

REPUBLIC ACT NO. 8749

**AN ACT PROVIDING FOR A COMPREHENSIVE AIR POLLUTION CONTROL POLICY AND FOR OTHER PURPOSES**

**CHAPTER 1**

*General Provisions*

**ARTICLE ONE**

*Basic Air Quality Policies*

SECTION 1. *Short Title.* — This Act shall be known as the "Philippine Clean Air Act of 1999."

SECTION 2. *Declaration of Principles.* — 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.

The State shall promote and protect the global environment to attain sustainable development while recognizing the primary responsibility of local government units to deal with environmental problems.

The State recognizes that the responsibility of cleaning the habitat and environment is primarily area-based.

The State also recognizes the principle that "polluters must pay".

Finally, the State recognizes that a clean and healthy environment is for the good of all and should therefore be the concern of all.

SECTION 3. *Declaration of Policies.* — The State shall pursue a policy of balancing development and environmental protection. To achieve this end, the framework for sustainable development shall be pursued. It shall be the policy of the State to:

- a) Formulate a holistic national program of air pollution management that shall be implemented by the government through proper delegation and effective coordination of functions and activities;
- b) Encourage cooperation and self-regulation among citizens and industries through the application of market-based instruments;
- c) Focus primarily on pollution prevention rather than on control and provide for a comprehensive management program for air pollution;
- d) Promote public information and education and to encourage the participation of an informed and active public in air quality planning and monitoring; and
- e) Formulate and enforce a system of accountability for short and long-term adverse environmental impact of a project, program or activity. This shall include the setting up of a funding or guarantee mechanism for clean-up and environmental rehabilitation and >compensation for personal damages.

SECTION 4. *Recognition of Rights.* — Pursuant to the above-declared principles, the following rights or citizens are hereby sought to be recognized and the State shall seek to guarantee their enjoyment:

- a) The right to breathe clean air;
- b) The right to utilize and enjoy all natural resources according to the principle of sustainable development;
- c) The right to participate in the formulation, planning, implementation and monitoring of environmental policies and programs and in the decision-making process;
- d) The right to participate in the decision-making process concerning development policies, plans and programs projects or activities that may have adverse impact on the environment and public health;
- e) The right to be informed of the nature and extent of the potential hazard of any activity, undertaking or project and to be served timely notice of any significant rise in the level of pollution and the accidental or deliberate release into the atmosphere of harmful or hazardous substances;
- f) The right of access to public records which a citizen may need to exercise his or her rights effectively under this Act;
- g) The right to bring action in court or quasi-judicial bodies to enjoin all activities in violation of environmental laws and regulations, to compel the rehabilitation and cleanup of affected area, and to seek the imposition of penal sanctions against violators of environmental laws; and
- h) The right to bring action in court for compensation of personal damages resulting from the adverse environmental and public health impact of a project or activity.

**ARTICLE TWO**

*Definition of Terms*

SECTION 5. *Definitions.* — As used in this Act:

- a) "Air pollutant" means any matter found in the atmosphere other than oxygen, nitrogen, water vapor, carbon dioxide, and the inert gases in their natural or normal concentrations, that is detrimental to health or the environment, which includes but not limited to smoke, dust, soot, cinders, fly ash, solid particles of any kind, gases, fumes, chemical mists, steam and radio-active substances;
- b) "Air pollution" means any alteration of the physical, chemical and biological properties of the atmospheric air, or any discharge thereto of any liquid, gaseous or solid substances that will or is likely to create or to render the air resources of the country harmful, detrimental, or injurious to public health, safety or welfare or which will adversely affect their utilization for domestic, commercial, industrial, agricultural, recreational, or other legitimate purposes;
- c) "Ambient air quality guideline values" means the concentration of air over specified periods classified as short-term and long-term which are intended to serve as goals or objectives for the protection of health and/or public welfare. These values shall be used for air quality management purposes such as determining time trends, evaluating stages of deterioration or enhancement of the air quality, and in general, used as basis for taking positive action in preventing, controlling, or abating air pollution;
- d) "Ambient air quality" means the general amount of pollution present in a broad area; and refers to the atmosphere's average purity as distinguished from discharge measurements taken at the source of pollution;
- e) "Certificate of Conformity" means a certificate issued by the Department of Environment and Natural Resources to a vehicle manufacturer/assembler or importer certifying that a particular new vehicle or vehicle type meets the requirements provided under this Act and its rules and regulations;
- f) "Department" means the Department of Environment and Natural Resources;
- g) "Eco-profile" means the geographic-based instrument for planners and decision-makers which present an evaluation of the environmental quality and carrying capacity of an area. It is the result of the integration of primary and secondary data and information on natural resources and anthropogenic activities on the land which are evaluated by various environmental risk assessment and forecasting methodologies that enable the Department to anticipate the type of development control necessary in the planning area;
- h) "Emission" means any air contaminant, pollutant, gas stream or unwanted sound from a known source which is passed into the atmosphere;
- i) "Greenhouse gases" means those gases that can potentially or can reasonably be expected to induce global warming, which include carbon dioxide, methane, oxides of nitrogen, chlorofluorocarbons, and the like;
- j) "Hazardous substances" means those substances which present either: (1) short-term acute hazards such as acute toxicity by ingestion, inhalation, or skin absorption, corrosivity or other skin or eye contact hazard or the risk of fire explosion; or (2) long-term toxicity upon repeated exposure, carcinogenicity (which in some cases result in acute exposure but with a long latent period), resistance to detoxification process such as biodegradation, the potential to pollute underground or surface waters;
- k) "Infectious waste" means that portion of medical waste that could transmit an infectious disease;
- l) "Medical waste" means the materials generated as a result of patient diagnosis, treatment, or immunization of human beings or animals;
- m) "Mobile source" means any vehicle propelled by or through combustion of carbon-based or other fuel, constructed and operated principally for the conveyance of persons or the transportation of property or goods;
- n) "Motor vehicle" means any vehicle propelled by a gasoline or diesel engine or by any means other than human or animal power, constructed and operated principally for the conveyance of persons or the transportation of property or goods in a public highway or street open to public use;
- o) "Municipal waste" means the waste materials generated from communities within a specific locality;
- p) "New vehicle" means a vehicle constructed entirely from new parts that has never been sold or registered with the DOTC or with the appropriate agency or authority, and operated on the highways of the Philippines, any foreign state or country;
- q) "Octane Rating or the Anti-Knock Index (AKI)" means the rating of the anti-knock characteristics of a grade or type of automotive gasoline as determined by dividing by two (2) the sum of the Research Octane Number (RON), plus the Motor Octane Number (MON); the octane requirement, with respect to automotive gasoline for use in a motor vehicle or a class thereof, whether imported, manufactured, or assembled by a manufacturer, shall refer to the minimum octane rating of such automotive gasoline which such manufacturer recommends for the efficient operation of such motor vehicle, or a substantial portion of such class, without knocking;
- r) "Ozone Depleting Substances (ODS)" means those substances that significantly deplete or otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment such as, but not limited to, chlorofluorocarbons, halons, and the like;

- s) "Persistent Organic Pollutants (POPs)" means the organic compounds that persist in the environment, bioaccumulate through the food web, and pose a risk of causing adverse effects to human health and the environment. These compounds resist photolytic, chemical and biological degradation, which shall include but not be limited to dioxin, furan, Polychlorinated Biphenyls (PCBs), organochlorine pesticides, such as aldrin, dieldrin, DDT, hexachlorobenzene, lindane, toxaphene and chlordane;
- t) "Poisonous and toxic fumes" means any emissions and fumes which are beyond internationally-accepted standards, including but not limited to World Health Organization (WHO) guideline values;
- u) "Pollution control device" means any device or apparatus used to prevent, control or abate the pollution of air caused by emissions from identified pollution sources at levels within the air pollution control standards established by the Department;
- v) "Pollution control technology" means the pollution control devices, production processes, fuel combustion processes or other means that effectively prevent or reduce emissions or effluent;
- w) "Standard of performance" means a standard for emissions of air pollutant which reflects the degree of emission limitation achievable through the application of the best system of emission reduction, taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirement which the Department determines, and adequately demonstrates; and
- x) "Stationary source" means any building or immobile structure, facility or installation which emits or may emit any air pollutant.

## **CHAPTER 2**

### *Air Quality Management System*

#### **ARTICLE ONE**

##### *General Provisions*

**SECTION 6. *Air Quality Monitoring and Information Network.*** — The Department shall prepare an annual National Air Quality Status Report which shall be used as the basis in formulating the Integrated Air Quality Improvement Framework, as provided for in Section 7. The said report shall include, but shall not be limited to the following:

- a) Extent of pollution in the country, per type of pollutant and per type of source, based on reports of the Department's monitoring stations;
- b) Analysis and evaluation of the current state, trends and projections of air pollution at the various levels provided herein;
- c) Identification of critical areas, activities, or projects which will need closer monitoring or regulation;
- d) Recommendations for necessary executive and legislative action; and
- e) Other pertinent qualitative and quantitative information concerning the extent of air pollution and the air quality performance rating of industries in the country.

The Department, in cooperation with the National Statistical Coordination Board (NSCB), shall design and develop an information network for data storage, retrieval and exchange.

The Department shall serve as the central depository of all data and information related to air quality.

**SECTION 7. *Integrated Air Quality Improvement Framework.*** — The Department shall, within six (6) months after the effectivity of this Act, establish, with the participation of LGUs, NGOs, POs, the academe and other concerned entities from the private sector, formulate and implement the Integrated Air Quality Improvement Framework for a comprehensive air pollution management and control program. The framework shall, among others, prescribe the emission reduction goals using permissible standards, control strategies and control measures to be undertaken within a specified time period, including cost-effective use of economic incentives, management strategies, collective action, and environmental education and information.

The Integrated Air Quality Improvement Framework shall be adopted as the official blueprint with which all government agencies must comply with to attain and maintain ambient air quality standards.

**SECTION 8. *Air Quality Control Action Plan.*** — Within six (6) months after the formulation of the framework, the Department shall, with public participation, formulate and implement an air quality control action plan consistent with Section 7 of this Act. The action plan shall:

- a) Include enforceable emission limitations and other control measures, means or techniques, as well as schedules and time tables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;
- b) Provide for the establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor, compile and analyze data on ambient air quality;
- c) Include a program to provide for the following: (1) enforcement of the measures described in subparagraph (a); (2) regulation of the modification and construction of any stationary source within the areas covered by the plan, in accordance with land use policy to ensure that ambient air quality

standards are achieved;

- d) Contain adequate provisions, consistent with the provisions of this Act, prohibiting any source or other types of emissions activity within the country from emitting any air pollutant in amounts which will significantly contribute to the non-attainment or will interfere with the maintenance by the Department of any such ambient air quality standard required to be included in the implementation plan to prevent significant deterioration of air quality or to protect visibility;
- e) Include control strategies and control measures to be undertaken within a specified time period, including cost effective use of economic incentives, management strategies, collection action, and environmental education and information;
- f) Designate airsheds; and
- g) All other measures necessary for the effective control and abatement of air pollution.

The adoption of the plan shall clarify the legal effects on the financial, manpower and budgetary resources of the affected government agencies, and on the alignment of their programs with the plans.

In addition to direct regulations, the plan shall be characterized by a participatory approach to the pollution problem. The involvement of private entities in the monitoring and testing of emissions from mobile and/or stationary sources shall be considered.

Likewise, the LGUs, with the assistance from the Department, shall prepare and develop an action plan consistent with the Integrated Air Quality Improvement Framework to attain and maintain the ambient air quality standards within their respective airsheds as provided in Section 9 hereof.

The local government units shall develop and submit to the Department a procedure for carrying out the action plan for their jurisdiction. The Department, however, shall maintain its authority to independently inspect the enforcement procedure adopted. The Department shall have the power to closely supervise all or parts of the air quality action plan until such time the local government unit concerned can assume the function to enforce the standards set by the Department.

A multi-sectoral monitoring team with broad public representation shall be convened by the Department for each LGU to conduct periodic inspections of air pollution sources to assess compliance with the emission limitations contained in their permits.

**SECTION 9. *Airsheds.*** — Pursuant to Section 8 of this Act, the designation of airsheds shall be on the basis of, but not limited to, areas with similar climate, meteorology and topology which affect the interchange and diffusion of pollutants in the atmosphere, or areas which share common interest or face similar development programs, prospects or problems.

For a more effective air quality management, a system of planning and coordination shall be established and a common action plan shall be formulated for each airshed.

To effectively carry out the formulated action plans, a Governing Board is hereby created, hereinafter referred to as the Board.

The Board shall be headed by the Secretary of the Department of Environment and Natural Resources as chairman. The members shall be as follows:

- a) Provincial Governors from areas belonging to the airshed;
- b) City/Municipal Mayors from areas belonging to the airshed;
- c) A representative from each concerned government agency;
- d) Representatives from people's organizations;
- e) Representatives from nongovernment organizations; and
- f) Representatives from the private sector.

The Board shall perform the following functions:

- a) Formulation of policies;
- b) Preparation of a common action plan;
- c) Coordination of functions among its members; and
- d) Submission and publication of an annual Air Quality Status Report for each airshed.

Upon consultation with appropriate local government authorities, the Department shall, from time to time, revise the designation of airsheds utilizing eco-profiling techniques and undertaking scientific studies.

Emissions trading may be allowed among pollution sources within an airshed.

**SECTION 10. *Management of Nonattainment Areas.*** — The Department shall designate areas where specific pollutants have already exceeded ambient standards as nonattainment areas. The Department shall prepare and implement a program that will prohibit new sources of exceeded air pollutant without a corresponding reduction in existing sources.

In coordination with other appropriate government agencies, the LGUs shall prepare and implement a program and other measures including relocation, whenever necessary, to protect the health and welfare of residents in the area.

For those designated as nonattainment areas, the Department, after consultation with local government authorities, nongovernment organizations (NGOs), people's organizations (POs) and concerned sectors may revise the designation of such areas and expand its coverage to cover larger areas depending on the condition of the areas.

**SECTION 11. *Air Quality Control Techniques.*** — Simultaneous with the issuance of the guideline values and standards, the Department, through the research and development program contained in this Act and upon consultation with the appropriate advisory committees, government agencies and LGUs, shall issue, and from time to time, revise information on air pollution control techniques. Such information shall include:

- a) Best available technology and alternative methods of prevention, management and control of air pollution;
- b) Best available technology economically achievable which shall refer to the technological basis/standards for emission limits applicable to existing, direct industrial emitters of non-conventional and toxic pollutants; and
- c) Alternative fuels, processes and operating methods which will result in the elimination or significant reduction of emissions.

Such information may also include data relating to the cost of installation and operation, energy requirements, emission reduction benefits, and environmental impact or the emission control technology.

The issuance of air quality guideline values, standards and information on air quality control techniques shall be made available to the general public: *Provided*, That the issuance of information on air quality control techniques shall not be construed as requiring the purchase of certain pollution control devices by the public.

**SECTION 12. *Ambient Air Quality Guideline Values and Standards.*** — The Department, in coordination with other concerned agencies, shall review and/or revise and publish annually a list of hazardous air pollutants with corresponding ambient guideline values and/or standard necessary to protect public health and safety, and general welfare. The initial list and values of the hazardous air pollutants shall be as follows:

- a) For National Ambient Air Quality Guideline for Criteria Pollutants:

Pollutants	µg/Ncm	Short Term <sup>a</sup>		µg/Ncm	Long Term <sup>b</sup>	
		ppm	Averaging Time		ppm	Averaging Time
Suspended Particulate						
Matter c - TSP	230 <sup>d</sup>	24 hours	90	--	1 year <sup>e</sup>	
- PM-10	150 <sup>f</sup>	24 hours	60	--	1 year <sup>e</sup>	
Sulfur Dioxide <sup>c</sup>	180	0.07	24 hours	80	0.03	1 year
Nitrogen Dioxide	150	0.08	24 hours	--	--	--
Photochemical						
Oxidants	140	0.07	1 hour	--	--	--
As Ozone	60	0.03	8 hours	--	--	--
Carbon Monoxide	35 mg/Ncm	30	1 hour	--	--	--
	10 mg/Ncm	9	8 hours	--	--	--
Lead <sup>g</sup>	1.5	--	3 months <sup>g</sup>	1.0	--	1 year

a Maximum limits represented by ninety-eight percentile (98%) values not to exceed more than once a year.

b Arithmetic mean

c SO<sub>2</sub> and Suspended Particulate matter are sampled once every six days when using the manual methods. A minimum of twelve sampling days per quarter or forty-eight sampling days each year is required for these methods. Daily sampling may be done in the future once continuous analyzers are procured and become available.

d. Limits for Total Suspended Particulate Matter with mass median diameter less than 25-50 Åµm.

e Annual Geometric Mean

f Provisional limits for Suspended Particulate Matter with mass median diameter less than 10 microns and below until sufficient monitoring data are gathered to base a proper guideline.

g Evaluation of this guideline is carried out for 24-hour averaging time and averaged over three moving calendar months. The monitored average value for any three months shall not exceed the guideline value.

b) For National Ambient Air Quality Standards for Source Specific Air Pollutants from Industrial Sources/Operations:

		µg/Ncm	ppm	time (min.)	Measurement <sup>3</sup>
1.	Ammonia	200	0.28	30	Nesslerization/Indo Phenol
2.	Carbon Disulfide	30	0.01	30	Tischer Method
3.	Chlorine and Chlorine compounds expressed as Cl <sub>2</sub>	100	0.03	5	Methyl Orange
4.	Formaldehyde	50	0.04	30	Chromotropic acid Method or MBTH Colorimetric Method
5.	Hydrogen Chloride	200	0.13	30	Volhard Titration with Iodine Solution
6.	Hydrogen Sulfide	100	0.07	30	Methylene Blue
7.	Lead	20		30	AAS
8.	Nitrogen Dioxide	375	0.20	30	Greiss-Saltzman
		260	0.14	60	
9.	Phenol	100	0.03	30	4-Aminoantiphrine
10.	Sulfur Dioxide	470	0.18	30	Colorimetric-
		340	0.13	60	Pararosaniline
11.	Suspended Particulate Matter - TSP	300	--	60	Gravimetric
	- PM10	200	--	60	Gravimetric

- 1 Pertinent ambient standards for Antimony, Arsenic, Cadmium, Asbestos, Nitric Acid and Sulfuric Acid Mists in the 1978 NPCC Rules and Regulations may be considered as guides in determining compliance
- 2 Ninety-eight percentile (98%) values of 30-minute sampling measured at 25°C and one atmosphere pressure.
- 3 Other equivalent methods approved by the Department may be used

The basis in setting up the ambient air quality guideline values and standards shall reflect, among others, the latest scientific knowledge including information on:

- a) Variable factors, including atmospheric conditions, which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant; <sup>---</sup>
- b) The other types of air pollutants which may interact with such pollutant to produce an adverse effect on public health or welfare; and
- c) The kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities.

The Department shall base such ambient air quality standards on World Health Organization (WHO) standards, but shall not be limited to nor be less stringent than such standards.

**SECTION 13. *Emission Charge System.*** — The Department, in case of industrial dischargers, and the Department of Transportation and Communications (DOTC), in case of motor vehicle dischargers, shall, based on environmental techniques, design, impose on and collect regular emission fees from said dischargers as part of the emission permitting system or vehicle registration renewal system, as the case may be. The system shall encourage the industries and motor vehicles to abate, reduce, or prevent pollution. The basis of the fees include, but is not limited to, the volume and toxicity of any emitted pollutant. Industries, which shall install pollution control devices or retrofit their existing facilities with mechanisms that reduce pollution shall be entitled to tax incentives such as but not limited to tax credits and/or accelerated depreciation deductions.

**SECTION 14. *Air Quality Management Fund.***— An Air Quality Management Fund to be administered by the Department as a special account in the National Treasury is hereby established to finance containment, removal, and clean-up operations of the Government in air pollution cases, guarantee restoration of ecosystems and rehabilitate areas affected by the acts of violators of this Act, to support research, enforcement and monitoring activities and capabilities of the relevant agencies, as well as to provide technical assistance to the relevant agencies. Such fund may likewise be allocated per airshed for the undertakings herein stated.

The Fund shall be sourced from the fines imposed and damages awarded to the Republic of the Philippines by the Pollution Adjudication Board (PAB), proceeds of licenses and permits issued by the Department under this Act, emission fees and from donations, endowments and grants in the forms of contributions. Contributions to the Fund shall be exempted from donor taxes and all other taxes, charges or fees imposed by the Government.

**SECTION 15. *Air Pollution Research and Development Program.*** — The Department, in coordination with the Department of Science and Technology (DOST), other agencies, the private sector, the academe, NGOs and POs, shall establish a National Research and Development Program for the prevention and control of air pollution. The Department shall give special emphasis to research on and the development of improved methods having industry-wide application for the prevention and control of air pollution.

Such a research and development program shall develop air quality guideline values and standards in addition to internationally-accepted standards. It shall also consider the socio-cultural, political and economic implications of air quality management and pollution control.

## ARTICLE TWO

### *Air Pollution Clearances and Permits for Stationary Sources*

SECTION 16. *Permits.* — Consistent with the provisions of this Act, the Department shall have the authority to issue permits as it may determine necessary for the prevention and abatement of air pollution.

Said permits shall cover emission limitations for the regulated air pollutants to help attain and maintain the ambient air quality standards. These permits shall serve as management tools for the LGUs in the development of their action plan.

SECTION 17. *Emission Quotas.* — The Department may allow each regional industrial center that is designated as special airshed to allocate emission quotas to pollution sources within its jurisdiction that qualify under an environmental impact assessment system programmatic compliance program pursuant to the implementing rules and regulations of Presidential Decree No. 1586.

SECTION 18. *Financial Liability for Environmental Rehabilitation.* — As part of the environmental management plan attached to the environmental compliance certificate pursuant to Presidential Decree No. 1586 and rules and regulations set therefor, the Department shall require program and project proponents to put up financial guarantee mechanisms to finance the needs for emergency response, clean-up or rehabilitation of areas that may be damaged during the program or project's actual implementation. Liability for damages shall continue even after the termination of a program or project, where such damages are clearly attributable to that program or project and for a definite period to be determined by the Department and incorporated into the environmental compliance certificate.

Financial liability instruments may be in the form of a trust fund, environmental insurance, surety bonds, letters of credit, as well as self-insurance. 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.

## ARTICLE THREE

### *Pollution From Stationary Sources*

SECTION 19. *Pollution From Stationary Sources.* — The Department shall, within two (2) years from the effectivity of this Act, and every two (2) years thereafter, review, or as the need therefor arises, revise and publish emission standards, to further improve the emission standards for stationary sources of air pollution. Such emission standards shall be based on mass rate of emission for all stationary sources of air pollution based on internationally-accepted standards, but not be limited to, nor be less stringent than such standards and with the standards set forth in this section. The standards, whichever is applicable, shall be the limit on the acceptable level of pollutants emitted from a stationary source for the protection of the public's health and welfare.

With respect to any trade, industry, process and fuel-burning equipment or industrial plant emitting air pollutants, the concentration at the point of emission shall not exceed the following limits:

	<i>Pollutants</i>	<i>Standard Applicable to Source</i>	<i>Maximum Permissible Limits (mg/Ncm)</i>	<i>Method of Analysis a</i>
1.	Antimony and its compounds	Any source	10 as Sb	AAS <sup>b</sup>
2.	Arsenic and its compounds	Any source	10 as As	AAS <sup>b</sup>
3.	Cadmium and its compounds	Any source	10 as Cd	AAS <sup>b</sup>
4.	Carbon Monoxide	Any industrial source	500 as CO	Orsat Analysis
5.	Copper and its compounds	Any industrial source	100 as Cu	AAS <sup>b</sup>
6.	Hydrofluoric Acids and Fluoride compounds	Any source other than the manufacture of Aluminum from Alumina	50 as HF	Titration with Ammonium Thiocyanate

7.	Hydrogen Sulfide	i)	Geothermal power plants	c,d	Cadmium Sulfide Method
		ii)	Geothermal exploration and well-testing	e	
		iii)	Any source other than (i) and (ii)	7 as H <sub>2</sub> S	Cadmium Sulfide Method
8.	Lead	Any trade, industry or process		10 as Pb	AAS <sup>b</sup>
9.	Mercury	Any source		5 as elemental Hg	AAS <sup>b</sup> Cold-Vapor Technique or Hg Analyzer
10.	Nickel and its compounds, except Nickel Carbonyl <sup>f</sup>	Any source		20 as Ni	AAS <sup>b</sup>
11.	NO <sub>g</sub>	i)	Manufacture of Nitric Acid	2,000 as acid and NO <sub>g</sub> and calculated as NO <sub>2</sub>	Phenol-disulfonic acid Method
		ii)	Fuel burning steam generators		Phenol-disulfonic acid Method
			Existing Source	1,500 as NO <sub>2</sub>	
			New Source		
		* *	Coal-fired Oil-fired	1,000 as NO <sub>2</sub> 500 as NO <sub>2</sub>	
		iii	Any source other than (i) and (ii)		Phenol-disulfonic acid Method
			Existing Source	1,000 as NO <sub>2</sub>	
			New Source	500 as NO <sub>2</sub>	
12.	Phosphorus Pentoxide <sup>g</sup>	Any source		200 as P <sub>2</sub> O <sub>5</sub>	Spectrophotometry
13.	Zinc and its compounds	Any source		100 as Zn	AAS <sup>b</sup>

a Other equivalent methods approved by the Department may be used.

b Atomic Absorption Spectrophotometry.

c All new geothermal power plants starting construction by 01 January 1995 shall control H<sub>2</sub>S emissions to not more than 150 g/GMW-Hr.

d All existing geothermal power plants shall control H<sub>2</sub>S emissions to not more than 200 g/GMW-Hr. within 5 years from the date of effectivity of these revised regulations.

e Best practicable control technology for air emissions and liquid discharges. Compliance with air and water quality standards is required.

f Emission limit of Nickel Carbonyl shall not exceed 0.5 mg/Ncm.

g Provisional Guideline.

*Provided,* That the maximum limits in mg/Ncm particulates in said sources shall be:

- |    |                             |            |
|----|-----------------------------|------------|
| 1. | Fuel Burning Equipment      |            |
| a) | Urban or Industrial Area    | 150 mg/Ncm |
| b) | Other Area                  | 200 mg/Ncm |
| 2. | Cement Plants (Kilns, etc.) | 150 mg/Ncm |
| 3. | Smelting Furnaces           | 150 mg/Ncm |
| 4. | Other Stationary Sources a  | 200 mg/Ncm |



- a Other Stationary Sources means a trade, process, industrial plant, or fuel burning equipment other than thermal power plants, industrial boilers, cement plants, incinerators and smelting furnaces

*Provided, further,* That the maximum limits for sulfur oxides in said sources shall be:

- |    |                             |            |
|----|-----------------------------|------------|
| 1. | Fuel Burning Equipment      |            |
| a) | Urban or Industrial Area    | 150 mg/Ncm |
| b) | Other Area                  | 200 mg/Ncm |
| 2. | Cement Plants (Kilns, etc.) | 150 mg/Ncm |
| 3. | Smelting Furnaces           | 150 mg/Ncm |
| 4. | Other Stationary Sources a  | 200 mg/Ncm |

- a Other Stationary Sources refer to existing and new stationary sources other than those caused by the manufacture of sulfuric acid and sulfonation process, fuel burning equipment and incineration.

For stationary sources of pollution not specifically included in the immediately preceding paragraph, the following emission standards shall not be exceeded in the exhaust gas: prod

#### I. Daily And Half Hourly Average Values

##### (1) Existing Sources

- |       |  |                               |
|-------|--|-------------------------------|
| (i)   | Manufacture of Sulfuric Acid and Sulf(on)ation Process | 2.0 gm.Ncm as SO <sub>3</sub> |
| (ii)  | Fuel Burning Equipment                                 | 1.5 gm.Ncm as SO <sub>2</sub> |
| (iii) | Other Stationary Sources a                             | 1.0 gm.Ncm as SO <sub>3</sub> |

##### (2) New Sources

- |       |  |                               |
|-------|--|-------------------------------|
| (i)   | Manufacture of Sulfuric Acid and Sulf(on)ation Process | 1.5 gm.Ncm as SO <sub>3</sub> |
| (ii)  | Fuel Burning Equipment                                 | 0.7 gm.Ncm as SO <sub>2</sub> |
| (iii) | Other Stationary Sources a                             | 0.2 gm.Ncm as SO <sub>3</sub> |

#### II. All Average Values over the Sample Period of a Minimum of 4 and Maximum of 8 Hours

	Daily Average Values	Half Hourly Average Values
Total dust	10 mg/m <sup>3</sup>	30 mg/m <sup>3</sup>
Gaseous and vaporous organic substances, expressed as total organic carbon	10 mg/m <sup>3</sup>	20 mg/m <sup>3</sup>
Hydrogen chloride (HCl)	10 mg/m <sup>3</sup>	60 mg/m <sup>3</sup>
Hydrogen fluoride (HF)	1 mg/m <sup>3</sup>	4 mg/m <sup>3</sup>
Sulphur dioxide (SO <sub>2</sub> )	50 mg/m <sup>3</sup>	200 mg/m <sup>3</sup>
Nitrogen monoxide (NO) and nitrogen dioxide (NO <sub>2</sub> ), expressed as nitrogen dioxide for incineration plants with a capacity exceeding 3 tonnes per hour	200 mg/m <sup>3</sup>	400 mg/m <sup>3</sup>
Nitrogen monoxide (NO) and nitrogen dioxide (NO <sub>2</sub> ), expressed as nitrogen dioxide for incineration plants with a capacity of 3 tonnes per hour or less	300 mg/m <sup>3</sup>	
Ammonia	10 mg/m <sup>3</sup>	20 mg/m <sup>3</sup>

These average values cover also gaseous and the vapor forms of the relevant heavy metal emission as well as their compounds: *Provided*, That the emission of dioxins and furans into the air shall be reduced by the most progressive techniques: *Provided, further*, That all average values of dioxin and furans measured over the sample period of a minimum of 6 hours and a maximum of 8 hours must not exceed the limit value of 0.1 nanogram/m<sup>3</sup>.

Pursuant to Section 8 of this Act, the Department shall prepare a detailed action plan setting the emission standards or standards of performance for any stationary source, the procedure for testing emissions for each type of

pollutant, and the procedure for enforcement of said standards.

Existing industries, which are proven to exceed emission rates established by the Department, in consultation with stakeholders, after a thorough, credible and transparent measurement process shall be allowed a grace period of eighteen (18) months for the establishment of an environmental management system and the installation of an appropriate air pollution control device: *Provided*, That an extension of not more than twelve (12) months may be allowed by the Department on meritorious grounds.

**SECTION 20. Ban on Incineration.** — Incineration, hereby defined as the burning of municipal, bio-medical and hazardous wastes, which process emits poisonous and toxic fumes, is hereby prohibited: *Provided, however*, That the prohibition shall not apply to traditional small-scale method of community/neighborhood sanitation "siga", traditional, agricultural, cultural, health, and food preparation and crematoria: *Provided, further*, That existing incinerators dealing with bio-medical wastes shall be phased out within three (3) years after the effectivity of this Act: *Provided, finally*, That in the interim, such units shall be limited to the burning of pathological and infectious wastes, and subject to close monitoring by the Department.

Local government units are hereby mandated to promote, encourage and implement in their respective jurisdiction a comprehensive ecological waste management that includes waste segregation, recycling and composting.

With due concern on the effects of climate change, the Department shall promote the use of state-of-the-art, environmentally-sound and safe non-burn technologies for the handling, treatment, thermal destruction, utilization, and disposal of sorted, unrecycled, uncomposted municipal, bio-medical and hazardous wastes.

## ARTICLE FOUR

### *Pollution from Motor Vehicles*

**SECTION 21. Pollution from Motor Vehicles.** — a) The DOTC shall implement the emission standards for motor vehicles set pursuant to and as provided in this Act. To further improve the emission standards, the Department shall review, revise and publish the standards every two (2) years, or as the need arises. It shall consider the maximum limits for all major pollutants to ensure substantial improvement in air quality for the health, safety and welfare of the general public.

The following emission standards for type approval of motor vehicles shall be effective by the year 2003:

- a) For light duty vehicles, the exhaust emission limits for gaseous pollutants shall be:

Emission Limits for Light Duty Vehicles  
Type Approval  
(Directive 91/441/EEC)

CO (g/km)	HC + NO <sub>x</sub> (g/km)	PM a (g/km)
2.72	0.97	0.14

- a for compression-ignition engines only

- b) For light commercial vehicles, the exhaust emission limit of gaseous pollutants as a function of the given reference mass shall be:

Emission Limits for Light Commercial Vehicles  
Type Approval  
(Directive 93/59/EEC)

	Reference Weight (RW) (kg)	CO (g/km)	HC + NO <sub>x</sub> (g/km)	PM a (g/km)
Category 1	1250 < RW	2.72	0.97	0.14
Category 2	1250 < RW < 1700	5.17	1.4	0.19
Category 3	RW > 1700	6.9	1.7	0.25

- a for compression-ignition engines only

- c) For heavy duty vehicles, the exhaust emission limits of gaseous pollutants shall be:

Emission Limits for Heavy Duty Vehicles  
Type Approval  
(Directive 91/542/EEC)

CO	HC	NO <sub>x</sub>	PM
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(g/kWh)	(g/kWh)	(g/kWh)	(g/kWh)
4.5	1.1	8.0	0.36 <sup>a</sup>

- a In the case of engines of 85 kW or less, the limit value for particular emissions is increased by multiplying the quoted limit by a coefficient of 1.7

Fuel evaporative emission for spark-ignition engines shall not exceed 2.0 grams hydrocarbons per test. Likewise, it shall not allow any emission of gases from crankcase ventilation system into the atmosphere.

b) The Department, in collaboration with the DOTC, DTI and LGUs, shall develop an action plan for the control and management of air pollution from motor vehicles consistent with the Integrated Air Quality Framework. The DOTC shall enforce compliance with the emission standards for motor vehicles set by the Department. The DOTC may deputize other law enforcement agencies and LGUs for this purpose. To this end, the DOTC shall have the power to:

- (1) Inspect and monitor the emissions of motor vehicles;
- (2) Prohibit or enjoin the use of motor vehicles or a class of motor vehicles in any area or street at specified times; and
- (3) Authorize private emission testing centers duly accredited by the DTI.

c) The DOTC, together with the DTI and the Department, shall establish the procedures for the inspection of motor vehicles and the testing of their emissions for the purpose of determining the concentration and/or rate of emission of pollutants discharged by said sources.

d) In order to ensure the substantial reduction of emissions from motor vehicles, the Department of Trade and Industry (DTI), together with the DOTC and the Department, shall formulate and implement a national motor vehicle inspection and maintenance program that will promote efficient and safe operation of all motor vehicles. In this regard, the DTI shall develop and implement standards and procedures for the certification of training institutions, instructors and facilities and the licensing of qualified private service centers and their technicians as prerequisite for performing the testing, servicing, repair and the required adjustment to the vehicle emission system. The DTI shall likewise prescribe regulations requiring the disclosure of odometer readings and the use of tamper-resistant odometers for all motor vehicles including tamper-resistant fuel management systems for the effective implementation of the inspection and maintenance program.

**SECTION 22. *Regulation of All Motor Vehicles and Engines.*** — Any imported new or locally-assembled new motor vehicle shall not be registered unless it complies with the emission standards set pursuant to this Act, as evidenced by a Certificate of Conformity (COC) issued by the Department.

Any imported new motor vehicle engine shall not be introduced into commerce, sold or used unless it complies with emission standards set pursuant to this Act.

Any imported used motor vehicle or rebuilt motor vehicle using new or used engines, major parts or components shall not be registered unless it complies with the emission standards set pursuant to this Act.

In case of non-compliance, the importer or consignee may be allowed to modify or rebuild the vehicle or engine so that it will be in compliance with applicable emission standards.

No motor vehicle registration (MVR) shall be issued unless such motor vehicle passes the emission testing requirement promulgated in accordance with this Act. Such testing shall be conducted by the DOTC or its authorized inspection centers within sixty (60) days prior to date of registration.

The DTI shall promulgate the necessary regulations prescribing the useful life of vehicles and engines including devices in order to ensure that such vehicles will conform to the emissions which they were certified to meet. These regulations shall include provisions for ensuring the durability of emission devices.

**SECTION 23. *Second-Hand Motor Vehicle Engines.*** — Any imported second-hand motor vehicle engine shall not be introduced into commerce, sold or used unless it complies with emission standards set pursuant to this Act.

## **ARTICLE FIVE**

### *Pollution from Other Sources*

**SECTION 24. *Pollution from Smoking.*** — Smoking inside a public building or an enclosed public place including public vehicles and other means of transport or in any enclosed area outside of one's private residence, private place of work or any duly designated smoking area is hereby prohibited under this Act. This provision shall be implemented by the LGUs.

**SECTION 25. *Pollution from Other Mobile Sources.*** — The Department, in coordination with appropriate agencies, shall formulate and establish the necessary standards for all mobile sources other than those referred to in Section 21 of this Act. The imposition of the appropriate fines and penalties from these sources for any violation of emission standards shall be under the jurisdiction of the DOTC.

## **CHAPTER 3**

### *Fuels, Additives, Substances and Pollutants*

## **ARTICLE ONE**

### *Fuels, Additives and Substances*

**SECTION 26. *Fuels and Additives.*** — Pursuant to the Air Quality Framework to be established under Section

7 of this Act, the Department of Energy (DOE), co-chaired by the Department of Environment and Natural Resources (DENR), in consultation with the Bureau of Product Standards (BPS) of the DTI, the DOST, the representatives of the fuel and automotive industries, academe and the consumers shall set the specifications for all types of fuel and fuel-related products, to improve fuel composition for increased efficiency and reduced emissions: *Provided, however,* That the specifications for all types of fuel and fuel-related products set-forth pursuant to this section shall be adopted by the BPS as Philippine National Standards (PNS) .

The DOE, shall also specify the allowable content of additives in all types of fuels and fuel-related products. Such standards shall be based primarily on threshold levels of health and research studies. On the basis of such specifications, the DOE shall likewise limit the content or begin the phase-out of additives in all types of fuels and fuel-related products as it may deem necessary. Other agencies involved in the performance of this function shall be required to coordinate with the DOE and transfer all documents and information necessary for the implementation of this provision.

Consistent with the provisions of the preceding paragraphs under section, it is declared that:

- a) not later than eighteen (18) months after the effectivity of this Act, no person shall manufacture, import, sell, supply, offer for sale, dispense, transport or introduce into commerce unleaded premium gasoline fuel which has an anti-knock index (AKI) of not less than 87.5 and Reid vapor pressure of not more than 9 psi. Within six (6) months after the effectivity of this Act, unleaded gasoline fuel shall contain aromatics not to exceed forty-five percent (45%) by volume and benzene not to exceed four percent (4%) by volume: *Provided,* That by year 2003, unleaded gasoline fuel should contain aromatics not to exceed thirty-five percent (35%) by volume and benzene not to exceed two percent (2%) by volume;
- b) not later than eighteen (18) months after the effectivity of this Act, no person shall manufacture, import, sell, supply, offer for sale, dispense, transport or introduce into commerce automotive diesel fuel which contains a concentration of sulfur in excess of 0.20% by weight with a cetane number or index of not less than forty-eight (48): *Provided,* That by year 2004, content of said sulfur shall be 0.05% by weight; and
- c) not later than eighteen (18) months after the effectivity of this Act, no person shall manufacture, import, sell, supply, offer for sale, dispense, transport or introduce into commerce industrial diesel fuel which contains a concentration of sulfur in excess of 0.30% (by weight)

Every two (2) years thereafter or as the need arises, the specifications of unleaded gasoline and of automotive and industrial diesel fuels shall be reviewed and revised for further improvement in formulation and in accordance with the provisions of this Act.

The fuels characterized above shall be commercially available. Likewise, the same shall be the reference fuels for emission and testing procedures to be established in accordance with the provisions of this Act.

Any proposed additive shall not in any way increase emissions of any of the regulated gases which shall include, but not limited to carbon monoxide, hydrocarbons, and oxides of nitrogen and particulate matter, in order to be approved and certified by the Department.

**SECTION 27. *Regulation of Fuels and Fuel Additives.*** — The DOE, in coordination with the Department and the BPS, shall regulate the use of any fuel or fuel additive. No manufacturer, processor or trader of any fuel or additive may import, sell, offer for sale, or introduce into commerce such fuel or additive unless the same has been registered with the DOE. Prior to registration, the manufacturer, processor or trader shall provide the DOE with the following relevant information:

- a) Product identity and composition to determine the potential health effects of such fuels and additives;
- b) Description of the analytical technique that can be used to detect and measure the additive in any fuel;
- c) Recommended range of concentration; and
- d) Purpose in the use of the fuel and additive.

**SECTION 28. *Misfueling.*** — In order to prevent the disabling of any emission control device by lead contamination, no person shall introduce or cause or allow the introduction of leaded gasoline into any motor vehicle equipped with a gasoline tank filler inlet and labeled "unleaded gasoline only". This prohibition shall also apply to any person who knows or should know that such vehicle is designed solely for the use of unleaded gasoline.

**SECTION 29. *Prohibition on Manufacture, Import and Sale of Leaded Gasoline and of Engines and/or Components Requiring Leaded Gasoline.*** — Effective not later than eighteen (18) months after the enactment of this Act, no person shall manufacture, import, sell, offer for sale, introduce into commerce, convey or otherwise dispose of, in any manner leaded gasoline and engines and components requiring the use of leaded gasoline.

For existing vehicles, the DTI shall formulate standards and procedures that will allow non-conforming engines to comply with the use of unleaded fuel within five (5) years after the effectivity of this Act.

## **ARTICLE TWO**

### *Other Pollutants*

**SECTION 30. *Ozone-Depleting Substances.*** — Consistent with the terms and conditions of the Montreal Protocol on Substances that Deplete the Ozone Layer and other international agreements and protocols to which the Philippines is a signatory, the Department shall phase out ozone-depleting substances.

Within sixty (60) days after the enactment of this Act, the Department shall publish a list of substances which are known to cause harmful effects on the stratospheric ozone layer.

**SECTION 31. *Greenhouse Gases.*** — The Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) shall regularly monitor meteorological factors affecting environmental conditions including ozone depletion and greenhouse gases and coordinate with the Department in order to effectively guide air pollution monitoring and standard-setting activities.

The Department, together with concerned agencies and local government units, shall prepare and fully implement a national plan consistent with the United Nations Framework Convention on Climate Change and other international agreements, conventions and protocols on the reduction of greenhouse gas emissions in the country.

**SECTION 32. *Persistent Organic Pollutants.*** — The Department shall, within a period of two (2) years after the enactment of this Act, establish an inventory list of all sources of Persistent Organic Pollutants (POPs) in the country. The Department shall develop short-term and long-term national government programs on the reduction and elimination of POPs such as dioxins and furans. Such programs shall be formulated within a year after the establishment of the inventory list.

**SECTION 33. *Radioactive Emissions.*** — All projects which will involve the use of atomic and/or nuclear energy, and will entail release and emission of radioactive substances into the environment, incident to the establishment or possession of nuclear energy facilities and radioactive materials, handling, transport, production, storage, and use of radioactive materials, shall be regulated in the interest of public health and welfare by the Philippine Nuclear Research Institute (PNRI), in coordination with the Department and other appropriate government agencies.

## **CHAPTER 4**

### *Institutional Mechanism*

**SECTION 34. *Lead Agency.*** — The Department, unless otherwise provided herein, shall be the primary government agency responsible for the implementation and enforcement of this Act. To be more effective in this regard, the Department's Environmental Management Bureau (EMB) shall be converted from a staff bureau to a line bureau for a period of no more than two (2) years, unless a separate, comprehensive, environmental management agency is created.

**SECTION 35. *Linkage Mechanism.*** — The Department shall consult, participate, cooperate and enter into agreement with other government agencies, or with affected nongovernmental organizations (NGOs) or people's organizations (POs), or private enterprises in the furtherance of the objectives of this Act.

**SECTION 36. *Role of Local Government Units.*** — Local government units (LGUs) shall share the responsibility in the management and maintenance of air quality within their territorial jurisdiction. Consistent with Sections 7, 8 and 9 of this Act, LGUs shall implement air quality standards set by the Board in areas within their jurisdiction: *Provided, however,* That in case where the Board has not been duly constituted and has not promulgated its standards, the standards set forth in this Act shall apply.

The Department shall provide the LGUs with technical assistance, trainings and a continuing capability-building program to prepare them to undertake full administration of the air quality management and regulation within their territorial jurisdiction.

**SECTION 37. *Environment and Natural Resources Office.*** — There may be established an Environment and Natural Resources Office in every province, city, or municipality which shall be headed by the environment and natural resources officer and shall be appointed by the Chief Executive of every province, city or municipality in accordance with the provisions of Section 484 of Republic Act No. 7160. Its powers and duties, among others, are:

- a) To prepare comprehensive air quality management programs, plans and strategies within the limits set forth in Republic Act No. 7160 and this Act which shall be implemented within its territorial jurisdiction upon the approval of the *sanggunian*;
- b) To provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to ensure the delivery of basic services and the provision of adequate facilities relative to air quality;
- c) To take the lead in all efforts concerning air quality protection and rehabilitation;
- d) To recommend to the Board air quality standards which shall not exceed the maximum permissible standards set by national laws;
- e) To coordinate with other government agencies and non-governmental organizations in the implementation of measures to prevent and control air pollution; and
- f) Exercise such other powers and perform such duties and functions as may be prescribed by law or ordinance: *Provided, however,* That in provinces/cities/municipalities where there are no environment and natural resources officers, the local executive concerned may designate any of his official and/or chief of office preferably the provincial, city or municipal agriculturist, or any of his employee: *Provided, finally,* That in case an employee is designated as such, he must have a sufficient experience in environmental and natural resources management, conservation and utilization.

**SECTION 38. *Record-keeping, Inspection, Monitoring and Entry by the Department.*** — The Department or its

duly accredited entity shall, after proper consultation and notice, require any person who owns or operates any emission source or who is subject to any requirement of this Act to: (a) establish and maintain relevant records; (b) make relevant reports; (c) install, use and maintain monitoring equipment or methods; (d) sample emission, in accordance with the methods, locations, intervals, and manner prescribed by the Department; (e) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical; and (f) provide such other information as the Department may reasonably require.

Pursuant to this Act, the Department, through its authorized representatives, shall have the right of: a) entry or access to any premises including documents and relevant materials as referred to in the herein preceding paragraph; b) inspect any pollution or waste source, control device, monitoring equipment or method required; and c) test any emission.

Any record, report or information obtained under this section shall be made available to the public, except upon a satisfactory showing to the Department by the entity concerned that the record, report, or information, or parts thereof, if made public, would divulge secret methods or processes entitled to protection as intellectual property. Such record, report or information shall likewise be incorporated in the Department's industrial rating system.

**SECTION 39. *Public Education and Information Campaign.*** — A continuing air quality information and education campaign shall be promoted by the Department, the Department of Education, Culture and Sports (DECS), the Department of the Interior and Local Government (DILG), the Department of Agriculture (DA) and the Philippine Information Agency (PIA). Consistent with Section 7 of this Act, such campaign shall encourage the participation of other government agencies and the private sector including NGOs, POs, the academe, environmental groups and other private entities in a multi-sectoral information campaign.

## **CHAPTER 5**

### *Actions*

**SECTION 40. *Administrative Action.*** — Without prejudice to the right of any affected person to file an administrative action, the Department shall, on its own instance or upon verified complaint by any person, institute administrative proceedings against any person who violates:

- a) Standards or limitation provided under this Act; or
- b) Any order, rule or regulation issued by the Department with respect to such standard or limitation.

**SECTION 41. *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; or
- (b) The Department or other implementing agencies with respect to orders, rules and regulations issued inconsistent with this Act; and/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 thirty-day (30) 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 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 herein is malicious and/or baseless and shall accordingly dismiss the action and award attorney's fees and damages.

**SECTION 42. *Independence of Action.*** — The filing of an administrative suit against such person/entity does not preclude the right of any other person to file any criminal or civil action. Such civil action shall proceed independently.

**SECTION 43. *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 41 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 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.

**SECTION 44. *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 No. 386, otherwise known as the New Civil Code of the Philippines.

## **CHAPTER 6**

## *Fines and Penalties*

**SECTION 45. *Violation of Standards for Stationary Sources.*** — For actual exceedance of any pollution or air quality standards under this Act or its rules and regulations, the Department, through the Pollution Adjudication Board (PAB), shall impose a fine of not more than One hundred thousand pesos (P100,000) for every day of violation against the owner or operator of a stationary source until such time that the standards have been complied with.

For purposes of the application of the fines, the PAB shall prepare a fine rating system to adjust the maximum fine based on the violator's ability to pay, degree of willfulness, degree of negligence, history of noncompliance and degree of recalcitrance: *Provided*, That in case of negligence, the first time offender's ability to pay may likewise be considered by the Pollution Adjudication Board: *Provided, further*, That in the absence of any extenuating or aggravating circumstances, the amount of fine for negligence shall be equivalent to one-half of the fine for willful violation.

The fines herein prescribed shall be increased by at least ten percent (10%) every three (3) years to compensate for inflation and to maintain the deterrent function of such fines.

In addition to the fines, the PAB shall order the closure, suspension of development, construction, or operations of the stationary sources until such time that proper environmental safeguards are put in place: *Provided*, That an establishment found liable for a third offense shall suffer permanent closure immediately. This paragraph shall be without prejudice to the immediate issuance of an *ex parte* order for such closure, suspension of development or construction, or cessation of operations during the pendency of the case upon *prima facie* evidence that there is imminent threat to life, public health, safety or general welfare, or to plant or animal life, or whenever there is an exceedance of the emission standards set by the Department and/or the Board and/or the appropriate LGU.

**SECTION 46. *Violation of Standards for Motor Vehicles.*** — No motor vehicle shall be registered with the DOTC unless it meets the emission standards set by the Department as provided in Section 21 hereof.

Any vehicle suspected of violation of emission standards through visual signs, such as, but not limited to smoke-belching, shall be subjected to an emission test by a duly authorized emission testing center. For this purpose, the DOTC or its authorized testing center shall establish a roadside inspection system. Should it be shown that there was no violation of emission standards, the vehicle shall be immediately released. Otherwise, a testing result indicating an exceedance of the emission standards would warrant the continuing custody of the impounded vehicle unless the appropriate penalties are fully paid, and the license plate is surrendered to the DOTC pending the fulfillment of the undertaking by the owner/operator of the motor vehicle to make the necessary repairs so as to comply with the standards. A pass shall herein be issued by the DOTC to authorize the use of the motor vehicle within a specified period that shall not exceed seven (7) days for the sole purpose of making the necessary repairs on the said vehicle. The owner/operator of the vehicle shall be required to correct its defects and show proof of compliance to the appropriate pollution control office before the vehicle can be allowed to be driven on any public or subdivision roads.

In addition, the driver and operator of the apprehended vehicle shall undergo a seminar on pollution control and management conducted by the DOTC and shall also suffer the following penalties:

- a) First offense — a fine not to exceed Two thousand pesos (P2,000);
- b) Second offense — a fine not less than Two thousand pesos (P2,000) and not to exceed Four thousand pesos (P4,000); and
- c) Third offense — one (1) year suspension of the Motor Vehicle Registration (MVR) and a fine of not less than Four thousand pesos (P4,000) and not more than Six thousand pesos (P6,000)

Any violation of the provisions of Section 21 paragraph (d) with regard to national inspection and maintenance program, including technicians and facility compliance shall be penalized with a fine of not less than Thirty thousand pesos (P30,000) or cancellation of license of both the technician and the center, or both, as determined by the DTI.

All law enforcement officials and deputized agents accredited to conduct vehicle emissions testing and apprehensions shall undergo a mandatory training on emission standards and regulations. For this purpose, the Department, together with the DOTC, DTI, DOST, Philippine National Police (PNP) and other concerned agencies and private entities shall design a training program.

**SECTION 47. *Fines and Penalties for Violations of Other Provisions in the Act.*** — For violations of all other provisions provided in this Act and of the rules and regulations thereof, a fine of not less than Ten thousand pesos (P10,000) but not more than One hundred thousand pesos (P100,000) or six (6) months to six (6) years imprisonment or both shall be imposed. If the offender is a juridical person, the president, manager, directors, trustees, the pollution control officer or the officials directly in charge of the operations shall suffer the penalty herein provided.

**SECTION 48. *Gross Violations.*** — In case of gross violation of this Act or its implementing rules and regulations, the PAB shall recommend to the proper government agencies to file the appropriate criminal charges against the violators. The PAB shall assist the public prosecutor in the litigation of the case. Gross violation shall mean: (a) three (3) or more specific offenses within a period of one (1) year; (b) three (3) or more specific offenses within three (3) consecutive years; (c) blatant disregard of the orders of the PAB, such as but not limited to the breaking of seal, padlocks and other similar devices, or operating despite the existence of an order for closure, discontinuance or cessation of operation; and (d) irreparable or grave damage to the environment as a consequence of any violation or omission of the provisions of this Act.

Offenders shall be punished with imprisonment of not less than six (6) years but not more than ten (10) years at the discretion of the court. If the offender is a juridical person, the president, manager, directors, trustees, the pollution

control officer or the officials directly in charge of the operations shall suffer the penalty herein provided.

## CHAPTER 7

### *Final Provisions*

SECTION 49. *Potential Loss or Shifts of Employment.* — The Secretary of Labor is hereby authorized to establish a compensation, retraining and relocation program to assist workers laid off due to a company's compliance with the provisions of this Act.

SECTION 50. *Appropriations.* — An amount of Seven hundred fifty million pesos (P750,000,000) shall be appropriated for the initial implementation of this Act, of which, the amount of Three hundred million pesos (P300,000,000) shall be appropriated to the Department; Two hundred million pesos (P200,000,000) to the DTI; One hundred fifty million pesos (P150,000,000) to the DOTC; and, One hundred million pesos (P100,000,000) to the DOE.

Thereafter, the amount necessary to effectively carry out the provisions of this Act shall be included in the General Appropriations Act.

SECTION 51. *Implementing Rules and Regulations.* — The Department, in coordination with the Committees on Environment and Ecology of the Senate and House of Representatives, respectively and other concerned agencies, shall promulgate the implementing rules and regulations for this Act, within one (1) year after the enactment of this Act: *Provided*, That rules and regulations issued by other government agencies and instrumentalities for the prevention and/or abatement of pollution not inconsistent with this Act shall supplement the rules and regulations issued by the Department, pursuant to the provisions of this Act.

The draft of the implementing rules and regulations shall be published and be the subject of public consultations with affected sectors.

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

SECTION 52. *Report to Congress.* — The Department shall report to Congress, not later than March 30 of every year following the approval of this Act, the progress of the pollution control efforts and make the necessary recommendations in areas where there is need for legislative action.

SECTION 53. *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 mandate given to the joint congressional oversight committee under this Act shall be without prejudice to the performance of the duties and functions by the respective existing oversight committees of the Senate and the House of Representatives.

SECTION 54. *Separability of Provisions.* — If any provision of this Act or the application of such provision to any person or circumstances is declared unconstitutional, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SECTION 55. *Repealing Clause.* — Presidential Decree No. 1181 is hereby repealed. Presidential Decree Nos. 1152, 1586, Presidential Decree No. 984 are partly modified. All other laws, orders, issuances, rules and regulations inconsistent herewith are hereby repealed or modified accordingly.

SECTION 56. *Effectivity.* — This Act shall take effect fifteen (15) days from the date of its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved: June 23, 1999

*Published in Malaya and Manila Standard on July 2, 1999.*

*Published in the Official Gazette, Vol. 95 No. 39 page 6831 on September 27, 1999.*