



PROCEDURES MANUAL

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CASE FILING PROCEDURE

I. OBJECTIVE

This case filing procedure is aimed at providing an expeditious, orderly, and inexpensive administration in the filing of complaints, the conduct of technical conferences/hearings, adjudication of issues, elevation of cases cognizable by the Pollution Adjudication Board, issuance of case Resolutions/Order/Decisions, and filing of a Motion for Reconsideration.

II. SCOPE

This procedure covers the disposition of complaint filing, conduct of technical conference, elevation of the case to the PAB, issuance of Resolutions/Order, and filing of a Motion for Reconsideration.

III. RESPONSIBILITY AND RESOURCES

EMB Director; Pollution Adjudication Board (PAB); Regional Director; Legal Officer

IV. DEFINITION OF TERMS

Cease and Desist Order (CDO)- shall refer to a formal demand immediately directing a person, facility, or any business entity to stop or refrain from doing, conducting an act or continuing a particular activity or course of action in violation of environmental laws; such as but not limited to, the operation of a particular machine, equipment, process or activity or doing a particular act expressly prohibited by law.

Decision- refers to the ruling of the EMB Director or Regional Director granting or denying the opposition to the application for a permit, registration or accreditation, or to the judgment of the EMB Director or Regional Director on a complaint files under adjudicatory procedure. Every decision promulgates by the EMB Director or Regional Director shall be in writing and shall clearly and distinctly state the facts and the law to which it is based.

Hearing Officer – officer designated by the EMB Regional Director to conduct the technical conference.

Prepared by: <u>ATTY. RODOLFO YODICO II</u> Management Representative	Approved by: <u>ENGR. REYNALDO B. BARRA</u> OIC-Regional Director
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Investigation Officer- officer designated by the EMB Regional Director to investigate on the complaint or any reported environmental law violation.

Order- refers to the ruling which disposes of motions, matters or issues raised before the EMB Director or Regional Director. Every Order promulgated by the EMB Director or Regional Director shall be in writing and shall clearly and distinctly state the facts and the law on which it is based.

Resolution- refers to the ruling formally lifting the Interim CDO or terminating the case filed under adjudicatory procedure. Every Order promulgated by the EMB Director or Regional Director shall be in writing and shall clearly and distinctly state the facts and the law on which it is based.

Respondent- the person defending or denying; the party against whom a complaint is filed against.

Technical Conference- a meeting between the EMB and the Respondent, with or without the presence of a complaint, for the purpose of discussing/clarifying particularly environmental concerns, pollution prevention commitment and appropriate technical solutions, and/or remedial measures for the prevention, abatement, or mitigation of pollution.

V. REFERENCE DOCUMENTS


EMB MANUAL OF UNIFORM PROCEDURE

VI. RECORDS GENERATED

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VII. PROCEDURES AND PROCESS FLOW

No.	Process Flow	Description of Activity	Guidelines/Criteria/Policy	Responsible Person	Retained Information
01		1.The EMB Regional Office receives the Complaint filed directly before it or before the DENR PENRO/CENRO, the EMB Central Office, or the PAB.		Records Officer	Complaint
		1.1 The Regional Director evaluates the complaint (water quality, air quality, ECC, Hazwaste) and endorses the same to the Legal Unit for the conduct of investigation.		The Regional Director	

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<pre>graph TD; START([START]) --> S1[Submission of a written complaint to EMB 8 Office]; S1 --> S2[Receives the complaint and endorse it to the EMB Regional Director]; S2 --> S3[EMB Regional Director evaluates and endorses the complaint to the Legal Unit]; S3 --> S4[The Legal Officer further evaluates the complaint and determine appropriate action. Requests assistance of the technical staff in the conduct of investigations]; S4 --> A((A)); A --> S4;</pre>	<p>1.2 Further evaluates the complaint and determines appropriate action. If complaint is sufficient in form and substance, requests assistance of technical staff from the Monitoring and Enforcement Division in the conduct of investigations. Otherwise, determines other proper course/s of actions.</p>		The Legal Officer	
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		<p>1.3 Conducts an investigation and verification of the filed complaint together with the Legal Unit. The Technical Staff prepares the investigation report and submits to concerned Section Chief/s for review and/or evaluation. (EMB MC No. 002, s. 2017)</p> <p>If findings of environmental violations exist under P.D 1586, R.A 9275, R.A 8749, R.A 6969, the same findings shall so be stipulated in the report and a recommendation for the issuance of a Notice of Violation shall also be so stated.</p>		Investigation Team (Legal and Technical Personnel)	Findings and observation
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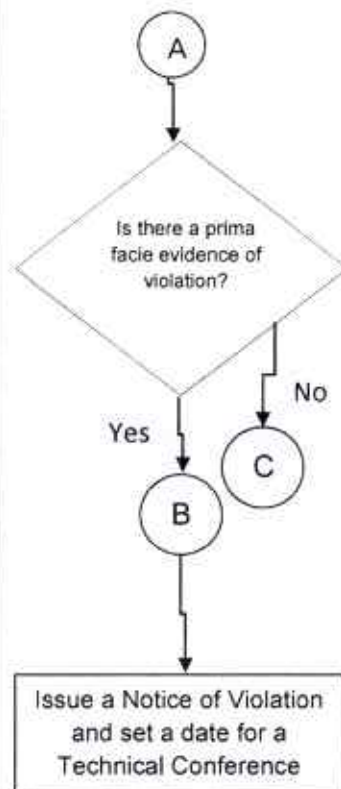
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1.4 Concerned Section Chief/s evaluate/s the investigation report of the technical staff and endorses to the Division Chief for appropriate action/s. Upon review, report will be forwarded to the Division Chief concerned.

1.5 Evaluates the documents and investigation report. Upon approval, report will be forwarded to the Regional Director for the latter's information and appropriate action.

1.6 If a recommendation exists for the issuance of a Notice of Violation, the report shall be forwarded to the Legal Unit for the drafting of a Notice of

The TC shall be held within 15 days from the date of the NOV.

The Section Chiefs

The Division
Chief

The Regional
Director

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		<p>Violation and the scheduling of the technical conference.</p> <p>1.7 Cause the preparation of the Notice of Violation and the scheduling of the technical conference/hearing.</p>		The Legal Officer & Staff	Acts or Omissions constituting violations
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Respondent will submit prescribed position paper accompanied by supporting documents

Conduct of a technical conference

Respondent
executes
commitment(s)

Submit Hearing Report to
the EMB Regional
Director

1.8. Issues the Notice of Violations and other related communications.

1.9. Release and cause the service of the the NOV and other related communications to the complainant, respondent and other concerned stakeholders, by personal service/registered mail/courier

1.10. Presides over the technical conference on the date of the schedule and/or evaluates the position paper and other required documents upon submission of the respondent, if any. Thereafter, prepares the Hearing Report.
(EMB MC No. 002, s. 2017)

The Regional
Director

The Records
Officer

The Legal Officer

	Existence of Violation/rebuttal of the allegation
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<pre>graph TD; B((B)) --> D1{Is the case cognizable by the PAB?}; D1 -- Yes --> C((C)); D1 -- No --> D((D)); C --> E[Case is elevated to the PAB];</pre>	<p>1.12. Issues Orders and/or Decisions on the Notice of Violations (EMB MC No. 002, s. 2017)</p> <p>1.13. Cause the service of the Order/Decisions either by personal service/courier/registered mail to the respondent.</p>		<p>The Regional Director</p> <p>The Records Officer</p>	<p>Dismissal/ Imposition of fines/ Endorsement of the case to the PAB</p>
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02	<pre>graph TD; C((C)) --> A[Conduct of a follow-up inspection]; A --> B{Case is elevated to the PAB};</pre>	<p>2.1 For violations of the Clean Water Act (RA 9275) and the Clean Air Act (RA 8749), except for those covered by PAB Reso. 2019-01, upon the expiration of the period agreed upon in the TC, a follow-up inspection is conducted by the RO, after which a report is prepared.</p> <p>2.2 Upon compliance, the case is elevated to the PAB within 15 days with a recommendation of the imposition of fines, and/or sanctions to be imposed.</p> <p>or</p> <p>2.3 The case is elevated to the Board within 15 days with recommendation for issuance of CDO and the imposition of fines.</p>	Do the respondents comply with DENR Standards and/or commitments?		Status of Compliance
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03	<pre>graph TD C((C)) --> A[Respondent files a motion to lift interim CDO] A --> B[Motion is set for hearing] B --> D{Is Motion to Lift Interim CDO granted?} D -- Yes --> D1((D)) D1 --> F[Issuance of Resolution lifting the Interim CDO] D -- No --> E((E)) E --> G[Motion will be denied]</pre>	<p>3.1 Respondent files a motion to lift the Interim CDO, with proof of service of copies to the other parties, who may file their comments within 10 days from receipt of the motion.</p> <p>3.2 The motion is set for hearing. The filing of the motion does not stay the enforcement/execution of the Interim CDO.</p> <p>3.3 If Yes—Where, after a Temporary Lifting Order has been issued or extended, the EMB Director or Regional Director may, issue a resolution formally lifting the Interim CDO and terminating the case, provided that respondent fully pays the fines.</p> <p>3.4 If NO—The motion shall be denied.</p>	Is Motion to Lift Interim CDO granted?		
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04	<pre>graph TD; D((D)) --> A[Respondent files a Motion for Reconsideration of an order/resolution/decision]; A --> B[Other parties file their respective comments]; B --> C[Motion is resolved]; C --> D2([END]);</pre>	<p>4.1 Respondent files a motion for reconsideration of an order/resolution/decision of the EMB Director or Regional Director with proof of service to the other parties, within 15 days from notice.</p> <p>4.2 The other parties file their comments with the EMB Director/Regional Director within 10 days from receipt of the motion for reconsideration.</p> <p>4.3 The EMB Director/Regional Director resolves the motion within 30 days from filing.</p>	<p>The motion for reconsideration is deemed submitted for resolution, with or without comments. Only one motion for reconsideration is allowed.</p>	<p>Resolution of the case</p>
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