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Memorandum Circular No. 011  
Series of 2003

**SCOPE OF COMPLIANCE MONITORING  
FOR INDUSTRIAL CHEMICALS AND TOXIC SUBSTANCE UNDER TITLE  
II OF REPUBLIC ACT 6969**

**I. INTRODUCTION AND BACKGROUND**

The Environmental Management Bureau (EMB) of the Department of Environment and Natural Resources (DENR) is entrusted to provide the necessary framework for proper environmental management and protection. The DENR-EMB's strategies for effective have evolved from command and control to utilization of market-based instruments and partnerships. However, enforcement of the environmental rules and regulations needs to strengthen the compliance monitoring aspects. Monitoring plays an important role in sound sustainable environmental management and protection. The EMB-DENR aims to monitor and validate the compliance of industry with the stipulations and conditions indicated in the permit/clearances granted under P.D. 984 (Pollution Control Law), P.D. 1586 (Environmental Impact Assessment System) and R.A. 6969 (Toxic Substances, Hazardous and Nuclear Wastes Control Act), R.A. 8749 (Philippine Clear Air Act) and R.A. 9003 (Ecological Solid Waste Management Act).

Under Republic Act 6969, compliance monitoring involves conduct of regulatory inspection of the facilities and their premises which may have potential adverse effects/substantial threats to human health and the environment. It covers the major components of regulating the requirements for managing chemicals in four (4) stages of the chemical life cycle,

- ☐ Importation
- ☐ Distribution
- ☐ Manufacturing/use
- ☐ Disposal

This Circular is consists of a checklist of items to validate compliance with Title II of RA 6969. The inspector may request additional information, if deemed needed for his report.

## **II. OBJECTIVES**

This Memorandum Circular aims to:

- 1) Establish a standard operating procedure for compliance monitoring particularly, in the verification and assessment of violations under Pre-Manufacturing and Pre-Importation Notification (PMPIN) and Priority Chemicals List (PCL) requirements and Chemical Control Orders (CCO).
- 2) Strengthen the working relationship and collaboration among EMB, industrial and other related sectors in importation and manufacturing and other concerned government agencies to implement requirements of managing chemicals under Title II of Implementing Rules and Regulations of R.A. 6969.

## **III. SCOPE AND COVERAGE**

This Memorandum Circular shall apply to the procedures undertaken by both the DENR and the concerned industries including but not limited to importers/exporters; distributors; dealers/retailers; manufacturers and end users covered by RA 6969 Title II of DENR Administrative Order # 29, Series of 1992.

## **IV. BASIC REQUIREMENTS**

In general, compliance monitoring shall consist of review of records, site visitation, collection of samples, observation of the facility operations, determination of conformance and non-conformance with cited conditions and conduct of technical conferences to compel compliance with applicable provisions of RA 6969 and DENR Administrative Order No. 29.

For purposes of establishing systematic and efficient compliance monitoring, the following rules shall be adopted:

### **1) Frequency of Monitoring**

Compliance monitoring shall be done in a random on-the-spot visits to be conducted per industry at least once a year for each industrial facility.

### **2) Cost**

This shall cover travelling expenses (daily subsistence allowance, transportation cost) and supplies and materials for photo documentation, sampling, reagents for analysis of sample and report preparation.

### 3) Supplies and Equipment

The EMB Central Office or the Regional Offices shall provide the necessary supplies and equipment necessary for monitoring such as sampling/test kits, recorder, notebook, among others. On the other hand, the industrial facility shall provide appropriate personal protective equipment (PPE) such as protective clothing, air masks, hard hats, safety shoes, hand gloves for the Monitoring Team to minimize hazards posed by chemicals exposure.

### 4) Staff Involved

EMB Central Office and its Regional Offices staff shall be responsible for documentation of monitoring procedures, agreements reached during technical conference, and validation with the conditions/requirements of the clearance(s) and permit(s).

## VI SPECIFIC REQUIREMENTS FOR COMPLIANCE MONITORING

In the conduct of monitoring, the Monitoring Team shall check and assess the industry/company's extent of compliance. The Team shall be guided by the following checklists pursuant to DAO 29, Series of 1992:

### 1. UNDER CHEMICAL CONTROL ORDERS (CCO)

#### a. Cyanide and Mercury

- Labeling Requirements

- ☐ Name of Consignee and address
- ☐ Clear tags/labels of the name of chemical
- ☐ Warning signs as precautionary measures
- ☐ Exposure controls/limits as indicated in the Material Safety Data Sheet (MSDS)
- ☐ Toxicological information
- ☐ Permit number with date purchased/expiration date
- ☐ Country of Origin
- ☐ Copy of MSDS

- Handling Requirements

- ☐ Emergency response and first aid measures for discarded materials generated as a result of handling.  
Specific volume \_\_\_\_\_



- ☐ Appropriate facilities and equipment are available for the handling and transfer of chemicals.
- ☐ Number of transport van.

- Storage Requirements

- ☐ Emergency or contingency plan
  - ☐ Storage of chemicals in its designated area
  - ☐ Marked or delineated clearly by fencing, posts or walls
  - ☐ Secured places
  - ☐ Record of storage/withdrawals of chemicals: date, volume and authorized person. Remarks for any observation
- 

- ☐ Good condition of containment facility
- ☐ Visible warning signs and notices
- ☐ Fire fighting facilities
- ☐ Emergency showers and eyewash units
- ☐ Adequate roofs and walls

- Reporting and Records Keeping

- ☐ Records of all transactions of the issued Importation Clearances (IC)
- ☐ Record of purchases/sale
- ☐ Record of disposal
- ☐ Copies of Quarterly Reports
- ☐ Importation Clearance/Bill of Lading

- Chemical Management Plan

- ☐ Uses of Mercury/cyanide at the premises according to the submitted report
- ☐ Volume of consumption per annum
- ☐ Mass balance of chemical (toxic substances)
- ☐ Pollution prevention program
- ☐ Waste minimization program
- ☐ Number and types of personnel training program conducted/  
Number of personnel trained \_\_\_\_\_
- ☐ Types \_\_\_\_\_ of \_\_\_\_\_ training \_\_\_\_\_ program
- ☐ Emergency or contingency plan including name of emergency coordinator
- ☐ Stocking control \_\_\_\_\_

## b. Ozone Depleting Substances

- Proof of importers/manufacturers' registration
- Accreditation of dealers, retailers and service providers
  - ☐ Registered dealers/retailers/service providers
  - ☐ Appropriate facilities or equipment and technology
- Reporting and Records Keeping
  - ☐ Records of all transactions of the issued Importation Clearances
  - ☐ Inventory of chemicals
  - ☐ Records of inventory of ODS or alternative chemical substances.
  - ☐ Service
  - ☐ Manufacturer of new equipment
  - ☐ No use of CFC 11 and CFC 12 for new equipment and/or products only in servicing.
  - ☐ No ODS use for manufacture in whatever quantity, either alone or in mixtures
  - ☐ Phase-out plan
  - ☐ Copies of Quarterly Reports
  - ☐ Importation Clearance/Bill of Lading
- Insurance Coverage/Policy
  - ☐ Name of Insurance
  - ☐ Coverage
  - ☐ Cost
  - ☐ Date of issuance and inquiry

## C Asbestos

- Labeling Requirements
  - ☐ Visible signs on all packaging of asbestos and asbestos containing products stating name, type of asbestos and its supplier.

- Handling Requirements

- ☐ Reports and records of friable asbestos containing wastes that are stored and disposed on-site, transported off-site, treated, stored and disposed off-site.
- ☐ Proper disposal of friable asbestos containing wastes, containers and materials as a result of handling of asbestos.

- Manufacturing Requirements

- ☐ Manufacturing of only the allowable asbestos products as stated in Section VI, item # 3 of DENR Administrative Order 2000-2, Series of 2000.
- ☐ Adequate work practices and housekeeping program.
- ☐ Presence of dust control and other preventive measures
- ☐ Appropriate respiratory protective equipment used by workers who are exposed at the manufacturing operations.
- ☐ Air monitoring in the area must be within the Permissible Exposure Limit (PEL) of 2 fibers per cubic centimeter of air on an eight-hour time weighted average.

- Storage Requirements

- ☐ Proper housekeeping practices of storage facilities.
- ☐ Absence of fiber releases within the area.
- ☐ Proper containment through the use of heavy duty polyethylene bags about 0.2 mm thick and/or its acceptable alternatives.

- Disposal Requirements

- ☐ Appropriate special waste disposal site for all the generated friable asbestos and friable asbestos containing wastes.
- ☐ Adequate covering with at least 15 centimeters of compacted non-asbestos-containing material.
- ☐ Use of dust suppression agent to control emissions from wind erosion.

- Compliance to other Environmental Permitting Requirements
  - ☐ Environmental Compliance Certificate as per P.D. P.D. 1586
  - ☐ Permits to Operate as per P.D. 984.
- Reporting and Record Keeping
  - ☐ Importation Clearance
  - ☐ Bill of Lading
  - ☐ Annual Report

## 2. UNDER PRE-MANUFACTURING AND PRE-IMPORTATION NOTIFICATION (PMPIN)

- ☐ PMPIN Compliance Number
- ☐ Inventory of chemicals used in the premise
- ☐ Copy of report of 1<sup>st</sup> one (1) year of importation, use of chemicals and Notice of Commencement
- ☐ Compliance with Material Safety Data Sheet (MSDS)
- ☐ Compliance with conditions of new chemical in accordance to the submitted document under the PMPIN process.
- ☐ Compliance with terms and conditions under the Importation Clearance for new chemicals issued with Interim Status Permit (ISP)

## 3. UNDER PRIORITY CHEMICALS

- ☐ Registration as Hazardous Waste Generators  
DENR I.D. No. \_\_\_\_\_
- ☐ Copy/Date of submitted Biennial Reports

## VI. STANDARD OPERATING PROCEDURES FOR COMPLIANCE MONITORING

The EMB Central Office and/or the Regional Offices (ROs) shall monitor the handling, transport, storage, use, processing and disposal of chemicals as stated in Sections 7 and 8, Chapter II of the Implementing Rules and Regulations of Republic Act. 6969. All concerned importers, manufacturers, users of controlled chemicals, among others are required to register and secure the necessary permits and clearances. Annex A lists the various clearances and permits required. The following Standard Operating Procedures for compliance monitoring shall be followed:



- 1) Assessment of compliance to Title II and post conditions and identification of possible violations.

Absence of the aforesaid permits/clearances and non-compliance with the terms and conditions of the given permits/clearances (Section V) are considered violations of the said regulations which are generally categorized into administrative and technical, and are as follows:

A. Administrative Violations

- a. Failure to secure clearances/permits.
- b. Failure to comply with post requirements and conditions
- c. Failure to allow government inspectors to enter industry's premises
- d. Failure to comply with administrative or judicial orders
- e. Provision of false information
- f. Use of chemicals not in PICCs or without PMPIN compliance.

B. Criminal Violations

- a. Illegal use of chemicals subject under the Chemical Control Orders (CCO).
- b. Improper use, handling, transport, treatment and disposal of chemicals
- c. Improper storage facilities for chemicals
- d. Mislabeling or failure to undertake proper labeling

- 2) Verification and Confirmation of Offense

Verification and confirmation of offense shall be done through table monitoring and through on-site inspection to assess the quality, sufficiency and completeness of documentary submissions.

- 3) Notice of Violation (NOV)

If there is a valid ground for issuance of Notice of Violation (NOV), EMB-C.O. and ROs should notify the company regarding the specific violations being committed through a warning letter which constitutes a NOV.

The Notice of Violation shall contain the following information (sample attached):

- a. Citation and explanation of the violation,
- b. Deadline for achieving full compliance.



- c. Statement indicating that continued non-compliance beyond deadline would generally result in penalties.

4) Technical Conference/Meeting

The EMB and/or ROs through the Environmental Quality Division (EQD), shall call for a technical conference, if necessary to evaluate the company's explanation and justification on the violation(s) indicated in the NOV. The firm/person shall make a written commitment to undertake measures or rectify any violation within a reasonable timeframe as decided upon by this Office.

5) On-site Inspection and Validation

On-site inspection of the violations and/or the alleged corresponding rectification shall be done for verification purposes. Annex B is a checklist for site inspection specifically, for facility and storage practices.

6) Legal Action

A formal investigation shall be conducted when the company fails to comply with its commitments made during the technical conference. The Legal Office shall take cognizance of the case after the endorsement of the technical offices (either EMB and ROs EQD-Chemicals). Thereupon, the Legal Office undertakes motions for the resolution of the case.

7) Order

The EMB Director and/or Regional Director shall approve and sign the Order or Resolution upon the recommendation of the Legal Office after completing the procedures from 1 to 6.

## **VII. COMPLAINTS AND ACCIDENTAL SPILL/LEAK OR IN EMERGENCY CASES**

### **1. COMPLAINTS**

Cases of pollution arising from spillage or leak of toxic substances affecting the water bodies/water system (PD 984), air (RA 8749) and land (RA 9003) shall be decided upon by the Pollution Adjudication Board (PAB). Administrative sanctions as stated in Section 8 hereof should be imposed by the DENR. Criminal charges should be filed with the proper court.

## **2. ACTIONS FOR ACCIDENTAL SPILL/LEAK OR IN EMERGENCY CASES**

All importers, manufacturers and users of toxic chemicals and chemical substances shall provide immediate and appropriate response to emergency cases. These responses are measures and provisions to secure the scene of the accident i.e clearly marking the area, and preventing unauthorized access; treatment, recovery, detoxification of the spillages; decontamination and responsible packaging disposal. The details of which are summarized in their submitted Environmental Management Plan (EMP). Reports should be provided to EMB or concerned Regional Offices.

## **VIII. SANCTIONS AND PENALTIES**

All person(s) (natural or juridical) found violating the agreements and conditions of the permits and clearances shall be responsible for violations and subject to administrative and criminal sanctions as specified under Sections 41, 42 and 43 of DAO 29, Series of 1992. The following administrative sanctions may be imposed:

- 1) Clean-up of the affected areas and imposition of fines
- 2) Revocation and suspension of the permits and clearances.
- 3) Prohibiting a company from future contracts/dealings.

## **IX. REPEALING CLAUSE**

All Orders inconsistent with this guideline are hereby modified and amended.

## **X. EFFECTIVITY**

This Memorandum Circular shall take effect immediately.

  
**JULIAN D. AMADOR**  
Director

EMB issues the permits and clearances prior to importation and manufacturing with corresponding conditions. Monitoring of compliance depends therefore on the following type and conditions of permits and clearances being issued:

1) •PMPIN Compliance Certificate

Importers and manufacturers of new chemicals shall apply for the Pre-Manufacture and Pre-Importation Notification (PMPIN). Concerned industries are required to notify new chemicals prior to importation and manufacture. The review and processing period of new chemicals under the PMPIN process is within 90 to 180 days upon submission to EMB.

2) Interim Status Permit (ISP)

The EMB shall issue an Interim Status Permit (ISP) pending the final decision to be made by the Chemical Review Committee (CRC) on the PMPIN notification. Justification on the immediate need of the chemical and the volume required may be requested by the EMB.

3) Small Quantity Importation Clearance

EMB issues a permit for small quantity importation clearance for a new chemical imported or manufactured in less than 1,000 kilograms per year for review under the PMPIN process in solely for purposes of scientific representation and analysis of such substance or another substance for the development of a product.

4) Registration Certificate (RC)

Importers, distributors, manufacturers, transporters and users of chemicals under Chemical Control Order (CCO) are required to register for their importation, distribution, use and transport. Quarterly reports for cyanide, mercury, ozone depleting substances) and an annual report for asbestos shall be submitted regularly to EMB.

5) Importation Clearance (IC)

Chemicals under Chemical Control Order (CCO), namely, cyanide, mercury, asbestos, and ozone depleting substances are issued Importation Clearance (IC) for shipment of chemicals. IC is effective for six (6) months to one (1) year upon issuance.



## CHECKLIST FOR SITE INSPECTION

## A. FACILITY

1. Obtain a copy of the physical layout of the facility if necessary and available.
2. Is the Company Representative familiar with provisions under RA 6969 specifically, Title II (Chemical Management)? Yes \_\_\_ No \_\_\_
3. Is the Company Representative familiar with Material Safety Data Sheets (MSDS) Yes \_\_\_ No \_\_\_
4. Do the workers at the facility receive any environmental training in:
  - Spill response and control? Yes \_\_\_ No \_\_\_
  - Emergency Response? Yes \_\_\_ No \_\_\_
  - Release to toxic chemicals? Yes \_\_\_ No \_\_\_
  - Use and acceptable storage, handling and disposal methods for chemicals and other hazardous materials. Yes \_\_\_ No \_\_\_
  - Safety management/practices. Including use of Personal protective equipment (PPEs) and clothing? Yes \_\_\_ No \_\_\_
5. Is there evidence of past spillage? Yes \_\_\_ No \_\_\_
6. Does the facility have a contingency plan? Yes \_\_\_ No \_\_\_
 

If yes, does it include

  - Arrangements with local emergency response organizations? Yes \_\_\_ No \_\_\_
  - Emergency coordinators' name? Yes \_\_\_ No \_\_\_
  - List of all emergency equipment at facility and description of equipment? Yes \_\_\_ No \_\_\_
  - Evacuation plan for facility personnel? Yes \_\_\_ No \_\_\_
  - Specific commodity instructions for responding to spills and other incidents? Yes \_\_\_ No \_\_\_



- Provisions if the release migrates to the community?

Yes \_\_\_ No \_\_\_

7. Are emergency phone numbers posted or displayed prominently?

Yes \_\_\_ No \_\_\_

8. Does the facility have spill response materials available with which to respond to a spill?

Yes \_\_\_ No \_\_\_

9. Does the company have covered storage area that physically protects the chemicals being stored from all elements?

Yes \_\_\_ No \_\_\_

10. Is the storage are floor sealed or built of Non-porous material and designed to control spills?

Yes \_\_\_ No \_\_\_

11. Is the storage area beamed?

Yes \_\_\_ No \_\_\_

12. Is the facility equipped with portable fire extinguishers, fire control equipment, and spill control equipment?

Yes \_\_\_ No \_\_\_

If yes, are they situated for ready access and are The locations clearly marked?

Yes \_\_\_ No \_\_\_

13. Are all emergency exits designated to common spills?

Yes \_\_\_ No \_\_\_

Are they free from obstacles or obstructions?

Yes \_\_\_ No \_\_\_

14. Does the facility have any noticeable exposed Electrical wires, frayed cords or deteriorated insulation?

Yes \_\_\_ No \_\_\_

If yes, elaborate?

15. Is there evidence of the explosion or contamination to the environment?

Yes \_\_\_ No \_\_\_

If yes, explain.

16. Is the facility equipped with actual Personal Protective Equipment (PPE)

Yes \_\_\_ No \_\_\_

17. Is the facility has the necessary anti-pollution control device (APCD) for air and water?

Yes \_\_\_ No \_\_\_

18. Is there adequate receptacle/facility for generated solid wastes from manufacturing operations?

Yes \_\_\_ No \_\_\_

## B. STORAGE PRACTICES

1. Does the facility presently store chemicals/materials or other hazardous property? Yes \_\_\_ No \_\_\_
2. Are floors, aisles, and inside passageways kept clean And dry? Yes \_\_\_ No \_\_\_
3. Are any containers leaking, bulging, rusting or dented? Yes \_\_\_ No \_\_\_
4. Is the emergency coordinator familiar with the layout of the facility, properties or hazardous materials stored and/or handled and associated hazards, places where facility personnel would normally be working, entrances to roads inside facility, possible evacuation routs? Yes \_\_\_ No \_\_\_
5. Is hazardous materials being stored properly in a Physical and chemically compatible manner? Yes \_\_\_ No \_\_\_
6. Are all containers labeled as to their contents? Yes \_\_\_ No \_\_\_
7. Is stored material stable and secure against sliding or collapsing? Yes \_\_\_ No \_\_\_
8. Are flammable liquids stored in closed containers? Yes \_\_\_ No \_\_\_
9. Are storage rooms for hazardous materials ventilated? Yes \_\_\_ No \_\_\_
10. Are the storage areas for flammables clearly marked and posted as "No Smoking" areas and other warning signs? Yes \_\_\_ No \_\_\_
11. If the facility stores flammables and/or reactives, are the materials confined from sources of ignition or reaction (open flames, smoking, cutting and welding, hot surfaces, frictional heat), sparks, (static, electrical or mechanical), spontaneous ignition (heat producing chemical reactions), and radiant heat? Yes \_\_\_ No \_\_\_

## C. ADDITIONAL COMMENTS/RECOMMENDATIONS

(OPINION WHETHER THE FACILITY INSPECTED IS OR IS NOT ENVIRONMENTALLY RESPONSIBLE?)

## D. SIGNED BY THE INSPECTING TEAM

## E. NOTED BY THE IMMEDIATE SUPERVISOR/DIVISION HEAD/OR REGIONAL DIRECTOR: