




Republic of the Philippines  
Department of Environment and Natural Resources  
**ENVIRONMENTAL MANAGEMENT BUREAU**  
Regional Office No. VIII  
Tacloban City, Philippines

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**IN RE: VIOLATION OF SECTION 4,  
PRESIDENTIAL DECREE NO. 1586**

ENVIRONMENTAL MANAGEMENT BUREAU  
RELEASED BY:   
DATE: 01/24/2022  
TIME: 3:29pm

-versus-

**KENAN ACE RICE MILL**

Brgy. Upper, Mahaplag, Leyte  
*Respondent*

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**DECISION**

This resolves the **Notice of Violation** dated **03 September 2021** issued by this Office against Kenan Ace Rice Mill, herein referred to as the "Respondent" for brevity, located in Brgy. Upper, Mahaplag, Leyte for the following violation:

- a. Construction/Installation of a multi-pass rice mill equipment located in Brgy. Upper, Mahaplag, Leyte without first securing an Environmental Compliance Certificate, in violation of Section 4, P.D 1586.

**Statement of Facts**

An **Environmental Compliance Certificate (ECC)** is a decision document issued to the Proponent after thorough review of the EIA Report. It outlines the commitments of the proponent which are necessary for the project to comply with existing environmental regulations or to operate within best environmental practice that are not currently covered by existing laws.

One of the salient features of an ECC are conditions and restrictions, which the Proponent must undertake before and during the operation of a project, and in some cases, during abandonment phase, to mitigate adverse environmental impacts.

On **05 February 2021**, technical personnel from the Provincial Environmental Management Unit- Leyte conducted an investigation pursuant to a complaint filed before this Office against herein respondent for alleged emission of residual dust. The report of the

investigation alleges the installation by the respondent of a multi-pass rice mill, which has an estimated capacity of more than 1.2 ton per hour, although the same is not operational at the time of the investigation. An Environmental Compliance Certificate (ECC) has not been secured for the same facility.

Consequently, this Office issued a Notice of Violation dated **03 September 2021** against the respondent and the latter was called to attend a Technical Conference last **27 September 2021**.

On **23 September 2021**, the respondent submitted a position paper under which it pointed out that the alleged violation was triggered by the presence of the nonfunctional and non-operational one-unit rice huller and one-unit separator for the future multi-pass installed at the premises since year 2015 without pertinent papers from the DENR. That the said multi-pass installed is for future use and as part of the upgrading of said rice mill. That, nevertheless, it was beyond respondent's knowledge and personal information that an ECC must be secured prior to installation of the subject multi-pass rice mill since its single pass rice mill is already functional and operational since 2007.

On **27 September 2021**, the respondent appeared before this Office for the conduct of a technical conference, during which it emphasized that said multi-pass rice mill and the separator were installed as part of the upgrading of the existing single pass rice mill with future use in mind. Moreover, Respondent admitted that the said improvement, installed in 2015, was not yet issued with an ECC since he was still unaware of such a requirement given that its single pass rice mill is already operational. That the said improvement was rather stopped due to lack of sufficient financial funding for other machinery/equipments for the multi-pass rice milling system.

Thereafter, the Hearing Officer submitted the case for the decision of this Office while recommending that the violation should be affirmed, in view of the apparent failure of the Respondent to secure Environmental Compliance Certificate (ECC) prior to implementation of the project. The Hearing Officer recommended for the minimum amount of the fines to be imposed against the respondent in light of the circumstances of this case particularly on the fact that the multi-pass rice mill is non-operational.

### **Issue**



Whether or not Respondent is operating without an Environmental Compliance Certificate (ECC).

### Ruling

This Office finds no cogent reason or legal justification to deviate from the recommendations of the Hearing Officer. Accordingly, the same recommendations are hereby adopted.

**Section 4 of Presidential Decree No. 1586**, in part, provides that:

**"No persons, partnership or corporation shall undertake or operate any such declared environmentally critical project or area without first securing an Environmental Compliance Certificate."** Emphasis ours

Under **Section 1 of EMB Memorandum Circular No. 2014-005**<sup>1</sup>, amending Section 2.1 of the Revised Procedural Manual for DENR Administrative Order No. 2003-30<sup>2</sup>, every proposed project or undertaking, which is projected to have a significant impact to the quality of the environment, is covered by the Philippine EIS System.

To determine coverage, proposed projects or undertakings shall be screened according to categories (A, B, C, D) -----Category **B** are projects and undertakings which are not classified as *Environmentally Critical Projects* under Category A, but which are likewise deemed to significantly affect the quality of the environment by virtue of being located in *Environmentally Critical Area* <sup>3</sup> as declared under **Proclamation No. 2146**<sup>4</sup> and the parameters set forth in attached guidelines.

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Section 5. Environmentally Non-Critical Projects. - All other projects, undertakings and areas not declared by the President as environmentally critical shall be considered as non-critical and shall not be required to submit an environmental impact statement. The National Environmental Protection Council, thru the Ministry of Human Settlements may however require noncritical projects and undertakings to provide additional environmental safeguards as it may deem necessary.

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<sup>1</sup>Guidelines for Coverage Screening and Standardized Requirements under the Philippine Environmental Impact Statement System (PEISS) amending relevant portions of MC 2007-002.

<sup>2</sup>Implementing Rules and Regulations of Presidential Decree No. 1586, Establishing the Philippine Environmental Impact Statement System.

<sup>3</sup>Environmentally Critical Area- area delineated through presidential proclamation 2146 (1981) as environmentally sensitive such that significant environmental impacts are expected if certain types of proposed projects or programs are located, developed, or implemented in it. (EMB Memorandum Circular No. 2014-005)

<sup>4</sup>Proclamation No. 2146 Proclaiming Certain Areas And Types Of Projects As Environmentally Critical And Within The Scope Of The Environmental Impact Statement System Established Under Presidential Decree No. 1586.

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An area is environmentally critical if it exhibits any of the characteristics enumerated under **Table 1, Section 3-b of EMB Memorandum Circular No. 2014-005** and/or falls within the ECA as mapped by the EMB. In accordance with Presidential Proclamation No. 2146, series of 1981, Table 1 enumerates **Twelve (12) main categories of Environmentally Critical Areas**. One of the ECA Categories described are areas that are **frequently visited and or hard-hit by natural calamities which shall be so characterized if the area is frequently visited or hard-hit by typhoons**, among other conditions. For purposes of coverage, depressions, storms and typhoons will be covered in such a category. This shall also refer to **all provinces** in the country affected by a tropical cyclone in the past, which necessarily include the location where herein project is situated.

Further, **Section 1.2 of EMB Memorandum Circular No. 2014-005** provides that to expediently screen proposed projects/undertakings that may be covered by the EIS System, **thus required to secure an ECC**, a ready matrix for determining the category in which proposed projects fall is described as **Annex A** (Project Thresholds for Coverage Screening and Categorization) on the same memorandum circular.

Based on the said matrix, the Respondent is classified under Agirculture, Food and related Industries. Under such project/description, determinative of whether respondent is required to secure an ECC is the hourly production rate, with which those rice mill facilities having an hourly production rate of more than 1 ton must secure an ECC.

In this case, it is settled that respondent's multi-pass rice mill has an estimated capacity of more than 1 ton per hour. Therefore, respondent is categorized under Category **B**, a Non-Environmentally Critical Project but is in an environmentally critical area that is required, by law, to secure an ECC. Accordingly, prior to the installation of the facility, the respondent should have secured the ECC.

**WHEREFORE**, premises considered, this Office finds the respondent liable for operating the project without first securing an **Environmental Compliance Certificate (ECC)**. Accordingly, after review of the criteria for penalty reduction, respondent is hereby ordered to pay the amount of **TEN THOUSAND PESOS (P10,000.00)** as fine/penalty for the subject violation.



Respondent is given **THIRTY (30) DAYS** from receipt of this Decision within which to settle the said amount.

In addition, considering that respondent's multi-pass rice mill is non-operational, it is hereby enjoined to remove/abandon the same facility if it no longer intends to utilize the same in the future. Otherwise, it must secure an ECC and its failure to do the same, if found during a subsequent inspection, shall be dealt with more severely by law.

**SO ORDERED.** JAN 21 2022. Tacloban City, Philippines.

  
**ENGR. REYNALDO B. BARRA**  
OIC- Regional Director