



PUNONGHIMPILAN TANOD BAYBAYIN NG PILIPINAS
(HEADQUARTERS, PHILIPPINE COAST GUARD)
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HPCG/CG9

MEMORANDUM CIRCULAR
NUMBER NR

**REVISED RULES AND REGULATIONS ON PREVENTION, CONTAINMENT,
ABATEMENT AND CONTROL OF OIL MARINE POLLUTION, AND
PROVIDING PENALTIES THEREFOR**

**REGULATION 1
AUTHORITY**

1. Republic Act No. 9993: The Philippine Coast Guard Law of 2009 and Its Implementing Rules and Regulations;
2. Republic Act No. 9483: Oil Pollution Compensation Act of 2007;
3. Republic Act No. 9275: Philippine Clean Water Act of 2004;
4. Republic Act No. 8550: The Philippine Fisheries Code of 1998;
5. Presidential Decree No. 979: Marine Pollution Decree of 1976; and
6. Presidential Decree No. 602: National Oil Pollution Operations Center Decree.

**REGULATION 2
REFERENCES**

1. Republic Act No. 7586: National Integrated Protected Areas System Act of 1992 (NIPAS Act);
2. Presidential Decree No. 1152: Environmental Code of the Philippines;
3. National Oil Spill Contingency Plan (NOSCOP);
4. Annex I of the International Convention for the Prevention of Pollution from Ships, MARPOL 73/78;
5. International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC);
6. International Convention on Civil Liability for Oil Pollution Damage (CLC);
7. International Oil Pollution Compensation Fund 1992; and
8. Administrative Matter No. 09-6-8-C (Rules of Procedure for Environmental Cases).

**REGULATION 3
PURPOSE**

The purpose of this Memorandum Circular is to establish the policy and provide the rules and regulations for an effective prevention, containment, abatement and control of oil marine pollution within the Philippine maritime jurisdiction in accordance with the abovementioned laws and to provide penalties for violations thereof.

REGULATION 4 SCOPE

This Memorandum Circular shall apply to all domestic and foreign vessels, coastal and offshore facilities and other facilities utilizing and/or storing petroleum products such as terminals, depots, and refineries operating within the Philippine maritime jurisdiction.

REGULATION 5 EXEMPTIONS

Naval warships and government-owned vessels not used for commercial purposes are exempted from the provisions prescribed in this Circular. However, these vessels should take appropriate measures to prevent discharges of oil and other matters that may cause marine pollution and should report all marine pollution incidents to the Philippine Coast Guard.

REGULATION 6 DEFINITION OF TERMS

For the purpose of this circular, the following terms shall be defined as:

1. 1992 Civil Liability Convention – means the 1992 International Convention on Civil Liability for Oil Pollution Damage
2. *Aquatic Pollution* – the introduction by human or machine, directly or indirectly of substances or energy to the aquatic environment which result or is likely to result in such deleterious effects as to harm living and non-living aquatic resources, pose potential and/or real hazard to human health, hindrance to aquatic activities such as fishing and navigation, including dumping/disposal of waste and other radioactive, noxious or harmful liquid, gaseous or solid substances from any water, land or air transport or other human-made structure.
3. *Black Products* - refers to petroleum products including but is not limited to crude oil, fuel oil, heavy diesel and lubricating oil;
4. *Bund Wall* – a concrete or earth wall surrounding a storage tank containing crude oil or its refined product, designed to hold the contents of the tank in the event of rupture or leak. It is a secondary containment system commonly used to protect environments from spills where chemicals are stored;

5. *Claims* - a demand made in writing to compensate pollution damage and to include prevention, protection, clean-up and rehabilitation cost resulting from oil spill;
6. *Consequential Loss* – loss incurred as a result of being unable to use business property or equipment;
7. *Deficiency* – a condition found not to be in compliance with the requirements of the relevant marine environmental protection (MEP) regulations;
8. *Discharge* – means any release of harmful substances or effluents containing such substances howsoever caused from a ship or facility and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;
9. *Effluent* - discharge from vessels and other known sources which is passed into a body of water or land, or wastewater flowing out of a domestic, commercial, industrial and recreational facilities;
10. *Facilities* - shall include power plants, shipyards, oil refineries, oil depots, oil terminals, ports jetties, oil rigs either fixed or floating platforms, cargo terminals, ferry terminal facilities and other establishments capable of causing oil pollution within Philippine maritime jurisdiction;
11. *Initial Oil Spill Response* – pertains to the immediate response measures required to prevent or mitigate further damage of oil pollution in the affected area.
12. *In rem* – Latin term which means “against a thing,” pertains to legal action directed toward the property rather than toward a particular person;
13. *Lien* – a right to keep possession of property belonging to another person until a debt owned by that person is discharged;
14. *Marine Protected Area* - a water area within the Philippine maritime jurisdiction declared under existing laws as marine parks, marine sanctuaries including reefs, shoals, mangroves, atolls such as Tubattaha Reefs, Verde Island Passage, Sulu Sulawesi water area and other areas to be declared as such;
15. *MARINA* – means Maritime Industry Authority;
16. *Oil* - petroleum in any form including crude oil, fuel oil, sludge, oil refuses and refined products, except petrochemicals which are subject to the provisions of Annex II of MARPOL 73/78, oil mixed in dredge spoils, and oil listed in the Annex A of this Circular;
17. *Oil Marine Pollution* – release or escape of oil into the marine areas from water to shore and vice versa, from ships, tankers, offshore sources, coastal facilities and other human activities which impaired the marine environment.

18. *Oil Spill Dispersant* - any chemical substance or a combination of chemical substances that breaks oil into particles such that it facilitates the dispersion, evaporation and biodegradation of the oil;

19. *Oil Spill Response (OSR)* - any oil spill response operation or activity for the prevention, containment, abatement and control of oil pollution in Philippine maritime jurisdiction;

20. *Oil Spill Response Organization (OSRO)* - an entity duly accredited by the PCG authorized to provide oil spill response services in the event of oil spill within the Philippine maritime jurisdiction;

21. *Oil Tanker* - a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers, any Noxious Liquid Substance (NLS) tanker as defined in Annex II MARPOL 73/78 and gas carrier as defined in SOLAS 74 when it is carrying a cargo or part cargo of oil in bulk.

22. *Oily mixture* –a mixture with any oil content;

23. *Owner* – means the person registered as the owner of the vessel or oil tanker or, in the absence of registration, the person or persons owning the Ship. However, in case of a Ship owned by a State and operated by a company which in that State is registered as the Ship's operator, "Owner" shall mean such company

24. *PCG* – shall mean the Philippine Coast Guard. All equipment and documents which required the approval of the PCG shall indicate approval of the Commandant, PCG.

25. *Philippine Maritime Jurisdiction (Philippine Waters)* – include all bodies of water within the Philippine territory such as lakes, rivers, streams, creeks, brooks, ponds, swamps, lagoons, gulfs, bays and seas and other bodies of water now existing or which may hereafter exist in the provinces, cities, municipalities, and barangays and the waters around, between and connecting the islands of the archipelago regardless of their breadth and dimensions, the territorial sea, the sea beds, the insular shelves, and all other waters over which the Philippines has sovereignty and jurisdiction including the 200-nautical miles Exclusive\ Economic Zone and the continental shelf.

26. *Persistent Oil* - oil which are normally classified as persistent include crude oils, fuel oils, heavy diesel and lubricating oils;

27. *Pollution damage* – means:

27.1. Loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;

27.2. The costs of preventive measures and further loss or damage caused by preventive measure.

28. Precautionary Principle – a principle of law which states that when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat.¹

29. *Preventive Detention* – preventive measure taken by the Marine Environmental Protection (MEP) Officer when the condition of the ship does not correspond substantially with the applicable MEP laws/regulations to ensure that the ship will not sail until it can proceed to sea without presenting danger to the ship or person on board or without presenting any threat of harm to the marine environment;

30. *Preventive Measure* – means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.

31. *Prima Facie Evidence* – evidence sufficient in law to raise a presumption of fact or establish the fact in question unless rebutted.

32. *Produced Water* – water that is produced along with the oil and gas during extraction from oil wells;

33. Polluter Pays Principle – a general principle of international law which states that the costs of environmental control fall primarily on the polluters.

34. *Pure Economic Loss* – financial damage suffered as the result of the negligent act of another party which is not accompanied by any physical damage to a person or property;

35. *Response Operation* – the execution of oil spill response measures including but not limited to assessment of the incident, skimming, dispersing, shoreline protection and shoreline cleaning. The duration of each response operation shall depend on the circumstances of the oil incident to be determined by the Commander of the concerned Coast Guard District for Tier I and Tier II Spill upon consultation with the Marine Environmental Protection Command (MEPCOM), Local Government Unit/s (LGU/s) and other concerned government agencies. In Tier III Spill the Commandant, Philippine Coast Guard with the recommendation of CMEPCOM upon consultation with the concerned LGU/s, Coast Guard District and other government agencies shall determine the duration of the response and termination operation;

36. *Special area* - a sea area within the Philippine maritime jurisdiction where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by oil is required or any other sea area as may be defined by existing law;

¹ Section 4(f), Rules of Procedure for Environmental Cases; Article 3 of the 1996 Protocol to the London Convention

37. *Threat of Oil Spill* – when no actual discharge of oil has occurred but there is a probability that one could due to damage, failure or breakdown which affects the safety of the ship or failure or breakdown of machinery which results in impairment of the safety of navigation.

38. *Tier I Spill* - a discharge of less than 10,000 (10 m³) liters of oil;

39. *Tier II Spill* - a discharge of 10,000 to 1,000,000 (1000 m³) liters of oil;

40. *Tier III Spill* - a discharge of more than 1,000,000 (1000 m³) liters of oil;

41. *Vessel* – means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air cushion vehicles, submersibles, floating craft and fixed or floating platforms, may be used synonymously with ship;

REGULATION 7 POLICIES

1. The “precautionary principle” and the “polluter pays principle” as embodied in applicable laws and international conventions are to be fully adopted in the application, enforcement and interpretation of any of the provisions in this Circular, as well as in any dispute or adjudication arising from or in connection with this Circular.
2. All vessels, coastal and offshore and onshore facilities for oil exploration, oil production, oil refinery and oil depot operators, including power barges, are required to prevent and control pollution of the marine environment by oil and the minimization of accidental discharge of such substance, likewise the same are strictly accountable for any and all liabilities arising from oil marine pollution.
3. Vessels exempted from complying with the provisions under this Circular are encouraged to undertake necessary measures to prevent damage from oil marine pollution and ensure the protection of marine environment from harmful effects.
4. All certificates, documents and contracts required by this Circular and other PCG rules and regulations shall be onboard. The PCG Accreditation Certificate of Oily Water Separator should be presented upon inspection of the vessels on its original document. Presentation of a copy authenticated by the PCG of all other PCG accreditation certificates shall constitute compliance of the requirement of this circular.
5. The PCG shall conduct inspections of all ships entering the territory of the Philippines, to determine compliance of PCG MEP rules and regulations. Provided, that such inspections shall not cause undue delay to the Ships.

6. In pursuit of effective regulatory framework for the prevention, abatement, containment and control of oil marine pollution, the role of the private sector and the market-driven forces are hereby recognized and affirmed.

REGULATION 8 PROHIBITIONS

1. PROHIBITED ACTS

It shall be unlawful for any person or entity, including all vessels and facilities engaged in cargo and ferry transport, offshore petroleum exploration and production activities, to:

- 1.1 Discharge of oil or oily mixture from machinery space bilges of oil tankers and any other ships when mixed with cargo oil residue or when transferred to slop tanks;
- 1.2 Discharge from cargo pump room bilges of ships;
- 1.3 Discharge into the sea of oil or oily mixture from a ship or tanker while in a special area;
- 1.4 Discharge of oil from oil depots, jetties power plants, shipyards, oil refineries, oil terminals, ports jetties, oil rigs either fixed or floating platforms and other establishments capable of causing oil pollution.

2. EXCEPTIONS

- 2.1 The discharge into the sea of oil or oily mixture is necessary for the purpose of securing the safety of a ship or saving life at sea; or
- 2.2 The discharge into the sea of oil or oily mixture resulting from damage to a ship or its equipment; *Provided*, that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge; and except if the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or
- 2.3 The dumping into the sea of oily waste is allowed by a permit issued by the Commandant, PCG in accordance with specified procedures and manners to be included in such permits; or
- 2.4 Any discharge into the sea of oil or oily mixture from ships shall be prohibited except when all of the following conditions are satisfied:
- 2.5 For an oil tanker:
 - 2.5.1 The tanker is not within a special area;

- 2.5.2 The tanker is more than 50 nautical miles from the nearest land;
 - 2.5.3 The tanker is proceeding in route;
 - 2.5.4 The instantaneous rate of oil content does not exceed (60) liters per nautical mile;
 - 2.5.5 The total quantity of oil discharge into the sea does not exceed for existing tanker 1/15,000 or 15 ppm of the total quantity of the particular cargo of which the residue formed a part; and
 - 2.5.6 The tanker has in operation an oil discharge monitoring and control system, oil water separator and a slop tank arrangement.
- 2.6 For a ship of 400 gross tonnage and above other than oil tanker and from machinery space bilges excluding cargo pump room bilges of an oil tanker unless mixed with oil cargo residue:
- 2.6.1 The ship is not within a special area;
 - 2.6.2 The ship is more than 12 nautical miles from the nearest land;
 - 2.6.3 The ship is proceeding en route;
 - 2.6.4 The oil content of the effluent is less than fifteen (15) ppm.
 - 2.6.5 The ship has in operation an oil discharge monitoring and control system, oily water separating equipment, oil filtering equipment or other installation.
- 2.7 For a ship of less than 400 gross tonnages, oil and all oily mixtures shall either be retained on board for subsequent discharge to reception facilities or discharged into the sea; *Provided*, that the discharge of oil and oily mixtures shall be allowed only when the following conditions are satisfied:
- 2.7.1 The ship is proceeding *en route*;
 - 2.7.2 The oil content of the effluent without dilution does not exceed 15 ppm;
 - 2.7.3 The oily mixture does not originate from cargo pump-room bilges on oil tankers; and
 - 2.7.4 The oily mixture, in case of oil tankers, is not mixed with oil cargo residues.

- 2.8 Discharge of clean or segregated ballast or unprocessed oily mixture which without dilution has oil content not exceeding 15 ppm and which does not originate from cargo pump room bilges and is not mixed with oil cargo residue.
- 3 The exceptions provided in sub-paragraph (2.1) and (2.2) above shall, however, terminate as soon as the port authorities and/or shipping companies shall have provided for adequate reception facilities.
- 4 The oil residues which cannot be discharged into the sea in compliance with paragraphs (1) and (2) shall be retained on board for subsequent discharge to reception facilities.
- 5 In all instances where the discharge of oil or oily mixture is allowed under this Circular, irrespective of volume, the owner and/or master or any person in charge of the ship shall immediately notify the nearest PCG unit in accordance with **Regulation 8 (A)(1)** herein.

REGULATION 9 REQUIREMENTS

1. VESSELS AND TANKERS (*Annex 2 MEP Requirements Matrix*)

1.1 Equipment/Tools

- 1.1.1 All vessels operated by ship owners and shipping companies shall be provided with at least a complete set of oil containment and recovery equipment, inclusive of but not limited to sorbent dispersants and other Marine Pollution (MARPOL) combating equipment duly accredited by the PCG, sufficient to prevent, control and mitigate a Tier I spill.
- 1.1.2 All vessels shall have on board scupper plugs equivalent to the number of scupper lips and various sizes of scupper plugs for use on possible holes that may develop in the hull.
- 1.1.3 All self-propelled/non-self-propelled barges/tankers, vessels towing dumb barges, vessels of 400 GT and above, and tankers of 150 GT and above containing oil must have on board a minimum of two (2) 210-liter drum of dispersants and appropriate number of sprayers and an appropriate length or segment oil spill/containment boom as specified in **Annex 3** (List of Required MARPOL Equipment).
- 1.1.4 All tankers of 150 GT and above shall be provided with slop tank arrangements or combination of slop tank that have a capacity necessary to retain the slop generated by tank washings, oil residues and dirty ballast residues.

- 1.1.5 Vessels of 400 gross tonnage (GT) and above but less than 10,000 GT shall be fitted with an oil-water separating equipment or filtering system duly approved by the PCG to ensure that any oil mixture discharged into the open sea after passing through the separator or filtering system shall have an oil content of not more than 15 parts per million (ppm). Effluent discharges in ports and harbors to include other navigable lakes and rivers shall not exceed the water quality standards.
- 1.1.6 Every vessel of 400 GT and above shall be provided with tank or tanks of adequate capacity, having regard to the type of machinery and length of voyage, to receive the oil residues.
- 1.1.7 Vessels of 10,000 GT and above shall be fitted, in addition to oil-water separating equipment, with an oil discharge monitoring and control system.
- 1.1.8 Every new crude oil tanker of 20,000 GT and above shall be provided with segregated ballast tanks.
- 1.1.9 Every new oil tanker of 70,000 GT and above shall be provided with at least two (2) slop tanks.
- 1.1.10 There shall be a minimum of fifty (50) kilos of rags and other appropriate sorbent materials and appropriate number of open-ended drums with cover or clean-up of oil spills on decks and pump rooms.
- 1.1.11 All shipping companies shall provide for a system of collection and disposal of all types of waste accumulated aboard ship notwithstanding public port reception facilities and Oily Waste Collector duly approved by the PCG.
- 1.1.12 Oil tankers engaged in transport, storage and distribution of black products and persistent oil shall have on-board at all times with at least one complete set of oil containment and recovery equipment, sorbent, appropriate volume of dispersants and other MARPOL combating equipment specified in **Annex 3** duly accredited by the PCG sufficient to prevent, control and mitigate a Tier I discharge.

1.2 Certificates, Documents and Clearances

- 1.2.1 An International Oil Pollution Prevention Certificate (IOPPC) for Philippine-registered vessels engaged in international trade or voyage, and an Oil Pollution Prevention Certificate (OPPC) as required by PCG Memorandum Circular for Philippine-registered vessels engaged in domestic trade or voyage, or whichever is applicable, shall be issued, after an initial or renewal survey in accordance with the provisions of applicable laws and regulations, to any oil tanker of 150 gross tonnage

and above and any other ships of 400 gross tonnage and above which are engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the present International Convention for the Prevention of Pollution from Ships, MARPOL 73/78.

1.2.2 All oil tankers of 150 gross tons and above and other passenger-cargo vessels above 400 gross tons shall be provided on board with an Oil Record Book (Part 1 and Part 2) in the form specified in **Annex 5**. This oil record book shall be maintained and updated every after any transfer operation of oil on board.

1.2.3 All ships and facilities shall obtain a clearance from the PCG prior the conduct of bunkering/transferring operations and shall comply and submit the documents requirement for the issuance of bunkering and transferring clearance. The list of requirements for the issuance of the clearance is specified in **Annex 4**.

1.2.4 All bunkering/transferring operations shall be in compliance with the International Safety Guide for Oil Tankers and Terminals (ISGOTT).

1.2.5 All transferring or unloading operations by any vessel involving but not limited to petroleum products shipments from ship to shore or vice versa and from ship to ship shall be reported through written notification to the PCG by shipping agents to include movements, destination and estimated time of transfer operations.

1.2.6 All tankers, vessels, barges and ships carrying oil in bulk as cargo within Philippine maritime jurisdiction shall be required to conclude a contract with a PCG-accredited OSRO for the immediate conduct of complete oil spill response operations, including prevention, containment, abatement, control and clean-up operation, in the event of actual or imminent threat of an oil spill according to the following:

1.2.6.1 For tankers, vessels, barges and ships carrying 10,000 to 1,000,000 (1000 m³) liters of oil, a contract with an OSRO for oil spill response operations for a Tier II Spill shall be concluded;

1.2.6.2 For tankers, vessels, barges and ships carrying more than 1,000,000 (1000 m³) liters of oil, a contract with an OSRO for oil spill response operations for a Tier III Spill shall be concluded;

The contract with an OSRO, a signed copy of which shall be kept onboard, must be valid and subsisting

upon entry into Philippine territory and during the entire course of the tanker's voyage in the Philippine maritime jurisdiction. The form and contents of such contract shall substantially conform to the specifications outlined in **Annex 6**.

In case of Foreign-registered tankers, the contract with an OSRO shall be entered through a local agent.

The guidelines for the accreditation and classification of OSROs, as well as the recommended costs and prices, are contained in **Annex 6**.

- 1.2.7 Cargo vessels, container vessels and bulk carriers shall secure a contract with an OSRO for the provision of standby oil spill response and clean-up operations while the vessel or carrier is docked in a port terminal facility.

- 1.2.8 Pursuant to R.A. No. 9483, all ships carrying more than two thousand (2,000) tons of Oil in bulk as cargo shall be required to have a valid certificate of insurance or financial security for pollution damage to be allowed entry into Philippine territory or its exclusive economic zone. With respect to foreign registered ship by a State which is a member to the 1992 Civil Liability Convention, such certificate of insurance or other financial security shall be issued by its Flag-State. In case of Ships not registered in a State which is a member to the 1992 Civil Liability Convention such certificate may be issued or certified by MARINA pursuant to its rules and regulations.

The mandatory insurance to cover liabilities arising from pollution and wreck removal under prevailing MARINA rules and regulations shall be understood to cover cost and expenses for actual oil spill response operations conducted by an OSRO pursuant to the provisions of this Circular.

- 1.2.9 All other Certificates and/or documents required by other existing PCG Memorandum Circulars which may be applicable in the present circumstances.

2.1 DEPOT/ TERMINALS/ REFINERIES/FACILITIES

- 2.1.1 All facilities engaged in the exploration, production, refining, storage, and distribution of petroleum products, including power barges and power plants shall be equipped with oil containment, protective, and recovery equipment, dispersants and other MARPOL combating equipment and accessories duly accredited by the PCG sufficient for oil pollution response operation of a Tier I discharge. **(See Annex 3)**

- 2.1.2 Transfer operations by facilities involving oil from ships to shore or vice versa shall be conducted in accordance with International Safety Guides for Oil Tankers and Terminals (ISGOTT).
- 2.1.3 Transfer operations involving highly flammable or light oils such as gasoline and kerosene shall commence only when the depot or refinery has combustible gas analyzers in the vicinity of the discharge area to monitor operations and a sound alarm system in case of any excessive fumes.
- 2.1.4 All oil tank farms shall be provided with adequate bund walls enough to contain accidental massive oil spillages.
- 2.1.5 All facilities shall submit to PCG their respective oil spill contingency plans in accordance with the National Oil Spill Contingency Plan (NOSCOP) for review, and approval of the Commandant, PCG upon the recommendation of the Commander, MEPCOM for execution in case of any oil spillage in their areas. Said plan shall also be subjected to an actual yearly drill exercise to be monitored and evaluated by MEPCOM.
- 2.1.6 All facilities shall notify the nearest PCG Unit in writing of all transfer operations of oil cargoes in their respective areas.
- 2.1.7 All facilities shall be required to organize and maintain an Oil Spill Response Team capable of responding to Tier I oil spill incidents. In addition, the same shall conduct regular team training every six (6) months on managing oil spill operations, handling, and operations of MARPOL combating equipment to be monitored and evaluated by MEPCOM.
- 2.1.8 All facilities engaged in the exploration, production, refining, storage, and distribution of petroleum products, including power barges, shall conclude a contract with an accredited OSRO for the immediate conduct of complete oil spill response operations, including prevention, containment, abatement, control and clean-up, for a Tier I spill in the event of actual or imminent threat of an oil spill.
- 2.1.9 The requirements provided in sub paragraphs (1) and (6) shall also be applied to floating or fixed platform engaged in drilling exploration.
- 2.1.10 The packages used to transport oily waste shall be adequate to minimize the possibility of spill in the marine environment and shall be clearly and durably marked.

The shipping documents supplied by the shipper shall include, or be accompanied by a signed certificate or declaration that the shipment offered for carriage is properly packaged, marked, labeled, or placarded as appropriate and in proper condition for carriage to minimize the hazard to the marine environment.

- 2.1.11 Owners/Operators of recreational areas such as beach resorts shall not dump oily waste into the shoreline, which is likely to be washed away by tides and currents.
- 2.1.12 Chemical dispersants to be utilized during any oil spill shall be duly accredited by the PCG.

REGULATION 10

PREVENTIVE MEASURES IN OIL TRANSFER OPERATIONS

As a preventive measure, all on-shore and off-shore facilities engaged in the exploration, production, refining, storage, and distribution of oil and petroleum products, including power barges shall install, secure and wrap proper oil spill containment booms around the oil transport vessel prior to and during the entire un-loading, loading and transfer operations of oil with quantity of above 100,000 Liters. This preventive measure shall be undertaken by the facility through an OSRO. The minimum requirement specifications on the quality and installation of oil spill containment boom must comply with the provisions specified in Annex C (List of Required MARPOL Equipment) this Memo Circular.

REGULATION 11

POLICY ON OIL SPILL INCIDENT

1. GENERAL POLICY

- 1.1 In case of an oil spill or a threat thereof, the owner and/or master or any person in charge of the ship operating within the jurisdiction of the Philippines or the owners/operators of the facilities responsible for the oil pollution shall immediately notify the nearest PCG unit and the appropriate OSRO, where applicable, giving particulars of the incident. This information shall include the name of ship/s, location, weather condition, type of threat or spill, estimated quantity, type and cargo description of oil spilled, or any other information necessary for initial oil spill response operation.
- 1.2 The spiller shall have the primary responsibility of conducting oil pollution response operation by contracting an OSRO prior to entry within Philippine territory, the PCG in this case shall supervise the oil pollution response and clean-up operations, or in case of a threat of oil pollution, the owner and/or master of the ship or the owners/operators of the facilities shall immediately implement preventive measures, under the supervision of the PCG.
- 1.3 When the spiller refused or failed to take immediate action, or is incapable of taking such immediate action, the Philippine Coast Guard (PCG) shall promptly conduct an initial oil spill and clean-up operation response at the expense of the spiller. The PCG thru NOCOP upon conducting the initial response may call upon the services of an OSRO, who shall undertake appropriate oil spill response and clean-up

operations at the expense of the spiller. The PCG thru NOCOP may call upon the services of more than one OSRO as the circumstances may warrant.

- 1.4 Pursuant to the "Polluter Pays Principle", the spiller shall be solely liable for all costs and expenses incurred in any oil spill response operations conducted by an OSRO, whether such response is conducted pursuant to a contract between the spiller and the OSRO or pursuant to a call by the PCG in accordance with the immediately preceding provision.
- 1.5 The responsibility of the PCG in the oil pollution response operation shall consist only of initial oil pollution and clean-up operation response to prevent further damages to the marine environment and supervision of the succeeding up to termination of oil spill response operations conducted by an OSRO contracted by the spiller or called upon by the PCG.
- 1.6 The oil spill response operations shall be in accordance with the provisions of the existing National Oil Spill Contingency Plan (NOSCOP) and District/Station Oil Spill Contingency Plan.

2. SPECIFIC POLICY

- 2.1 The determination of Spill Tier shall be the function of the PCG particularly the oil spill response team assigned in the concerned area. The immediate oil spill response team shall submit to the Marine Environmental Protection Command (MEPCOM) an initial report containing the determination of the existing tier.
- 2.2 For Tier I and Tier II Spill, the activation of oil spill response operation shall be the responsibility of the Incident Commander, Coast Guard District within his area of jurisdiction in coordination with the MEPCOM. Upon activation of the oil spill operation, the concerned Coast Guard District Oil Spill Response Team shall conduct the initial oil spill response operation to prevent further damage of oil marine pollution and shall supervise the OSRO hired by the spiller for the conduct of succeeding containment, abatement, control and clean-up operation or called upon by the PCG in accordance with [Regulation 11 \(1.3\)](#). In the conduct of oil spill response, the District Oil Spill Contingency Plan will be followed. The Incident Commander, Coast Guard District shall also be responsible for the termination of the said response operation.
- 2.3 For Tier III Spill, the Commander, MEPCOM (CMEPCOM) shall assess the information submitted by the initial oil spill responders and shall recommend the appropriate response operation to the Commandant, PCG (CPCG). The CPCG or his duly authorized officer shall make the declaration for the Tier III response operation to be undertaken in accordance with the NOSCOP. The CPCG or his duly authorized officer may call on any number of OSROs to conduct oil spill response operations as the circumstances may warrant.

- 2.4 As to the termination of Tier III response operation, the decision shall be undertaken by the CPCG or his duly authorized officer, upon the recommendation of the CMEPCOM after the consultation with the concerned LGU/s, Coast Guard District and other government agencies.
- 2.5 In all oil spill crisis situation, the Crisis Management Committee provided by the District/ Station Oil Spill Contingency Plan or by the National Oil Spill Contingency Plan will be created to provide operational direction and supervision during the oil spill crisis situation.
- 2.6 When the oil spill response operation is terminated, the CPCG upon the recommendation of CMEPCOM after verification and assessment of the report of the oil spill response team and upon consultation and concurrence of the concerned LGU/s, Coast Guard District and other government agencies may declare the affected area clean from contamination of oil/oily waste substance.

REGULATION 12 FINES AND PENALTIES

1. An administrative fine of not less than Fifty Thousand Pesos (Php50,000.00) shall be imposed for each violation or non-compliance of Regulation 9 (Requirements) of this Memorandum Circular.
2. For any violation of prohibited discharges in **Regulation 8** herein, the corresponding administrative fines and/or penalties shall be imposed:
 - 2.1 Tier I Discharge - not less than Php50,000.00 but not more than Php300,000.00
 - 2.2 Tier II Discharge - above Php300,000.00 but not more than Php600,000.00
 - 2.3 Tier III Discharge - above Php600, 000.00 but not more than Php1, 000,000.00

Imposition of fines and penalties are further explained in **Annex 7**.

3. For any gross violation committed against the provisions of this Memorandum Circular, an additional administrative fine and/or penalty of One Hundred Thousand Pesos (Php100,000.00) shall be imposed.
4. Gross violation” shall consist of the following:
 - 4.1. Non-compliance of two or more requirements under Regulation 7;
 - 4.2. Failure to report the oil spill incident within twenty-four (24) hours to the PCG from its occurrence by any person responsible for the same;

- 4.3. Failure to pay the fines imposed by the Investigation and Adjudication Officer (IAO) as a result of the investigation and adjudication;
- 4.4. Violation of Section VIII (B) 3 herein committed on Special Areas.
- 4.5. For failure to execute a contract with an OSRO for the conduct of oil spill response and clean-up operations when required under this Memorandum Circular
- 4.6. For failure to install, secure and wrap around proper oil spill containment boom through an OSRO when transferring oil of above 100,000 liters from/to an oil facility.
- 4.7. For failure to undertake clean-up oil pollution operations despite being required and directed by the PCG which results in serious injury or loss of life and/or irreversible water contamination.
 - 4.7.1. The aforementioned administrative fines and/or penalties under **Regulation 12 (1), (2), and (3)** herein shall be imposed for each day of violation commencing from the date of spill or from the actual date of discharge until the affected areas and the water quality returned to a clean water condition based on standard provided by RA 9275 (Clean Water Act) and its implementing rules and regulations.
 - 4.7.2. Clearance of such ship from the port of the Philippines shall be withheld until the administrative fines and/or penalties are paid and the same shall constitute a lien on such ship which may be recovered in a proceeding *in rem* filed by any concerned person/agency in the proper court which the ship may be found.
 - 4.7.3. Ships/vessels operating without an OWS or not operating OWS shall be detained until the ship has rectified the deficiency.
 - 4.7.4. Failure to undertake oil spill response operations, despite being required and directed by the PCG which results in serious injury or loss of life and/or water contamination which is a detainable offense.
5. The aforementioned administrative fines and penalties shall automatically be increased by ten percent (10%) every three (3) years from the effectivity of this Memorandum Circular to compensate for inflation and to maintain the deterrent effect of such fines;
6. Any person who refuses, obstructs or hampers the entry of the duly authorized representatives of the Department of Transportation and Communications, the PCG or any person authorized under R.A. No. 9483 or

the Oil Compensation Act aboard any ship or establishment shall be liable to pay a fine not exceeding Php100,000.00.

7. Any ship found within the Philippine territory or maritime zone without the certificate of insurance or financial security certified by MARINA shall be prevented from loading or unloading its cargo until it is able to produce the appropriate insurance certificate issued by MARINA or in case of foreign vessel registered by a convention-member State, a certificate issued by its Flag-State and in case of Ships not registered in a convention-member State, such certificate issued or certified by the MARINA.
8. The fines and penalties herein prescribed shall be imposed only after the offender shall have been found liable or responsible for the imputed violations in an administrative investigation. When the offender deliberately failed or refused to pay the required fines or penalties, the ship involved shall be likewise be detained until upon payment of such fines and penalties. Moreover, in the event that the offender is unable to pay such fine and/or penalties, it shall constitute as lien on the vessel to satisfy the said fines and/or penalties.
9. The above-mentioned fines and penalties are without prejudice to any civil and/or criminal action which may be filed against the violator whenever warranted by the existing laws and regulations such as but not limited to PD 979 (Marine Pollution Decree), RA 9483 (Oil Compensation Act), RA 9275 (Philippine Clean Water Act), and RA 8550 (Philippine Fisheries Code).

REGULATION 13 CLAIMS AND COMPENSATION

1. Where costs are incurred by the PCG or an OSRO in responding to an oil spill incident or in the conduct of any oil spill response operation therefor, demand for reimbursement shall be made on the spiller and its insurer for marine pollution, as the case may be, giving therein a statement of all expenses incurred. The spiller or its insurer shall be required to make full and complete payment within a period of ten (10) days from the date such demand is made.
2. In the event the spiller or the insurer fails or refuses to make complete payment, the PCG or the OSRO, as the case may be, may obtain payment from the Oil Pollution Management Fund (OPMF) managed by the MARINA pursuant to R.A. No. 9483, without prejudice to the imposition of applicable administrative penalties and the filing of criminal case by the PCG. The OPMF shall be reimbursed by the spiller or insurer, as the case may be, upon proper determination of the Court.
3. Nothing in this Section precludes the PCG to seek compensation from the International Oil Pollution Compensation (IOPC) Fund under the 1992 Fund Convention pursuant to Section 18 of R.A. No. 9483.

4. Compensation for pollution damage suffered by any person other than the PCG shall be governed by R.A. No. 9483 and the Rules of Procedure for Environmental Cases. The PCG, through the MEPCOM, shall provide any complainant who claims compensation for pollution damage under, or violation of, R.A. No. 9483 any necessary technical evidence or any assistance, whether testimonial or documentary.
5. All action for compensation under R.A. No. 9483 shall be filed within three (3) years of the date on which the damage occurred but not later than six (6) years of the date of the incident.

REGULATION 14 PREVENTIVE DETENTION

1. Notwithstanding the imposition of administrative fines, the PCG shall detain, stop or prevent a ship or vessel from sailing and leaving port when, upon inspection, there exists *prima facie* evidence that such ship or vessel does not substantially comply with the existing PCG rules and regulations. For this purpose, the Marine Environmental Protection (MEP) Officer shall issue the corresponding MEP Enforcement Inspection Report (EIR) together with the recommendation to the Station/Sub-Station Commander of the issuance of the Notice of Preventive Detention (**See Annex 8**) with corresponding Notice of Hearing (**See Annex 9**).
2. The MEP Officer shall determine whether the deficiencies are serious as to necessitate a detention. A combination of deficiencies of a less serious nature shall also warrant the detention of the ship. (See **Annex 10** - MEP Deficiency Codes). Whenever the deficiencies shall not pose danger to the marine environment, the MEP Officer may allow the ship to sail to the next port of call but shall forthwith give a MEP-EIR to the competent authority of said port of call with the recommendation that the deficiencies stated therein shall be rectified within the period stated in the report before the ship could be allowed to sail back at sea. But when the deficiencies shall cause danger to the marine environment, a Notice of Preventive Detention shall be immediately issued.
3. After the lapse of the rectification period specified in the MEP-EIR, the MEP Officer shall conduct a follow-up inspection of the ship to determine whether the cited violations have been rectified. In the event of non-compliance, such failure to rectify will cause the issuance of a Notice of Preventive Detention.
4. The MEP-EIR issued by the MEP Officer and the Notice of Preventive Detention issued by the Station/Sub-Station Commander shall be simultaneously forwarded to the Investigation and Adjudication Officer (IAO) who shall immediately conduct an investigation proceeding for said violations and/or non-compliance therewith upon receipt of such report.
5. The investigation proceeding of the IAO shall forthwith proceed within twenty-four (24) hours upon the issuance of the notice of preventive detention and the case shall be decided within ten (10) days from the issuance of said notice. Failure to comply with the notice of preventive detention shall cause the ship or

vessel to be classified as black-listed and the recommendation for the cancellation of the franchise of the ship shall forthwith be forwarded to MARINA.

6. The notice of preventive detention will be lifted only upon rectification of the vessel of its deficiencies and/or upon compliance of the needed requirements. The lifting of the notice of preventive detention as a preventive measure will not suspend nor prevent the investigation proceeding conducted by the IAO.
7. In case of detention of a vessel, the MEP Officer shall notify the Ship Owner, the MARINA and the Philippine Ports Authority of such detention.
8. The issuance of notice of preventive detention and the investigation proceeding conducted by IAO will be without prejudice to any civil or criminal liability that may be filed upon proper investigation.

REGULATION 15 INVESTIGATION AND ADJUDICATION

1. The investigation and adjudication of marine pollution cases and violation of any provision in this Circular shall be conducted by the PCG through its designated Investigation and Adjudication Officer (IAO). The Rules of Procedure for the Investigation and Adjudication are provided in **Annex 11**.
2. The Coast Guard District Commanders within his area of jurisdiction, except in cases of Tier III oil spill incident which shall be within the jurisdiction of the Commander, MEPCOM, shall designate an Investigation and Adjudication Officer for Marine Environmental Protection and Pollution Cases. The designated IAO shall have the sole and exclusive jurisdiction over all cases involving violations of marine environmental protection and pollution laws, rules and regulations, including the imposition of administrative sanctions, except as may be provided by law.
3. To determine the liability of the spiller subject to the exempting circumstances and the rules on the limitation of liability set forth in R.A. No. 9483 for purpose of filing the appropriate action before the Regional Trial Court, the PCG shall simultaneously conduct an investigation *motu proprio* or through written undertaking of a complainant during the clean-up operation response.
4. Upon investigation and based on findings therewith, the PCG shall impose the appropriate administrative fines and penalties and shall file any appropriate action against the violator with the Regional Trial Court (RTC). An action for compensation shall be in accordance with Chapter VI of R.A. No. 9483 and Administrative Matter No. 09-6-8-C governing the Rules of Procedure for Environmental Cases included in **Annex 12**.

REGULATION 16 REPEALING CLAUSE

Memorandum Circular No. 01-2005 dated 07 October 2005 and other existing PCG Circulars, Rules and Regulations Orders or Decisions which are inconsistent with this Circular are hereby repealed or modified accordingly.

SECTION 17 SEPARABILITY CLAUSE

Should any provision or part of this Circular be declared by competent Authority to be invalid or unconstitutional, the remaining provisions or parts hereof shall remain in full force and effect and shall continue to be valid and effective. __

SECTION 18 EFFECTIVITY AND TRANSITORY PROVISIONS

1. The implementation of Section on the requirement to secure a contract with an OSRO for the provision of standby oil spill response and clean-up operations shall be undertaken in two phases:
 - 1.1 *PHASE 1:* For foreign-flagged cargo and container vessels and bulk carriers, the requirement to secure a contract with an OSRO for the provision of standby oil spill response and clean-up operations shall be undertaken under **Regulation (9) (1.2.6)** hereof shall take force and effect six (6) months after this Memorandum Circular takes effect.
 - 1.2 *PHASE 2:* For domestic cargo and container vessels and bulk carriers, the requirement to secure a contract with an OSRO for the provision of standby oil spill response and clean-up operations shall be undertaken under **Regulation (9) (1.2.6)** hereof shall take force and effect twelve (12) months after this Memorandum Circular takes effect.
2. All other provisions of this Memorandum Circular shall take effect thirty (30) days upon publication in a newspaper of general circulation

ANNEX 1

LIST OF OIL

Asphalt Solutions

Blending Stocks
Roofers Flux
Straight Run Residue

Oils

Clarified
Crude Oil
Mixtures containing Crude Oil
Diesel Oil
Fuel Oil No. 4
Fuel Oil No. 5
Fuel Oil No. 6
Residual Fuel Oil
Road Oil
Transformer Oil
Aromatic Oil (excluding Vegetable Oil)
Lubricating Oils and Blending Stock
Mineral Oil
Motor Oil
Penetrating Oil
Spindle Oil
Turbine Oil

Distillates

Straight Run
Flashed Feed Stocks

Gas Oil

Cracked

Gasoline Blending Stocks

Alkylates - fuel
Reformats
Polymer - fuel

Gasolines

Casinghead (natural)
Automotive
Aviation
Straight Run
Fuel Oil No.1 (Kerosene)
Fuel Oil No.1-D
Fuel Oil No.2
Fuel Oil No. 2-D

Jet Fuels

JP-1 (Kerosene)
JP-3
JP-4
JP-5 (Kerosene, Heavy)
Turbo Fuel
Kerosene
Mineral Spirit

Naptha

Solvent
Petroleum
Heartcut Distillate Oil

ANNEX 2

MARINE ENVIRONMENTAL PROTECTION (MEP) REQUIREMENTS FOR VESSELS, TANKERS AND OTHER FACILITIES			
CATEGORY	CLASSIFICATION	EQUIPMENT/MACHINERY/OTHER REQUIREMENTS	DOCUMENTARY REQUIREMENTS
Vessels	400 GT and above but less than 10,000 GT	(1) Complete set of oil containment and recovery equipment sufficient to prevent, control and mitigate a Tier I spill inclusive of but not limited to sorbent dispersants and other Marine Pollution (MARPOL) combating equipment duly accredited by the PCG; (2) Scupper plugs equivalent to the number of scupper lips and various sizes of scupper plugs; (3) PCG duly approved Oil-water separating equipment or filtering system; (4) Tank or tanks of adequate capacity; (5) Minimum of two (2) 210 liter-drum of dispersants; (6) Appropriate number of sprayers; (7) Appropriate length or segment oil spill/containment boom; (8) Minimum of three (3) kilos of rags and other appropriate sorbent materials; (9) Appropriate number of open-ended drums with cover;	(1) International Oil Pollution Certificate (IOPPC) for those engaged in international trade and Oil Pollution Prevention Certificate (OPPC) for those engaged in domestic trade; (2) International Sewage Pollution Prevention Certificate (ISPPC) for vessels engaged in international trade; (3) PCG Accreditation Certificate of Oil Water Separator; (4) PCG Accreditation Certificate of Oil Spill Dispersant; (5) PCG Accreditation Certificate of Oil Sorbent Materials; (6) PCG Accreditation Certificate of Oil Spill Boom; (7) PCG Accreditation Certificate of Oil Spill Recovery Equipment; (8) Shipboard Oil Pollution Emergency Plan (SOPEP) (9) Garbage Management Plan and Garbage Record Book; (10) Oil Record Book (Part 1 and Part 2); (11) Valid certificate of insurance or financial security for those carrying more than 2,000 GT of Oil in bulk as cargo.
	10,000 GT and above	(1) Complete set of oil containment and recovery equipment sufficient to prevent, control and mitigate a Tier I spill inclusive of but not limited to sorbent dispersants and other Marine Pollution (MARPOL) combating equipment duly accredited by the	(1) International Oil Pollution Certificate (IOPPC) for those engaged in international trade and Oil Pollution Prevention Certificate (OPPC)

		PCG; (2) Scupper plugs equivalent to the number of scupper lips and various sizes of scupper plugs; (3) Oil-water separating equipment with an oil discharge monitoring and control system; (4) Tank or tanks of adequate capacity; (5) Minimum of three (3) kilos of rags and other appropriate sorbent materials; (6) Minimum of two 210 liters drum of dispersants; (7) Appropriate number of sprayers; (8) Appropriate length or segment oil spill/containment boom;	for those engaged in domestic trade; (2) International Sewage Pollution Prevention Certificate (ISPPC) for vessels engaged in international trade; (3) PCG Accreditation Certificate of Oil Water Separator ; (4) PCG Accreditation Certificate of Oil Spill Dispersant; (5) PCG Accreditation Certificate of Oil Sorbent Materials; (6) PCG Accreditation Certificate of Oil Spill Boom; (7) PCG Accreditation Certificate of Oil Spill Recovery Equipment; (8) Shipboard Oil Pollution Emergency Plan (SOPEP); (9) Oil Record Book (Part 1 and Part 2); (10) Garbage Management Plan and Garbage Record Book (11) Valid certificate of insurance or financial security
Tankers	150 GT and above	(1) Slop tank arrangement or combination of slop tank that have capacity necessary to retain the slop generated by tank washings, oil residues and dirty ballast residues; (2) Minimum of two (2) 210 liters drum of dispersants; (3) Appropriate number of sprayers; (4) Appropriate length or segment oil spill/containment boom; (5) Minimum of three (3) kilos of rags and other appropriate sorbent materials; (6) Appropriate number of open-ended drums with cover;	(1) International Oil Pollution Certificate (IOPPC) for those engaged in international trade and Oil Pollution Prevention Certificate (OPPC) for those engaged in domestic trade; (2) Shipboard Oil Pollution Emergency Plan (SOPEP) for every oil tanker of 150 GT and above other than oil tanker of 400 GT and above; (3) Oil Record Book (Part 1 and Part 2) (4) PCG Accreditation Certificate of Oil Water Separator; (5) PCG Accreditation Certificate of Oil Spill Boom;

			<ul style="list-style-type: none"> (6) PCG Accreditation Certificate of Oil Spill Dispersant; (7) PCG Accreditation Certificate of Oil Sorbent Materials; (8) PCG Accreditation Certificate of Oil Spill Recovery Equipment; (9) Garbage Management Plan and Garbage Record Book (10) Valid certificate of insurance or financial security for those carrying more than 2,000 GT of Oil in bulk as cargo.
	New tanker of 70,000 GT and above	<ul style="list-style-type: none"> (1) Atleast two (2) slop tanks; (2) Two (2) 210 liters drum of dispersants; (3) Appropriate number of sprayers; (4) Appropriate length or segment oil spill/containment boom; (5) Minimum of three (3) kilos of rags and other appropriate sorbent materials; (6) Appropriate number of open-ended drums with cover 	<ul style="list-style-type: none"> (1) International Oil Pollution Certificate (IOPPC) for those engaged in international trade and Oil Pollution Prevention Certificate (OPPC) for those engaged in domestic trade; (2) Oil Record Book (Part 1 and Part 2); (3) Garbage Management Plan and Garbage Record Book (4) Valid certificate of insurance or financial security. (5) PCG Accreditation Certificate of Oil Spill Boom; (6) PCG Accreditation Certificate of Oil Sorbent Materials; (7) PCG Accreditation Certificate of Oil Spill Recovery Equipment;
	New Crude Oil Tanker of 20,000 GT and above	<ul style="list-style-type: none"> (1) Segregated ballast tanks; (2) Slop tank arrangement or combination of slop tank that have capacity necessary to retain the slop generated by tank washings, oil residues and dirty ballast residues; (3) Two (2) 210 liters drum of dispersants; (4) Appropriate number of sprayers; (5) Appropriate length or segment oil 	<ul style="list-style-type: none"> (1) International Oil Pollution Certificate (IOPPC) for those engaged in international trade and Oil Pollution Prevention Certificate (OPPC) for those engaged in domestic trade; (2) Oil Record Book

		spill/containment boom; (6) Minimum of three (3) kilos of rags and other appropriate sorbent materials; (7) Appropriate number of open-ended drums with cover;	(Part 1 and Part 2); (3) Garbage Management Plan and Garbage Record Book (4) PCG Accreditation Certificate of Oil Spill Recovery Equipment; (5) PCG Accreditation Certificate of Oil Spill Boom; (6) PCG Accreditation Certificate of Oil Sorbent Materials; (7) Valid certificate of insurance or financial security
	Oil tankers engaged in transport, storage and distribution of Black Products and Persistent Oil	(1) Complete Set of Oil containment and Recovery Equipment sufficient to prevent, control and mitigate a Tier I discharge; (2) Appropriate volume of dispersants sufficient to prevent, control and mitigate a Tier I discharge; (3) Other MARPOL combating accessories sufficient to prevent, control and mitigate a Tier I discharge; (4) Slop tank arrangement or combination of slop tank that have capacity necessary to retain the slop generated by tank washings, oil residues and dirty ballast residues; (5) Two (2) 210 liters drum of dispersants; (6) Appropriate number of sprayers; (7) Appropriate length or segment oil spill/containment boom; (8) Minimum of three (3) kilos of rags and other appropriate sorbent materials; (9) Appropriate number of open-ended drums with cover;	(1) International Oil Pollution Certificate (IOPPC) for those engaged in international trade and Oil Pollution Prevention Certificate (OPPC) for those engaged in domestic trade; (2) Shipboard Oil Pollution Emergency Plan (SOPEP) for every oil tanker of 150 GT and above other than oil tanker of 400 GT and above; (3) Oil Record Book (Part 1 and Part 2); (4) Garbage Management Plan and Garbage Record Book (5) PCG Accreditation Certificate of Oil Spill Dispersant; (6) PCG Accreditation Certificate of Oil Sorbent Materials; (7) PCG Accreditation Certificate of Oil Spill Boom; (8) PCG Accreditation Certificate of Oil Spill Recovery Equipment; (9) Valid certificate of insurance or financial security for those carrying more than 2,000 GT of Oil in bulk as cargo.
Depot/	Facilities engaged in	(1) PCG Duly Accredited Oil	(1) Oil Spill

Terminal/ Refineries/ Facilities	the Exploration, Production, Refining, Storage, and Distribution of Petroleum Products	Containment Equipment sufficient for Oil Pollution Response of a Tier I discharge; (2) PCG Duly Accredited Protective and Recovery Equipment sufficient for oil pollution response of a Tier I discharge; (3) PCG Duly Accredited Dispersant sufficient for Oil Pollution Response of a Tier I discharge; (4) PCG Duly Accredited MARPOL Combating Equipment and accessories (5) Oil spill Response Team with regular training every six (6) months	(2) Contingency Plan; PCG Accreditation Certificate of Oil Spill Recovery Equipment; (3) PCG Accreditation Certificate of Oil Spill Dispersant;
	Facilities receiving Oily Ballast	(1) Oil Spill Response Team with regular training every six (6) months	(1) Oil Spill Contingency Plan; (2) PCG Accreditation Certificate of Oil Water Separator
	Oil Tank Farms	(1) Adequate bund walls (2) Oil Spill Response Team with regular training every six (6) months	(1) Oil Spill Contingency Plan
	Floating or Fixed Platform engaged in drilling exploration	(1) PCG Duly Accredited Oil Containment Equipment sufficient for oil pollution response of a Tier I discharge; (2) PCG Duly Accredited Protective and Recovery Equipment sufficient for oil pollution response of a Tier I discharge; (3) PCG Duly Accredited Dispersant sufficient for oil pollution response of a Tier I discharge; (4) PCG Duly Accredited MARPOL Combating Equipment and accessories	(1) Oil Spill Contingency Plan (2) PCG Accreditation Certificate of Oil Spill Dispersant; (3) PCG Accreditation Certificate of Oil Spill Recovery Equipment
	Ship Repair Yards		(1) Oil Spill Contingency Plan

ANNEX 3**LIST OF REQUIRED MARPOL EQUIPMENT**

A. Tanker/ Barge/Other vessels utilizing black oil as fuel	
Oil Spill Boom	3 x LOA (fence type)
Oil Dispersant	420 Liters- estimate
Sorbent	5 bales
Sprayer	2 back pack sprayers
Rags	10 Kg
Open-ended drum (210L capacity)	5 drums
Water Bucket (non-friction)	10 pieces
B. Oil Rig/FPSO/FSU/FSO	
Oil Spill Boom	1.5 x total perimeter of the facility
Oil Dispersant	1000L of oil spill dispersant or equivalent to 0.10% of the volume of its total product storage capacity
Rags	50 kilos
Skimmer	16,000 L/day capacity
Sorbent	10 bales
Sprayer	10 back pack sprayers
Temporary Storage	32,000 L
C. Refinery /Depot / Terminal	
Oil Spill Boom	Length of boom is equal to 1.25 multiplied by the volume of predicted spilt oil (cu.meter) based on the risk assessment of approved oil spill contingency plan ;
Oil Dispersant	2100 Liters for minor spill/ Tier 1 oil spill
Rags	50 kilos
Skimmer	16,000 L/day capacity
Sorbent	10 bales
Sprayer	10 back pack sprayer
Temporary Storage	32,000 L
D. Shipyard	
Oil Spill Boom	Length of boom is equal to 1.25 multiplied by the volume of predicted spilt oil (cu.meter) based on the risk assessment of approved oil spill contingency plan
Oil Dispersant	1000 Liters
Rags	50 kilos
Skimmer	16,000 L/day capacity
Sorbent	5 bales
Sprayer	5 back pack sprayer
Temporary Storage	32,000 L

ANNEX 4

REQUIREMENT FOR THE ISSUANCE OF BUNKERING/TRANSFERRING CLEARANCE

Foreign-registered Vessels:

1. Entry Permit
2. Notice of Arrival
3. Bill of Lading
4. Cargo Manifest
5. Vessel Tank Inspection Report (prior loading at Port of Origin)
6. Vessel Tank Inspection Report (after completion of loading at Port of Origin)
7. Bureau of Custom Bunkering Permit
8. Material Safety Data Sheet (MSDS)

Domestic-registered Vessels:

1. Coasting/Cargo Manifest
2. Master's Oath of Safety Departure (MOSD)
3. Bill of Lading
4. ATRIG Authority To Release Imported Goods (BIR Tax)
5. Material Safety Data Sheet (MSDS)

ANNEX 5

OIL RECORD BOOK

PART 1 - Machinery Space Operations

(All Ships)

Name of Ship:

Distinctive number of letters:

Gross tonnage:

Period from:

To:

LIST OF ITEMS TO BE RECORDED

(A) BALLASTING OR CLEANING OF OIL FUEL TANKS

1. Identity of tank(s) ballasted.
2. Whether cleaned since they last contained oil and, if not, type of oil previously carried.
3. Position of ship at start of cleaning.
4. Position of ship at start of ballasting.

(B) DISCHARGE OF DIRTY BALLAST OR CLEANING WATER FROM OIL FUEL TANKS REFERRED TO UNDER SECTION (A)

1. Identity of tank(s).
2. Position of ship at start of discharge.
3. Position of ship on completion of discharge.
4. Ship's speed(s) during discharge.
5. Method of discharge.
 - a. Through 100 parts per minute equipment.
 - b. Through 15 parts per minute equipment.
 - c. To reception facilities.

6. Quantity discharge.

(C) DISPOSAL OF OIL RESIDUES (SLUDGE)

1. Quantity of residue retained on board for disposal.
2. Methods of disposal of residue:
 - a. To reception facilities (identity port)
 - b. Mixed with bunkers;

- c. Transferred to another (other) tank(s) (identity tank(s);
- d. Other method (state which).

(D) NON-AUTOMATIC DISCHARGE OVERBOARD OR DISPOSAL OTHERWISE OF BILGE WATER WHICH HAS ACCUMULATED IN MACHINERY SPACES

- 1. Quantity discharged.
- 2. Time of discharge.
- 3. Method of discharged or disposal:
 - a. Through 100 parts per min equipment
 - b. Through 15 parts per minute equipment;
 - c. To reception facilities (identity port);
 - d. To slop or collecting tank (identity tank).

(E) AUTOMATIC DISCHARGE OVERBOARD OR DISPOSAL OTHERWISE OF BILGE WATER WHICH HAS ACCUMULATED IN MACHINERY SPACES

- 1. Time when the system has been put into automatic mode of operation for discharge overboard.
- 2. Time when the system has been put into automatic mode of operation for transfer of bilge water to collecting (slop) tank (identity tank).
- 3. Time when the system has been put to manual operation.
- 4. Method of discharge overboard:
 - a. Through 100 parts per minute equipment;
 - b. Through 15 parts per minute equipment.

(F) CONDITION OF OIL DISCHARGE MONITORING AND CONTROL SYSTEM

- 1. Time of system failure.
- 2. Time when system has been made operational.
- 3. Reasons for failure.

(G) ACCIDENTAL OR OTHER EXCEPTIONAL DISCHARGES OF OIL

- 1. Time of occurrence.
- 2. Place or position of ship at time of occurrence.
- 3. Approximate quantity and type of oil.
- 4. Circumstances of discharge or escape, the reasons therefore general remarks.

(H) ADDITIONAL OPERATIONAL PROCEDURES AND GENERAL REMARKS

NAME OF SHIP:

DISTINCTIVE NUMBER
OR LETTER:

CARGO/BALLAST OPERATIONS (OIL TANKERS) */MACHINERY SPACE OPERATIONS (ALL SHIPS)*

[illegible]

*Delete as appropriate

Signature of Master _____

ANNEX 6

RULES FOR THE ACCREDITATION OF OIL SPILL RESPONSE ORGANIZATION (OSRO)

SECTION I AUTHORITY

Republic Act No. 9993 and its Implementing Rules and Regulations empowers the PCG to prescribe, promulgate and enforce regulations for the prevention and control of marine pollution by accreditation of companies/entities engaged in Marine Environment Protection related activities including but not limited to Oil Spill Response Organization (OSRO).

SECTION II PURPOSE

The purpose of these rules is to prescribe the rules and procedures for the accreditation of Oil Spill Response Organization (OSRO).

SECTION III INTERPRETATION

Consistent with the Precautionary Principle and the Polluter Pays Principle, the rules prescribed herein shall be interpreted liberally in favor of marine environmental protection.

SECTION IV SCOPE

These rules shall apply to all Oil Spill Response Organizations (OSRO) within the territorial jurisdiction of the Philippines.

SECTION V DEFINITION OF TERMS

For the purposes of the rules and procedures prescribed herein, the terms defined in Section VI of Memorandum Circular No. [REDACTED] are fully adopted.

SECTION VI TYPES OF ACCREDITATION

- A. The accreditation of an OSRO shall be classified according to the capacity to respond to oil spills on the basis of their service response times and pollution cleaning-up capability, as follows:
- (1) Accreditation for Tier I Spill Response – the OSRO possesses the capability and capacity, including equipment and personnel, to respond to and conduct complete and immediate oil spill response operations for Tier I Spills anywhere in the Philippine Maritime Jurisdiction within twelve (12) hours upon notification by the spiller or the PCG of an oil spill incident;
 - (2) Accreditation for Tier II Spill Response – the OSRO possesses the capability and capacity, including equipment and personnel, to respond to and conduct complete and immediate oil spill response operations for Tier II Spills anywhere in the Philippine Maritime Jurisdiction within twelve (12) hours; and
 - (3) Accreditation for Tier III Spill Response – the OSRO possesses the capability and capacity, including equipment and personnel, to respond to and conduct complete and immediate oil spill response operations for Tier III Spills anywhere in the Philippine Maritime Jurisdiction within twelve (12) hours.

- B. An Accreditation for Tier II Spill Response necessarily includes an Accreditation for Tier I Spill Response, and an Accreditation for Tier III Response carries an Accreditation for Tier I and Tier II Oil Spill Response. However, nothing in this Section shall preclude the PCG to call upon the services of any accredited OSRO from responding to an oil spill incident regardless of Tier.

SECTION VII REQUIREMENTS

A. GENERAL REQUIREMENTS

(1) Legal Documents

- i. Certificate of Registration issued by the Security and Exchange Commission (SEC);
- ii. Articles of Incorporation and By-Laws;
- iii. Company Profile;
- iv. Certificate of vessel registration by MARINA under the name of the person or entity applying for accreditation;
- v. Oil Spill Response Plan as provided herein;
- vi. Oily Debris and Oily Waste Management and Disposal Plan; and
- vii. A valid Secretary's Certificate authorizing an officer, representative or agent to apply for accreditation on a juridical entity's behalf.

(2) Financial Documents

- i. Valid permits and registrations from Local Government Units;
- ii. Audited financial statement received by the Bureau of Internal Revenue (BIR) or its duly authorized Revenue District Offices (RDOs) for the immediately preceding year;
- iii. Latest General Information Sheet duly filed with and received by the SEC;
- iv. SEC approved capitalization of not less than PHP 50,000,000.00 with proof of fund certified and authenticated by a Universal or Commercial Bank. Minimum 75% of the PHP 50,000,000.00 must be allocated and invested on relevant assets, equipment, tools and resources used in marine environment protection and oil spill response;
- v. In case of joint venture, a duly authorized statement from the potential joint venture partners stating that they will enter and abide by the provisions of the oil spill response regulations. The joint venture partner must have proven track record, competency, organization and appropriate tools, equipment and assets for marine environment protection and oil spill response within the territorial jurisdiction of the Philippines or overseas.

(3) Administrative Documents

- vi. Organizational Chart;
- vii. List of Personnel, Designation, Qualification/Certificate of Competency, Experience Data and Training Profile;

(4) Logistical Requirements

- i. List of minimum MARPOL/HNS Equipment units, which are owned, leased, and purchased must be supported by certification of availability of equipment from lessor/vendor for the duration of response:

a. For Tier I Spill Accreditation

Equipment/Units	Specifications	Number
Oil Spill Response Team		(To be finalized)
Belt Type Oil Collecting Machine	High Viscosity (m ³ /hour)	
Oil Skimmer	High Viscosity (m ³ /hour)	
	Low-Moderate Viscosity (m ³ /hour)	
Genset Power Station	5kva	
Chemical Oil Dispersant		
Jumbo Bags	> 50 kgs. capacity	
Personnel Protective Equipment		
Fiberglass Speed Boat	4 meter, >30 hp 2-stroke engine	
Oil Spill Response Vessels (including tug boats and barges)	>15 meters in length, >15 knots speed	
Auxillary barge or boat		
Sorbent Pads		
Fast Tank		
Open ended drums		
Mechanical Pump		
Power Generator		

b. For Tier II Spill Accreditation

Equipment/Units	Specifications	Number
Oil Spill Response Team		(To be finalized)
Belt Type Oil Collecting Machine	High Viscosity (m ³ /hour)	
Oil Skimmer	High Viscosity (m ³ /hour)	
	Low-Moderate Viscosity (m ³ /hour)	
Genset Power Station	5kva	
Chemical Oil Dispersant		
Jumbo Bags	> 50 kgs. capacity	
Personnel Protective Equipment		
Fiberglass Speed Boat	4 meter, >30 hp 2-stroke engine	
Oil Spill Response Vessels (including tug boats and barges)	>15 meters in length, >15 knots speed	
Auxillary barge or boat		

Sorbent Pads		
Fast Tank		
Open ended drums		
Mechanical Pump		
Power Generator		

c. For Tier III Spill Accreditation

Equipment/Units	Specifications	Number
Oil Spill Response Team		(To be finalized)
Belt Type Oil Collecting Machine	High Viscosity (m ³ /hour)	
Oil Skimmer	High Viscosity (m ³ /hour)	
	Low-Moderate Viscosity (m ³ /hour)	
Genset Power Station	5kva	
Chemical Oil Dispersant		
Jumbo Bags	> 50 kgs. capacity	
Personnel Protective Equipment		
Fiberglass Speed Boat	4 meter, >30 hp 2-stroke engine	
Oil Spill Response Vessels (including tug boats and barges)	>15 meters in length, >15 knots speed	
Auxillary barge or boat		
Sorbent Pads		
Fast Tank		
Open ended drums		
Mechanical Pump		
Power Generator		

- ii. Proof of purchase or lease must be supported by purchase agreement, lease contract, invoice, delivery receipt and other relevant documents which shows, amongst others, the brand, model / type, size or dimensions, quantity and date of manufacture of the OSR tools and equipment.
- iii. Equipment that is not in accordance with the above-mentioned list will not be considered in assessing the Applicant's oil spill response and clean-up capacity for the purpose of accreditation.

(5) Agreement with International OSRO

Any domestic entity seeking accreditation as an OSRO may submit any agreement of partnership and cooperation with an internationally established OSRO with a track record of at least ten (10) years, whether through a joint venture, parent-subsidiary relationship, or any other arrangement. Such Agreement must be legally certified, notarized and, where applicable, authenticated by the consular office of the Republic of the Philippines where the international OSRO is domiciled. The agreement shall contain all necessary

information on the extent of the partnership and cooperation, as well as all the services to be extended to the domestic entity by the international OSRO.

Upon verification and validation by the PCG, the agreement may be used to support and supplement the application for accreditation of the domestic entity, and shall be considered in the overall assessment of the type of accreditation for which it is eligible. Nothing in this provision, however, shall be construed to exempt the domestic entity seeking OSRO accreditation from complying with the minimum requirements set forth under paragraph (A)(4)(i) of this Section.

B. OIL SPILL RESPONSE PLAN

- (1) In addition to the foregoing requirements, an OSRO shall submit an Oil Spill Response Plan which shall demonstrate its capability to comply with the requirements relating to the procedures, equipment and resources prescribed in Section VI(C) herein. An OSRO's Oil Spill Response Plan shall include the following information:
- (a) The name and address of the OSRO and its geographical area of coverage;
 - (b) The designated Contact Person to be notified by the PCG or spiller in the event or threat of an oil spill, including all relevant contact details, address
 - (c) The total quantity of oil in respect of which the OSRO is to be certified in accordance with the tiered response capabilities set out in section 2.
 - (d) The name of each person included in the personnel who has received basic oil spill response training or any other training in relation to an oil spill;
 - (e) A description of the training that the OSRO provides to its personnel in preparation for the responsibilities that they will undertake in response to an oil spill, whether pursuant to a contract or upon a call by the PCG;
 - (f) A description of the oil spill exercise program established to evaluate the effectiveness of all aspects of the procedures, equipment and resources that are identified in the plan, including exercises to be coordinated with ships, oil handling facilities or the PCG, as the case may be;
 - (g) A list of the types and quantity of equipment for use at its geographical area of coverage in respect of a Tier I oil spill response capability referred to in Section VI(A)(4) hereof, including the procedure and measures to be undertaken for the maintenance thereof;
 - (h) A description of the measures that the OSRO will take in response to an oil spill to protect and treat areas of an environment affected by an oil spill, emphasizing those measures suited for special areas and those protected under the NIPAS Act;
 - (i) A description of the treatment and recovery procedures that will be implemented in response to an oil spill;
 - (j) A description of the procedures that will be implemented for notifying the persons referred to in paragraph (d) in the event of an oil spill;
 - (k) A description of the measures that the OSRO will take, in conformity with applicable law, rules and regulations relating to health and safety, to protect the

health and safety of its personnel, of volunteers and of other individuals who are involved, at the request of the OSRO, in a response to an oil spill; and

- (l) A description of procedures for the updating of the response plan.
- (2) An OSRO's Response Plan must take into account any contingency plan for its geographical area that may be issued by the PCG.

C. OIL SPILL PROCEDURES, EQUIPMENT AND RESOURCES

- (1) The procedures to be implemented with respect to a spill of a specified quantity of oil in a geographical area shall include the following specifications:
 - (a) The equipment and resources relating to an oil spill response capability are deployed within twelve (12) hours after the notification of the oil spill by the spiller or the call from the PCG, as the case may be;
 - (b) The number of meters of shoreline that are treated in a day is at least 500 meters;
 - (c) The maximum number of days required to complete on-water recovery operations shall be ten (10) operational days after the day on which the equipment is first deployed in the affected operating environments;
 - (d) The oil spill response operations shall be managed in coordination with the PCG, LGUs, the DENR and other concerned agencies pursuant to the NOSCOP;
 - (e) When determined by the PCG to be necessary for an effective and complete oil spill and clean-up response, strategies for simultaneous response shall be employed in all affected operating environments, including, but not limited to, the calling of other OSROs to conduct oil spill response operations; and
 - (f) Equipment and resources shall be provided to the persons managing the response operation.
- (2) The equipment and resources for use with respect to a spill of a specified quantity of oil include the following:
 - (a) Equipment that is appropriate for responding to the oil spill; and
 - (b) Equipment for sufficient primary temporary storage capacity to maintain recovery operations of oil or oily-water waste continuously during a 24-hour period and a sufficient secondary temporary storage capacity.

SECTION VIII APPLICATION PROCESS

- (a) The Applicant shall submit an accomplished and verified Application Form (obtained from MEPCIS either in its office or through the PCG website) with the Director, National Operations Center for Oil Pollution (DNOCOP), Farola Compound, Binondo, Manila. The information in the Application Form must be clear, concise, factual, complete. The application must contain information about the Applicant's equipment and personnel inventory and shall include all necessary documents required herein. Incomplete applications will not be processed and will be returned to the applicant immediately with an explanation of the deficiency.

- (b) The application shall be subject to the following fees:

Application Fee	PhP 2,500.00
Surveyors Fee	Php 5,100.00
Accreditation Certificate	Php 500.00
Laboratory Fee	Php 4,000.00
Stamp	Php 150.00
Dry Seal	Php 50.00
Authentication of Documents	Php 200.00

- (c) Upon receipt of the application and payment of the fees, the DNOCOP or his duly authorized representative shall, after being satisfied upon review that the application is complete, conduct inspection and validation of the resources and equipment identified in the application and submit to Commander, Marine Environmental Protection Command (CMEPCOM) the result of such inspection and his recommendations thereon.
- (d) If the application is found to be unsatisfactory, CMEPCOM shall return the application to the Applicant with an explanation of the reasons why the application is rejected and provide recommendations therefor, if necessary. The Applicant shall be given a period of thirty (30) days to undertake measures to fulfill the recommendations, if any, or rectify the deficiencies.
- (e) If the application is found to be satisfactory, CMEPCOM shall recommend to the Commandant, PCG (CPCG) the issuance of a Certificate of Accreditation in favor of the OSRO, stating therein the name and style of the OSRO, its complete and current address, full name of the authorized representative, and all relevant contact details. The Certificate shall contain the conditions prescribed in the immediately proceeding Section.

SECTION IX CONDITIONS UNDER THE ACCREDITATION

- A. The Certificate of Accreditation shall be valid for a period of three (3) years and subject to the following conditions:
- a. That the OSRO shall maintain all its equipment in good operating conditions, conducting thereon all necessary specified preventive maintenance and proper storage or warehousing, and that its personnel are sufficiently trained and possessed of the capacity to conduct immediate and complete oil spill response operations;
 - b. That the OSRO shall immediately respond to any oil spill incident upon call by the PCG to conduct or supplement oil spill response operations; Provided, that an OSRO engaged in a current oil spill response operations shall be exempted from responding to the PCG's call;
 - c. That the OSRO shall submit the following documents within thirty (30) days from the expiration of a period of twelve (12) months commencing from the date of its accreditation:
 - i. A report of all oil spill response operations that the OSRO conducted in the past twelve months, specifying the entity or entities involved, the measures undertaken, inventory of actual tools, equipment and resources used and involved during each of the oil spill response

- incidents, the cost of the operations for each oil spill response incident, and all other relevant information in relation to the oil spill;
- ii. An updated inventory of the OSRO facilities, equipment, and personnel equipped for emergency response to pollution from ships; and
 - iii. All contracts for oil spill response operations entered into by the OSRO and ships, vessels or any other entities entered into during the past twelve (12) months.
- d. That the OSRO shall conduct semi-annual oil spill response drills and exercises involving its personnel and equipment under the supervision of the PCG;
 - e. That the OSRO shall allow unimpeded and full access to its offices, storage facilities, equipment, records and documents for random inspection by authorized officials of the PCG for the purpose of determining whether all pertinent laws, rules and regulations are being complied with;
 - f. That the OSRO shall submit, at the end of every calendar year, a copy of its General Information Sheet and Audited Financial Statement for the immediately preceding year as filed and registered with the SEC;
 - g. That the OSRO shall notify the PCG of any changes to its corporate structure and ownership, address, authorized representative, contact details, or its capacity to respond to or conduct oil spill response operations for which it is accredited;
 - h. That the OSRO shall participate in any consultation procedures conducted by the PCG or any of its offices in relation to Memorandum Circular No. [REDACTED], including but not limited to the updating of the prescribed rates for oil spill response operations, the prescribed provisions of the Model Contract, and the revisions to or updating of the NOSCOP;
 - i. That the OSRO shall hold the PCG and its officials free and harmless of any liability arising from the conduct of any oil spill response operations, the liability therefor is understood as falling on the polluter or spiller pursuant to R.A. No. 9483 or the Oil Pollution Compensation Act of 2007;
 - j. That the OSRO shall assist the PCG in the prosecution of claims for pollution damage arising from oil spills for which it conducted oil spill response operations by providing all necessary testimonial, documentary or object evidence; and
 - k. That any breach in the conditions set forth in the Certificate of Accreditation or any violation of Memorandum Circular No. [REDACTED] shall cause the suspension or revocation of the OSRO's accreditation, without prejudice to any administrative, civil or criminal liability that may be imposed under applicable law, rules and regulations.

ANNEX 7

RULES FOR THE IMPOSITION OF ADMINISTRATIVE FINES AND/OR PENALTIES

Violation of any provision stated in Section VIII and IX shall be imposed with the following corresponding administrative fines and/or penalties:

A. Tier I Discharge - not less than Php50,000.00 but not more than Php300,000.00

Php50,000.00 is the minimum penalty for discharges between 1 to 100 liters. For discharges of more than 100 liters, violators will pay the minimum penalty of P50,000.00 plus a Pph25.00 penalty for each succeeding liter. This is further explicated in the formula:

$$\text{Spill} > 100\text{L} = \text{minimum penalty} + (n \times 25) \quad n = \text{volume of spilled oil in liters} \\ \text{if and only if, } n \text{ is } > 100$$

Volume of Spilled Oil (in liters)	Penalty	Volume of Spilled Oil (in liters)	Penalty
101	Php50,025.00	9,995	Php297,375.00
102	Php50,050.00	9,996	Php297,400.00
103	Php50,075.00	9,997	Php297,425.00
104	Php50,100.00	9,998	Php297,450.00
105	Php50,125.00	9,999	Php297,475.00
...		10,000	Php297,500.00

B. Tier II Discharge - above P300,000.00 but not more than P600,000.00

Volume of Spilled Oil (in liters)	Penalty
10,000 – 100,000	Php300,000.00
100,001 – 250,000	Php375,000.00
251,000 – 500,000	Php450,000.00
500,001 – 750,000	Php525,000.00
750,001 -1,000,000	Php600,000.00

C. Tier III Discharge - above P600,000.00 but not more than P1,000,000.00

Volume of Spilled Oil (in liters)	Penalty
1,000,000,000	Php600,000.00
1,000,000,001 and more	Php1,000,000.00

ANNEX 8



PUNONGHIMPILAN TANOD BAYBAYIN NG PILIPINAS
(Headquarters Philippine Coast Guard)
139 25th Street, Port Area
1018 Manila

NOTICE OF PREVENTIVE DETENTION

Date
MARINA/ PPA/ SHIPOWNER
Director
Office Address
Fax no.
E-mail

To _____:

(Insert ship's name) – Preventive Detention of Ship

The Philippine Coast Guard Marine Environmental Protection (MEP) Enforcement Inspection Officer has carried out inspection to the abovementioned ship at _____ on _____. The ship shall be detained at _____ due to the following deficiencies which endanger the marine environment:

1. _____
2. _____
3. _____
4. _____
5. _____

Enclosed herewith a copy of MEP Enforcement Inspection Report of which might be useful for your reference. For further inquiries, please contact Coast Guard Station/Sub-Station at _____.

Very truly yours,

(Signature above Printed Name)
Station/Sub-Station Commander

ANNEX 9



PUNONGHIMPILAN TANOD BAYBAYIN NG PILIPINAS

Headquarters Philippine Coast Guard
139 25th Street, Port Area
1018 Manila

NOTICE OF ADMINISTRATIVE CASE/HEARING

Date

SHIPOWNER
Office Address
Fax no.
E-mail

To _____:

Pursuant to Republic Act No. 9993, Presidential Decree No. 979 and MARPOL 73/78, as implemented by the Philippine Coast Guard Memorandum No. _____ dated _____, the MEP Officer finds you *prima facie* liable for the violation/s mentioned in the MEP Enforcement Inspection Report. Consequently, you shall be charged before the Investigation and Adjudication Officer (IAO) _____. You are given a period of _____ from receipt hereof to submit evidence and/or appear before the IAO. Failure to do so shall be construed as a waiver of your right to be heard and the case will be decided accordingly.

Name

Designation

ANNEX 10

MARINE ENVIRONMENTAL PROTECTION (MEP) DEFICIENCY CODES

CODE	ABSENCE OF ANY MEP CERTIFICATE AND/OR DOCUMENT	ACTION	FINE	CLASSIFICATION
	<i>For All Kinds of Vessel and Tanker</i>			
MEP001	PCG Accreditation Certificate of Oil Spill Dispersant	Detainable Deficiency	Php100,000.00	Major
MEP002	PCG Accreditation Certificate of Oily Water Separator	Detainable Deficiency	Php100,000.00	Major
MEP003	PCG Accreditation Certificate of Oil Spill Boom	Detainable Deficiency	Php100,000.00	Major
MEP004	PCG Accreditation Certificate of Oil Spill Recovery Equipment	Detainable Deficiency	Php100,000.00	Major
MEP005	International Oil Pollution Prevention Certificate (IOPPC)/Oil Pollution Prevention Certificate (OPPC)	Detainable Deficiency	Php100,000.00	Major
MEP006	International Sewage Pollution Prevention Certificate (ISPPC)	Detainable Deficiency	Php100,000.00	Major
MEP007	Shipboard Oil Pollution Emergency Plan (SOPEP)	Detainable Deficiency	Php100,000.00	Major
MEP008	Garbage Management Plan and Garbage Record Book	Detainable Deficiency	Php100,000.00	Major
MEP009	Oil Record Book (Part 1 and Part 2)	Detainable Deficiency	Php100,000.00	Major
MEP010	Valid certificate of insurance or financial security for those carrying more than 2,000 GT of Oil in bulk as cargo.	Detainable Deficiency	Php100,000.00	Major
MEP011	Expired Certificate <ul style="list-style-type: none"> • PCG Accreditation Certificate of Oil Water Separator • PCG Accreditation Certificate of Oil Spill Dispersant • PCG Accreditation 	Detainable Deficiency	Php100,000.00	Major

	Certificate of Oil Spill Boom • PCG Accreditation Certificate of Oil Spill Recovery Equipment • Shipboard Oil Pollution Emergency Plan (SOPEP) • International Sewage Pollution Prevention Certificate (ISPPC) • International Oil Pollution Prevention Certificate (IOPPC)/Oil Pollution Prevention Certificate (OPPC) • Certificate of insurance or financial security for those carrying more than 2,000 GT of Oil in bulk as cargo.			
	<i>For Other Facilities</i>			
MEP012	PCG Approved Oil Spill Contingency Plan	Cancellation of Permit	Php100,000.00	Major
	ABSENCE OF REQUIRED MEP EQUIPMENT/TRAINING			
	<i>Equipment Applicable to All Kinds of Vessel</i>			
MEP013	Scupper plugs on board equivalent to scupper lips and various sizes of scupper plugs	Rectify Deficiency Before Departure	Php50,000.00	Minor
MEP014	Appropriate number of open-ended drums with cover or clean-up of oil spill on deck or pump room	Rectify Deficiency Before Departure	Php50,000.00	Minor
MEP015	Appropriate number of	Rectify Deficiency	Php50,000.00	Minor

	sprayers	Before Departure		
	<i>For Vessels of 400 GT to less than 10,000 GT</i>			
MEP016	Minimum of three (3) kilos of Rags/and other appropriate sorbent materials	Rectify Deficiency Before Departure	Php50,000.00	Minor
MEP017	PCG Approved Oil Water Separating Equipment or Filtering System	Detainable Deficiency	Php100,000.00	Major
MEP018	Tank of adequate capacity (Slop/Sludge Tank)	Detainable Deficiency	Php100,000.00	Major
MEP019	Compliance with International Safety Guide for Oil Tankers and Terminals (ISGOTT)	Detainable Deficiency	Php100,000.00	Major
MEP020	Minimum of two (2) 210 liters drum of dispersants	Rectify within 15 days	Php50,000.00	Minor
	<i>For Vessels of 10,000 GT and above</i>			
MEP021	Oil Water Separating Equipment with Oil Discharge Monitoring and Control System	Detainable Deficiency	Php100,000.00	Major
MEP022	Minimum of ten (10) kilos of Rags/and other appropriate sorbent materials	Rectify Deficiency Before Departure	Php50,000.00	Minor
	<i>For All Kinds of Tanker</i>			
MEP023	Appropriate length or segment oil spill/containment boom	Detainable Deficiency	Php100,000.00	Major
MEP024	Minimum of three (3) kilos of Rags/and other appropriate sorbent materials	Rectify Deficiency Before Departure	Php50,000.00	Minor
MEP025	Minimum of two (2) 210 liter drum of dispersants	Detainable Deficiency	Php100,000.00	Major
	<i>For New Oil Tanker of 70,000 GT and above</i>			
MEP026	Two (2) Slop Tanks	Detainable	Php100,000.00	Major

		Deficiency		
	<i>For New Crude Oil Tanker of 20,000 GT and above</i>			
MEP027	Segregated Ballast Tanks	Detainable Deficiency	Php100,000.00	Major
MEP028	Slop tank arrangement or combination of slop tank that have capacity necessary to retain the slop generated by tank washings, oil residues and dirty ballast residues	Detainable Deficiency	Php100,000.00	Major
	<i>For Oil Tanker of 150 GT and above</i>			
MEP029	Slop Tank Arrangements or Combination of Slop Tanks	Detainable Deficiency	Php100,000.00	Major
	<i>For Oil Tankers Engaged in Black Products and Persistent Oil</i>	Detainable Deficiency		
MEP030	PCG Accredited Complete Set of Oil Containment and Recovery Equipment Sorbent Dispersants and other MARPOL combating accessories sufficient to prevent, control and mitigate a Tier I discharge	Detainable Deficiency	Php100,000.00	Major
MEP031	Slop tank arrangement or combination of slop tank that have capacity necessary to retain the slop generated by tank washings, oil residues and dirty ballast residues	Detainable Deficiency	Php100,000.00	Major
	<i>For Tank Cleaning Operations/Contractors</i>			
MEP032	PCG Clearance Request	Cancellation of Clearance	Php100,000.00	Major

		Request		
	<i>For Depot/Terminals/Refineries</i>			
MEP033	PCG Accredited Complete Set of Oil Containment and Recovery Equipment Sorbent Dispersants and other MARPOL Combating Equipment and Accessories	Cancellation of Accreditation	Php100,000.00	Major
MEP034	Combustible Gas Analyzers and Sound Alarm System in case of any excessive fumes	Cancellation of Accreditation	Php100,000.00	Major
MEP035	Adequate Bund Walls	Cancellation of Accreditation	Php100,000.00	Major
MEP036	Transfer Operations in accordance with ISGOTT	Cancellation of Accreditation	Php100,000.00	Major
MEP037	Failure to inform the PCG of all Transfer Operations of Oil	Cancellation of Accreditation	Php100,000.00	Major
MEP038	Failure to conduct Team Training on Managing Oil Spill Operations	Cancellation of Accreditation	Php100,000.00	Major
	<i>For Ship Repair Yards</i>			
MEP039	Reception Facilities/Services for Oily Wastes	Endorsement for Cancellation of Accreditation	Php100,000.00	Major
MEP099	Others	Rectify within 15 days	Php50,000.00	Minor

ANNEX 11

RULES OF PROCEDURE BEFORE THE INVESTIGATION AND ADJUDICATION OFFICER (IAO) FOR MARINE ENVIRONMENTAL PROTECTION AND POLLUTION CASES

RULE I

TITLE AND CONSTRUCTION

SECTION 1. **Title** - These Rules shall be known as the Rules of Procedure for Marine Environmental Protection and Pollution Cases and shall govern the procedure before the Investigation and Adjudication Officer (IAO) of the Philippine Coast Guard.

SECTION 2. **Scope** - These Rules shall apply to all marine environmental protection and pollution cases brought before the Investigation and Adjudication Officer.

SECTION 3. - **Construction** - These Rules shall be liberally construed in order to promote public interest and to assist the parties in obtaining just, speedy and inexpensive determination of action or proceedings. Formal requirements shall not affect the intrinsic validity of the proceedings, provided that the information and facts alleged therein are clearly indicated for the judicious disposition of the case.

SECTION 4. - **Nature of Proceedings** – Subject to the basic requirements of due process, proceedings before the IAO shall be summary in nature and need not necessarily adhere to or follow the technical rules of evidence obtaining in courts of law. The Rules of Court shall not apply in said proceedings, except in suppletory character and only whenever applicable.

RULE II

JURISDICTION AND VENUE

SECTION 1. **Jurisdiction** - The Investigation and Adjudication Officer (IAO) shall have the sole and exclusive jurisdiction over all cases involving violations of marine environmental protection and pollution laws, rules and regulations, including the imposition of administrative sanctions, except as may be provided by law.

SECTION 2. **Transfer of Venue** - The Commandant, Philippine Coast Guard may allow the transfer of venue of the investigation from one district to another when he deems this course of action to be more expeditious, advantageous and in the interest of justice.

RULE III

INVESTIGATION

SECTION 1. **Investigation, How Initiated** - Administrative investigation may be commenced by:

- a. The Command, *motu proprio*;

- b. MEP Enforcement Inspection Report accomplished by the Philippine Coast Guard units;
- c. By filing of marine protest; and
- d. Sworn complaint of any person.

SECTION 2. *Marine Environmental Protection (MEP) Enforcement Inspection Report* –

Even without formal complaint, an action may be initiated on the basis of inspection or monitoring report that the condition and/or activities of the vessel which include but not limited to discharge of oil, hazardous and noxious substances, sewage, garbage or waste constitutes an immediate threat of harm to marine environment and/or violation of the existing MEP rules and regulations.

The MEP Officer shall include in the MEP Enforcement Inspection Report a Notice of Preventive Detention issued by the Station/Sub-Station Commander upon the recommendation of the MEP Officer when there is a *prima facie* evidence that the ship does not substantially comply with the existing PCG rules and regulations or committed detainable violation during the inspection. Said notice of detention shall be simultaneously forwarded to Investigation and Adjudication Officer (IAO) who shall immediately conduct an investigation proceeding for said violations and/or non-compliance upon receipt of such report. The MEP Officer shall notify MARINA, Philippine Ports Authority and the Shipowner of the detention of the vessel.

The investigation proceeding of the IAO shall forthwith proceed within twenty-four (24) hours upon the issuance of the notice of preventive detention and the case shall be decided within ten (10) days from the issuance of said notice.

SECTION 3. *Marine Protest* – It is a declaration under oath by the master of the vessel of the circumstances attending the damage or loss of his vessel, and intended to show that the loss accrued by the perils of the sea. It shall be the primary evidence in the investigation of accident involving the vessel by a Hearing Officer or any investigation. It can be the basis of an action even without formal complaint.

SECTION 4. *Who may be Parties* – Any person who has an interest in the subject of the action may be a party to the case before the IAO.

The party initiating the action shall be called the “*Complainant*” and the party against whom a complaint is filed shall be called the “*Respondent*”.

SECTION 5. *Forms and Contents of Complaint* – The complaint shall be in writing and drawn in clear and concise language whether in Filipino or English specifying the full names and addresses of the complainants, respondents and witnesses if any. It shall state the ultimate facts constituting the cause of action or specific violation of law or rules and regulations as well as other information pertinent thereto. It shall also specify the remedy or relief sought.

SECTION 6. *Summons* - Summons and/or complaint shall be served personally upon the parties. If the receipt of the summons and/or complaint is refused, tendering it to him shall make service. When the parties cannot be personally served with summons, service shall be made by registered mail or by publication, as the case may be.

SECTION 7. *Withdrawal of Complaint* – In case of withdrawal of complaint filed by any person, it shall not result in the automatic dismissal of the case. The IAO may *motu proprio* pursue the same if he deems it necessary in the interest of justice, public welfare and safety.

SECTION 8. *Notice of Hearing* - The parties and their witnesses shall be notified through subpoena of the scheduled hearing/investigation at least five (5) days before the date thereof, specifying the time and place of hearing. Provided, however, that the service of a MEP Enforcement Inspection Report shall be considered as sufficient notice in which the respondent

shall appear before the Investigation and Adjudication Officer within ten (10) days after receipt thereof.

In case the MEP Enforcement Inspection Report is issued with Notice of Preventive Detention, it shall be accompanied by a Notice of Hearing, said hearing shall be conducted within twenty four (24) hours from the issuance of said order.

RULE IV

HEARING

SECTION 1. **Conduct of Investigation** – In any investigation commenced pursuant to Sec. 1, Rule III hereof except those pertaining to detainable violations, the parties shall be given the opportunity to present their case or defense by way of submitting affidavits and other supporting evidence on the date, time and place of investigation specified in the notice of investigation/hearing or within ten (10) days after receipt of the MEP Enforcement Inspection Report. Affidavits submitted by the parties shall constitute their direct testimonies. After the reglementary period has prescribed, the IAO can take action on the basis of the evidence on record.

SECTION 2. **Clarificatory Questions** - When in the discretion of the IAO there are matters that need to be clarified, he may set the administrative case for hearing. Clarificatory questions raised by any of the parties shall be submitted to the IAO who shall propound the question to the witness.

SECTION 3. **Submission of Position Paper** – The IAO shall require the respondent to submit its verified position paper accompanied by all supporting documents and affidavits of witnesses within ten (10) days from receipt of notice. The Affidavits shall state only facts of direct personal knowledge of the affiants and shall show their competence to testify on the matters stated therein.

The respondent shall furnish the complainant a copy of its position paper together with the supporting documents and affidavits submitted by it.

SECTION 4. **Failure to Submit Position Paper** – Should the respondent failed to submit its verified position paper within the period provided despite due notice, he shall be considered in default and the case shall be resolved on the basis of the evidence on record.

SECTION 5. **Expert Witness** - Government expert witnesses, such as doctors of medicine, handwriting experts, and chemist, among others, need not be summoned to testify on their reports. Their affidavits will be accepted based on their credentials and upon their official certification.

SECTION 6. **Appearance and Admission of Violation** - On or before the date of investigation/hearing, the respondent may admit the charge(s) to the Investigation and Adjudication Officer. This admission shall be made on record. Thereafter, a Report shall be made immediately stating the admission and recommending the imposition of the appropriate administrative sanctions and the case shall be considered terminated.

SECTION 7. **Subpoena and Subpoena Duces Tecum** – If the attendance of a witness or the production of books, papers, documents and other pertinent data is necessary, any party may request the issuance of the necessary *subpoena* or *subpoena duces tecum* at least five (5) days prior to the scheduled hearing. The IAO or Hearing Officer shall issue the *subpoena* or *subpoena duces tecum* upon showing of general relevance.

SECTION 8. **More Detailed Inspection** – Whenever essential to the determination of the issues surrounding the case, the IAO may direct the conduct at any time of a more detailed inspection.

SECTION 9. **Intervention by an Interested Party** – any party who claims to have an interest or maybe adversely affected by the proceedings, may file a motion for intervention stating concisely the grounds relied upon and the remedy sought, serving copies of the same on the complainant and the respondent. The motion may be filed at any time before the case is deemed submitted for decision. The IAO has the discretion to allow or disallow the intervention.

SECTION 10. **Consolidation of Cases** – When there are two (2) or more cases pending before the IAO involving the same respondent and issues, the cases subsequently filed shall be consolidated with the one first filed to avoid unnecessary cost and delay.

RULE V

ORDERS, RESOLUTIONS AND DECISIONS

SECTION 1. **Decision/Judgment** - After due investigation, the IAO shall render a decision not later than thirty (30) days from the time it is submitted for decision. The parties shall be notified of the decision by personal service or registered mail, as the case may be. However in cases involving detainable violations, the case shall be decided within ten (10) days from receipt of the notice of preventive detention.

Every order or resolution of the IAO shall be in writing and under its seal, signed by him and shall clearly and distinctly state the facts and the law on which it is based.

SECTION 2. **Finality of Decision/Judgment** - Decisions of the IAO shall be final and executory within fifteen (15) days from receipt of a copy thereof, unless a motion for reconsideration is filed or an appeal is perfected within said period.

RULE VI

MOTION FOR RECONSIDERATION

SECTION 1. **Motion for Reconsideration** - A motion for reconsideration may be filed before the IAO specifically indicating the grounds therefore, with proof of service of copies to the other parties within 15 days from receipt of the decision of the IAO.

SECTION 2. **Filing** - Only one motion for reconsideration of an order or decision of the IAO shall be allowed. The IAO shall decide the motion for reconsideration within fifteen (15) days from submission. The filing of a motion for reconsideration shall suspend the running of the period to appeal.

RULE VII

APPEAL

SECTION 1. **Appeal** – An appeal from a judgment or final order of the Investigation and Adjudication Officer (IAO) may be taken to the Office of the Commandant, PCG. The appeal is taken by filing a notice of appeal with the IAO within fifteen (15) days from receipt of the decision of the IAO or within the remaining period from the filing of the motion for reconsideration upon receipt of the decision on the said motion as the case may be.

SECTION 2. **Contents of Notice of Appeal** - A Notice of Appeal shall specify and designate the errors of judgment of the decision, or part thereof appealed from. The Investigation and Adjudication Officer, shall, within five (5) days upon receipt of the Notice of Appeal and perfection thereof, transmit the record to the proper reviewing authority.

SECTION 3. **Appeal by One of Several Respondents** - When there are several respondents in a case, any one or all of them may appeal, but any respondent who does not join the appeal shall not be prejudiced thereby, except when there is manifest error in the appealed decision.

SECTION 4. **Withdrawal of Appeal** - Notwithstanding the perfection of the appeal, the Commandant, Philippine Coast Guard may allow withdrawal of the same at any time before the decision of the case is rendered, in which case the appealed decision shall stand as though no appeal had been filed.

SECTION 5. **Decision on Appeal Cases** - The proper reviewing authority shall decide the appealed case on the basis of the entire record of the investigation before the Investigation and Adjudication Officer. The parties shall be notified of the decision by personal service or by registered mail, as the case may be.

The decision of the Commandant, PCG shall be final and unappealable.

RULE VIII

ADMINISTRATIVE SANCTIONS, CIVIL AND CRIMINAL ACTIONS

SECTION 1. **Administrative Sanctions** – The IAO shall impose the administrative sanctions and fines under the existing rules and regulations of the Philippine Coast Guard.

SECTION 2. **Civil and Criminal Actions** - The institution of an action under these Rules shall be without prejudice to and shall not bar any civil or criminal action for violation of the penal and civil provisions of all related environmental laws. If the violator is a juridical person, the criminal case shall be filed against the owners, proprietors and/or their agents responsible for the violation.

RULE IX

MISCELLANEOUS PROVISIONS

SECTION 1. **Separability Clause** – If any section or provision of these rules of procedure or part thereof, is declared unconstitutional or invalid, the other sections or provisions thereof which are not affected shall continue in full force and effect.

SECTION 2. - **Repealing Clause** - The Rules of Procedure Governing the IAO for Marine Environmental Protection and Pollution Cases, which form part of Annex III of HPCG Memorandum Circular No. 01-2001 (dated 01 August 2001) is hereby repealed.

SECTION 3. **Effectivity Clause** – These Rules shall take effect fifteen (15) days after publication in a newspaper of general circulation in the Philippines.

ANNEX 12

RULES OF PROCEDURE FOR ENVIRONMENTAL CASES

PART I

RULE 1

GENERAL PROVISIONS

Section 1. Title. — These Rules shall be known as "The Rules of Procedure for Environmental Cases."

Section 2. Scope. — These Rules shall govern the procedure in civil, criminal and special civil actions before the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts involving enforcement or violations of environmental and other related laws, rules and regulations such as but not limited to the following:

- (a) Act No. 3572, Prohibition Against Cutting of Tindalo, Akli, and Molave Trees;
- (b) P.D. No. 705, Revised Forestry Code;
- (c) P.D. No. 856, Sanitation Code;
- (d) P.D. No. 979, Marine Pollution Decree;
- (e) P.D. No. 1067, Water Code;
- (f) P.D. No. 1151, Philippine Environmental Policy of 1977;
- (g) P.D. No. 1433, Plant Quarantine Law of 1978;
- (h) P.D. No. 1586, Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes;
- (i) R.A. No. 3571, Prohibition Against the Cutting, Destroying or Injuring of Planted or Growing Trees, Flowering Plants and Shrubs or Plants of Scenic Value along Public Roads, in Plazas, Parks, School Premises or in any Other Public Ground;
- (j) R.A. No. 4850, Laguna Lake Development Authority Act;
- (k) R.A. No. 6969, Toxic Substances and Hazardous Waste Act;
- (l) R.A. No. 7076, People's Small-Scale Mining Act;
- (m) R.A. No. 7586, National Integrated Protected Areas System Act including all laws, decrees, orders, proclamations and issuances establishing protected areas;
- (n) R.A. No. 7611, Strategic Environmental Plan for Palawan Act;
- (o) R.A. No. 7942, Philippine Mining Act;

- (p) R.A. No. 8371, Indigenous Peoples Rights Act;
- (q) R.A. No. 8550, Philippine Fisheries Code;
- (r) R.A. No. 8749, Clean Air Act;
- (s) R.A. No. 9003, Ecological Solid Waste Management Act;
- (t) R.A. No. 9072, National Caves and Cave Resource Management Act;
- (u) R.A. No. 9147, Wildlife Conservation and Protection Act;
- (v) R.A. No. 9175, Chainsaw Act;
- (w) R.A. No. 9275, Clean Water Act;
- (x) R.A. No. 9483, Oil Spill Compensation Act of 2007; and
- (y) Provisions in C.A. No. 141, The Public Land Act; R.A. No. 6657, Comprehensive Agrarian Reform Law of 1988; R.A. No. 7160, Local Government Code of 1991; R.A. No. 7161, Tax Laws Incorporated in the Revised Forestry Code and Other Environmental Laws (Amending the NIRC); R.A. No. 7308, Seed Industry Development Act of 1992; R.A. No. 7900, High-Value Crops Development

Rules of Procedure for Environmental Cases Act; R.A. No. 8048, Coconut Preservation Act; R.A. No. 8435, Agriculture and Fisheries Modernization Act of 1997; R.A. No. 9522, The Philippine Archipelagic Baselines Law; R.A. No. 9593, Renewable Energy Act of 2008; R.A. No. 9637, Philippine Biofuels Act; and other existing laws that relate to the conservation, development, preservation, protection and utilization of the environment and natural resources.

Section 3. Objectives. - The objectives of these Rules are:

- (a) To protect and advance the constitutional right of the people to a balanced and healthful ecology;
- (b) To provide a simplified, speedy and inexpensive procedure for the enforcement of environmental rights and duties recognized under the Constitution, existing laws, rules and regulations, and international agreements;
- (c) To introduce and adopt innovations and best practices ensuring the effective enforcement of remedies and redress for violation of environmental laws; and
- (d) To enable the courts to monitor and exact compliance with orders and judgments in environmental cases.

Section 4. Definition of Terms. -

- (a) By-product or derivatives means any part taken or substance extracted from wildlife, in raw or in processed form including stuffed animals and herbarium specimens.
- (b) Consent decree refers to a judicially-approved settlement between concerned parties based on public interest and public policy to protect and preserve the environment.

(c) Continuing mandamus is a writ issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied.

(d) Environmental protection order (EPO) refers to an order issued by the court directing or enjoining any person or government agency to perform or desist from performing an act in order to protect, preserve or rehabilitate the environment.

(e) Mineral refers to all naturally occurring inorganic substance in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials and geothermal energy.

(f) Precautionary principle states that when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat.

(g) Strategic lawsuit against public participation (SLAPP) refers to an action whether civil, criminal or administrative, brought against any person, institution or any government agency or local government unit or its officials and employees, with the intent to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.

(h) Wildlife means wild forms and varieties of flora and fauna, in all developmental stages including those which are in captivity or are being bred or propagated.

PART II

CIVIL PROCEDURE

RULE 2

PLEADINGS AND PARTIES

Section 1. *Pleadings and motions allowed.* — The pleadings and motions that may be filed are complaint, answer which may include compulsory counterclaim and cross-claim, motion for intervention, motion for discovery and motion for reconsideration of the judgment.

Motion for postponement, motion for new trial and petition for relief from judgment shall be allowed in highly meritorious cases or to prevent a manifest miscarriage of justice.

Section 2. *Prohibited pleadings or motions.* — The following pleadings or motions shall not be allowed:

(a) Motion to dismiss the complaint;

(b) Motion for a bill of particulars;

(c) Motion for extension of time to file pleadings, except to file answer, the extension not to exceed fifteen (15) days;

(d) Motion to declare the defendant in default;

(e) Reply and rejoinder; and

(f) Third party complaint.

Section 3. *Verified complaint.* — The verified complaint shall contain the names of the parties, their addresses, the cause of action and the reliefs prayed for.

The plaintiff shall attach to the verified complaint all evidence proving or supporting the cause of action consisting of the affidavits of witnesses, documentary evidence and if possible, object evidence. The affidavits shall be in question and answer form and shall comply with the rules of admissibility of evidence.

The complaint shall state that it is an environmental case and the law involved. The complaint shall also include a certification against forum shopping. If the complaint is not an environmental complaint, the presiding judge shall refer it to the executive judge for re-affle.

Section 4. *Who may file.* — Any real party in interest, including the government and juridical entities authorized by law, may file a civil action involving the enforcement or violation of any environmental law.

Section 5. *Citizen suit.* — Any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or obligations under environmental laws. Upon the filing of a citizen suit, the court shall issue an order which shall contain a brief description of the cause of action and the reliefs prayed for, requiring all interested parties to manifest their interest to intervene in the case within fifteen (15) days from notice thereof. The plaintiff may publish the order once in a newspaper of a general circulation in the Philippines or furnish all affected barangays copies of said order.

Citizen suits filed under R.A. No. 8749 and R.A. No. 9003 shall be governed by their respective provisions.

Section 6. *Service of the complaint on the government or its agencies.* - Upon the filing of the complaint, the plaintiff is required to furnish the government or the appropriate agency, although not a party, a copy of the complaint. Proof of service upon the government or the appropriate agency shall be attached to the complaint.

Section 7. *Assignment by raffle.* - If there is only one (1) designated branch in a multiple-sala court, the executive judge shall immediately refer the case to said branch. If there are two (2) or more designated branches, the executive judge shall conduct a special raffle on the day the complaint is filed.

Section 8. *Issuance of Temporary Environmental Protection Order (TEPO).* - If it appears from the verified complaint with a prayer for the issuance of an Environmental Protection Order (EPO) that the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of the multiple-sala court before raffle or the presiding judge of a single-sala court as the case may be, may issue ex parte a TEPO effective for only seventy-two (72) hours from date of the receipt of the TEPO by the party or person enjoined. Within said period, the court where the case is assigned, shall conduct a summary hearing to determine whether the TEPO may be extended until the termination of the case.

The court where the case is assigned, shall periodically monitor the existence of acts that are the subject matter of the TEPO even if issued by the executive judge, and may lift the same at any time as circumstances may warrant.

The applicant shall be exempted from the posting of a bond for the issuance of a TEPO.

Section 9. *Action on motion for dissolution of TEPO.* - The grounds for motion to dissolve a TEPO shall be supported by affidavits of the party or person enjoined which the applicant may oppose, also by affidavits.

The TEPO may be dissolved if it appears after hearing that its issuance or continuance would cause irreparable damage to the party or person enjoined while the applicant may be fully compensated for such damages as he may suffer and subject to the posting of a sufficient bond by the party or person enjoined.

Section 10. *Prohibition against temporary restraining order (TRO) and preliminary injunction.* - Except the Supreme Court, no court can issue a TRO or writ of preliminary injunction against lawful actions of government agencies that enforce environmental laws or prevent violations thereof.

Section 11. *Report on TEPO, EPO, TRO or preliminary injunction.* - The judge shall report any action taken on a TEPO, EPO, TRO or a preliminary injunction, including its modification and dissolution, to the Supreme Court, through the Office of the Court Administrator, within ten (10) days from the action taken.

Section 12. *Payment of filing and other legal fees.* - The payment of filing and other legal fees by the plaintiff shall be deferred until after judgment unless the plaintiff is allowed to litigate as an indigent. It shall constitute a first lien on the judgment award.

For a citizen suit, the court shall defer the payment of filing and other legal fees that shall serve as first lien on the judgment award.

Section 13. *Service of summons, orders and other court processes.* - The summons, orders and other court processes may be served by the sheriff, his deputy or other proper court officer or for justifiable reasons, by the counsel or representative of the plaintiff or any suitable person authorized or deputized by the court issuing the summons.

Any private person who is authorized or deputized by the court to serve summons, orders and other court processes shall for that purpose be considered an officer of the court.

The summons shall be served on the defendant, together with a copy of an order informing all parties that they have fifteen (15) days from the filing of an answer, within which to avail of interrogatories to parties under Rule 25 of the Rules of Court and request for admission by adverse party under Rule 26, or at their discretion, make use of depositions under Rule 23 or other measures under Rules 27 and 28.

Should personal and substituted service fail, summons by publication shall be allowed. In the case of juridical entities, summons by publication shall be done by indicating the names of the officers or their duly authorized representatives.

Section 14. *Verified answer.* - Within fifteen (15) days from receipt of summons, the defendant shall file a verified answer to the complaint and serve a copy thereof on the plaintiff. The defendant shall attach affidavits of witnesses, reports, studies of experts and all evidence in support of the defense.

Affirmative and special defenses not pleaded shall be deemed waived, except lack of jurisdiction.

Cross-claims and compulsory counterclaims not asserted shall be considered barred. The answer to counterclaims or cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.

Section 15. *Effect of failure to answer.* - Should the defendant fail to answer the complaint within the period provided, the court shall declare defendant in default and upon motion of the plaintiff, shall receive evidence ex parte and render judgment based thereon and the reliefs prayed for.

RULE 3

PRE-TRIAL

Section 1. *Notice of pre-trial.* - Within two (2) days from the filing of the answer to the counterclaim or cross-claim, if any, the branch clerk of court shall issue a notice of the pre-trial to be held not later than one (1) month from the filing of the last pleading.

The court shall schedule the pre-trial and set as many pre-trial conferences as may be necessary within a period of two (2) months counted from the date of the first pre-trial conference.

Section 2. *Pre-trial brief.* - At least three (3) days before the pretrial, the parties shall submit pre-trial briefs containing the following:

- (a) A statement of their willingness to enter into an amicable settlement indicating the desired terms thereof or to submit the case to any of the alternative modes of dispute resolution;
- (b) A summary of admitted facts and proposed stipulation of facts;
- (c) The legal and factual issues to be tried or resolved. For each factual issue, the parties shall state all evidence to support their positions thereon. For each legal issue, parties shall state the applicable law and jurisprudence supporting their respective positions thereon;
- (d) The documents or exhibits to be presented, including depositions, answers to interrogatories and answers to written request for admission by adverse party, stating the purpose thereof;
- (e) A manifestation of their having availed of discovery procedures or their intention to avail themselves of referral to a commissioner or panel of experts;
- (f) The number and names of the witnesses and the substance of their affidavits;
- (g) Clarificatory questions from the parties; and
- (h) List of cases arising out of the same facts pending before other courts or administrative agencies. Failure to comply with the required contents of a pre-trial brief may be a ground for contempt.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

Section 3. *Referral to mediation.* - At the start of the pre-trial conference, the court shall inquire from the parties if they have settled the dispute; otherwise, the court shall immediately refer the parties or their counsel, if authorized by their clients, to the Philippine Mediation Center (PMC) unit for purposes of mediation. If not available, the court shall refer the case to the clerk of court or legal researcher for mediation.

Mediation must be conducted within a non-extendible period of thirty (30) days from receipt of notice of referral to mediation.

The mediation report must be submitted within ten (10) days from the expiration of the 30-day period.

Section 4. Preliminary conference. - If mediation fails, the court will schedule the continuance of the pre-trial. Before the scheduled date of continuance, the court may refer the case to the branch clerk of court for a preliminary conference for the following purposes:

- (a) To assist the parties in reaching a settlement;
- (b) To mark the documents or exhibits to be presented by the parties and copies thereof to be attached to the records after comparison with the originals;
- (c) To ascertain from the parties the undisputed facts and admissions on the genuineness and due execution of the documents marked as exhibits;
- (d) To require the parties to submit the depositions taken under Rule 23 of the Rules of Court, the answers to written interrogatories under Rule 25, and the answers to request for admissions by the adverse party under Rule 26;
- (e) To require the production of documents or things requested by a party under Rule 27 and the results of the physical and mental examination of persons under Rule 28;
- (f) To consider such other matters as may aid in its prompt disposition;
- (g) To record the proceedings in the "Minutes of Preliminary Conference" to be signed by both parties or their counsels;
- (h) To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses; and
- (i) To attach the minutes together with the marked exhibits before the pre-trial proper.

The parties or their counsel must submit to the branch clerk of court the names, addresses and contact numbers of the affiants.

During the preliminary conference, the branch clerk of court shall also require the parties to submit the depositions taken under Rule 23 of the Rules of Court, the answers to written interrogatories under Rule 25 and the answers to request for admissions by the adverse party under Rule 26. The branch clerk of court may also require the production of documents or things requested by a party under Rule 27 and the results of the physical and mental examination of persons under Rule 28.

Section 5. Pre-trial conference; consent decree. - The judge shall put the parties and their counsels under oath, and they shall remain under oath in all pre-trial conferences.

The judge shall exert best efforts to persuade the parties to arrive at a settlement of the dispute. The judge may issue a consent decree approving the agreement between the parties in accordance with law, morals, public order and public policy to protect the right of the people to a balanced and healthful ecology.

Evidence not presented during the pre-trial, except newly-discovered evidence, shall be deemed waived.

Section 6. *Failure to settle.* - If there is no full settlement, the judge shall:

- (a) Adopt the minutes of the preliminary conference as part of the pre-trial proceedings and confirm the markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents;
- (b) Determine if there are cases arising out of the same facts pending before other courts and order its consolidation if warranted;
- (c) Determine if the pleadings are in order and if not, order the amendments if necessary;
- (d) Determine if interlocutory issues are involved and resolve the same;
- (e) Consider the adding or dropping of parties;
- (f) Scrutinize every single allegation of the complaint, answer and other pleadings and attachments thereto, and the contents of documents and all other evidence identified and pre-marked during pre-trial in determining further admissions;
- (g) Obtain admissions based on the affidavits of witnesses and evidence attached to the pleadings or submitted during pre-trial;
- (h) Define and simplify the factual and legal issues arising from the pleadings and evidence. Uncontroverted issues and frivolous claims or defenses should be eliminated;
- (i) Discuss the propriety of rendering a summary judgment or a judgment based on the pleadings, evidence and admissions made during pre-trial;
- (j) Observe the Most Important Witness Rule in limiting the number of witnesses, determining the facts to be proved by each witness and fixing the approximate number of hours per witness;
- (k) Encourage referral of the case to a trial by commissioner under Rule 32 of the Rules of Court or to a mediator or arbitrator under any of the alternative modes of dispute resolution governed by the Special Rules of Court on Alternative Dispute Resolution;
- (l) Determine the necessity of engaging the services of a qualified expert as a friend of the court (*amicus curiae*); and
- (m) Ask parties to agree on the specific trial dates for continuous trial, comply with the one-day examination of witness rule, adhere to the case flow chart determined by the court which shall contain the different stages of the proceedings up to the promulgation of the decision and use the time frame for each stage in setting the trial dates.

Section 7. *Effect of failure to appear at pre-trial.* - The court shall not dismiss the complaint, except upon repeated and unjustified failure of the plaintiff to appear. The dismissal shall be without prejudice, and the court may proceed with the counterclaim.

If the defendant fails to appear at the pre-trial, the court shall receive evidence ex parte.

Section 8. *Minutes of pre-trial.* - The minutes of each pre-trial conference shall contain matters taken up therein, more particularly admissions of facts and exhibits, and shall be signed by the parties and their counsel.

Section 9. *Pre-trial order.* - Within ten (10) days after the termination of the pre-trial, the court shall issue a pre-trial order setting forth the actions taken during the pre-trial conference, the facts stipulated, the admissions made, the evidence marked, the number of witnesses to be presented and the schedule of trial. Said order shall bind the parties, limit the trial to matters not disposed of and control the course of action during the trial.

Section 10. *Efforts to settle.* - The court shall endeavor to make the parties agree to compromise or settle in accordance with law at any stage of the proceedings before rendition of judgment.

RULE 4

TRIAL

Section 1. *Continuous trial.* - The judge shall conduct continuous trial which shall not exceed two (2) months from the date of the issuance of the pre-trial order.

Before the expiration of the two-month period, the judge may ask the Supreme Court for the extension of the trial period for justifiable cause.

Section 2. *Affidavits in lieu of direct examination.* - In lieu of direct examination, affidavits marked during the pre-trial shall be presented as direct examination of affiants subject to cross-examination by the adverse party.

Section 3. *One-day examination of witness rule.* - The court shall strictly adhere to the rule that a witness has to be fully examined in one (1) day, subject to the court's discretion of extending the examination for justifiable reason. After the presentation of the last witness, only oral offer of evidence shall be allowed, and the opposing party shall immediately interpose his objections. The judge shall forthwith rule on the offer of evidence in open court.

Section 4. *Submission of case for decision; filing of memoranda.* - After the last party has rested its case, the court shall issue an order submitting the case for decision.

The court may require the parties to submit their respective memoranda, if possible in electronic form, within a non-extendible period of thirty (30) days from the date the case is submitted for decision.

The court shall have a period of sixty (60) days to decide the case from the date the case is submitted for decision.

Section 5. *Period to try and decide.* - The court shall have a period of one (1) year from the filing of the complaint to try and decide the case. Before the expiration of the one-year period, the court may petition the Supreme Court for the extension of the period for justifiable cause.

The court shall prioritize the adjudication of environmental cases.

RULE 5

JUDGMENT AND EXECUTION

Section 1. *Reliefs in a citizen suit.* - If warranted, the court may grant to the plaintiff proper reliefs which shall include the protection, preservation or rehabilitation of the environment and the payment of attorney's fees, costs of suit and other litigation expenses. It may also require the violator to submit a program of rehabilitation or restoration of the environment, the costs of which shall be borne by the violator, or to contribute to a special trust fund for that purpose subject to the control of the court.

Section 2. *Judgment not stayed by appeal.* - Any judgment directing the performance of acts for the protection, preservation or rehabilitation of the environment shall be executory pending appeal unless restrained by the appellate court.

Section 3. *Permanent EPO; writ of continuing mandamus.* - In the judgment, the court may convert the TEPO to a permanent EPO or issue a writ of continuing mandamus directing the performance of acts which shall be effective until the judgment is fully satisfied.

The court may, by itself or through the appropriate government agency, monitor the execution of the judgment and require the party concerned to submit written reports on a quarterly basis or sooner as may be necessary, detailing the progress of the execution and satisfaction of the judgment. The other party may, at its option, submit its comments or observations on the execution of the judgment.

Section 4. *Monitoring of compliance with judgment and orders of the court by a commissioner.* - The court may *motu proprio*, or upon motion of the prevailing party, order that the enforcement of the judgment or order be referred to a commissioner to be appointed by the court. The commissioner shall file with the court written progress reports on a quarterly basis or more frequently when necessary.

Section 5. *Return of writ of execution.* - The process of execution shall terminate upon a sufficient showing that the decision or order has been implemented to the satisfaction of the court in accordance with Section 14, Rule 39 of the Rules of Court.

RULE 6

STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION

Section 1. *Strategic lawsuit against public participation (SLAPP).* - A legal action filed to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights shall be treated as a SLAPP and shall be governed by these Rules.

Section 2. *SLAPP as a defense; how alleged.* - In a SLAPP filed against a person involved in the enforcement of environmental laws, protection of the environment, or assertion of environmental rights, the defendant may file an answer interposing as a defense that the case is a SLAPP and shall be supported by documents, affidavits, papers and other evidence; and, by way of counterclaim, pray for damages, attorney's fees and costs of suit.

The court shall direct the plaintiff or adverse party to file an opposition showing the suit is not a SLAPP, attaching evidence in support thereof, within a non-extendible period of five (5) days from receipt of notice that an answer has been filed.

The defense of a SLAPP shall be set for hearing by the court after issuance of the order to file an opposition within fifteen (15) days from filing of the comment or the lapse of the period.

Section 3. Summary hearing. - The hearing on the defense of a SLAPP shall be summary in nature. The parties must submit all available evidence in support of their respective positions. The party seeking the dismissal of the case must prove by substantial evidence that his act for the enforcement of environmental law is a legitimate action for the protection, preservation and rehabilitation of the environment. The party filing the action assailed as a SLAPP shall prove by preponderance of evidence that the action is not a SLAPP and is a valid claim.

Section 4. Resolution of the defense of a SLAPP. - The affirmative defense of a SLAPP shall be resolved within thirty (30) days after the summary hearing. If the court dismisses the action, the court may award damages, attorney's fees and costs of suit under a counterclaim if such has been filed. The dismissal shall be with prejudice.

If the court rejects the defense of a SLAPP, the evidence adduced during the summary hearing shall be treated as evidence of the parties on the merits of the case. The action shall proceed in accordance with the Rules of Court.

PART III

SPECIAL CIVIL ACTIONS

RULE 7

WRIT OF KALIKASAN

Section 1. Nature of the writ. - The writ is a remedy available to a natural or juridical person, entity authorized by law, people's organization, non-governmental organization, or any public interest group accredited by or registered with any government agency, on behalf of persons whose constitutional right to a balanced and healthful ecology is violated, or threatened with violation by an unlawful act or omission of a public official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

Section 2. Contents of the petition. - The verified petition shall contain the following:

- (a) The personal circumstances of the petitioner;
- (b) The name and personal circumstances of the respondent or if the name and personal circumstances are unknown and uncertain, the respondent may be described by an assumed appellation;
- (c) The environmental law, rule or regulation violated or threatened to be violated, the act or omission complained of, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.
- (d) All relevant and material evidence consisting of the affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence;
- (e) The certification of petitioner under oath that: (1) petitioner has not commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency, and no such other action or claim is pending therein; (2) if there is such other pending action or claim, a complete statement of its present status; (3) if petitioner should learn that the same or similar action or claim has been filed or is pending, petitioner shall report to the court that fact within five (5) days therefrom; and

(f) The reliefs prayed for which may include a prayer for the issuance of a TEPO.

Section 3. *Where to file.* - The petition shall be filed with the Supreme Court or with any of the stations of the Court of Appeals.

Section 4. *No docket fees.* - The petitioner shall be exempt from the payment of docket fees.

Section 5. *Issuance of the writ.* - Within three (3) days from the date of filing of the petition, if the petition is sufficient in form and substance, the court shall give an order: (a) issuing the writ; and (b) requiring the respondent to file a verified return as provided in Section 8 of this Rule. The clerk of court shall forthwith issue the writ under the seal of the court including the issuance of a cease and desist order and other temporary reliefs effective until further order.

Section 6. *How the writ is served.* - The writ shall be served upon the respondent by a court officer or any person deputized by the court, who shall retain a copy on which to make a return of service. In case the writ cannot be served personally, the rule on substituted service shall apply.

Section 7. *Penalty for refusing to issue or serve the writ.* - A clerk of court who unduly delays or refuses to issue the writ after its allowance or a court officer or deputized person who unduly delays or refuses to serve the same shall be punished by the court for contempt without prejudice to other civil, criminal or administrative actions.

Section 8. *Return of respondent; contents.* - Within a non-extendible period of ten (10) days after service of the writ, the respondent shall file a verified return which shall contain all defenses to show that respondent did not violate or threaten to violate, or allow the violation of any environmental law, rule or regulation or commit any act resulting to environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

All defenses not raised in the return shall be deemed waived.

The return shall include affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence, in support of the defense of the respondent.

A general denial of allegations in the petition shall be considered as an admission thereof.

Section 9. *Prohibited pleadings and motions.* - The following pleadings and motions are prohibited:

- (a) Motion to dismiss;
- (b) Motion for extension of time to file return;
- (c) Motion for postponement;
- (d) Motion for a bill of particulars;
- (e) Counterclaim or cross-claim;
- (f) Third-party complaint;

(g) Reply; and

(h) Motion to declare respondent in default.

Section 10. *Effect of failure to file return.* - In case the respondent fails to file a return, the court shall proceed to hear the petition ex parte.

Section 11. *Hearing.* - Upon receipt of the return of the respondent, the court may call a preliminary conference to simplify the issues, determine the possibility of obtaining stipulations or admissions from the parties, and set the petition for hearing.

The hearing including the preliminary conference shall not extend beyond sixty (60) days and shall be given the same priority as petitions for the writs of habeas corpus, amparo and habeas data.

Section 12. *Discovery Measures.* - A party may file a verified motion for the following reliefs:

(a) *Ocular Inspection; order* — The motion must show that an ocular inspection order is necessary to establish the magnitude of the violation or the threat as to prejudice the life, health or property of inhabitants in two or more cities or provinces. It shall state in detail the place or places to be inspected. It shall be supported by affidavits of witnesses having personal knowledge of the violation or threatened violation of environmental law.

After hearing, the court may order any person in possession or control of a designated land or other property to permit entry for the purpose of inspecting or

photographing the property or any relevant object or operation thereon.

The order shall specify the person or persons authorized to make the inspection and the date, time, place and manner of making the inspection and may prescribe other conditions to protect the constitutional rights of all parties.

(b) *Production or inspection of documents or things; order* – The motion must show that a production order is necessary to establish the magnitude of the violation or the threat as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

After hearing, the court may order any person in possession, custody or control of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, or objects in digitized or electronic form, which constitute or contain evidence relevant to the petition or the return, to produce and permit their inspection, copying or photographing by or on behalf of the movant.

The production order shall specify the person or persons authorized to make the production and the date, time, place and manner of making the inspection or production and may prescribe other conditions to protect the constitutional rights of all parties.

Section 13. *Contempt.* - The court may after hearing punish the respondent who refuses or unduly delays the filing of a return, or who makes a false return, or any person who disobeys or resists a lawful process or order of the court for indirect contempt under Rule 71 of the Rules of Court.

Section 14. *Submission of case for decision; filing of memoranda.* - After hearing, the court shall issue an order submitting the case for decision. The court may require the filing of

memoranda and if possible, in its electronic form, within a non-extendible period of thirty (30) days from the date the petition is submitted for decision.

Section 15. *Judgment.* - Within sixty (60) days from the time the petition is submitted for decision, the court shall render judgment granting or denying the privilege of the writ of kalikasan.

The reliefs that may be granted under the writ are the following:

- (a) Directing respondent to permanently cease and desist from committing acts or neglecting the performance of a duty in violation of environmental laws resulting in environmental destruction or damage;
- (b) Directing the respondent public official, government agency, private person or entity to protect, preserve, rehabilitate or restore the environment;
- (c) Directing the respondent public official, government agency, private person or entity to monitor strict compliance with the decision and orders of the court;
- (d) Directing the respondent public official, government agency, or private person or entity to make periodic reports on the execution of the final judgment; and
- (e) Such other reliefs which relate to the right of the people to a balanced and healthful ecology or to the protection, preservation, rehabilitation or restoration of the environment, except the award of damages to individual petitioners.

Section 16. *Appeal.* - Within fifteen (15) days from the date of notice of the adverse judgment or denial of motion for reconsideration, any party may appeal to the Supreme Court under Rule 45 of the Rules of Court. The appeal may raise questions of fact.

Section 17. *Institution of separate actions.* - The filing of a petition for the issuance of the writ of kalikasan shall not preclude the filing of separate civil, criminal or administrative actions.

RULE 8

WRIT OF CONTINUING MANDAMUS

Section 1. *Petition for continuing mandamus.* - When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

Section 2. *Where to file the petition.* - The petition shall be filed with the Regional Trial Court exercising jurisdiction over the territory where the actionable neglect or omission occurred or with the Court of Appeals or the Supreme Court.

Section 3. *No docket fees.* - The petitioner shall be exempt from the payment of docket fees.

Section 4. *Order to comment.* - If the petition is sufficient in form and substance, the court shall issue the writ and require the respondent to comment on the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.

Section 5. *Expediting proceedings; TEPO.* - The court in which the petition is filed may issue such orders to expedite the proceedings, and it may also grant a TEPO for the preservation of the rights of the parties pending such proceedings.

Section 6. *Proceedings after comment is filed.* - After the comment is filed or the time for the filing thereof has expired, the court may hear the case which shall be summary in nature or require the parties to submit memoranda. The petition shall be resolved without delay within sixty (60) days from the date of the submission of the petition for resolution.

Section 7. *Judgment.* - If warranted, the court shall grant the privilege of the writ of continuing mandamus requiring respondent to perform an act or series of acts until the judgment is fully satisfied and to grant such other reliefs as may be warranted resulting from the wrongful or illegal acts of the respondent. The court shall require the respondent to submit periodic reports detailing the progress and execution of the judgment, and the court may, by itself or through a commissioner or the appropriate government agency, evaluate and monitor compliance. The petitioner may submit its comments or observations on the execution of the judgment.

Section 8. *Return of the writ.* - The periodic reports submitted by the respondent detailing compliance with the judgment shall be contained in partial returns of the writ.

Upon full satisfaction of the judgment, a final return of the writ shall be made to the court by the respondent. If the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket.

PART IV

CRIMINAL PROCEDURE

RULE 9

PROSECUTION OF OFFENSES

Section 1. *Who may file.* - Any offended party, peace officer or any public officer charged with the enforcement of an environmental law may file a complaint before the proper officer in accordance with the Rules of Court.

Section 2. *Filing of the information.* - An information, charging a person with a violation of an environmental law and subscribed by the prosecutor, shall be filed with the court.

Section 3. *Special prosecutor.* - In criminal cases, where there is no private offended party, a counsel whose services are offered by any person or organization may be allowed by the court as special prosecutor, with the consent of and subject to the control and supervision of the public prosecutor.

RULE 10

PROSECUTION OF CIVIL ACTIONS

Section 1. *Institution of criminal and civil actions.* - When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged, shall be deemed instituted with the criminal action unless the complainant waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

Unless the civil action has been instituted prior to the criminal action, the reservation of the right to institute separately the civil action shall be made during arraignment.

In case civil liability is imposed or damages are awarded, the filing and other legal fees shall be imposed on said award in accordance with Rule 141 of the Rules of Court, and the fees shall constitute a first lien on the judgment award. The damages awarded in cases where there is no private offended party, less the filing fees, shall accrue to the funds of the agency charged with the implementation of the environmental law violated. The award shall be used for the restoration and rehabilitation of the environment adversely affected.

RULE 11

ARREST

Section 1. *Arrest without warrant; when lawful.* - A peace officer or an individual deputized by the proper government agency may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense; or

(b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it. Individuals deputized by the proper government agency who are enforcing environmental laws shall enjoy the presumption of regularity under Section 3(m), Rule 131 of the Rules of Court when effecting arrests for violations of environmental laws.

Section 2. *Warrant of arrest.* - All warrants of arrest issued by the court shall be accompanied by a certified true copy of the information filed with the issuing court.

RULE 12

CUSTODY AND DISPOSITION OF SEIZED ITEMS, EQUIPMENT, PARAPHERNALIA, CONVEYANCES AND INSTRUMENTS

Section 1. *Custody and disposition of seized items.* - The custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the concerned government agency.

Section 2. *Procedure.* - In the absence of applicable laws or rules promulgated by the concerned government agency, the following procedure shall be observed:

(a) The apprehending officer having initial custody and control of the seized items, equipment, paraphernalia, conveyances and instruments shall physically inventory and whenever practicable, photograph the same in the presence of the person from whom such items were seized.

(b) Thereafter, the apprehending officer shall submit to the issuing court the return of the search warrant within five (5) days from date of seizure or in case of warrantless arrest, submit within five (5) days from date of seizure, the inventory report, compliance report, photographs, representative samples and other pertinent documents to the public prosecutor for appropriate action.

(c) Upon motion by any interested party, the court may direct the auction sale of seized items, equipment, paraphernalia, tools or instruments of the crime. The court shall, after hearing, fix the minimum bid price based on the recommendation of the concerned government agency. The sheriff shall conduct the auction.

(d) The auction sale shall be with notice to the accused, the person from whom the items were seized, or the owner thereof and the concerned government agency.

(e) The notice of auction shall be posted in three conspicuous places in the city or municipality where the items, equipment, paraphernalia, tools or instruments of the crime were seized.

(f) The proceeds shall be held in trust and deposited with the government depository bank for disposition according to the judgment.

RULE 13

PROVISIONAL REMEDIES

Section 1. *Attachment in environmental cases.* - The provisional remedy of attachment under Rule 127 of the Rules of Court may be availed of in environmental cases.

Section 2. *Environmental Protection Order (EPO); Temporary Environmental Protection Order (TEPO) in criminal cases.* - The procedure for and issuance of EPO and TEPO shall be governed by Rule 2 of these Rules.

RULE 14

BAIL

Section 1. *Bail, where filed.* - Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge or municipal circuit trial judge in the province, city or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein. If the court grants bail, the court may issue a hold-departure order in appropriate cases.

Section 2. *Duties of the court.* - Before granting the application for bail, the judge must read the information in a language known to and understood by the accused and require the accused to sign a written undertaking, as follows:

(a) To appear before the court that issued the warrant of arrest for arraignment purposes on the date scheduled, and if the accused fails to appear without justification on the date of arraignment, accused waives the reading of the information and authorizes the court to enter a plea of not guilty on behalf of the accused and to set the case for trial;

(b) To appear whenever required by the court where the case is pending; and

- (c) To waive the right of the accused to be present at the trial, and upon failure of the accused to appear without justification and despite due notice, the trial may proceed in absentia.

RULE 15

ARRAIGNMENT AND PLEA

Section 1. *Arraignment.* - The court shall set the arraignment of the accused within fifteen (15) days from the time it acquires jurisdiction over the accused, with notice to the public prosecutor and offended party or concerned government agency that it will entertain plea-bargaining on the date of the arraignment.

Section 2. *Plea-bargaining.* - On the scheduled date of arraignment, the court shall consider plea-bargaining arrangements. Where the prosecution and offended party or concerned government agency agree to the plea offered by the accused, the court shall:

- (a) Issue an order which contains the plea-bargaining arrived at;
- (b) Proceed to receive evidence on the civil aspect of the case, if any; and
- (c) Render and promulgate judgment of conviction, including the civil liability for damages.

RULE 16

PRE-TRIAL

Section 1. *Setting of pre-trial conference.* - After the arraignment, the court shall set the pre-trial conference within thirty (30) days. It may refer the case to the branch clerk of court, if warranted, for a preliminary conference to be set at least three (3) days prior to the pre-trial.

Section 2. *Preliminary conference.* - The preliminary conference shall be for the following purposes:

- (a) To assist the parties in reaching a settlement of the civil aspect of the case;
- (b) To mark the documents to be presented as exhibits;
- (c) To attach copies thereof to the records after comparison with the originals;
- (d) To ascertain from the parties the undisputed facts and admissions on the genuineness and due execution of documents marked as exhibits;
- (e) To consider such other matters as may aid in the prompt disposition of the case;
- (f) To record the proceedings during the preliminary conference in the Minutes of Preliminary Conference to be signed by the parties and counsel;
- (g) To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses; and

(h) To attach the Minutes and marked exhibits to the case record before the pre-trial proper. The parties or their counsel must submit to the branch clerk of court the names, addresses and contact numbers of the affiants.

Section 3. *Pre-trial duty of the judge.* - During the pre-trial, the court shall:

- (a) Place the parties and their counsels under oath;
- (b) Adopt the minutes of the preliminary conference as part of the pre-trial proceedings, confirm markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents, and list object and testimonial evidence;
- (c) Scrutinize the information and the statements in the affidavits and other documents which form part of the record of the preliminary investigation together with other documents identified and marked as exhibits to determine further admissions of facts as to:
 - i. The court's territorial jurisdiction relative to the offense(s) charged;
 - ii. Qualification of expert witnesses; and
 - iii. Amount of damages;
- (d) Define factual and legal issues;
- (e) Ask parties to agree on the specific trial dates and adhere to the flow chart determined by the court which shall contain the time frames for the different stages of the proceeding up to promulgation of decision;
- (f) Require the parties to submit to the branch clerk of court the names, addresses and contact numbers of witnesses that need to be summoned by subpoena; and
- (g) Consider modification of order of trial if the accused admits the charge but interposes a lawful defense.

Section 4. *Manner of questioning.* - All questions or statements must be directed to the court.

Section 5. *Agreements or admissions.* - All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel; otherwise, they cannot be used against the accused. The agreements covering the matters referred to in Section 1, Rule 118 of the Rules of Court shall be approved by the court.

Section 6. *Record of proceedings.* - All proceedings during the pre-trial shall be recorded, the transcripts prepared and the minutes signed by the parties or their counsels.

Section 7. *Pre-trial order.* - The court shall issue a pre-trial order within ten (10) days after the termination of the pre-trial, setting forth the actions taken during the pre-trial conference, the facts stipulated, the admissions made, evidence marked, the number of witnesses to be presented and the schedule of trial. The order shall bind the parties and control the course of action during the trial.

RULE 17

TRIAL

Section 1. *Continuous trial.* - The court shall endeavor to conduct continuous trial which shall not exceed three (3) months from the date of the issuance of the pre-trial order.

Section 2. *Affidavit in lieu of direct examination.* - Affidavit in lieu of direct examination shall be used, subject to cross-examination and the right to object to inadmissible portions of the affidavit.

Section 3. *Submission of memoranda.* - The court may require the parties to submit their respective memoranda and if possible, in electronic form, within a non-extendible period of thirty (30) days from the date the case is submitted for decision.

With or without any memoranda filed, the court shall have a period of sixty (60) days to decide the case counted from the last day of the 30-day period to file the memoranda.

Section 4. *Disposition period.* - The court shall dispose the case within a period of ten (10) months from the date of arraignment.

Section 5. *Pro bono lawyers.* - If the accused cannot afford the services of counsel or there is no available public attorney, the court shall require the Integrated Bar of the Philippines to provide pro bono lawyers for the accused.

RULE 18

SUBSIDIARY LIABILITY

Section 1. *Subsidiary liability.* - In case of conviction of the accused and subsidiary liability is allowed by law, the court may, by motion of the person entitled to recover under judgment, enforce such subsidiary liability against a person or corporation subsidiary liable under Article 102 and Article 103 of the Revised Penal Code.

RULE 19

STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION IN CRIMINAL CASES

Section 1. *Motion to dismiss.* - Upon the filing of an information in court and before arraignment, the accused may file a motion to dismiss on the ground that the criminal action is a SLAPP.

Section 2. *Summary hearing.* - The hearing on the defense of a SLAPP shall be summary in nature. The parties must submit all the available evidence in support of their respective positions. The party seeking the dismissal of the case must prove by substantial evidence that his acts for the enforcement of environmental law is a legitimate action for the protection, preservation and rehabilitation of the environment. The party filing the action assailed as a SLAPP shall prove by preponderance of evidence that the action is not a SLAPP.

Section 3. *Resolution.* - The court shall grant the motion if the accused establishes in the summary hearing that the criminal case has been filed with intent to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.

If the court denies the motion, the court shall immediately proceed with the arraignment of the accused.

PART V

EVIDENCE

RULE 20

PRECAUTIONARY PRINCIPLE

Section 1. *Applicability.* - When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect, the court shall apply the precautionary principle in resolving the case before it.

The constitutional right of the people to a balanced and healthful ecology shall be given the benefit of the doubt.

Section 2. *Standards for application.* - In applying the precautionary principle, the following factors, among others, may be considered: (1) threats to human life or health; (2) inequity to present or future generations; or (3) prejudice to the environment without legal consideration of the environmental rights of those affected.

RULE 21

DOCUMENTARY EVIDENCE

Section 1. *Photographic, video and similar evidence.* - Photographs, videos and similar evidence of events, acts, transactions of wildlife, wildlife by-products or derivatives, forest products or mineral resources subject of a case shall be admissible when authenticated by the person who took the same, by some other person present when said evidence was taken, or by any other person competent to testify on the accuracy thereof.

Section 2. *Entries in official records.* - Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in performance of a duty specially enjoined by law, are prima facie evidence of the facts therein stated.

RULE 22

FINAL PROVISIONS

Section 1. *Effectivity.* - These Rules shall take effect within fifteen (15) days following publication once in a newspaper of general circulation.

Section 2. *Application of the Rules of Court.* - The Rules of Court shall apply in a suppletory manner, except as otherwise provided herein.

