

Procedural Manual for DAO 2003-26

August 2003

Revised Industrial EcoWatch System



"EARTH'S FUTURE IN OUR HANDS" Dabu Adelina
International Internet Exhibition and Competition of Children's Environmental Art Works and Photographs



Environmental Management Bureau
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
Environmental Management Bureau
DENR Compound, Visayas Avenue, Diliman, Quezon City 1116

MEMORANDUM CIRCULAR NO. 2003 - 007
Series of 2003

FOR: All Regional Directors, EMB
All Division/Section Heads
All Concerned

FROM: The Director, EMB

SUBJECT: *Procedural Manual for DAO 2003-26*

In accordance with the provisions of Section 9 of DAO 2003-26 for a *revised Industrial EcoWatch System amending implementing guidelines of DAO 98-51, Series of 1998*, the attached **Procedural Manual for DAO 2003-26 (August 2003 Edition)** is hereby adopted.

All other memoranda, memorandum-circulars and other issuances which are inconsistent with the provisions of this Manual are hereby amended accordingly.

This Memorandum-Circular shall take effect immediately.

JULIAN D. AMADOR

FOREWORD

The Environmental Management Bureau (EMB) engaged the services of Resources, Environment and Economics Center, Inc. (REECS) to undertake the Strengthening Environmental Enforcement and Compliance Capacity Technical Assistance (SEECCTA) Project. The Project was intended to strengthen the capacity of the DENR-EMB in environmental management and protection, mainstreaming the use of market-based instrument in environmental management, and strengthening the public disclosure of industries environmental performance relative to regulations and community monitoring program. The World Bank through the Government-of-Japan-supported Policy and Human Resources Development Fund provided financial assistance for the Project.

This Procedural Manual is intended to provide the framework in the implementation of the public disclosure scheme under the Industrial EcoWatch System. As a support mechanism, a separate manual also contains the framework for a self-monitoring program for industries, specifically in the evaluation and assessment of the Pollution Control Officer reports of individual firms.

This Manual draws significant inputs from project documents of the previous EcoWatch Project and numerous documents from the US Environmental Protection Agency, especially the National Environmental Performance Track Program and Audit Policy Interpretive Guidance.

DENR Administrative Order No. 2003-26 (Series of 2003) for a *“Revised Industrial EcoWatch System Amending Implementing Guidelines of DAO 98-51 Series of 1998”* was signed by Secretary Elisea G. Gozun on 4 Julv 2003.

Questions, queries or requests for clarifications may be addressed to:

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1. Introduction

Sustainable development defined as the process of “meeting the needs of the present generation without compromising the ability of future generations to meet their own needs” is the core issue that affects the well-being of people and their natural habitat. Economic growth in the midst of growing poverty and continued environmental degradation will inevitably lead to disaster. In the context of Sustainable Development, poverty is both a cause and effect of environmental destruction. Poverty is an overwhelming pressure on people who cannot meet their basic needs so that they continue exploiting an already degraded environmental resource/ecosystem.

Development is oftentimes associated with economic progress. A society that has attained a high level of development is pictured as economically sufficient. Economists, therefore, have defined development as “accumulation of human capital and its effective investment in the development of an economy.” However, the definition of the term “development” changes according to the prevailing development thinking of the time. With rising socio-cultural concerns, development is now seen as the total process that includes economic, environmental, political, social and cultural aspects. As such, development entails improvement in the quality as well as the quantity of life.

To deal with environmental issues brought about by developmental activities, different countries have adopted various environmental management strategies. These strategies generally involve legal requirements that must be met by individuals and facilities that cause or may cause pollution. These requirements are an essential foundation for environmental and public health protection – but these are just the first step. The second essential step is compliance – getting the regulated community to fully implement the requirements. Without compliance, environmental requirements alone will not achieve the desired results. Compliance does not automatically happen once regulations are issued. Achieving a significant degree of compliance requires a huge investment in efforts to encourage as well as compel the necessary behavioral changes in the regulated community to achieve compliance.

Compliance has been defined as the full implementation of environmental requirements. Such compliance will cover performances in terms of meeting standards or making appropriate changes in the process, materials used and proper disposal of waste materials among others. To achieve compliance, government undertakes a set of action that is within the realm of enforcement. Enforcement schemes include inspection, negotiation, legal action and compliance promotion.

This manual is intended to support the main thrust of government enforcement strategy through compliance promotion.

Section 9. Procedural Manual. The EMB shall prepare a *Procedural Manual* for the implementation of this Order within a period of 60 days from the effectivity hereof.

2. Conceptual Framework

2.1 Philippine Environmental Framework

The 1987 Philippine Constitution lays down the basic framework for national policy on the environment. Section 16, Article II states that “The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.” Section 15 of the same Article also mandates the State “to protect and promote the people’s right to health.”

These provisions are included in the 1987 Constitution in recognition of the importance and urgency of the environmental problems facing the country. While these provisions may sound like “motherhood” statements, their existence in the Constitution has some real and practical consequences. For example, project proponents can no longer insist that the economic impacts or benefits of their projects are more important than ecological concerns. The Constitution mandates that the right to a sound environment and the right to health of the people are given equal importance.

Predating the Constitution, Presidential Decree No. 1151 (otherwise known as the “Philippine Environmental Policy”) is the statutory policy of the Philippines on environment. As early as 1977, the Philippine government recognized the right of the people to a healthy environment. Section 3 of the law states that it shall be the duty and responsibility of each individual to contribute to the preservation and enhancement of the environment. The law further establishes the policy of the State to: create, develop, maintain and improve conditions under which man and nature can thrive in productive and enjoyable harmony with each other; fulfill the social, economic and other requirements of present and future generations of Filipinos; and insure the attainment of an environmental quality that is conducive to a life of dignity and well-being.

2.2 Environmental (Air and Water) Quality

Legislative policy on air and water quality are contained in various measures such as Republic Act No. 3931, which declared a national policy to “maintain reasonable standards of purity for the water and the atmospheric air vis-à-vis their utilization for domestic, agricultural, industrial and other legitimate uses”. R.A. 3931 was subsequently amended by Presidential Decree No. 984, which broadened the scope of the act including the control of land pollution and all other kinds of pollution and environmental disturbances like noise and odor.

At present, the most important legislation on pollution in general is P.D. 984, otherwise known as the National Pollution Control Decree of 1976. The law defines “pollution” and prohibits the act of disposing into any water, air or land resources any organic or inorganic matter that shall cause pollution of such resource. Emissions by industrial establishments of substances containing dusts, chemicals, smoke, spray and other toxic materials in harmful quantities as defined by law are prohibited. The

DENR through its agencies, particularly the Environmental Management Bureau (EMB) and the Pollution Adjudication Board (PAB), are in charge of pollution control.

Specifically on air quality management, one of the first measures governing air pollution and air quality management are contained in P.D. 1152 or the Philippine Environmental Code. Recently, Congress enacted R.A.8749 or the Philippine Clear Air Act of 1999 that further strengthened institutional and other measures on air pollution and air quality management. The removal of lead content and reduction of sulfur content in fuels, establishment of airsheds, and stiffer penalties are among the key features of the new law.

The ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources is specifically governed by P.D. 1067 or the Philippine Water Code. The water quality policy is embodied in P.D. 984, which defines the various water quality standards. A draft Clear Water Act is currently under study in Congress.

At the administrative level, the DENR had issued various orders to define the parameters of enforcement on environmental quality: DAO 14, DAO 14A, DAO 26, DAO 34 and DAO 35 among others covering the areas of air quality, water quality and designations of pollution control officers.

2.3 Industrial EcoWatch System

Section 1. Basic Policy. It is the policy of the State to uphold the right of the Filipino to a balanced and healthful ecology in accord with the rhythm and harmony of nature. The Constitution also guarantees the right of the Filipino people to information on matters of public concern. Towards this end, the Industrial ECOWATCH is hereby adopted by the DENR, as part of the compliance monitoring system of the Department.

Sustainable development through the prevention, abatement and control of pollution for the more effective utilization of the air, water and land resources of this country shall be implemented. Towards this end, the State shall pursue an efficient and effective approach to promote industrial compliance and encourage pollution reduction through public pressure.

Under conventional environmental regulatory system, the performance of a firm is categorized either as “in compliance” or “not in compliance”. These compliance criteria are evaluated based on the prescriptions and requirements of environmental regulations. On the other hand, the rating system under the EcoWatch deviated from the dichotomous approach of conventional regulatory system – instead, environmental performances are assessed in terms of several categories. Also, the

premise of EcoWatch is compliance promotion through the public disclosure of the environmental performances of firms composing the regulated community.

A rating system should be based on economic principles, a feasible legal framework and the most updated scientific and technical information. These three dimensions of a rating system were synthesized into measurable indicators during the original EcoWatch program. Proxy indicators were used to represent the damages and costs of pollution control and enforcements. For example, the discharge standards vary by the characteristics of untreated pollution that is generated by a firm, which to a certain extent, is related to the abatement cost. Similarly, the absence of complete information on the acceptable threshold levels of pollution can be addressed using public complaints and the extent of deviation from the discharge standards as indicators of damage. Other important factors considered were obstruction of entry into the firm premises or discharge of pollution through unauthorized outlets that make detection of non-compliance difficult and expensive.

Section 2. Objectives. The Industrial EcoWatch is hereby adopted and amended by the DENR in order:

- a) To promote mandatory self-monitoring and compliance with environmental standards and to encourage voluntary self-regulation among establishments for improved environmental performance by:
 - encouraging pollution reduction beyond compliance through public recognition and praise
 - creating incentives for dischargers and/or producers
- b) To build or enhance the capability of establishments and/or their association on self-regulation in
 - developing internal environmental management systems
 - promoting the use of international environmental standards such as the ISO 14000 series.

2.3.1 Identification and Definition of Rating Criteria

As with the original EcoWatch, the rating system is essentially based on the broad parameters of:

- Environmental damage from pollution released by factories, and
- The extent of management effort by factories to control pollution

Based on these parameters, performance indicators and the corresponding broad categories of performance rating were identified:

Performance Indicator	Broad Category	Color Code
Efforts beyond legal requirements	Excellent	GOLD
	Outstanding	SILVER*
Effort level sufficient to comply	Very Good	GREEN
	Good	BLUE
Effort not sufficient for compliance	Bad	RED
No effort to comply	Very Bad	BLACK

Note: (*) new category

Experiences from the original EcoWatch show extreme degrees of compliance with environmental regulations. On one hand, there are world-class firms that use clean technology, while on the other extreme, some firms go to extraordinary lengths to resist regulatory efforts to reduce pollution. Considering this continuum, the rating system for the original EcoWatch of Gold, Green, Blue, Red and Black provided a simple and sufficiently effective way to categorize the environmental performance of firms to communities and the market. However, based on the regional consultations conducted under the project, a new category was introduced to distinguished “excellent” and “outstanding” environmental performance – the former, at the level of a “Hall of Fame” status.

Based on the experiences of the original EcoWatch, a set of viable criteria was identified and a new category was introduced.

Performance Indicator	Color Code	Broad Category
Efforts beyond legal requirements	GOLD	<ul style="list-style-type: none"> The firm has been rated SILVER for the past two consecutive rating period in all media (e.g., water, air); The firm implements an appropriate Environmental Management System and waste reduction program, whichever is applicable, and; A community environmental outreach program is being implemented on a regular basis by the firm.
	SILVER*	<ul style="list-style-type: none"> The firm must meet all the DENR/LLDA requirements for and has been rated GREEN in the previous rating period, and; The firm implements clean technology, energy and water efficiency/conservation program/s, whichever is applicable;

Performance Indicator	Color Code	Broad Category
Effort level sufficient to comply	GREEN	<ul style="list-style-type: none"> The firm must meet all the DENR/LLDA requirements and has been rated BLUE in the previous rating period; The firm's effluents/emissions are consistently lower than the applicable standards by at least 20 percent; The firm has well functioning monitoring equipment such as flowmeter, continuous emission monitoring system; The firm has discharge points accessible to inspection.
	BLUE	<ul style="list-style-type: none"> The firm's effluents/emissions are consistently within the applicable standards within the rating period of one (1) year; The firm is in full compliance of all other DENR/LLDA regulatory requirements under PD 984, PD 1586, RA 6969, and DAO 26 series of 1992, which require the submission of self-monitoring reports (otherwise known as the pollution control officer or PCO reports) from pollution control officers; Its wastewater treatment and/or air emissions control or abatement equipment are all well-maintained, and; The SMRs submitted are complete and accurate.
Effort not sufficient for compliance	RED	The firm has violated applicable wastewater effluent/air emissions standards even with efforts to reduce such discharges/emissions through the installation of fully operational WTP and/or emissions control abatement equipment.
No effort to comply	BLACK	<ul style="list-style-type: none"> The firm discharges beyond standard and has no wastewater treatment system and/or applicable air emissions control/abatement system; The firm discharges toxic and hazardous wastes to the environment beyond the allowable limits set under DAO Nos. 34 and 35, series of 1990; The firm is under a Cease and Desist Order issued by the DENR RED, the PAB, or the LLDA for violating provisions of PD 984; There is willful manipulation by the firm of effluent discharge or air emissions, including the conduct of illegal activities such as dilution of discharge, installation and use of

Performance Indicator	Color Code	Broad Category
		by-pass, or direct discharge of untreated air emissions and/or wastewater; <ul style="list-style-type: none"> • There is verified obstruction of inspection activities of duly certified/assigned personnel of the DENR/LLDA; or; • There is legitimate and verified public complaint of pollution against the firm and no effort had been taken or exerted to address this complaint within the rating period.

Source: Section 5, DAO 2003-26

2.3.2 Rating Scheme

Inasmuch as the rating criteria are defined on a hierarchical basis, the rating procedures shall likewise have a similar approach. A firm shall first be assessed in terms of the “worst” performance, and subsequently, be rated progressively based on the hierarchy of rating. In this sense, a firm that had been rated “RED” does not satisfy any criteria under the “BLACK” category. Likewise, a firm rated “SILVER” had passed all applicable criteria for the “GREEN” and “BLUE” categories.

Under this approach, it is possible for a firm to be rated “GREEN” on the first year but can only be rated “SILVER” on the second year at the earliest and “GOLD” on the fourth year at the earliest after satisfying the criteria for the “BLUE” category.

The details of the procedural scheme are discussed with more details in the next chapter.

2.3.3 Administrative Incentives

One effective mechanism to promote compliance is by providing incentives for compliance. Incentives should be linked to the environmental performance of the firm or entity. Under the EcoWatch program, the initial set of administrative incentives shall be through an “extended” life of the permit and/or lesser frequency for monitoring report submissions. These incentives are premised on the principle that firms with exemplary records in terms of environmental performance will require less monitoring as compared to a “delinquent” firm.

Procedural Scheme

Section 4. Scope. The Industrial EcoWatch System shall be implemented nationwide. Initial implementation shall be on water quality. Furthermore, the implementation shall be categorized and scheduled according to priority sectors and effluent criteria. The schedule of implementation shall be established through Memorandum Circular by the EMB Director at least thirty (30) days prior to each public disclosure.

2.4 Rating Procedures

In general, the rating procedures shall be undertaken in conformance with the following parameters:

- Rating of firms shall be done on a sub-sector basis to avoid undue damages or disadvantages to the firms concerned. For example, if tuna processing is the chosen sub-sector, then all tuna processing firms in the region shall be rated.
- Rating of firms shall be done on an annual basis. The rating exercise will be undertaken and completed during the second quarter. The rated firm/s may use the third and fourth quarters to react and undertake the necessary actions to resolve any outstanding issue/s. The final rating results for the year shall be released on the first month (January) of the succeeding year.
- An interim rating may be assessed on the firm (or a rating of “UNDER ASSESSMENT”) if there is no reliable data to complete a firm’s evaluation, improvement of pollution control device/s or treatment facility/s is in process, inconsistency in SMR data and inspection report/s, or other such similar conditions. However, the interim rating should be resolved within six (6) months.
- If necessary, the regional office concerned shall undertake sample collection and analysis to allow rating of firm/s in the identified sub-sector.
- Rating of firms shall be done on a media basis. As such, a firm may have different color rating for air and another color rating for water.

EMB Memorandum Circular No. 2003-006 (Series of 2003) provides that the initial coverage of the Industrial EcoWatch System shall initially be limited to water quality, specifically the Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS).

It should be noted that compliance with other appropriate or applicable water parameters will be considered in the rating, but the color code will be based mainly on BOD and/or TSS.

For more details on the coverage and the scope, see **Annex B**.

As a rule, the rating exercise shall be done annually, using the entire rating procedures (i.e., each rating exercise shall start with *Step 1*). Also, as stated in Section 2.3.2, the rating shall be done in a hierarchical manner. **Figure 1** provides the schematics of the rating procedures. Specifically, the rating framework (Section 2.3.1) and the corresponding rating procedures are as follows:

1. Determine if the firm complies with all applicable effluent/emission standards. If yes, proceed to Step 20.

Compliance with standards for the purposes of public disclosure only shall be interpreted as follows:

- For firms with quarterly (or less) monitoring/sampling schedules, 75% or more of the results shall satisfy existing standards.
- For firms with five to nine monitoring/sampling events per year, at least 80% of the results shall satisfy existing standards.
- For firms with ten or more monitoring/sampling events per year, at least 90% of the results shall satisfy existing standards.
- For firms with continuous monitoring system, results shall comply with applicable standards 95% of the time.

In accordance with EMB MC 2003-??, the conditions for compliance (in terms of frequency and concentration shall initially be limited to BOD and/or TSS.

Nonetheless, the exceedance/s of other water parameters (e.g., DO, ph) shall be deemed as a “NO” answer to *Rating Question No. 1*:

In addition to these conditions for compliance, the weighted average of the effluent/emission should not exceed applicable standard/s. For purposes of computation, the formula for the weighted average is:

$$\bar{C} = \frac{\sum(C_i \times V_i)}{\sum V_i}$$

where; \bar{C} = average concentration
 C_i = concentration of sample i
 V_i = total volume (effluent/emission) during the period when sample i was taken

For purposes of computation, ALL data available at the DENR (e.g., SMR reports, DENR monitoring, DENR inspection) shall be included in the calculation for the average.

Section 7. Data Evaluation. Inputs for evaluation shall be based on data and information contained in documents (e.g., SMR) submitted by the firm as may be augmented and/or validated by DENR inspection and monitoring activities.

2. Determine if the firm violates any of the applicable effluent/emission standards on toxic and/or hazardous materials. If yes, proceed to Step 4.

Compliance with standards shall be interpreted as compliance with a 100% frequency. That is, the effluent or emission complies with the applicable standard 100% of the time.

For this purpose, the applicable standards for toxic/ hazardous materials shall be based on the applicable provisions of DAOs 34, 35 and 2000-81.

3. Determine if the firm has the required pollution control devices and/or treatment facility/s. If yes, proceed to Step 5.
4. Rate the firm as "**BLACK**" (*end of rating exercise*)
5. Determine if the firm has prepared and submitted to DENR a compliance plan that will allow it to comply with applicable standards within a reasonable period of time. If yes, proceed to Step 8.

Reasonable time shall be interpreted as six (6) months. However, if the compliance plan calls for construction of a pollution control device/s or other treatment facility/s that will require investments that exceeds the equivalent of 10% of the annual gross income of the firm, then the period may be extended for another six (6) months. In no case shall the "reasonable time" exceed a period of eighteen (18) months.

6. Rate the firm as "**RED**"
7. Determine if the previous rating of the firm is "**RED**" or "**BLACK**", then proceed to Step 4. Otherwise, this is the *end of rating exercise*.
8. Determine if the firm has included the "non-compliance" in its SMR for the applicable period. If no, proceed to Step 6.

9. Determine if the firm has satisfied the requirements for compliance within the specified time frame. If no, proceed to Step 6.

In cases where efforts for compliance are in process, then the firm is deemed to have satisfied the requirement if the identified milestone/s for the timeframe concerned has been accomplished.

10. Determine if the previous rating of the firm is "**GREEN**", then proceed to Step 12. Otherwise, rate the firm as "**BLUE**".
11. Determine if the previous rating of the firm is "**BLUE**". If no, this is the *end of rating exercise*.
12. Determine if the firm meets ALL of the following criteria:
- The effluents/emissions are better than the applicable standards by at least 20%.

In accordance with EMB MC 2003-006, applicable standards are BOD and/or TSS.
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- The presence of an operational flowmeter and/or other appropriate flow measuring devices.
- The discharge or emission points are easily identified, clearly marked and accessible.

If the firm does not meet ALL criteria, then this is the *end of rating exercise*.

13. Rate the firm as "**GREEN**".
14. Determine if the two previous and consecutive ratings of the firm is "GREEN". If no, this is the *end of rating exercise*.
15. Determine if the firm implements clean technology, water conservation and energy conservation programs (whichever is applicable). If no, this is the *end of rating exercise*.

16. Rate the firm as **"SILVER"**.

No firm shall be rated as "SILVER" if any of the following condition/s exists:

- Emission exceeds applicable standards.
- There is a pending/unresolved case (e.g., PAB, administrative) on any matter.
- A "Notice of Violation" and/or a "Cease-and-Desist Order" is currently in effect against the facility or firm.

17. Determine if the two previous and consecutive ratings of the firm is **"SILVER"**. If no, this is the *end of rating exercise*.

18. Determine if the firm meets ALL of the following criteria also has **"SILVER"** rating in all other media. If no, this is the *end of rating exercise*.

- The firm has "SILVER" rating in all other media.
- The firm implements an appropriate Environmental Management System and waste reduction program, whichever is applicable.
- A community environmental outreach program is being implemented on a regular basis by the firm.
- ALL the products produced in facility has satisfy has been eco-labeled as "Green Choice" by the Bureau of Product Standards of DTI.

If the firm does not meet ALL criteria, then this is the *end of rating exercise*.

An acceptable EMS should, at the minimum, provides for a regular (annual) external audit by qualified service providers. Examples of acceptable EMS, for the purpose of EcoWatch, includes ISO 14000 series or its equivalent among others.

19. Rate the firm as **"GOLD"**. (*end of rating exercise*)
20. Determine if the firm facilitated inspection or did not obstruct entry of inspector into the premises. If no, proceed to Step 4.

In cases where the causes and/or reasons have been deemed acceptable AND reasonable by DENR, the incidents shall be deemed as resolved and a "yes" in the determination.

21. Determine if wastes are discharged through unauthorized outlet/s (presence of bypass). If yes, proceed to Step 4.
22. Determine if there are other illegal acts (e.g., dilution, non-operation of pollution control devices, etc.). If yes, proceed to Step 4.
23. Determine if there is an existing and verified complaint on environmental matter against the firm. If yes, proceed to Step 5.

Only civil/criminal complaints that are assigned case numbers or have been docketed shall be considered as existing and verified complaints. Likewise, PAB and/or administrative case/s shall be considered automatically as existing and verified complaint/s.

In the interest of fair play, when a firm with a PAB or administrative has complied with ALL requirements of DENR but the case remain unresolved due to delays on the part of DENR, such factor shall be considered in favor of the firm. For the purposes of public disclosure only, a "NO" shall be deemed as the answer to *Step 23*.

Examples of such circumstances are: the firm had implemented all technical measures, a TLO had been issued and the fines had been paid but the case had not been officially closed OR the firm had implemented all technical measures and a TLO had been issued but fines were not yet assessed.

24. Determine if the firm submit the required SMR/s. If yes, proceed to Step 10. Otherwise, proceed to Step 6.

The firm is deemed to have satisfied this requirement if the SMR/s as prescribed in the appropriate license/permit has been submitted on time (e.g., quarterly, annually, etc.). Failure to submit the SMR/s within the prescribed deadline (delay exceeding five working days) shall be deemed a "NO" answer for this criteria.

It should be noted that **Figure 1** is a simplified graphical representation of these *textual* rating procedures. As such, in cases where there might be inconsistency between these *textual* rating procedures and **Figure 1**, these *textual* rating procedures shall prevail.

2.5 Post-Rating Procedures

In order to satisfy internal due diligence considerations, the regional office concerned shall undertake the following measures upon completion of the rating exercise:

- Inform the firm concerned of the rating results. For this purpose, the format of the letter is provided in **Annex C**. All letters shall be sent to the firm on or before June 30 of each year.

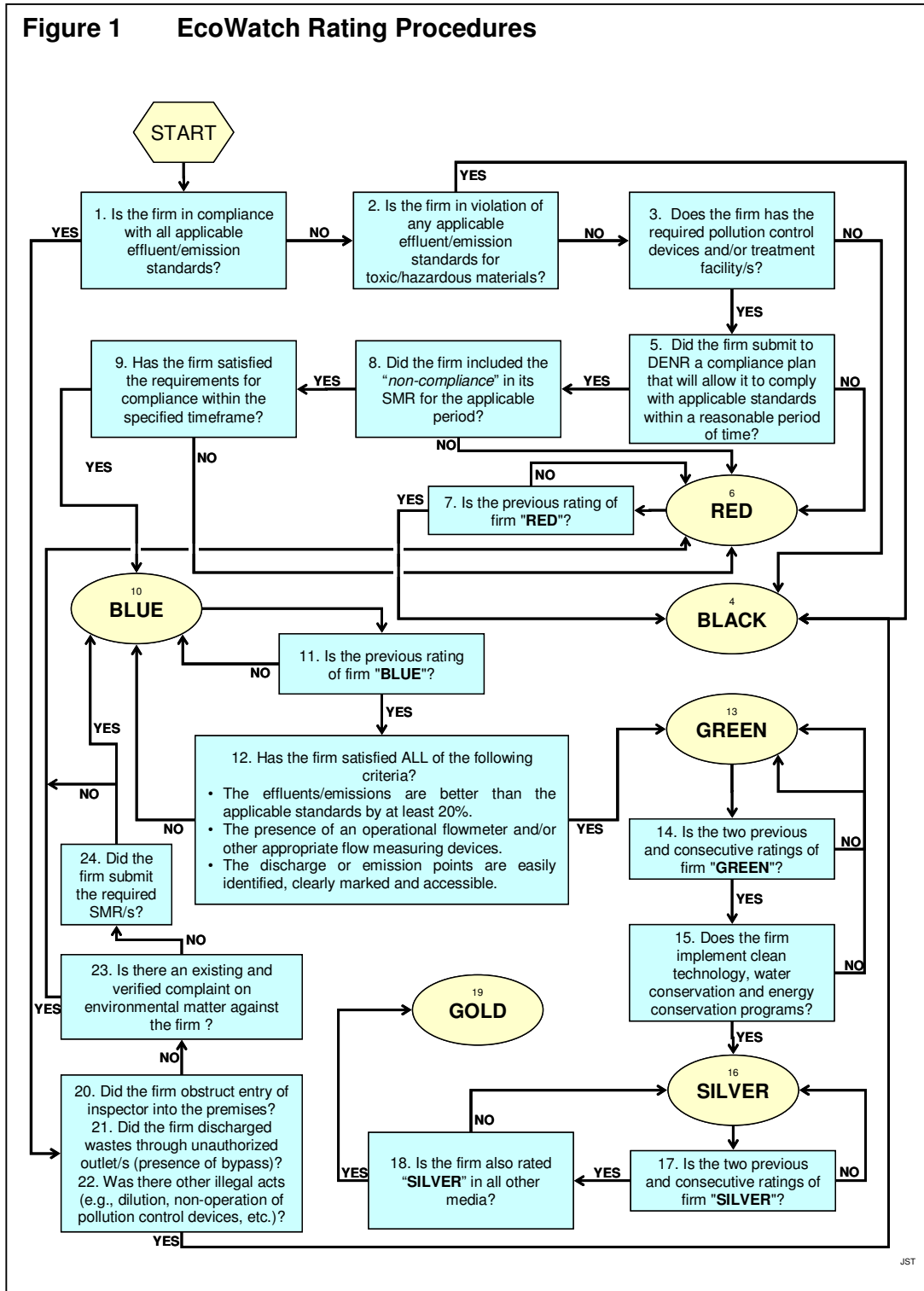
The firm concerned shall be given thirty (30) days after receipt of letter to respond (i.e., concur or object) to the rating result/s.

- If the firm objects to the rating result/s, a technical meeting shall be set by the regional office to discuss the grounds or issues raised by the firm. All issues or objections should be resolved within thirty (30) days. A time extension (not to exceed three months) may be granted to cover the implementation of necessary/appropriate measure/s by the firm concerned.

All communications, rating instruments and other documents related to the rating exercise shall not be considered as “public document” until such time that the issue/s had been resolved. As such, applicable rules on the confidentiality of such documents shall apply.

- If the firm concurs with the rating result/s, the color rating shall be deemed final and approved for release at the prescribed time.

Figure 1 EcoWatch Rating Procedures



2.6 Public Disclosure Procedures

Section 8. Disclosure. The results of the rating will be discussed with the firms concerned within the rating period, but at least one month prior to actual public disclosure to allow the ratee firms sufficient opportunity to validate DENR's findings.

Disclosure will be once a year during the first quarter, with the disclosure for GOLD, GREEN and BLUE firms undertaken at least two (2) weeks ahead of the disclosure for the RED and BLACK firms.

In order to achieve the optimum results of the disclosure program, the following procedures shall govern the actual public disclosure exercise:

- All regional office shall prepare a master list of the final results of their respective rating exercises. Such list shall also contain sufficient information of any cases or rating that had been unresolved. The master list shall be prepared and submitted to EMB Central Office on or before 31 January of each succeeding year.
- EMB Central Office shall integrate and prepare a consolidated master list of the rating results from the various regional offices. The master list shall be prepared and submitted on or before 15 February of each year for notation by the Secretary.
- To achieve maximum media mileage for the public disclosure exercise, the following schedule of publication shall be followed:
 - ✓ Nation-wide publication of all firms rated as GOLD, SILVER, GREEN and BLUE in at least two (2) newspapers with national circulations. Simultaneously, the regional results shall also be published in at least one (1) newspaper with regional/local circulation in each region. It is recommended that the publication should be on or before the second week of March of each year.
 - ✓ Nation-wide publication of all firms rated as RED and BLACK in at least two (2) newspapers with national circulations. Simultaneously, the regional results shall also be published in at least one (1) newspaper with regional/local circulation in each region. It is recommended that the publication should be on or before the fourth week of March of each year.
 - ✓ Press conferences and other media activities may be scheduled or held to recognize the achievements or condemn the dismal performances of the various firms.

- The corresponding Certificate of the rating results shall be prepared and awarded to the firm concerned.

2.7 Administrative Incentives/Sanctions

For firms rated as “**BLACK**” or “**RED**”, the following administrative measures shall be undertaken:

- Filing of appropriate case/s in the Pollution Adjudication Board (PAB) for violation/s of applicable guidelines on environmental standards.
- For firms with accredited PCO, the investigation of responsibilities or culpabilities of the PCO concerned and the application of administrative sanctions upon conclusion of the investigation.
- For firms without accredited PCO, the filing of case/s in the PAB for violation/s of DAO 26.

Pending issuance of final guidelines on other financial incentives that may be granted under applicable laws (e.g., Clean Air Act), the following administrative incentives shall be awarded to firms rated as “**BLUE**”, “**GREEN**”, “**SILVER**” or “**GOLD**” in accordance with Section 6 of DAO 2003-26:

- **BLUE** - A firm rated BLUE (Good) shall be allowed to submit its quarterly SMRs on a bi-annual basis.
- **GREEN** - A firm rated GREEN (very good performance) shall be allowed to submit its quarterly SMRs on an annual basis. In addition, regular permit renewal shall only be based on said SMR submissions for two (2) consecutive years.
- **SILVER** - A firm rated SILVER (excellent performance) shall be allowed to submit its quarterly SMRs on an annual basis. In addition, regular permit renewal shall only be based on said SMR submissions for three (3) consecutive years.

When applicable, the DENR Official Seal of Approval (as provided for in Section 5.1.1 of DAO 2003-14) shall indicate the rating.

- **GOLD** - A firm shall be rated GOLD (OUTSTANDING performance) shall be allowed to submit its quarterly SMRs on an annual basis. In addition, regular permit renewal shall only be based on said SMR submissions for five (5) consecutive years.

When applicable, the qualified firm may also avail of regulatory assistance, financial assistance, fiscal incentives and other assistance as provided for in Section 5.1.2 to 5.1.5 of DAO 2003-14.

The concept of *extended* permit life for firms rated GREEN, SILVER or GOLD is the automatic issuance of *annual* permit upon receipt by DENR of the firm's SMR/s.

It should be noted that these administrative incentives (including the EcoWatch rating of the firm) can be withdrawn anytime by DENR should the firm be found to have *violated* or *failed* any criteria for the applicable color rating awarded to the firm.

Section 6. Administrative Incentives. x x x

These administrative incentives shall continue to be in force provided the firm maintains the corresponding rating. Should the firm fail to maintain its rating within the permit life, such permit and/or other administrative incentives shall be deemed withdrawn automatically.

3. Industrial EcoWatch System Evaluation

Section 10. Review and Revision. This Order shall be subjected to review and revision by Environmental Management Bureau (EMB) in public consultations with the concerned sectors and approval of the Secretary.

In order to evaluate the effectivity and relevance of the Industrial EcoWatch System, the implementation shall be subject to regular (annual) monitoring, evaluation and/or formal review by EMB. The following aspects should be monitored and evaluated on a regular basis:

- Institutionalization Aspect

The extent and stability of the institutionalization, in terms of mainstreaming, of the Industrial EcoWatch System should be evaluated every six (6) months for the first three (3) years of system evaluation. After which, the evaluation can be done every 2 – 3 years.

Such evaluation should cover the following elements:

- ✓ Staffing Level – evaluation of the number of personnel assigned or designated to implement the Industrial EcoWatch System at the central and regional office. At the minimum, one (1) personnel in the central office and in each regional office shall be exclusively assigned (full-time) to manage and/or implement the system. At the regional level, a ratio of one personnel for every 500 firms rated should be adopted as a minimum benchmark.
- ✓ Capability and Training – evaluation of the capability and capability building activities for personnel assigned or designated to implement the Industrial EcoWatch System. The attendance of staff directly involved in the Industrial EcoWatch System in a minimum of one training per year may be adopted as a minimum benchmark. Such training shall be in the subject area directly related to public disclosure and/or compliance monitoring.
- ✓ Program Funding – evaluation of the adequacy of funding and other resources allocation for the implementation of the Industrial EcoWatch System. The minimum benchmark should be the inclusion of a regular item in the budget program at the central and regional offices exclusively for the Industrial EcoWatch System by the second year of implementation.

- Operationalization Aspect

The effectivity and efficiency of the implementation of the Industrial EcoWatch System should be evaluated every year. Such evaluation should cover the following elements:

- ✓ Overall Coverage – evaluation of the expansion of the coverage of the Industrial EcoWatch System. The evaluation shall be based on the schedule of implementation phases as issued by EMB.
- ✓ Sector Coverage – evaluation of the expansion of the sectoral coverage of the Industrial EcoWatch System. The minimum benchmark for this element is the addition of one sector every year in each region.
- ✓ Parameter Coverage – evaluation of the expansion of the parameter (e.g., BOD, TSS, TSP) covered by the Industrial EcoWatch System. The minimum benchmark for this element is the addition of at least one parameter every year in the coverage of the Industrial EcoWatch System.
- ✓ Firm Coverage – evaluation of the number of firms covered by the Industrial EcoWatch System. The minimum benchmark for this element is an increase of at least 5% every year in the number of firms covered of the Industrial EcoWatch System.

- Social Acceptability Aspect

The extent of social acceptability of the Industrial EcoWatch System should be evaluated every year. Such evaluation should cover the following elements:

- ✓ Timeliness – evaluation of the timeliness of the public disclosure of rating under the Industrial EcoWatch System. The minimum benchmark for this element is the release of rating exercise as per prescribed schedules on a regular basis.
- ✓ Participation – evaluation of the desirability of participation in the Industrial EcoWatch System. One of the possible benchmark for this element is the number of firm voluntarily desiring participation in the system.
- ✓ Public Participation – evaluation of the degree of public participation in the Industrial EcoWatch System. One of the possible benchmark for this element is the number of third party (e.g., NGO, PO, LGU) participating or actively involved in the entire process (from rating to disclosure) of the Industrial EcoWatch System.

These evaluation criteria are not exhaustive or definitive. Revisions and/or additional criteria/benchmarks may be undertaken to fine tune the evaluation process. At the minimum, these evaluation criteria should be reviewed every three years to assess their appropriateness and/or relevance.

**ANNEX A
DENR ADMINISTRATIVE ORDER NO. 2003-26
SERIES OF 2003**



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
Environmental Management Bureau
DENR Compound, Visayas Avenue, Diliman, Quezon City 1116

04 July 2003

DENR ADMINISTRATIVE ORDER

No. 2003-26
Series of 2003

**SUBJECT: Revised Industrial EcoWatch System
Amending Implementing Guidelines of DAO 98-51
Series of 1998**

Section 1. STATEMENT OF POLICY. It is the policy of the State, to uphold the right of the Filipino to a balanced and healthful ecology in accord with the rhythm and harmony of nature. The Constitution also guarantees the right of the Filipino people to information on matters of public concern. Towards this end, the Industrial EcoWatch is hereby adopted by the DENR, as part of the compliance monitoring system of the Department.

Sustainable development through the prevention, abatement and control of pollution for the more effective utilization of the air, water and land resources of this country shall be implemented. Towards this end the State shall pursue an efficient and effective approach to promote industrial compliance and encourage pollution reduction through public pressure.

Section 2. OBJECTIVES. The Industrial EcoWatch System is hereby adopted and amended by the DENR in order:

- a) To promote mandatory self-monitoring and compliance with environmental standards and to encourage voluntary self-regulation among establishments for improved environmental performance by
 - encouraging pollution reduction beyond compliance through public recognition and praise
 - creating incentives for dischargers and/or producers
- b) To build or enhance the capability of establishments and/or their associations on self regulations in
 - developing internal environmental management systems
 - promoting the use of international environmental standards such as the ISO 14000 series.

Section 3. DEFINITION OF TERMS. When used in this Order, the following terms and phrases shall have the indicated meanings unless clearly stated otherwise:

- a) **Discharge** includes but is not limited to the act of spilling, leaking, pumping, pouring, emitting, emptying, releasing or dumping of any liquid materials into the water body or onto land from which it might flow or drain into said water body.
- b) **Discharger** refers to any person or persons, natural or juridical, discharging liquid wastes and/or other wastes into the environment.
- c) **Eco-labeling** refers to the standards and requirements established by the Bureau of Product Standards of the Department of Trade and Industry for labeling products as “*Green Choice*”.
- d) **Environmental Management System (EMS)** is a part of the overall management system of a project or organization that includes environmental policy, organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for development, implementing, achieving, reviewing and maintaining an improved overall environmental performance.
- e) **Firm** refers to any operation or business, natural or juridical, which produces, manages, administers and/or operates industrial, commercial and/or manufacturing establishments.
- f) **Procedural Manual** refers to guidelines and procedures in the implementation of this Order.

Section 4. SCOPE. The Industrial EcoWatch System shall be implemented nationwide. Initial implementation shall be on water quality. Furthermore, the implementation shall be categorized and scheduled according to priority sectors and effluent criteria. The schedule of implementation shall be established through Memorandum Circular by the EMB Director at least thirty (30) days prior to each public disclosure.

Section 5. AMENDED RATING CRITERIA AND EQUIVALENT COLOR CODES. The rating criteria based on color-codes as provided in DAO 98-51 are amended as follows:

- 5.1 **BLACK** – A firm shall be rated Black (Very Bad) if at least one of these conditions is present:
 - The firm discharges beyond standard and has no wastewater treatment system and/or applicable air emissions control/abatement system;
 - The firm discharges toxic and hazardous wastes to the environment beyond the allowable limits set under DAO Nos. 34 and 35, series of 1990;
 - The firm is under a Cease and Desist Order (CDO) issued by the Department of Environment and Natural Resources (DENR)

Regional Executive Director (RED), the Pollution Adjudication Board (PAB), or the Laguna Lake Development Authority (LLDA) for violating provisions of Presidential Decree (PD) 984;

- There is willful manipulation by the firm of effluent discharge or air emissions, including the conduct of illegal activities such as dilution of discharge, installation and use of by-pass, or direct discharge of untreated air emissions and/or wastewater;
- There is verified obstruction of inspection activities of duly certified/assigned personnel of the DENR/LLDA; or;
- There is legitimate and verified public complaint of pollution against the firm and no effort had been taken or exerted to address this complaint within the rating period.

5.2 **RED** – A firm shall be rated RED (Bad) if the firm has violated applicable wastewater effluent/air emissions standards even with efforts to reduce such discharges/emissions through the installation of fully operational WTP/emissions control abatement equipment.

5.3 **BLUE** – A firm shall be rated BLUE (Good) if all of these conditions are present

- The firm's effluents/emissions are consistently within the applicable standards within the rating period of one (1) year;
- The firm is in full compliance of all other DENR/LLDA regulatory requirements under PD 984, PD 1586, RA 6969, and DAO 26 series of 1992, which require the submission of self-monitoring reports (otherwise known as the pollution control officer or PCO reports) from pollution control officers;
- Its wastewater treatment/air emissions control or abatement equipment are all well-maintained, and;
- The SMRs submitted are complete and accurate.

5.4 **GREEN** – A firm shall be rated GREEN (very good performance) if all these conditions are present

- The firm must meet all the DENR/LLDA requirements for or has been rated BLUE in the previous rating period;
- The firm's effluents/emissions are consistently better the applicable standards by at least 20 percent;
- The firm has well functioning monitoring equipment such as flowmeter, continuous emission monitoring system, and;
- The firm has discharge points accessible to inspection.

5.5 **SILVER** – A firm shall be rated SILVER (excellent performance) if all these conditions are present

- The firm must meet all the DENR/LLDA requirements for and has been rated GREEN in the previous rating period, and;
- The firm implements clean technology, energy and water efficiency/conservation program/s, whichever is applicable;

5.6 **GOLD** – A firm shall be rated GOLD (OUTSTANDING performance) if all these conditions are present

- The firm has been rated SILVER for the past two consecutive rating period in all media (e.g., water, air);
- The firm implements an appropriate Environmental Management System and waste reduction program, whichever is applicable, and;
- A community environmental outreach program is being implemented on a regular basis by the firm.

5.7 ***Interim Ratings***

A firm shall be placed UNDER ASSESSMENT if at least one of these conditions is present:

- Not enough reliable data is available to complete a firm's evaluation;
- The improvement of the firm's existing wastewater treatment/air emissions control/abatement equipment is in process;
- The inspection of DENR's/LLDA's teams shows compliance but self-monitoring reports show violation, or;
- The firm is in compliance with DENR/LLDA requirements for at least one year but is not in full compliance with other regulatory requirements or does not have a well-maintained wastewater treatment or air emissions control/abatement equipment.

A firm cannot be UNDER ASSESSMENT for more than six (6) months.

5.8 The process diagram of the aforementioned criteria is attached as ***Annex A***.

Section 6. ADMINISTRATIVE INCENTIVES. In accordance with the rating given to a firm, the following administrative incentives shall be provided:

- 6.1 **BLUE** - A firm rated BLUE (Good) shall be allowed to submit its quarterly SMRs on a bi-annual basis.
- 6.2 **GREEN** - A firm rated GREEN (very good performance) shall be allowed to submit its quarterly SMRs on an annual basis. In addition,

regular permit renewal shall only be based on said SMR submissions for two (2) consecutive years.

- 6.3 **SILVER** - A firm rated SILVER (excellent performance) shall be allowed to submit its quarterly SMRs on an annual basis. In addition, regular permit renewal shall only be based on said SMR submissions for three (3) consecutive years.

When applicable, the DENR Official Seal of Approval (as provided for in Section 5.1.1 of DAO 2003-14) shall indicate the rating.

- 6.4 **GOLD** - A firm shall be rated GOLD (OUTSTANDING performance) shall be allowed to submit its quarterly SMRs on an annual basis. In addition, regular permit renewal shall only be based on said SMR submissions for five (5) consecutive years.

When applicable, the qualified firm may also avail of regulatory assistance, financial assistance, fiscal incentives and other assistance as provided for in Section 5.1.2 to 5.1.5 of DAO 2003-14.

These administrative incentives shall continue to be in force provided the firm maintains the corresponding rating. Should the firm fail to maintain its rating within the permit life, such permit and/or other administrative incentives shall be deemed withdrawn automatically.

Section 7. DATA EVALUATION. Inputs for evaluation shall be based on data and information contained in documents (e.g., SMR) submitted by the firm as may be augmented and/or validated by DENR inspection and monitoring activities.

Section 8. DISCLOSURE. The results of the rating will be discussed with the firms concerned within the rating period, but at least one month prior to actual public disclosure to allow the ratee firms sufficient opportunity to validate DENR's findings.

Disclosure will be once a year during the first quarter, with the disclosure for GOLD, SILVER, GREEN and BLUE firms undertaken at least two (2) weeks ahead of the disclosure for the RED and BLACK firms.

Section 9. PROCEDURAL MANUAL. The EMB shall prepare a *Procedural Manual* for the implementation of this Order within a period of 60 days from the effectivity hereof.

Section 10. REVIEW AND REVISION. This Order shall be subjected to review and revision by Environmental Management Bureau (EMB) in public consultations with the concerned sectors and approval of the Secretary.

Section 11. INFORMATION, EDUCATION CAMPAIGN. For the effective implementation of the EcoWatch System and better coordination among the

concerned sectors, the EMB shall conduct a continuing education and information campaign.

Section 12. REPEALING CLAUSE. All rules and regulations, including but not limited to provisions of DAO 26 (Series of 1992), DAO 29 (Series of 1992) and DAO 2000-81 (Series of 2000), found inconsistent herewith shall be superseded by this administrative order.

Section 13. EFFECTIVITY. This Administrative Order shall take effect immediately after publication in two (2) newspaper of general circulation or acknowledgment of UP Law Center.

ELISEA G. GOZUN (sgd)
Secretary

ANNEX B
EMB MEMORANDUM CIRCULAR NO. 2003 - 006
SERIES OF 2003



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
Environmental Management Bureau
DENR Compound, Visayas Avenue, Diliman, Quezon City 1116

MEMORANDUM CIRCULAR NO. 2003 - 006
Series of 2003

FOR: All Regional Directors, EMB
All Division/Section Heads
All Concerned

FROM: The Director, EMB

SUBJECT: Implementation Scheme for Industrial EcoWatch System 2003

In accordance with the provisions of Section 4 of DAO 2003-26 for a *revised Industrial EcoWatch System amending implementing guidelines of DAO 98-51, Series of 1998*, the following implementation schedule and procedures are hereby adopted:

- The priority sectors for national implementation (by all regions):
 - ✓ Sugar central/refinery plants
 - ✓ Beverages plants
 - ✓ Pulp and paper plants
 - ✓ Cement plants
- The priority sectors for selected EMB Regional Offices are:
 - ✓ NCR/LLDA: meat and fish processing plants; beer, softdrinks, soy sauce and condiments manufacturing plants; and mall/commercial establishments.
 - ✓ Region 7: softdrinks manufacturing, chicken dressing plants and beer manufacturing
 - ✓ Region 11: softdrinks manufacturing; food processing and dressing plants
- For the initial implementation, the parameters for consideration are: Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS).
- The first public disclosure is scheduled for January 2004. As such, all concerned offices should submit the results of the rating exercise no later than 15 December 2003.

This Memorandum-Circular shall take effect immediately.

JULIAN D. AMADOR

ANNEX C
SAMPLE FORMATS

FORMAT, Notice of Public Disclosure Rating

(To be printed on DENR Letterhead)

Name/Title of CEO/President/Plant Manager

Name of firm

Address

ATTENTION: *Name/Title of Environmental Officer/Manager*

<p>PUBLIC DISCLOSURE RATING <i>Name of facility</i> <i>Address/location of facility</i></p>
--

Dear Sir/Madam:

Greetings. This is to officially inform you that your facility located at *place/address of facility* has been pre-selected as part of our *Industrial ECOWATCH Program*. Based on our evaluation and findings, the said facility has been rated as:

<p><i>Rating</i> (Water, BOD)</p> <p>For the period <i>month to month, year</i></p>

In case of you need any clarification/s, you may visit our office or contact *name/title/unit of ECOWATCH focal person* for more details. The rating shall be considered as *final* if we do not receive any objection/s from you within the next thirty days. The results shall be publicly disclosed in accordance with the procedures of the *Industrial ECOWATCH Program*.

We look forward to your continued cooperation and compliance.

Yours truly,

Name of RD

Regional Director

