium-scale enterprises. The role of the local government units in the implementation of the EISS was also limited. Also, "more attention is paid on the procedural rather than on the technical aspects, resulting in generally poor quality environmental assessment characterized by voluminous reports and lack of focus and depth of analysis on critical issues and impacts." Lastly, the EISS overlaps with other existing laws as the "EISS tends to incorporate requirements of laws that are already handled by other agencies." Other concerns which also need to be reviewed within the purview of the EISS include the lack of professional regulation on preparers, lack of deterrents to violations, lack of an integrated approach for project clusters and weak or no financial guarantees for environmental rehabilitation and injuries to communities.

This bill seeks to address the above issues on the implementation of EISS and strengthen the Philippine environmental assessment law. It provides for the institution of a Programmatic Environmental Impact Assessment (EIA) System to assess the cumulative effects of several activities taken together. It mandates the mainstreaming of EIA in National Policy Formulation to integrate environmental considerations into the planning of policies and programs. It strengthens public participation and social acceptability requirements to empower communities to partake in decision-making. It provides penalties and remedies for violations and non-compliance. It creates the National Environmental Protection Commission, which shall be the lead agency in the conduct of EIA and issuance of ECCs.

With the advent of more advanced techniques and highly sophisticated technologies, and with the onslaught of more devastating natural calamities and disasters, it is only fitting that the Philippine government exert tremendous effort to be able to respond to the demands of the changing times. Strengthening the EISS will be a significant step towards intensifying our collective resolve to protect the environment and pursue equitable and sustainable development in the next years.

In view of the foregoing, immediate passage of this bill is earnestly sought.

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LOREN LEGARDA

Senator

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session

8 JUL -9 AM 11:47

SENATE
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Introduced by Senator Loren Legarda

AN ACT
TO ENHANCE THE PHILIPPINE ENVIRONMENTAL IMPACT ASSESSMENT
(EIA) SYSTEM, TO STRENGTHEN PUBLIC PARTICIPATION THEREIN, AND
FOR RELATED PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the “Environmental Impact Assessment Act of 2008.”

SECTION 2. *Declaration of Policy.* – It is the policy of the State to adhere to the principle of sustainable development where economic growth is pursued with concern and consideration for the protection of the environment and natural resources for present and future generations. The State shall, at all times, promote a balanced and healthful ecology through the adoption of measures that determine the adverse environmental impacts of economic undertakings and prescribe appropriate schemes and regulations to avoid and mitigate the same. In the implementation of this policy, the State shall be guided by the following principles:

- (a) Fulfillment of the responsibilities of each generation as trustee of the environment for succeeding generations;
- (b) Protection and upliftment of the quality of life of all Filipinos, recognizing that such quality of life is intimately related to the quality of their natural environment;
- (c) Assurance for all Filipinos of environs that are safe, healthful, and productive;
- (d) Attainment of the widest range of beneficial uses of the environment without degradation to its integrity or sustainability or risk to the health, safety, and livelihood of persons and local communities;

- (e) Preservation of important historic, cultural, and natural aspects of our national patrimony; and
- (f) Promotion of public participation in decision-making, including project planning and policy formulation, pursuant to the internationally -recognized rights of people to information and self-determination.

SECTION 3. *Aids to Construction.* – This Act shall be construed taking the following into consideration:

- (a) The environment is a resource not only for present but for future generations; and
- (b) Marginalized communities and vulnerable sectors will always be disadvantaged in formal legal processes.

SECTION 4. *Definition of Terms.* -- For purposes of this Act, the following shall be defined as stated below:

- a) “*Certificate of Non-Coverage*” (CNC) refers to the document issued by the Commission or its duly authorized representative certifying that the proposed project or undertaking does not fall within the category of critical projects that require the issuance of an Environmental Compliance Certificate prior to project implementation and operation;
- b) “*Co-located Projects* ” are projects, or a series of similar projects or undertakings, located in a contiguous area, or a project subdivided into several phases and/or stages;
- c) “*Commission*” refers to the National Environmental Protection Commission;
- d) “*Critical Project*” refers to any project or activity that has a high potential to create an adverse impact on the environment, or to the safety and health of persons and their quality of life;
- e) “*Environmental Compliance Certificate*” (ECC) refers to the document issued by the President of the Philippines or his duly authorized representative certifying that the project under consideration will not bring about unacceptable environmental impact and that the proponent has complied with the requirements of the Environmental Impact Assessment System;
- f) “*Environmentally Critical Areas*” (ECA) refer to all declared protected areas, including but not limited to those declared under Republic Act No. 7586 (National Integrated Areas System Act of 1992) and other areas which are

ecologically important or especially sensitive to degradation, such as watersheds, fish sanctuaries, etc.;

- g) *"Environmentally Critical Projects"* (ECP) refer to all projects declared as environmentally critical, or those which have high potential for creating negative impacts on the environment and to the safety and health of persons and their quality of life, due to the nature of the project and the activities to be done pursuant to its implementation;
- h) *"Environmental Impact Assessment "* (EIA) refers to the processes of identifying, forecasting and evaluating the future state of the environment as a consequence of a particular activity and with reference to a comparative assessment of the environment's future state without the activity;
- i) *"Environmental Impact Assessment Report"* refers to the documentation of the process undergone by a project to assess its environmental impacts and includes documentary requirements as determined according to the nature or type of project being proposed;
- j) *"Environmental Impact Statement"* (EIS) refers to the documentation of the studies of the environmental impact of a project including a discussion of the direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall in every case contain all relevant environmental information and details about the project;
- k) *"Free and Prior Informed Consent "* (FPIC) as used in this Act shall mean the consensus of all members of the affected communities consenting to the implementation of a project being proposed and undergoing environmental assessment, free from any external fraud, manipulation, interference or coercion, and obtained after fully disclosing the intent and scope of the project, in a language and process understandable to the community affected;
- l) *"Policy and Programmatic Environmental Impact Assessment "* refers to the process of review and evaluation by the Commission of projects on contiguous areas, where the focus of the review process is the carrying capacity of the area with respect to the projects to be sited there and on the applicability and appropriateness of the proposed management program;
- m) *"Project"* means activities including actions, programs, or undertakings, regardless of magnitude, which may have significant impact on the environment;

- n) *"Principal Investor"* means any person, whether natural or juridical, or of Filipino or foreign citizenship or registration, which owns at least a thirty percent (30%) equity in the paid-in capital stock of the proponent firm;
- o) *"Proponent"* refers to persons, whether natural or juridical, owners/agents, organizations, or other entities planning, proposing or otherwise undertaking a project, program or policy, including government agencies, government -owned and controlled corporations, and Local Government Units;
- p) *"Public Participation"* means an open, transparent, gender-sensitive, fair, truthful, and community-based process consisting of one or several activities where the primary objective to provide a venue where relevant issues concerning the project and its effects on the environment, including on the health of persons and communities and their quality of life, are to be presented and discussed by all stakeholders, at all relevant stages of project implementation including project planning and development, and post-assessment monitoring;
- q) *"Social Acceptability"* refers to the acceptance of a projected by affected communities based on timely and informed participation in the assessment process with particular regard to environmental impacts that are of concern to them;
- r) *"Social Acceptability Report"* refers to the documentation of the process, which is to be based on public participation, undertaken to secure the consent of the affected communities to the project, whether or not such consent is actually secured;
- s) *"Stakeholders"* includes all persons or entities who may be significantly affected by the project or undertaking, whether directly or indirectly.

CHAPTER 2

ENVIRONMENTAL IMPACT ASSESSMENT (EIA) SYSTEM

SECTION 5. *Environmental Impact Assessment (EIA) System.* – The EIA System is intended to identify, forecast, and evaluate the adverse effects of a proposed project on the environment as a result of the implementation of the project or any of its components, including on the health of persons. All persons, whether natural or juridical, and entities including government -owned or controlled corporations and local government units, intending to implement any project which may have adverse impacts on the environment shall undertake an Environmental Impact Assessment

(EIA) to disclose the potential impacts of the proposed project or activity for public review. The EIA shall be integrated into the planning process, and shall require public participation as described in Section 17 of this Act. The assessment process should result in the production of an EIA Report, which shall disclose all findings and contain all requirements, including but not limited to the Free and Prior Informed Consent document, a list of applicable national and local environmental laws and ordinances, and others as provided in Sections 10 and 11 of this Act.

SECTION 6. Coverage. – The EIA System shall apply to all projects planned or proposed by any individual, organization or instrumentality including government - owned or controlled corporations, which can potentially have adverse effects on the environment, including the health of persons, as classified under Section 7 of this Act.

SECTION 7. Taxonomy and Guidelines of Appraisal. – To enable the Commission to effectively pursue the intent and purpose of the EIA System, a technical classification and evaluation scheme shall prescribe the necessary requirements for the issuance of ECCs to proposed activities and projects. The primary aim of the scheme is to guide the determination of the nature or characteristics of a proposed project and its potential to create adverse impact on environmental resources in the project area.

For the purpose of these rules and regulations, projects may be classified as either covered or not covered by the EIA System and as such shall be treated accordingly in the approval of the projects.

The Commission may issue additional guidelines for project classification and evaluation in keeping with applicable laws and rules. The various project categories and classifications under these rules shall be as follows:

Type A. Environmentally Critical Projects (ECPs);

Type B. Projects located in Environmentally Critical Areas (ECAs) tending to cause adverse environmental impacts;

Type C. Projects not falling in any of the aforecited categories but may have significant or adverse environmental impacts;

Type D. Projects projected to create positive impact on the environment;

Type E. Exempted Projects.

The Commission shall issue further rules and regulations as may be necessary to effectively implement the intent and purpose of this section.

SECTION 8. *Review of Classification of Projects and Categories of Assessment.* –

The Commission shall review and update the current classification of programs and projects within the coverage of the System to mitigate hazards to public health and welfare; *Provided*, That the Commission shall factor in all information on potential adverse environmental impacts of the proposed programs and projects in the formulation of additional classification schemes for coverage and/or non-coverage.

SECTION 9. *EIA Reportorial System.* – If a project is considered an ECP or a Type A project, the proponent shall be required to prepare an Environmental Impact Statement (EIS). If the project is not considered an ECP but is located within an ECA or a Type B project, the proponent shall be required to submit an Initial Environmental Evaluation (IEE), without prejudice to the submission of an EIS or any part thereof as may be further required by the Commission upon review of the IEE. At its option, a proponent of Type B project may submit an EIS instead of an IEE, pursuant to guidelines to be promulgated by the Commission.

If a project falls under Type C, the proponent shall submit a Project Description to the Commission. The Commission shall thereafter, and within a reasonable time after submission of the Project Description, determine whether the Proponent will be further required to submit an EIS or an IEE. The same shall apply to projects designed to create positive impacts on the environment (Type D).

Projects which have already undergone assessment shall undergo a new assessment prior to any development or further activity not covered by the first assessment. Such development or further activity may be deemed as a separate and distinct project.

Co-located projects shall be required to conduct an EIA that shall consider the cumulative environmental impacts of all the project components. A single ECC covering all co-located projects may be issued for such co-located projects except where the Commission determines that each or any component should be treated as a separate and distinct project.

The Commission shall issue further rules and regulations, including guidelines for the determination of exempted projects, as may be necessary to effectively implement the intent and purpose of this section.

SECTION 10. *Environmental Impact Statement.* -The EIS shall include, but not be limited to the following:

- a. Project Description, including data on project location, specifically describing the primary and secondary impact zones, project rationale, alternatives, including alternative sites or actions, no action alternatives, and project phases;
- b. Scoping Report;
- c. Social Acceptability Report, detailing the process of public participation, and containing the Free and Prior Informed Consent document;
- d. Baseline Environmental Conditions for land, water, air, and people;
- e. Impact Assessment, including a discussion of the impact of the project or undertaking on the environment and public health;
- f. Environmental Risk Assessment, when appropriate;
- g. Environmental Management Plan;
- h. Proposals for Environmental Monitoring and Guarantee Funds when required;
- i. List of relevant national and local environmental laws, including but not limited to ordinances and land and water use plans, which require compliance;
- j. Supporting Documents, such as documents on technical and socio-economic data used, gathered, or generated;
- k. Accountability Statements of the preparer and the proponent;
- l. For projects located in ancestral lands or domains, as defined or to be defined by law, of indigenous communities, a specific chapter in the socio-economic impact assessment shall be devoted to a discussion of indigenous peoples' concerns and possible socio-economic, political and cultural impacts of the proposed project on such people;
- m. For projects or undertakings with significant impact on women, a specific chapter in the socio-economic impact assessment shall be devoted to a discussion and consideration of gender issues; and
- n. For projects or undertakings with significant impact on population, a specific chapter on the socio-economic impact assessment shall be devoted to a discussion of the relationship among population, development, and the environment.

The Commission shall promulgate the rules and regulations necessary to effectively implement the procedure by which an EIS is required, produced and assessed.

SECTION 11. *Initial Environmental Examination.* – The IEE shall include, but not be limited to the following:

- a. a full description of the environmental setting and receiving environment, including the primary and secondary impact areas;
- b. a brief description of the project or undertaking and its process of operation;
- c. a brief description of the environmental impact of the project or undertaking, including its socio-economic impact;
- d. the Social Acceptability Report, detailing the process of public participation, and containing the Free and Prior Informed Consent document;
- e. a matrix of mitigation and enhancement measures;
- f. a documentation of the consultative process undertaken, when appropriate;
- g. a list of relevant national and local environmental laws, including but not limited to ordinances, land and water use plans, and declarations on the protected or critical nature of the area where the project is located, which require compliance;
- h. a brief discussion of indigenous peoples' concerns and possible socio-economic, political and cultural impacts of the proposed project or undertaking on such people for projects or undertakings located in ancestral lands or domains, as defined or to be defined by law, of indigenous communities;
- i. a brief discussion of gender issues for projects or undertakings with significant impact on women;
- j. a brief discussion of the relationship among population, development, and the environment for projects or undertakings with significant impact on population; and
- k. Accountability Statements of the preparer and the proponent.

The Commission shall promulgate the rules and regulations necessary to effectively implement the procedure by which an IEE is required, produced and assessed. After due appraisal of the IEE, the Commission shall decide to either deny or issue an ECC or to further require the proponent to produce an EIS, or any part thereof as it may deem necessary. In all cases, the proponent shall be notified by the Commission of its action within a reasonable amount of time.

SECTION 12. *Environmental Compliance Certificate (ECC).* – An ECC shall issue only after favorable evaluation by the Commission of the pertinent environmental impact report, whether such is in the form of an EIS or an IEE, within a reasonable time.

No program or project shall be implemented absent an ECC. In evaluating environmental impact reports, the Commission may seek the assistance of other government agencies and concerned stakeholders, but in all cases shall be the lead agency in such evaluation. In every case, an ECC shall be issued subject to conditions set forth by the Commission, the non-fulfillment or violation of which shall be grounds for revocation of the ECC and administrative, civil, or criminal charges.

SECTION 13. *Local Monitoring Bodies.* - Local Monitoring Bodies shall be organized by the Commission consisting of representatives from the regional or local office of the Commission, the Local Government Unit having jurisdiction, local communities and stakeholders, that shall monitor the compliance of a project or projects to the terms and conditions set forth in the ECC or CNC.

CHAPTER 3

PROGRAMMATIC ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM

SECTION 14. *Mainstreaming EIA in National Policy Formulation.* - Cognizant of the need to ensure the formulation of policies, programs, and plans founded upon sound environmental considerations and the principles of sustainable development, it is hereby declared the policy of the State to systematically integrate environmental impact assessment concepts and processes in various phases of policy formulation by all national agencies and instrumentalities of government. The Commission shall, within a reasonable period from the effectivity of this Act, formulate and publish guidelines for identifying, appraising and addressing potential environmental impacts of national policies in order to incorporate environmental safeguards into the development process. There shall be a regular review of such guidelines considering relevant information and best practices in order to enhance the quality of the EIA as a policy and planning tool.

SECTION 15. *Policy and Programmatic EIA.* - Policy and Programmatic EIA shall be required by the Commission for proposed policies, programs and plans, when:

- (a) the proposal pertains to, 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;

- (b) implementation of the proposal may pose significant environmental risks or result in adverse or doubtful effects on the environment, including the health of individuals or communities;
- (c) the proposal consists of several components or a cluster of projects co-located in area such as an industrial estate or export processing zone.

SECTION 16. *Relationship with the Per Project EIA System.* - As such policy and planning tool, the Policy and Programmatic EIA is intended to strengthen and support, and not to replace the per project EIA System. Projects included in policies, programs, or plans that have undergone Policy and Programmatic EIA, shall not be automatically exempted from the per project EIA System.

Chapter 4

FREE AND PRIOR INFORMED CONSENT

SECTION 17. *Free and Prior Informed Consent.* - It is hereby declared to be the policy of the State to ensure the direct and meaningful participation of affected communities and sectors in the approval of policies, programs and projects with possible adverse impacts on the environment. The social acceptability of the project, in the form of the free and prior informed consent of affected persons or communities, shall be a condition precedent to the approval of any program or project. Toward this end, proponents of projects shall, at all times, be required to conduct scoping sessions and submit to public consultations.

A. Nature and Purpose of Public Consultations and Scoping Processes

It is hereby declared that the environmental assessment process, including the public consultation and scoping procedures, are not conducted for the purpose of encouraging or soliciting the concerned communities' approval of or support for the project being discussed, but as a fair, truthful, and comprehensive forum where all parties may present relevant issues concerning the project and its perceived significant effects on the environment, including the health of persons and communities and their quality of life. It shall be incumbent upon project proponents and representatives from local government units and other government agencies and Commissions with jurisdiction over the project, to present all and any relevant data and aspects of the project that may affect the community, whether positively or

adversely. Such data shall be complete, accurate, and unbiased. Within six (6) months from the effectivity of this Act, the Commission shall promulgate implementing rules and regulations to ensure the objectivity of the conduct of the EIA and the truthfulness of all presentations and representations made therein by all parties thereto. These rules shall also provide for penalties where parties, including representatives from local government units and other government agencies and Commissions with jurisdiction over the project, fail to comply with the duties and responsibilities vested upon them by this Section.

B. Conduct of Scoping

Scoping shall be initiated by the proponent at the earliest possible stage of project planning, to determine the range of actions, alternatives and impacts to be examined in the EIA process. The objectives of the scoping shall be to:

- a. provide an early link between the Commission and the proponent to ensure that the EIA addresses relevant issues and presents results in a form consistent with EIA review requirements;
- b. allow stakeholders to make their concerns known to ensure that the EIA adequately addresses the relevant issues;
- c. establish an agreement at the outset of the EIA between the proponent, the DENR and stakeholders on what issues and alternatives are to be examined;
- d. address issues on carrying or assimilative capacity of the environment and identify possible legal constraints or requirements regarding the project proposal;
- e. determine whether the project or undertaking requires the conduct of an environmental risk assessment; and
- f. determine and agree on the process of dealing with issues relating to social acceptability.

Based on the scoping process, the proponent shall submit a formal scoping report to the Commission. The scoping process shall be conducted in a language and manner that is understandable to the community concerned, and the proceedings shall be duly recorded. The record of the proceedings shall be attached to the formal scoping report.

The Commission shall review the scoping report submitted by the proponent and, after consultation with the latter and the community, determine the actual scope of the EIS. In determining the scope of the EIS, the Commission shall take into account the concerns of and the recommendations of stakeholders.

C. Public Consultations

After scoping and the submission of the formal scoping report, a series of public consultations shall be initiated by the Commission to determine the social acceptability of the project. For this purpose, a multi-sectoral committee shall be created for the project to assist the Commission in ensuring that the requisite consent of affected persons or communities is obtained consistent with guidelines issued for such purpose.

Whenever a public consultation is to be conducted, notice thereof shall be published once a week for three (3) consecutive weeks in any newspaper of general circulation at least thirty (30) calendar days prior to the consultations. Notice shall likewise be posted in a conspicuous place in the municipality or barangay where the project is to be located. All expenses incurred relating to the notices shall be borne by the project proponent. The Commission may seek comments and recommendations, in writing, of other government agencies and stakeholders with expertise over the proposed project and the possible impacts that may be generated.

D. Social Acceptability Report

The proceedings in the public consultations shall be summary in character and need not strictly adhere to the technical rules of evidence and procedure. Information on the proposed projects, including environment impacts, shall be disseminated or presented in a manner and language understandable to the community. The proceedings shall be duly recorded, with such record being attached to the Social Acceptability Report that shall be rendered by the hearing officers designated by the Commission within fifteen (15) working days from the termination of the consultations. The Social Acceptability Report shall be part of the documentary requirements in the environmental impact report, whether in the form of an EIS or an IEE.

Should the project obtain the free and prior informed consent of the community concerned, the document representing the same shall be attached to the Social Acceptability Report. The document evidencing the concerned community's free and prior informed consent shall be an indispensable requisite for the issuance of an ECC. If the community does not give its consent to the project, such shall be stated in the Social Acceptability Report.

The Commission shall issue necessary guidelines for the proper conduct of consultations to obtain the most truthful and accurate expression of people's consent to the proposed project. In the conduct of consultations, all parties shall adhere to the standards set by the Commission for such purpose.

Chapter 5

ACTIONS

SECTION 18. *Jurisdiction of the Court* .-

- (A) Notwithstanding the provisions of Republic Act No. 8975, a court may issue a temporary restraining order or a writ of preliminary injunction against any project which shall attempt to operate in violation of any provision of this Act or its implementing rules and regulations.
- (B) Where an ECC has already been issued, and a temporary restraining order or writ of preliminary injunction issued for violation of the requirements or conditions set therein, such ECC shall be automatically suspended, and the proponent subject to the penalties set forth in this Act.
- (C) The temporary restraining order or writ of preliminary injunction shall be enforceable throughout the Republic of the Philippines.
- (D) The power of the courts to issue such preliminary injunction shall not prejudice the power of the Commission to issue cease and desist orders as provided for in Section 24 of this Act.

SECTION 19. *Administrative Action.* – Without prejudice to the right of any affected person to file any other criminal or civic action, the Commission shall, on its own instance or upon verified complaint by any person, institute administrative proceedings against any person who violates any order, rule or regulation issued by the Commission with respect to this Act.

SECTION 20. *Citizen Suits.* – 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 against:

- a) Any person who violates or fails to comply with the provisions of this Act or its implementing rules and regulations;
- b) Any person who violates the terms and conditions set forth by the Commission in the ECC or CNC;
- c) The Commission or other implementing agencies with respect to orders, rules and regulations issued inconsistent with this Act; and/or
- d) Any public officer who willfully or grossly neglects the performance of an act especially required 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 thirty (30) days from notice given to the concerned public officer and the alleged violator or violators, 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 estimation, and shall, likewise, upon *prima facie* showing of the non-enforcement 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 filed herein is malicious and baseless and shall accordingly dismiss the action and award attorney's fees and damages, as it may seem appropriate.

SECTION 21. *Independence of Action.* - The filing of an administrative suit against such person or entity does not preclude the right of any other person to file any criminal or civil action. Such civil and/or criminal action shall proceed independently.

SECTION 22. *Suits and Strategic Legal Actions Against Public Participation and the Enforcement of this Act.* - Where a suit is brought against a person who filed an action as provided in Section 19 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 such legal action has been filed to harass, vex, exert undue pressure, or stifle legal resources of the person complaining or of enforcing the provisions of this Act. In case of such determination, the investigating prosecutor or the court shall dismiss the case and award attorney's fees and damages, as it may deem appropriate.

SECTION 23. *Lien upon Personal and Immovable Properties of Violators.* - Fines and penalties imposed pursuant to this Act shall be liens upon personal and immovable properties of the violator. Such lien shall, in case of insolvency of the respondent violator, enjoy preference subsequent to laborer's wages under Articles 2241 and 2242 of Republic Act 386 or the New Civil Code of the Philippines.

SECTION 24. *Power to Issue Orders.* - The Commission, as the implementing agency of this Act, shall, forthwith or within such time as specified in his order, upon its own instance or upon verified complaint by any person, require the proponent to remedy any practice connected with the implementation of the project or any part or activity thereof, which is not in accordance with the provisions of this Act or its implementing rules and regulations or any other order, statute, or standard pertaining to environmental, safety or health concerns. In case of imminent danger to life or property, the Commission may issue a cease-and-desist order and summarily suspend the operations and activities until the danger is removed and appropriate measures taken by the proponent.

SECTION 25. *Grounds for Non-issuance or Revocation of an ECC.* - An ECC shall in no case be issued, or otherwise shall be suspended or revoked by the Commission or the Commission as the case may be, for any of the following grounds:

- a) late or non-filing of requirements;
- b) violation of or non-compliance with terms and conditions;
- c) non-payment of taxes or fees;
- d) falsehood or omission of statements and facts in the EIS, IEE, Project Description, or any part thereof, or during the conduct of public consultations such as, but not limited to, scoping sessions and public hearings; or
- e) showing of loss, injury, or damage to any person as a result of the implementation of the project or any part or activity thereof, without need to show bad faith or any degree of negligence on the part of the proponent.

Such non-issuance, suspension or revocation of an ECC shall not prejudice the right of any person to file appropriate administrative, civil, or criminal suits as provided in this Act.

SECTION 26. *Cancellation of a CNC.* – A CNC the issuance of which is subject to terms and conditions may likewise be cancelled for any of the grounds set forth in Section 24 of this Act. Upon determination by the Bureau, such project may thereafter be reclassified as a critical project or be required to submit further requirements.

Where the implementation of the project or any part thereof is shown to cause damage, injury, or loss to persons and property, the project and its proponents may be subject to the same actions, liabilities and penalties as critical projects.

SECTION 27. *Strict Liability in Cases of Loss, Injury, or Damage to Persons or Property and Award of Damages.* – The proponent shall be liable for damages for any harm, loss, or injury to persons and property; *Provided*, That it can be clearly shown that the act or omission complained of is in violation or non-compliance of this Act, its implementing rules and regulations, or the terms and conditions set forth in the ECC or CNC; *Provided further*, That the showing of a violation or non-compliance to this Act, its implementing rules and regulations, or to the terms and conditions of an ECC shall be a conclusive presumption of the proponent's fault or negligence.

SECTION 28. *Solidary Liability of Chief Operating or Executive Officer.* – The separate and distinct legal personality of the proponent firm notwithstanding, the chief operating officer, chief executive officer, and principal investors of the proponent firm

shall be jointly and severally liable for any financial liability or award of damages made by the Court under the preceding section. The same shall apply to transnational corporations and foreign firms licensed to do business in the Philippines.

CHAPTER 7

PENALTIES

SECTION 29. *Operation without a Required ECC.* - Any critical project 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 equivalent to 200% of its authorized capital stock or, in the case of an individual, of its net worth, or 400% of its gross profit, whichever is higher; *Provided*, That the chief operating or executive officer of the proponent firm shall be held criminally liable and be imprisoned for a period not less than five (5) years but not more than ten (10) years at the discretion of the court, and shall be jointly and severally liable for actual, moral, or exemplary damages with the proponent firm, and the principal investors, as may be found by the court.

SECTION 30. *Violations of Terms and Conditions of the ECC.* - Any project proponent found in violation of the terms and conditions set forth in the ECC shall face closure, suspension of development or construction or cessation of operations; *Provided*, that the project proponent shall be fined an amount equivalent to 200% of its authorized capital stock or, in the case of an individual, of its net worth, or 400% of its gross profit, whichever is higher; *Provided further*, That the chief operating or executive officer of the proponent firm shall be held criminally liable and be imprisoned for a period not less than five (5) years but not more than ten (10) years at the discretion of the court, and shall be jointly and severally liable for actual, moral, or exemplary damages with the proponent firm, and the principal investors, as may be found by the court.

SECTION 31. *False statements or representation.* - Any project proponent who is found to have knowingly and willfully made a false representation or an untruthful or incomplete presentation of material or relevant facts and findings to the Government or to the public in contravention of Section 16, shall be fined a minimum of Fifty Thousand Pesos (Php50,000.00) but not more than One Hundred Thousand Pesos (Php100,000.00),

upon the discretion of the Commission, for every false representation or statement. In cases where harm, loss, or injury be sustained by the community or any of its members as a result of a false representation or statement, whether or not made knowingly or willfully, the proponent shall be fined a minimum of Two Hundred Fifty Thousand Pesos (Php250,000.00) to a maximum 10% of the project cost or Five Hundred Thousand Pesos (Php500,000.00), depending upon the nature and degree of the loss, injury, or damage sustained, whichever is higher, to be imposed at the discretion of the Commission, and without prejudice to the filing of administrative, civil, or criminal charges.

SECTION 32. *Violations by Public Officials of the Duties Reposed by this Act.* - Any government official tasked with the implementation of the Act or any of its components who fails to enforce the provisions of this Section shall be charged administratively and, if found guilty pursuant to Section 19, be subject either to suspension from office for a minimum period of one (1) year without pay, or to separation from service without benefits, subject to existing civil service laws. Further, the violator shall be held criminally liable and be imprisoned for a period not less than two (2) years but not more than five (5) years, at the discretion of the Court.

SECTION 33. *Financial Guarantees for Environmental Rehabilitation and Injuries to Communities.* - The Commission shall establish a mechanism that systematically addresses the need for clean-up and rehabilitation of areas damaged as a result of the implementation of projects taking into consideration the resources required to undertake the rehabilitation activities, as well as to ensure just and timely compensation for any adverse effect which project or program implementation may directly or indirectly cause to the environment or the community. For these purposes, the program and project proponents shall be required to put up a guarantee fund and/or any other trust, insurance, or financial mechanism as the Commission may deem appropriate; *Provided, That*, the guarantee fund or funds shall be utilized for damage caused during any stage of project implementation and after the termination of the project or program. *Provided further*, That the establishment of such funds shall not exempt the proponents from civil or criminal liability for violations of this Act, its implementing rules and regulations, or the terms and conditions imposed upon them by the Commission.

CHAPTER 7

IMPLEMENTATION MECHANISM AND RESPONSIBILITIES

SECTION 34. *National Environmental Protection Commission (NEPC).* - To carry out the policies herein set forth, there shall be created the National Environmental Protection Commission, which shall be the primary government agency responsible for the implementation of this Act and the formulation of its implementing rules and regulations. It shall also be the lead agency in the conduct of environmental impact assessments and issuance of ECCs.

SECTION 35. *Mandate.* - THE NEPC shall protect and promote the people's right to a healthful environment and at all times shall be guided by the principles of sustainable development and meaningful public participation in its decision-making processes.

In no instance may the NEPC be put under the supervision or control of the DENR.

SECTION 36. *Composition.* - The NEPC shall be an independent agency under the Office of the President and shall be composed of three (3) Commissioners, one of whom shall be the Chairperson. The Board of Commissioners shall be comprised in this wise: one (1) Commissioners shall come from the scientific community with expertise in natural resource management and conservation of aquatic ecosystems and biodiversity; one (1) Commissioner shall come from the scientific community with expertise in natural resource management and conservation of terrestrial ecosystems and biodiversity; one (1) Commissioner shall be a member of the Philippine bar in the practice of environmental law; *Provided, That* at least one Commissioner shall be female.

The Commissioners shall be appointed by the President of the Philippines from a pool of recommendees from the communities or sectors to be represented by each Commissioner.

SECTION 37. *Qualifications, Tenure, Compensation.* - The Chairperson and the two (2) Commissioners must be natural born Filipino citizens, are at least 35 years of age at the time of appointment, with at least (10) years experience in their field of expertise, and must be of proven honesty and integrity; *Provided, That* the Commissioners shall hold office for a period of three (3) years, and may be subject to re-

appointment for another term. *Provided further*, That no person shall serve for more than two (2) consecutive terms and that in case of a vacancy, the new appointee must fully meet the qualifications of a Commissioner and hold office for a full term and in no case shall a member be appointed or designated in a temporary or acting capacity.

The Chairperson and the Commissioners shall be entitled to compensation in accordance with the Salary Standardization Law.

SECTION 38. *Removal from Office.*- Any member of the NEPC may be removed from office by the President or upon a verified complaint by any adversely affected community, before the expiration of his term for cause and after complying with due process requirement of law.

SECTION 39. *Appointment of Commissioners.*- The President shall appoint the three (3) Commissioners of the NEPC within sixty (60) days from the effectivity of this Act.

SECTION 40. *Powers and Functions.*- To accomplish its mandate, the NEPC shall have the following powers and functions:

- (1) To serve as the primary government agency responsible for the implementation of this Act;
- (2) To promulgate rules and regulations necessary for the implementation of this Act;
- (3) To regularly monitor, review, and assess such rules and regulations to ensure that these adhere to the policy and objectives of this Act and the mandate of the Commission, and submit a yearly report to the President;
- (4) To issue or deny Environmental Compliance Certificates and set terms and conditions therein once issued;
- (5) To monitor and require the continued compliance of projects this Act, its implementing rules and regulations, or to the terms and conditions of an ECC, and penalize persons for violations or noncompliance;
- (6) To recommend possible legislation, policies and programs related to environmental assessment;
- (7) To formulate minimum environmental compliance standards;
- (8) To provide technical assistance for the implementation of this Act;
- (9) To gather timely and authoritative information concerning the conditions and

trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in Chapter I of this Act, and to compile and submit to the President studies relating to such conditions and trends;

- (10) To assist or supervise the conduct of public consultations and ensure that such are carried out according to the policy set forth in Chapter 4 of this Act;
- (11) To conduct public hearings in cases where there is a strong showing of concern by the public over a proposed project, policy or program;
- (12) To develop and conduct capability-building modules, training, and other activities for the benefit of implementers as well as the public to support the effective implementation of this Act; and
- (13) To formulate and disseminate information on environmental assessment and compliance matters to the general public.

SECTION 41. *Accessibility and Transparency.*- Subject to such limitations as may be provided by law or by rules and regulations promulgated pursuant thereto, all official records, documents and papers pertaining to official acts, transactions or decisions, as well as research data used as basis for policy development of the Commission shall be made accessible to the public.

SECTION 42. *Offices within the NEPC.* - To effectively implement this Act, its rules and regulations, and in furtherance of its mandate, the NEPC shall have the following offices:

- a) **Office of the Secretariat** - provides overall supervision of the Agency and is responsible directly to the Commissioners; enhances public health and environmental protection through effective management of NEPC's human, financial, and physical resources.
- b) **Office of Enforcement and Compliance Assurance** - shall be primarily responsible for the enforcement of this Act and its rules and regulations, for the review of documentary and other submissions and requirements in relation to the issuance of ECCs, and the assurance of compliance by projects to environmental laws and regulations, including but not limited to those under this Act. This Office

shall submit its recommendations to the Commission which shall en banc decide on the issuance or non-issuance of ECCs.

i. Office of Environmental Justice - shall be responsible for community concerns, with special attention to indigenous groups, fisherfolk, farmers, women, and other sectors within specific affected communities. This Office shall assist in ensuring compliance with the Public Participation and Social Acceptability requirements under this Act.

ii. Post-assessment Monitoring Committee - shall be responsible for the monitoring of projects and ensuring their compliance to environmental laws and regulations after completion of assessment, and to the terms and conditions set forth in Environmental Compliance Certificates, if issued.

c) Office of General Counsel - provides legal service to all organizational elements of the Commission with respect to its programs and activities as well as legal opinions, legal counsel, and litigation support. In addition, the Office assists in the formulation of the Commission's policies and programs as legal advisor. It shall also provide legal assistance to communities affected by violations or noncompliance by persons to this Act.

d) Office of Research and Development - is responsible for the research and development needs of the Commission's operating programs, as well as to address policy issues.

e) Office of Public Information and Training - shall be responsible for development and dissemination of information and education materials and modules, as well as providing capacity building programs for environmental assessment practitioners and communities.

SECTION 43. Other Offices.- The NEPC shall have the power to create other offices and sub-offices, including regional or local offices, as it may deem necessary subject to existing rules and regulations.

SECTION 44. Implementing Rules and Regulations. The Commission shall promulgate the implementing rules and regulations of this Act within 120 days after their appointment.

SECTION 45. *Joint Congressional Oversight Committee.* - There is hereby created a Joint Congressional Oversight Committee to monitor the implementation of the 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.

CHAPTER 8

CREATION AND LOCALIZED MANAGEMENT OF AN EIA ADMINISTRATION FUND

SECTION 46. *Establishment of an EIA Administration Fund.* -There is hereby created a revolving fund to be known as the EIA Administration Fund to cover for administrative expenses, equipment purchases or leases and other program costs directly incurred in EIA review, assessment and monitoring. The Fund, which may be generated from various sources, shall entitle the donor or grantor thereof to corresponding exemption from income or gift taxes and all other related impositions by proper government agencies. All income likewise generated from fees, fines and penalties directly related to the implementation of the EIA System shall accrue to the Fund may be utilized directly by the Commission for the above purpose; Provided, That the Commission shall provide the proper guidelines for the sourcing, utilization and proper accounting of such funds; Provided further, That all information regarding the Fund, including, but not limited to, its transactions and its status shall be accessible to the public at anytime.

SECTION 47. *Localized Management of EIA Fund.* - The Commission shall facilitate the creation of corresponding local structures and mechanisms for the localized sourcing and management of EIA administration funds. The Commission, shall, in consultation and coordination with the DILG and the local government units, formulate the necessary guidelines to govern the localized sourcing and management of EIA fund.

SECTION 48. *Appropriations.* - An amount of One Hundred Million Pesos (P100,000,000.00) shall be appropriated for the initial implementation of this Act.

CHAPTER 9

FINAL PROVISIONS

SECTION 49. *Separability Clause.* – Should any provision herein be subsequently declared unconstitutional, the same shall not affect the validity or legality of the other provisions of this Act.

SECTION 50. *Repealing Clause.* – All laws, orders, circulars, rules and regulations, including B.P. 129 and R.A. 8975, or any part thereof which are inconsistent with the provisions of this Act are hereby repealed or amended.

SECTION 51. *Date of Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved.