



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

MANILA 1099
South Harbor, Gate 3, Port Area, Manila

MASTER COPY

Handwritten signature

May 30, 2019

CUSTOMS MEMORANDUM CIRCULAR

NO. 136 - 2019

To : All District / Port Collectors
All Others Concerned

SUBJECT: Importation of Processed / Neutralized Phosphogypsum

Attached is a copy of the letter dated May 23, 2019 from Engr. Metodio U. Turbella, Director, Environmental Management Bureau (EMB), Department of Environment and Natural Resources (DENR), clarifying that the importation of processed / neutralized phosphogypsum, already a product and processed to specifications for use of the cement industry prior to entry into the Philippines, is no longer under the purview of Republic Act (RA) 6969 entitled: Toxic Substances and Hazardous and Nuclear Waste Control Act. The prohibition under RA 6969 covers the importation of waste phosphogypsum, a waste not listed in Chapter 10 of DENR Administrative Order No. 22 Series of 2013.

For your information and guidance.

For records purposes, please confirm the dissemination of this Circular throughout your offices within fifteen (15) days from receipt thereof.

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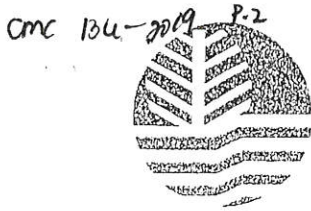
REY LEONARDO B. GUERRERO
Commissioner, BOC

MAY 31 2019

Attachment: as stated



BOC-01-00851



Republic of the Philippines
Department of Environment and Natural Resources
ENVIRONMENTAL MANAGEMENT BUREAU
DENR Compound, Visayas Avenue, Diliman Quezon City 1116
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MAY 23 2019

HON. REY LEONARDO B. GUERRERO
Commissioner
BUREAU OF CUSTOMS
South Harbor, Gate 3, Port Area, Manila
Tel. No.: (02) 527-4537
e:mail: helpdesk2@customs.gov.ph

Dear Commissioner Guerrero:

This has reference to the current issue on the importation of Neutralized Phosphogypsum (NP) which is also the subject of our earlier letter to your Office dated 01 October 2018.

The basis of the said letter is the case of an importer which falsely declared the said material as mineral. Upon evaluation of the submitted Safety Data Sheet (SDS), we found that said SDS was not according to standard, and the declared chemical abstract service (CAS) number was fictitious and not found in the Philippine Inventory of Chemicals and Chemical Substances (PICCS). Further, considering that NP shall be used as filling material for reclamation and ground improvement projects, we deduced that these are wastes or by-product coming into the country.

However, another importer of NP submitted various documents including certification from the Ministry of Environment of the exporting country, that the NP had undergone treatment or processing prior to its export. The specifications of the resulting product are acceptable to cement manufacturing companies. As a technical Bureau, we recognize that neutralized phosphogypsum can be a source of gypsum, an important raw material in cement manufacturing. Gypsum, which can come from natural and synthetic sources, is used as a retarder in the setting time of cement.

We would like to clarify that importation of processed/neutralized phosphogypsum, already a product and processed to specifications for use of the cement industry prior to entry into the Philippines, is no longer under the purview of RA 6969, Toxic Substances and Hazardous and Nuclear Waste Control Act. What is prohibited under RA 6969 is the importation of waste phosphogypsum, a waste not listed in Chapter 10 of DENR Administrative Order No. 22 Series of 2013, Revised Procedures and Standards for the Management of Hazardous Wastes.

We hope we have clarified the matter.

Thank you.

Very truly yours,

ENGR. METODIO U. TURBELLA
Director

 Department of Environment and
Natural Resources
ENVIRONMENTAL MANAGEMENT BUREAU
Office of the Director

Letter 2016



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DEC 04 2013

DENR ADMINISTRATIVE ORDER
No. 2013 22

**Subject: REVISED PROCEDURES AND STANDARDS FOR THE
MANAGEMENT OF HAZARDOUS WASTES (REVISING DAO
2004-36)**

Pursuant to Republic Act No. 6969 otherwise known as the "Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990, Executive Order No. 192 Series of 1987, and DENR Administrative Order No. 2004-36, "Revising DENR Administrative Order No. 29, Series of 1992, to Further Strengthen the Implementation of Republic Act 6969 and Prescribing the Use of the Procedural Manual", the Procedural Manual for Hazardous Waste Management is hereby revised.

Section 1. Basic Policy

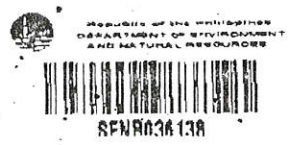
It is the policy of the State to regulate, restrict or prohibit the importation, manufacture, processing, sale, distribution, use and disposal of chemical substances and mixtures that present unreasonable risk and/or injury to health or the environment; to prohibit the entry, even in transit, of hazardous and nuclear wastes and their disposal in the Philippine territorial limits for whatever purpose; and to provide advancement and facilitate research and studies on toxic chemicals and hazardous and nuclear wastes.

Sec. 2. Objectives. This Administrative Order shall have the following objectives:

- a. Ensure that the important aspects of the Title III of DENR Administrative Order 92-29 (Implementing Rules and Regulations of RA 6969), particularly the requirements for hazardous waste generators, transporters and treaters are developed and presented in a useful information/ reference document for various stakeholders; and
- b. Further streamline procedures for generation and compliance to the legal and technical requirements for hazardous waste management in the light of recent developments.

Sec. 3: Scope and Coverage. This Order shall revise the following provisions of DENR Administrative Order 2002-36:

- | | |
|---|------------|
| 1. Definition of Terms | Chapter 1 |
| 2. Classification of Hazardous Wastes | Chapter 2 |
| 3. Waste Generators | Chapter 3 |
| 4. Waste Transporters | Chapter 4 |
| 5. Treatment, Storage and Disposal Facilities | Chapter 5 |
| 6. Storage and Labeling | Chapter 6 |
| 7. Waste Transport Record | Chapter 7 |
| 8. Contingency Program | Chapter 8 |
| 9. Personnel Training | Chapter 9 |
| 10. Import of Recyclable Materials Containing Hazardous Substances and Export of Hazardous Wastes | Chapter 10 |
| 11. Prohibited Acts and Penalties | Chapter 11 |
| 12. Monitoring | Chapter 12 |
| 13. Schedule of Fees | Chapter 13 |



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The Revised Procedural Manual prescribing detailed requirements and procedures for hazardous waste management is hereby appended and forms an integral part of this Order.

Sec. 4. Separability Clause. If any section or provision of these Rules and Regulations or that of the Revised Procedural Manual is held or declared unconstitutional or invalid by a competent court, the other sections or provisions hereof shall continue to be in force as if the sections or provisions so annulled or voided had never been incorporated herein.

Sec. 5. Repealing Clause. All Rules and Regulations or parts of said rules and regulations or pertinent laws inconsistent with these Rules and Regulations are hereby revised, amended, modified and/or superseded as the case may be by this Order.

Sec. 6. Amendments. These Rules and Regulations and the Revised Procedural Manual may be amended and/or modified from time to time by the Department of Environment and Natural Resources.

Sec. 7. Effectivity. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgment of receipt of a copy hereof by the Office of the National Administrative Register (ONAR).

[Signature]
RAMON J. P. PAJE
Secretary



Publication: Malaya
December 11, 2013

Acknowledgement: ONAR, U.P. Law Center
December 16, 2013

10.0 IMPORT OF RECYCLABLE MATERIALS CONTAINING HAZARDOUS SUBSTANCES AND EXPORT OF HAZARDOUS WASTES

Consistent with Department Administrative Order (DAO) No. 28, Series of 1994, Department Administrative Order No. 28, Series of 1997, Department Administrative Order No. 27, Series of 2004, and Department Administrative Order No. 66, Series of 2004, importation of recyclable materials containing hazardous substances, shall be allowed only upon obtaining prior written approval from the Secretary of the Department of Environment and Natural Resources or his duly authorized representative, and in accordance with the rules and regulations stipulated herein.

Hazardous Waste are allowed to be exported for recovery, treatment and final disposal and to countries which are Parties to the Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal or to countries with existing bilateral, multilateral and regional agreements as provided for in Article 11 of the Convention.

Import of recyclable materials containing hazardous substances or export of hazardous waste, are approved by the DENR through the EMB Central Office when all the requirements indicated in this Chapter are met. The import or export clearance shall be issued after the consent from the Competent Authority of the importing and exporting countries have been received by the EMB. An import or export clearance shall have the validity of six (6) months, unless otherwise specified by the approval of the importing country.

10.1 LEGAL FRAMEWORK

Import or export under the provisions of this Chapter shall be undertaken consistent with the provisions of the Basel Convention and Republic Act 6969.

Recognizing the risk of damage to human health and the environment caused by hazardous wastes and the transboundary movement thereof, the Basel Convention adopted the following rights and obligations, among others, of the Party States:

- a. Prohibit the import of hazardous waste for final disposal operation.
- b. Prohibit or not permit the export of hazardous waste to those Parties which have prohibited the import of such waste.

- c. Prohibit or not permit the export of hazardous waste not specifically prohibited by the importing country if the importing country has not given its prior consent in writing

Import of recyclable materials containing hazardous substances and export of hazardous waste shall be made in conformity with the said rights and obligations, especially to providing prior consent in writing to the importing and transit countries.

10.2 REQUIREMENTS FOR IMPORTERS OF HAZARDOUS WASTES

10.2.1 Registration Requirements

All importers of recyclable materials containing hazardous substances as listed in Table 10.1, must first register with the Department, through EMB, by filling up and submitting Form R-1 (template of which is available in the EMB website) detailing inter alia the following information:

- a. Names and addresses of waste importer and recycling facilities;
- b. Types and quantities of the imported recyclable material;
- c. Physical and chemical characteristics;
- d. Justification for the import;
- e. Methods for handling, including collection, packaging, labeling, transportation, and route which must conform with internationally accepted standards;
- f. Listing of personnel who will be responsible for supervising the collection, transport and unpacking of the recyclable materials and their respective qualifications; and
- g. Emergency response plan describing steps to be taken by parties concerned in case of spill or accident which may occur during transport from the premises of the recyclable material generator to the importer.

Table 10.1 Schedule of Recyclable Materials Containing Hazardous Substances that may be Imported Subject to the Corresponding Limiting Conditions

| CATEGORY | SPECIFIC ITEM | LIMITING CONDITIONS |
|-----------------|--|---|
| 1. Scrap Metals | a. Scrap and waste containing precious metals and their alloys of: <ul style="list-style-type: none"> - Gold - Platinum (which include iridium, osmium, palladium, rhodium and ruthenium) - Silver b. Metal sludges containing precious metals and all associated metals | All materials under this category should not contain radioactive materials such as Cesium (Cs), Cobalt (Co), Americium (Am), Strontium (Sr), lanthanide, actinide and others as determined by PNRI. |
| | c. Ferrous waste and scrap for remelting <ul style="list-style-type: none"> - Cast iron - Stainless steels - Other alloy steels - Tinned iron or steel - Turnings, shavings, chips, milling waste, filings, trimmings and stampings - Used iron and steel nails d. Non-ferrous scraps and alloys | The alloys of metals shall not contain mercury and its compounds. |
| | e. Other metal bearing waste arising from melting, smelting and refining of metals of: | |

no

| CATEGORY | SPECIFIC ITEM | LIMITING CONDITIONS |
|------------------------------|---|---|
| | <ul style="list-style-type: none"> - Hard zinc smelter - Zinc containing drosses such as galvanizing slab zinc top dross (>90% Zn); slab zinc bottom dross (>92% Zn); Zinc die cast dross (>85% Zn); Hot tip galvanizers zinc dross (>92% Zn) - zinc skimmings - slags from processing for further refining <p>f. Used Lead-Acid Batteries (ULABs)</p> | <p>All used Lead-Acid Batteries (ULABs) imported shall be free of extraneous materials and properly packaged to prevent leakages.</p> <p>Only recycling facilities with capacity to handle and treat battery acid solutions and have an environmentally sound disposal plan for the residual wastes generated shall be allowed to import.</p> |
| 2. Solid Plastic Materials | <ul style="list-style-type: none"> a. Waste parings and scrap of plastics b. polymerized or co-polymerized c. Resins of condensation products | <p>No importation of heterogenous and unsorted plastic materials shall be allowed.</p> <p>All plastics shall have no traces of toxic materials like Asbestos.</p> |
| 3. Electronic Assemblies and | <ul style="list-style-type: none"> a. All electronic assemblies containing printed circuit boards | <p>Refer to Basel Convention</p> |

| CATEGORY | SPECIFIC ITEM | LIMITING CONDITIONS |
|-------------|---|---|
| Scrap | b. Electronic components containing hazardous substances such as T.V.s, VCR, stereo, etc. | <ul style="list-style-type: none"> Waste electrical and electronic assemblies or scrap* (including printed circuit boards) not containing components such as accumulators and other batteries included on list A (of the Basel Convention), mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III * This entry does not include scrap from electrical power generation. |
| 4. Used Oil | a. Spent oil such as waste oil or oil residues | <p>No importation of tanker sludge shall be allowed; Spent oil shall have no traces of polychlorinated biphenyls (PCBs)</p> <p>All residuals of recycled material which contain Hazardous substances without any acceptable disposal methods in the Philippines shall be shipped back to the country of origin.</p> |
| 5. Fly-ash | a. Coal-Fired Power Plant Fly-ash | <p>Coal-fired power plant fly-ash containing Annex I substances in concentrations sufficient to exhibit Annex III characteristics (note the related entry on Basel Convention list B B205)</p> |



| CATEGORY | SPECIFIC ITEM | LIMITING CONDITIONS |
|----------|---------------|---|
| | | <p>shall not be allowed for importation.</p> <p>Pre-treatment of the fly ash shall conform with the requirement for clinker or cement production and should be undertaken at the country of export.</p> <p>Any residual or wastes fly ash which could not be used in the cement production must be shipped back immediately to the country of origin.</p> |



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10.2.2 Procedure for Registration Application

The EMB shall, upon receipt of the registration application, determine the completeness of the submission and coordinate with the concerned EMB Regional Office to inspect the recycling/receiving facility. Upon determination that the applicant has the capability to recycle the imported material in an environmentally acceptable manner, the EMB shall consider the importer as "registered".

The registered importer may proceed with the importation by submitting the required import applications to the DENR.

10.2.3 Importation Clearance Requirement for each Shipment

Each shipment of imported recyclable material shall be covered by an Importation Clearance (IC) which shall be applied for at least thirty (30) working days prior to the actual importation. Only duly registered importers may apply for the IC.

Application for IC for each shipment shall be made by filling up and submitting Form R-2 containing the following information:

- a. Names and addresses of waste importer and receiving parties
- b. Types and quantities of the imported materials
- c. Registry Reference Code
- d. Affidavit of undertaking specifying the following:
 - Liabilities of parties for clean-up operations in case of spill and emergencies
 - Responsibility of the exporter to retrieve/return the waste when denied entry by the Government of the Philippines (GOP)
 - Copy of insurance coverage for the shipment
 - Liabilities of parties to compensate for damages to properties and life in case of emergencies and accidents

The EMB shall process the application by comparing the submission (Form R-2) against the registered information (R-1). Once the examination is completed, an IC covering that particular shipment shall be issued to the importer stipulating the conditions for the importation.

The procedural flow for the processing of the applications for recyclable material importation appears as Annex 3.

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10.2.4 Other Requirements for Hazardous Wastes Importers

All importers under this rule shall also be required to:

- a. Designate a PCO
- b. Comply with the storage and labeling requirements as described in Section 6 of this Procedural Manual
- c. Comply with the waste transport record (manifest system) described in Section 7 of to convey the imported recyclable materials from the port to the importer's premises after securing an Importation Clearance
- d. Prepare an emergency contingency plan as described in Section 8 of this Procedural Manual
- e. Make recyclable materials containing hazardous substances accompanied by the movement document as provided for in this Chapter from the point at which a transboundary movement commences to the point of disposal
- f. Secure a TSD facility Permit in accordance with these Regulations prior to importation in case the importer holds the imported recyclable materials containing hazardous substances for periods exceeding thirty (30) days
- g. Require exporter from the country of origin to notify the EMB as per Basel Convention Notification Form through the Competent Authority of the exporting countries.

10.2.5 Testing and Sampling of Materials

The DENR reserves the right to require the testing and sampling of the imported recyclable materials at the expense of the importer. Refusal of the importer to the subject testing and sampling shall result in the immediate suspension of the Importation Clearance. Testing of imported materials shall be done by the DENR through its EMB laboratory or any of its duly recognized laboratories.

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10.3 REQUIREMENTS FOR EXPORTERS OF HAZARDOUS WASTE

All exporters of hazardous wastes shall be required to:

- a. Submit Notification for EMB's transmittal to the Competent Authority of the importing and transit countries
- b. Designate a PCO
- c. Comply with all the requirements of the Basel Convention on the Transboundary Movement of hazardous Wastes
- d. Comply with the transport record or manifest system to convey the exporting hazardous waste and recyclable materials containing hazardous substances from the generator to the port of embarkation after securing an Exportation Clearance and Permit
- e. Comply with the storage and labeling requirements as described in Section 6 of this Procedural Manual.
- f. Require that the shipment be accompanied by the movement document from the point at which a transboundary movement commences to the point of disposal
- g. Provide written consent on the transboundary movement of hazardous waste and/or recyclable materials containing hazardous substances from each State of transit, if applicable
- h. Provide written confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question from the State of import
- i. Provide written confirmation of the existence of financial guarantee to cover cost for re-import or other measures that may be needed

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REPUBLIC ACT
No. 6969

Subject: AN ACT TO CONTROL TOXIC SUBSTANCES AND HAZARDOUS AND NUCLEAR WASTES, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES

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

Section 1. Short Title. - This Act shall be known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990."

Section 2. Declaration of Policy. - It is the policy of the State to regulate, restrict or prohibit the importation, manufacture, processing, sale, distribution, use and disposal of chemical substances and mixtures that present unreasonable risk and/or injury to health or the environment; to prohibit the entry, even in transit, of hazardous and nuclear wastes and their disposal into the Philippine territorial limits for whatever purpose; and to provide advancement and facilitate research and studies on toxic chemicals.

Section 3. Scope. - This Act shall cover the importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal of all unregulated chemical substances and mixtures in the Philippines, including the entry even in transit, as well as the keeping or storage and disposal of hazardous and nuclear wastes into the country for whatever purposes.

Section 4. Objectives. - The Objectives of this Act are:

- a) To keep an inventory of chemicals that are presently being imported, manufactured, or used; indicating, among others, their existing and possible uses, test data, names of firms manufacturing or using them, and such other information as may be considered relevant to the protection of health and the environment;
- b) To monitor and regulate the importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal of chemical substances and mixtures that present unreasonable risk or injury to health or to the environment in accordance with national policies and international commitments;
- c) To inform and educate the populace regarding the hazards and risks attendant to the manufacture, handling, storage, transportation, processing, distribution, use and disposal of toxic chemicals and other substances and mixtures; and
- d) To prevent the entry, even in transit, as well as the keeping or storage and disposal of hazardous and nuclear wastes into the country for whatever purpose.

Section 5. Definition. - As used in this Act:

- a) **Chemical substance** means any organic or inorganic substance of a particular molecular identity, including:

- i) Any combination of such substances occurring in whole or in part as a result of chemical reaction or occurring in nature: and
- ii) Any element or uncombined chemical.
- b) **Chemical mixture** means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction, if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined. This shall include nonbiodegradable mixtures.
- c) **Process** means the preparation of a chemical substance or mixture after its manufacture for commercial distribution:
 - i) In the same form or physical state or in a different form or physical state from that which it was received by the person so preparing such substance or mixture; or
 - ii) As part of an article containing a chemical substance or mixture.
- d) **Importation** means the entry of a product or substance into the Philippines (through the seaports or airports of entry) after having been properly cleared through or still remaining under customs control, the product or substance of which is intended for direct consumption, merchandising, warehousing, for further processing.
- e) **Manufacture** means the mechanical or chemical transformation of substances into new products whether work is performed by power-driven machines or by hand, whether it is done in a factory or in the worker's home, and whether the products are sold at wholesale or retail.
- f) **Hazardous substances** are 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 or explosion; or
 - 2) long-term environmental hazards, including chronic toxicity upon repeated exposure, carcinogenicity (which may in some cases result from acute exposure but with a long latent period, resistance to detoxification process such as biodegradation, the potential to pollute underground or surface waters, or aesthetically objectionable properties such as offensive odors.
- g) **Hazardous wastes** are hereby defined as substances that are without any safe commercial, industrial, agricultural or economic usage and are shipped, transported or brought from the country of origin for dumping or disposal into or in transit through any part of the territory of the Philippines.



Hazardous wastes shall also refer to by-products, side-products, process residues, spent reaction media, contaminated plant or equipment or other substances from manufacturing operations, and as consumer discards of manufactured products.

- h) **Nuclear wastes** are hazardous wastes made radioactive by exposure to the radiation incidental to the production or utilization of nuclear fuels but does not include nuclear fuel, or radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial, or industrial purpose.

Section 6. Functions, Powers and Responsibilities of the Department of Environment and Natural Resources. - The Department of Environment and Natural Resources shall be the implementing agency tasked with the following functions, powers, and responsibilities:

- a) To keep an updated, inventory of chemicals that are presently being manufactured or used, indicating, among others, their existing and possible uses, quantity, test data, names of firms manufacturing or using them, and such other information as the Secretary may consider relevant to the protection of health and the environment;
- b) To require chemical substances and mixtures that present unreasonable risk or injury to health or to the environment to be tested before they are manufactured or imported for the first time;
- c) To require chemical substances and mixtures which are presently being manufactured or processed to be tested if there is a reason to believe that they pose unreasonable risk or injury to health and the environment;
- d) To evaluate the characteristics of chemicals that have been tested to determine their toxicity and the extent to their effects on health and the environment;
- e) To enter into contracts and make grants for research, development, and monitoring of chemical substances and mixtures;
- f) To conduct inspection of any establishment in which chemicals are manufactured, processed, stored or held before or after their commercial distribution and to make recommendations to the proper authorities concerned;
- g) To confiscate or impound chemicals found not falling within the standard set by the rules and regulations and the said acts cannot be enjoined except after the chemicals have been impounded;
- h) To monitor and prevent the entry, even in transit, of hazardous and nuclear wastes and their disposal into the country;
- i) To subpoena witnesses and documents and to require other information if necessary to carry out the provisions of this Act;
- j) To call on any department, bureau, office, agency, state university or college, and other instrumentalities of the Government for assistance in the form of personnel, facilities, and other resources as the need arises in the discharge of its functions;

- k) To disseminate information and conduct educational awareness campaign on the effects of chemical substances, mixtures and wastes on health and environment; and
- l) To exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

Section 7. Inter-agency Technical Advisory Council. - There is hereby created an Inter-agency Technical Advisory Council attached to the Department of Environment and Natural Resources which shall be composed of the following officials or their duly authorized representatives:

| | | |
|--|---|----------|
| Secretary of Environment and Natural Resources | - | Chairman |
| Secretary of Health | - | Member |
| Director of the Philippine Nuclear Research Institute | - | Member |
| Secretary of Trade and Industry | - | Member |
| Secretary of Science and Technology | - | Member |
| Secretary of National Defense | - | Member |
| Secretary of Foreign Affairs | - | Member |
| Secretary of Labor and Employment | - | Member |
| Secretary of Finance | - | Member |
| Secretary of Agriculture | - | Member |
| Representative from the non-governmental Organization on health and safety | - | Member |

The representative from the non-governmental organization shall be appointed by the President for a term of three (3) years. The council shall have the following functions:

- a) To assist the Department of Environment and Natural Resources in the formulation of the pertinent rules and regulations for the effective implementation of this Act;
- b) To assist the Department of Environment and Natural Resources in the preparation and updating of the inventory of chemical substances and mixtures that fall within the coverage of this Act;
- c) To conduct preliminary evaluation of the characteristics of chemical substances and mixtures to determine their toxicity and effects on health and the environment and make the necessary recommendations to the Department of Environment and Natural Resources; and
- d) To perform such other functions as the Secretary of Environment and Natural Resources may from time to time, require.

Section 8. Pre-Manufacturing and Pre-Importation Requirements. - Before any new chemical substances or mixture can be manufactured, processed or imported for the first time as determined by the Department of Environment and Natural Resources, the manufacturer, processor or importer shall submit the following information: the name of the chemical substances; its chemical identity and molecular structure; proposed categories of use; an estimate of the amount to be manufactured, processed or imported; processing and disposal thereof; and any test data related to health and environmental effects which the manufacturer, processor or importer has.



Section 9. Chemicals Subject to Testing. - Testing shall be required in all cases where:

- a) There is a reason to believe that the chemical substances or mixture may present an unreasonable risk to health or environmental exposure thereto;
- b) There are insufficient data and experience for determining or predicting the health and environmental effects of the chemical substance or mixture; and
- c) The testing of the chemical substance or mixture is necessary to develop such data.

The manufacturers, processors or importers shall shoulder the costs of testing the chemical substance or mixture that will be manufactured, processed or imported.

Section 10. Action by the Secretary of Environment and Natural Resources or his Duly Authorized Representative. - The Secretary of Environment and Natural Resources or his duly authorized representative shall, within ninety (90) days from the date of filing of the notice of manufacture, processing or importation of a chemical substance or mixture, decide whether or not to regulate or prohibit its importation, manufacture, processing, sale, distribution, use or disposal. The Secretary may, for justifiable reasons, extend the ninety-day pre-manufacture period within a reasonable time.

Section 11. Chemical Substance Exempt from the Pre-Manufacture Notification. - The manufacture of the following chemical substances or mixtures shall be exempt from pre-manufacture notification:

- a) Those included in the categories of chemical substances and mixtures already listed in the inventory of existing chemicals;
- b) Those to be produced in small quantities solely for experimental or research and development purposes;
- c) Chemical substances and mixtures that will not present an unreasonable risk to health and the environment; and
- d) Chemical substances and mixtures that exist temporarily and which have no human or environmental exposure such as those which exist as a result of chemical reactions in the manufacture or processing of a mixture of another chemical substance.

Section 12. Public Access to Records, Reports or Notification. - The public shall have access to records, reports or information concerning chemical substances and mixtures including safety data submitted, data on emission or discharge into the environment, and such documents shall be available for inspection or reproduction during normal business hours except that the information or particular person thereof confidential and may not be made public when such would divulge trade secrets, production or sales figures or methods, production or processes unique to such manufacturer, processor, or distributor or would otherwise tend to affect adversely the competitive position of such manufacturer, processor or distributor. The Department of Environment and Natural Resources, however, may release information subject to claim of confidentiality to a medical research or scientific institution where the information is



needed for the purpose of medical diagnosis or treatment of a person exposed to the chemical substance or mixture.

Section 13. Prohibited Acts. - The following acts and omissions shall be considered unlawful:

- a) Knowingly use in chemical substance or mixture which is imported, manufactured, processed or distributed in violation of this Act or implementing rules and regulations or orders;
- b) Failure or refusal to submit reports, notices or on the information, access to records as required by this Act, or permit inspection of establishment where chemicals are manufactured, processed, stored or otherwise held;
- c) Failure or refusal to comply with the pre-manufacture and pre-importation requirements; and
- d) Cause, aid or facilitate, directly or indirectly, in the storage, importation or bringing into Philippine territory, including its maritime economic zones, even in transit, either by means of land, air or sea transportation or otherwise keeping in storage any amount of hazardous and nuclear wastes in any part of the Philippines.

Section 14. Criminal Offenses and Penalties. -

- a) (i) The penalty of imprisonment of six (6) months and one day to six (6) years and one day and a fine ranging from Six hundred pesos (PhP600.00) to Four thousand pesos (PhP4,000.00) shall be imposed upon any person who shall violate section 13(a) to (c) of this Act and shall not be covered by the Probation Law. If the offender is a foreigner, he or she shall be deported and barred from any subsequent entry into the Philippines after serving his or her sentence;
- (ii) In case any violation of this Act is committed by a partnership, corporation, association or any juridical person, the partner, president, director or manager who shall consent to or shall knowingly tolerate such violation shall be directly liable and responsible for the act of the employees and shall be criminally liable as a co-principal;
- (iii) In case the offender is a government official or employee, he or she shall, in addition to the above penalties, be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position.
- b) (i) The penalty of imprisonment of twelve (12) years and one day to twenty (20) years, shall be imposed upon any person who shall violate section 13 (d) of this Act. If the offender is a foreigner, he or she shall be deported and barred from any subsequent entry into the Philippines after serving his or her sentence;
- (ii) In the case of corporations or other associations, the above penalty shall be imposed upon the managing partner, president or chief executive in

addition to an exemplary damage of at least Five hundred thousand pesos (PhP500,000.00). If it is a foreign firm, the director and all officers of such foreign firm shall be barred from entry into the Philippines, in addition to the cancellation of its license to do business in the Philippines;

- (iii) In case the offender is a government official or employee, he or she shall in addition to the above penalties be deemed automatically dismissed from office and permanently be disqualified from holding any elective or appointive position.
- c) Every penalty imposed for the unlawful importation, entry, transport, manufacture, processing, sale or distribution of chemical substances or mixtures into or within the Philippines shall carry with it the confiscation and forfeiture in favor of the Government of the proceeds of the unlawful act and instruments, tools or other improvements including vehicles, sea vessels and aircraft used in or with which the offense was committed. Chemical substances so confiscated and forfeited by the Government at its option shall be turned over to the Department of Environment and Natural Resources for safekeeping and proper disposal.
- d) The person or firm responsible or connected with the bringing or importation into the country of hazardous or nuclear wastes shall be under obligation to transport or send back said prohibited wastes;

Any and all means of transportation, including all facilities and appurtenances that may have been used in transporting to or in the storage in the Philippines of any significant amount of hazardous or nuclear wastes shall at the option of the government be forfeited in its favor.

Section 15. Administrative Fines. - In all cases of violations of this Act, including violations of implementing rules and regulations which have been duly promulgated and published in accordance with Section 16 of this Act, the Secretary of Environment and Natural Resources is hereby authorized to impose a fine of not less than Ten thousand pesos (PhP10,000.00), but not more than Fifty thousand pesos (PhP50,000.00) upon any person or entity found guilty thereof. The administrative fines imposed and collected by the Department of Environment and Natural Resources shall accrue to a special fund to be administered by the Department exclusively for projects and research activities relative to toxic substances and mixtures.

Section 16. Promulgation of Rules and Regulations. - The Department of Environment and Natural Resources, in coordination with the member agencies of the Inter-Agency Technical Advisory Council, shall prepare and publish the rules and regulations implementing this Act within six months from the date of its effectivity.

Section 17. Appropriation. - Such amount as may be necessary to implement the provisions of this Act is hereby annually appropriated and included in the budget of the Department of Environment and Natural Resources.

Section 18. Separability Clause. - If any provision of this Act is declared void or unconstitutional, the remaining provisions thereof not affected thereby shall remain in full force and effect.



Section 19. Repealing Clause. - All laws, presidential decrees, executive orders and issuances, and rules and regulations which are inconsistent with this Act are hereby repealed or modified accordingly.

Section 20. Effectivity. - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in any newspaper of general circulation.

Approved:

(Sgd.) **RAMON V. MITRA**
Speaker of the House
Of Representatives

(Sgd.) **JOVITO R. SALONGA**
President of the Senate

This Act which is a consolidation of Senate Bill No. 255 and House Bill No. 25194 was finally passed by both the Senate and the House of Representatives on September 6, 1990.

(Sgd.) **QUIRINO D. ABAD SANTOS, JR.**
Secretary of the House
Of Representatives

(Sgd.) **EDWIN P. ACOBA**
Secretary of Senate

Approved: OCTOBER 26, 1990

(Sgd.) **CORAZON C. AQUINO**
President of the Philippines