

INSTITUTIONAL REFORMS FOR A MORE EFFECTIVE AIR QUALITY MANAGEMENT

I. INSTITUTIONAL MECHANISM (attached is a diagram of institutional mechanism)

Lead Agency -

For the purpose of implementing the Clean Air Act (CAA), the DENR's Environmental Management Bureau (EMB) has been transformed into a line bureau with offices established at the regional level. As a line bureau, the EMB is expected to be involved in the operational aspect of the Act. However, its structure, manpower and resources are still not sufficient to respond to the needs of the CAA's enforcement. The conversion of EMB from a staff to a line bureau was more of a palliative rather than a permanent solution owing to the fact that the move lacks the political and financial support from both the legislative and executive departments. Consequently, it only survives with a meager budget and very lean structure to satisfy not only the mandate of air quality management, but also the other concerns for water, waste, EIA and other environmental tasks.

There is therefore a need to create a more independent and self-sustaining agency that will serve as environmental watchdog to ensure compliance and enforcement of CAA and other environmental laws and regulations.

In the HOR, bills proposing the creation of a National Environment Management Authority (NEMA) are being considered. The NEMA is envisioned to have a corporate personality that can generate and manage its own funds. In a cash-strapped government, the budget necessary to effectively run an office should be sourced out of the operations of such office. The market-based instruments (MBIs) proceeds from the CAA, for one, shall accrue to the Air Quality Management Fund that will be used to finance containment and clean-up operations in air pollution cases to guarantee ecosystems restoration and rehabilitation. This and the other fees can make the NEMA run like a government corporation rather than be dependent on the national government for funding.

If, however, the NEMA would not be passed in the soonest time possible, the Pollution Adjudication Board (PAB) should instead be strengthened and decentralized to accommodate cases more efficiently and effectively. The very centralized set up of the PAB contributes to slow adjudication of environmental cases.

Department of Transportation and Communication (DOTC)

Until now, the DOTC has not maximized implementation for the authorization of the privatization of emission testing centers, which will be accredited by the BOI. Moreover, emission-testing centers are centralized in the LTO. The requirement to subject the vehicle to emission testing prior to renewal of registration has not been enforced, except in some public utility vehicles. There is a need to accredit testing centers and deputize more air emissions agents to apprehend smoke-belching vehicles.

Department of Energy (DOE)

The fuel specifications in the CAA are perceived by the oil companies and the DOE to be difficult to be produced by the local refineries and therefore may lead to a crisis in supply and eventually an increase in pump price of oil. As it is, the mandate of the DOE to ensure adequate fuel supply in the country, seemingly, the mandate to clean the fuels under the CAA is contrary to said mandate. Hence, there was an attempt to defer implementation of sec. 26 (re: gasoline specifications), which, through the efforts of some environmentalists and legislators, had been foiled.

Moreover, while it is the collaborative effort of DOE, DENR, Department of Science and Technology (DOST) and Bureau of Product Standard (BPS) of the Department of Trade and Industry (DTI) to set all fuel types including specifications, not one of these agencies have the capability nor the equipment to test the required specifications. The BPS is dependent on the equipment and reports of the oil companies. Thus, these reports are perceived to be self-serving for the regulated industry.

GOVERNING BOARDS-

Governing boards will be established as soon as air quality management areas or airsheds have been determined. However, owing to some technical and budgetary constraints to undertake ecoprofiling and other scientific studies, airsheds have not been designated until now. The governing boards would have been instrumental in carrying out the formulated action plan for each airshed.

Local Government Units (LGUs)

Under the CAA, the LGUs share the responsibility of managing and maintaining air quality within their territorial jurisdiction. However, the DENR is required to provide the LGUs with technical assistance, training and continuing capability-building to prepare them in undertaking full administration of air quality management and regulation. This has not yet materialized.

Furthermore, the CAA calls for the establishment of an Environment and Natural Resources Officer (ENRO) or any other officer for each LGU who is tasked to assist LGUs in the implementation of the CAA through: preparation of air quality management programs, giving technical assistance and recommendation to the board air quality standards.

Non-governmental organizations (NGOs)

Metro Manila is lucky to have vigilant and dynamic NGOs actively campaigning for clean air and other environmental issues. They help the government through their advocacy work and networking, making sure that programs are implemented and laws enforced. They keep government on its toes, too.

The institutionalization of *pro bono* legal assistance through the Integrated Bar of the Philippines (IBP) (c/o Atty Antonio Oposa) will hopefully encourage citizens to file suits

against violators and offenders of the CAA. If citizen suits are fully exercised, enforcement and compliance to the CAA would be enhanced. Both sources of pollution and government officials who do not do their duties or issue inconsistent orders, can be subjects of complaints.

JOINT CONGRESSIONAL OVERSIGHT COMMITTEE-

The joint Congressional Oversight Committee created to oversee the implementation of the CAA, has a significant role in ensuring that enforcement and compliance are consistent with the intent of the Act. The Committee is tasked to monitor how the concerned agencies implement the Act with the end view of suggesting short and long-term executive and legislative actions to attain the objectives of the Act.

II. RESOURCE REQUIREMENTS

EMB's budget has not been increased concomitant to the requirements of the CAA's implementation. The agency is dependent on future income from emission charges that will accrue to the Fund to be administered by the EMB. The CAA's full implementation calls for technological requirements, scientific studies and researches, all needing financial support.

Moreover, the necessary staff complement of the regional offices at the EMB and the secretariat staff of the governing board, once established, should have, at this time, been set up already. There is also a need to hire more lawyers to help citizens file suits.

Furthermore, there is a need to hire more personnel in the Land Transportation Office (LTO) and invite more volunteers for deputation as air emission agents.

While there are existing loan facilities under Land Bank of the Philippines (LBP) and Development Bank of the Philippines (DBP) for pollution control and cleaner production, these have not been optimally availed of by industries. Loans are available at low rates. Despite this, however, availment is not that much. Banks said, **enforcement**, among others, is not strong enough to drive industries put up the necessary anti pollution device, hence, they do not feel the need for funding at this time.

III. CAPABILITY-BUILDING

As discussed in the foregoing, a continuing capability program is necessary for all players. There is a need to upgrade knowledge and skills of those directly and indirectly involved in the implementation, monitoring and evaluation of the CAA at all levels.

There is also a need to expose industries and concerned agencies to advancement in science and technologies and their application to control pollution or waste minimization or cleaner production.

But it is really the enforcement capability of the concerned agencies that need to be given more attention and focus.