



SUBIC BAY METROPOLITAN AUTHORITY
OFFICE OF THE CORPORATE SECRETARY

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**Certification No. 08-634
Series of 2008**

MEMORANDUM

Subject : **PROPOSED REGULATORY FINES AND PENALTIES**

This certifies that:

The records of the Office of the Corporate Secretary show that during the One Hundred Thirteenth (113th) Meeting of the Board of Directors of the Subic Bay Metropolitan Authority held last 18 September 2008 wherein there was a quorum to validly transact business, the following resolution was approved:

Resolution No. 08-09-2605

"Resolve, as it is hereby resolved, that upon recommendation of Management and without prejudice to COA Regulations and pertinent laws on the matter, the Board hereby approves the proposed Regulatory Fines and Penalties, a copy of which is incorporated herein by way of reference."

Issued this 7th day of October 2008.


RUBEN O. FRUTO
Corporate Secretary

REGULATORY FINES AND PENALTIES

I. ECOLOGY CENTER

A. Environmental Regulations/Standards

(Violations of environmental standards and corresponding fines and penalties are in consonance with the DENR's Procedural Manual for the EIS System)

A.1 Nature of Violations

Minor Violations

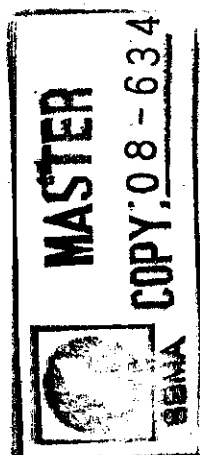
1. Non-submission or delay in submission of reports/requirements.
2. Transfer of ownership of the project/ECC without prior approval from Ecology Center
3. Delay or failure to initiate formation or implementation of ECC conditions which do not have significant impacts on the environment (e.g. EU, MMT, EMF, EGF, etc.).
4. Non-compliance with other administrative conditions in the ECC.
5. Non-compliance with administrative and technical procedural guidelines of the EIS system.
6. Other offenses deemed "minor".

Major Violations

1. Projects established and/or operating without an ECC.
2. Non-implementation of substantive conditions in the ECC on the EMP and EMoP and other related substantive commitments in the EIA Report, including modifications during EIA Report Review.
3. Exceedance of project limits or area.
4. Significant addition of project component or product without prior EC approval.
5. Major change in project process or technology resulting in unmitigated significant impacts not addressed by approved EMP.
6. Other offenses deemed "major", such as:
 - a) Refusal of entry for Ecology Department inspectors to assess compliance, non-compliance or violators.
 - b) Falsification of self-monitoring reports to mislead the Ecology Department in assessing compliance.
 - c) Activity which pose danger or damage to the environment
 - d) Acts tending to increase potential exposure to hazardous wastes and toxic chemical substances
 - e) Chronic and recalcitrant violations

A.2 Schedule of Fines and Penalties

| Criteria | Penalty (PhP) | |
|---|--|---|
| | 1 st offense | 2 nd offense |
| Minor Violations | 10,000 | <i>(recurring minor violation is considered as major violation)</i> |
| Major Violations | 25,000 | 50,000 plus ECC suspension with option to cease if deemed necessary |
| Violations of relevant environmental laws, rules and guidelines | As provided in the existing laws, rules and guidelines | |



A.3 Schedule of Penalty Reduction in case of "Projects established and/or operating without an ECC"

| Criteria | Percent Reduction in Penalty (%) | Equivalent Amount to be Deducted (PhP) |
|---|----------------------------------|--|
| 1. Timing of ECC Application | | |
| Proponent applied for ECC before issuance of NOV | 25 | 12,500 |
| 2. Percentage Project completion | | |
| Project is 25% complete | 10 | 5,000 |
| Project is > 25% but < 50% complete | 5 | 2,500 |
| Project is > 50% complete | 0 | 0 |
| 3. Project Cost | | |
| Project < 5.0 M | 20 | 10,000 |
| Project > 5.0 M | 10 | 5,000 |
| 4. Project Impact on the Environment | | |
| Project does not cause adverse environmental impacts | 25 | 12,500 |
| Note: <i>A maximum of 80% reduction in penalty can only be imposed provided the proponent meets all of the above criteria</i> | | |

B. Occupational Health & Safety Regulations/Standards

B.1 Nature of Violations

(Based on the provisions of the Code on Sanitation of the Philippines of the Dept. of Health and the Occupational and Health Standards of the Dept. of Labor and Employment)

Minor Violations

1. All other violations/non-compliance under the Occupational Safety and Health Standards and Code on Sanitation of the Phil. not classified as "major".

Major Violations

1. Violations classified as major under the Occupational Safety and Health Standards and Code on Sanitation of the Phil.
2. Violations or non-compliance which endanger life or property.
3. Failure to secure sanitary clearance (for food service providers).
4. Failure to undertake initial physical examination of employees (for all establishments).
5. Uncorrected minor violations.

B.1 Schedule of Fines and Penalties

| Criteria | Penalty (PhP) |
|-------------------------|--|
| Minor Violations | <ul style="list-style-type: none"> • All minor violations shall be penalized in the amount not to exceed PhP 5,000. |
| Major Violations | <ul style="list-style-type: none"> • All minor violations shall be penalized in the amount not to exceed PhP 10,000. • Recommend cancellation of CRTE/PTO for failure to correct major violations within a given time. |

II. BUILDING PERMIT & SAFETY DEPARTMENT - REGULATORY GROUP

Minor Violations

- a. Failure to post Certificate of Occupancy / Use / Operation
- b. Failure to post Building Permit Construction information sign

Major Violations

- a. Unauthorized changes, modifications, alterations during construction in the plans and specifications submitted to SBMA for which it had issued building permits
- b. Unauthorized changes in the type of construction from "more fire resistive" to "less fire-resistive"
- c. Failure to provide or install appropriate safety measures for the protection of workers, inspectors, visitors, immediate neighbors and pedestrians
- d. Non-compliance with order to abate or demolish
- e. Construction without an approved building permit
- f. Use or occupancy of building / structure without appropriate Certificate of Occupancy / Use / Operation
- g. Change in the existing use or occupancy without Certificate of change of Occupancy / Use / Operation
- h. Excavations left open without any work being done at the site for more than one hundred twenty (120) days

Schedule of Fines and Penalties

| Type of Violation | Notice | | |
|--------------------------|---------|--|--|
| | 1st | 2nd | 3 rd |
| Major Violation (a to h) | Warning | P50,000 Fine; and suspension or cancellation of CRTE / PTO | |
| Minor Violation (a to b) | Warning | P35,000 Fine; | P50,000 Fine; and suspension or cancellation of CRTE / PTO - Suspension of housing privileges and legal action |

Note:

* - upgraded from minor violation

Other Penalties and Surcharges

1. Construction, installing, repairing, alteration or causing any change in the occupancy / use of any building / structure or part thereof or appurtenances thereto without any permit; surcharge of 100% of building fees; Provided that, when work in building / structure is started pending issuance of Building Permit, surcharge shall be as follows:

| | |
|--|------------------------------|
| o Excavation for Foundation | 10% of building permit fees |
| o Construction of foundation (including pile driving and Laying of reinforcing bars) | 25% of building permit fees |
| o Construction of superstructure up to 2.00 m. above established Grade | 50% of building permit fees |
| o Construction of superstructure above 2.00 m. | 100% of building permit fees |

2. Failure to pay annual inspection fee within thirty (30) days from prescribed date, surcharge of 25% of the inspection fees:

FIRE SAFETY AND PROTECTION (Major Violations)

| | | |
|----------|--|----------|
| A | Failure to provide safety measures for the manufacture, storage, handling and / or use of the following hazardous material: | |
| | Cellulose nitrate plastic of any kind | 500.00 |
| | Combustible fibers | 500.00 |
| | Cellular materials such as foam rubber, sponge rubber and plastic foam | 500.00 |
| | Flammable and combustible liquids or gases or any classification | 2,500.00 |
| | High piled or widely spread combustible stock | 500.00 |
| | Metallic Magnesium in any form | 500.00 |
| | Corrosive liquids, oxidizing materials, organic peroxide, nitro methane, ammonium nitrate, or any amount of highly toxic pyrophoric, hypergolic or cryogenic materials or poisonous gases as well as material compounds which when exposed to heat of flame become a fire conductor or generate excessive smoke or toxic gases | 500.00 |
| | Blasting agents, explosives and special industrial explosive materials, blasting caps, black powder, dynamite, nitro-cellulose, fulminates of any kind and plastic explosives containing ammonium salt or chlorate (storage materials) | 2,500.00 |
| | Liquid Nitroglycerine and liquid trinitrotoluene | 2,500.00 |
| | Fire works materials of any kind or form | 2,500.00 |
| | Matches in commercial quantities more than 60 match man's gross | 500.00 |
| | Hot ashes, live coals and embers | 500.00 |
| | Mineral, vegetable and animal oils and other derivative by products | 500.00 |
| | Recycling of combustible waste materials | 500.00 |
| | Explosives dusts and vapors (during operation stage-refueling) | 5,000.00 |
| | Agricultural forest, marine or mineral products which may undergo spontaneous combustion | 500.00 |

| | | |
|----------|--|----------|
| B | Failure to provide safety measures for the following hazardous operations / procedures: | |
| | Welding or soldering | 2,500.00 |
| | Industrial / commercial baking and drying | 5,000.00 |
| | Disposal of combustible waste materials | 5,000.00 |
| | Pressurized / forced-draft burning equipment | 5,000.00 |
| | Smelting and forging | 5,000.00 |
| | Motion picture projection using electrical arc lamp | 500.00 |
| | Refining, distillation and solvent extraction of flammable / combustible liquids | 5,000.00 |

| | | |
|----------|--|-----------|
| C | Failure to provide the following safety on construction and protective warning systems: | |
| | Termination of all exits in an area affording safe passage to a public way or safe disposal area | 10,000.00 |
| | Obstructing designated fire lanes or access to fire hydrants | 5,000.00 |
| | Overcrowding or admission of person beyond the authorized capacity in movie houses, theaters, coliseum, auditorium or other public assembly buildings, except in other assembly areas on the ground floor with open sides or open doors sufficient to provide safe exits | 15,000.00 |
| | Locking fire exits during periods when people are inside the | 15,000.00 |

| | | |
|--|---|-----------|
| | safe exits | |
| | Locking fire exits during periods when people are inside the building | 15,000.00 |
| | Prevention or obstruction of the automatic closure of fire doors or smoke partitions or dampers | 5,000.00 |
| | Use of fire protective or fire fighting equipment of the Fire Department other than for fire fighting except in other emergencies where their use are justified | 5,000.00 |
| | Giving false or malicious fire alarm | 5,000.00 |
| | Smoking in prohibited areas as may be determined by the Fire Department or throwing of cigars, cigarettes, or burning objects in places which may start or cause fires | 5,000.00 |
| | Abandoning or leaving a building or structure by the occupant or owner without appropriate measures | 5,000.00 |
| | Removing, destroying, tampering or obliterating any authorized mark, seal, sign or tag posted or required by the Fire Department for fire safety in any building, structure or processing equipment | 5,000.00 |
| | Use of jumpers or tampering with electrical wiring or overloading the electrical system beyond its designated capacity or such other practices that would tend to undermine the fire safety features of the electrical system | 5,000.00 |
| | Failure to submit copy of fire insurance policy within the prescribed time limit | 5,000.00 |

III. ACCREDITATION OFFICE

A. Scope of Violations

1. Non-compliance to accreditation requirement of SBMA Departments concerned.

B. System of Fines and Penalties

1. Minor Violations

| Service | Existing Fines | Proposed Fines |
|---|----------------|---------------------|
| 1. Late renewal of Accreditation | - | USD 25.00/quarter |
| 2. Non-posting/display of Accreditation Permit in a conspicuous place in the premises | - | USD 10.00/violation |
| 3. Non-posting/ display of Sanitary Clearance in a conspicuous place in the premises | - | USD 10.00/violation |
| 4. Setting up of tables/chairs/ benches from designated allowable area | - | USD 5.00/violation |
| 5. Failure to wear Accreditation ID's within the SBFZ | - | USD 5.00/violation |
| 6. Failure to wear prescribed uniform within SBFZ | - | USD 5.00/violation |

2. Major Violations

| Service | Existing Fines | Proposed Fines |
|---|----------------|---|
| 1. Operating without Accreditation <i>First violation</i> <i>Second violation</i> | - | <ul style="list-style-type: none"> • Twice the accreditation fee • Blacklisting form doing business within SBFZ |
| 2. Peddling or selling or displaying of goods outside their designated area <i>First violation</i> <i>Second violation</i> | - | PhP 1,000.00 PhP 2,000.00 |
| 3. Any fraudulent act/misrepresentation in the submission of documents | - | Cancellation of Accreditation & banned from doing business in SBFZ |
| 4. Fraudulence/misrepresentation in the conduct of business within the SBFZ | - | Cancellation of Accreditation & banned from doing business in SBFZ |
| 5. Hiring or employment by SBF-registered companies of non-accredited entities <i>First violation</i> <i>Second violation</i> | - - | PhP 2,000.00 Cancellation of CRTE/Accreditation |

IV. VISA PROCESSING OFFICE

A. Nature of Violations

Minor Violations

1. Late Renewal of SSWV
2. Failure to downgrade Visa
3. Late submission of Annual Report (SSIV holders)

| Minor Violations | Existing Fines | Proposed Fines | |
|--|----------------|--|--|
| 1. Late renewal of SSWV | USD 0 | <ul style="list-style-type: none"> • USD 50.00 plus USD 2.00 daily until date of compliance • USD 50.00 plus USD 2.00 daily until date of compliance | Responsible: Expat Responsible: Sponsor Co. |
| 2. Failure to downgrade | USD 0 | USD 5.00 | Responsible: Expat |
| 3. Late Submission of Annual Report (SSIV) holders | USD 0 | USD 50.00 plus USD 2.00 daily until date of compliance | Responsible: Expat |

Major Violations

1. Undocumented illegal Worker
2. Working with company other than sponsor company
3. SSWV/SSIV Holder working outside FPZ
4. Undocumented Foreign National

| Major Violation | Existing Fines | Proposed Fines | |
|--|----------------|----------------|------------------------------|
| 1. Undocumented illegal Worker | USD 0 | USD 500.00 | Responsible: Expat & Sponsor |
| 2. Working with company other than sponsor company | USD 0 | USD 500.00 | Responsible: Expat |
| 3. SSWV/SSIV Holder working outside FPZ | USD 0 | USD 500.00 | Responsible: Expat |
| 4. Undocumented Foreign National | USD 0 | USD 200.00 | Responsible: Expat |

III. ACCREDITATION OFFICE

A. System of Fines and Penalties

1. Minor Violations

| Items | Proposed Fines | Remarks |
|---|----------------|---------------|
| 1. Late renewal of Accreditation | USD 25.00 | Quarterly |
| 2. Non-posting/display of Accreditation Permit in a conspicuous place in the premises | USD 10.00 | Per violation |
| 3. Non-posting/ display of Sanitary Clearance in a conspicuous place in the premises | USD 10.00 | Per violation |
| 4. Setting up of tables/chairs/ benches from designated allowable area | USD 5.00 | Per violation |
| 5. Failure to wear Accreditation ID's within the SBFZ | USD 5.00 | Per violation |
| 6. Failure to wear prescribed uniform within SBFZ | USD 5.00 | Per violation |

2. Major Violations

| Items | Proposed Fines/Penalty | Remarks |
|---|--|--|
| 1. Operating without Accreditation First violation Second violation | USD 400.00 - | Advise to apply for accreditation Blacklisted form doing business within SBFZ |
| 2. Peddling or selling or displaying of goods outside their designated area First violation Second violation | USD 25.00 USD 50.00 | |
| 3. Any fraudulent act/misrepresentation in the submission of documents | Cancellation of Accreditation & banned from doing business in SBFZ | |
| 4. Fraudulence/misrepresentation in the conduct of business within the SBFZ | Cancellation of Accreditation & banned from doing business in SBFZ | |
| 5. Hiring or employment by SBF-registered companies of non-accredited entities First violation Second violation | USD 445.00 USD 400.00 Cancellation of CRTE or Certificate of Accreditation | For the one hiring For the one hired |

IV. VISA PROCESSING OFFICE

A. System of Fines and Penalties

1. Minor Violations

| Items | Fines | Remarks |
|--|--|--|
| 1. Late renewal of SSWV | <ul style="list-style-type: none"> • USD 50.00 plus USD 2.00 daily until date of compliance • USD 50.00 plus USD 2.00 daily until date of compliance | Responsible: Expat Responsible: Sponsor Co. |
| 2. Failure to downgrade | USD 5.00 | Responsible: Expat |
| 3. Late Submission of Annual Report (SSIV) holders | USD 50.00 plus USD 2.00 daily until date of compliance | Responsible: Expat |

2. Major Violations

| Items | Fines | Remarks |
|--|--------------|-------------------------------------|
| 1. Undocumented Illegal Worker | USD 1,000.00 | Responsible: Expat & Sponsor (each) |
| 2. Working with company other than sponsor company | USD 500.00 | Responsible: Expat |
| 3. SSWV/SSIV Holder working outside FPZ | USD 500.00 | Responsible: Expat |
| 4. Undocumented Foreign National | USD 200.00 | Responsible: Expat |