

Republic Act No. 9275: The Philippine Clean Water Act of 2004¹

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INTRODUCTION

As an archipelago, the Philippines is surrounded with water. It ranks fourth with the longest coastline in the world measuring 36,289 km (22,559 miles)³ while its water area covers 1,830 sq km (The World Factbook). The country's water resources have played a significant role in its development. However, some development efforts, combined with the rising demands of the ever-increasing population, have caused damage to these water resources. In response, a law was signed to "pursue a policy of economic growth in a manner consistent with the protection, preservation and revival of the quality of our fresh, brackish and marine waters" (Section 2⁴).

The Philippine Clean Water Act of 2004

Republic Act (R.A.) No. 9275 titled "An Act Providing for a Comprehensive Water Quality Management and for Other Purposes", also known as the Philippine Clean Water Act of 2004 (CWA), was signed by former President Gloria Macapagal-Arroyo on March 22, 2004. It took effect on May 6, 2004, with its Implementing Rules and Regulation (IRR) contained in the Department of Environment and Natural Resources (DENR) Administrative Order (A.O.) No. 2005-10.

Coverage

The law applies to water quality management in all water bodies. It primarily applies to the abatement and control of pollution from land-based sources. The water quality standards and regulations and the civil liability and penal provisions under the law shall be enforced irrespective of sources of pollution (Section 3).

In addition to regulating pollution of water bodies, DENR shall formulate and apply standards for the transport and disposal of effluent, sewage and septage offsite, whether offshore or on land as well as disposal of individual wastewater on land. The Department of Agriculture(DA) shall develop guidelines for re-use of wastewater for irrigation purposes or as soil conditioner or fertilizer (Rule 3.1⁵).

Institutional mechanism

The Department of Environment and Natural Resources (DENR), as the primary agency responsible for the implementation of the CWA, shall take the lead in the preparation, implementation, and enforcement of the following (Rule 19):

¹ A short policy paper submitted to the Food and Fertilizer Technology Center (FFTC) for the project titled "Asia-Pacific Information Platform in Agricultural Policy". Short policy papers, as corollary outputs of the project, describe pertinent Philippine laws and regulations on agriculture, aquatic and natural resources.

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³ The Top 5 Countries with the Longest Coastline.

⁴ All Sections refer to R.A. No. 9275 unless indicated.

⁵ All Rules refer to the IRR of CWA unless indicated.

1. National water quality status report – this report shall identify (a) the location of water bodies, their quality, taking into account seasonal, tidal and other variations, existing and potential uses and sources of pollution per specific pollutant and pollution load assessment; (b) water quality management areas, and water classification (Rule 19.1).
2. Integrated Water Quality Management Framework (IWQMF) – this may contain, but not limited to the following: (a) assessment of policies and institutional arrangements and capacities relevant to water quality management including the strategy of devolution to LGUs; (b) management strategies; (c) sustainable financing strategies; and (d) performance monitoring (Rule 19.2).
3. Water Quality Management Area (WQMA) Action Plan for each WQMA - includes, but not limited to, the following: (a) goals and targets including sewerage or septage program, (b) schedule of compliance to meet the applicable requirements of this Act; (c) water pollution control strategies or techniques; (d) water quality information and education program; (e) resource requirement and possible sources; (f) enforcement procedures of the plan and (g) rewards and incentives (Rule 19.3)
4. Groundwater vulnerability mapping- the DENR through the Mines and Geosciences Bureau (MGB) shall publish a national groundwater vulnerability map (rule 19.4), which means the identified areas of the land surface where groundwater quality is most at risk from human activities and shall reflect the different degrees of groundwater vulnerability based on a range of soil properties and hydro geological criteria to serve as guide in the protection of the groundwater from contamination (Section 4 t).
5. Water quality guidelines – these shall reflect the latest scientific knowledge on the following matters: (a) effects of pollutants on public health, biological diversity, aquatic life, productivity and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of waterways, bio-accumulation of chemicals; (b) concentration and dispersal of pollutants including naturally occurring pollutants in highly mineralized areas, through physical, chemical and biological processes; pollution loading may also be used together with the concentration scheme; and (c) beneficial uses of the receiving water body (Rule 19.5).
6. Effluent standards - means any legal restriction or limitation on quantities, rates, and/or concentrations or any combination thereof, of physical, chemical or biological parameters of effluent which a person or point source is allowed to discharge into a body of water or land (Section 4 n).
7. Procedures for sampling and analysis of pollutants – the DENR shall adopt alternative internationally accepted test procedures for sampling and analysis of pollutants (Rule 19.7).
8. Accreditation system of laboratories - the DENR, in coordination with DOST, DTI, DOH, and other concerned agencies, academe, professional associations, and private sector, shall formulate, maintain, and manage a system of accreditation for laboratories (Rule 19.8).
9. Categories of point and non-point sources – the DENR shall issue and publish guidelines on the (a) identification and evaluation of the nature and extent of non-point sources of pollution; and (b) processes, procedures, and methods to control pollution resulting there from (Rule 19.9). Point source means any identifiable source of pollution with specific point of discharge into a particular water body (Section 4 aa). Non-point source - means any source of pollution not

identifiable as point source to include, but not be limited to, runoff from irrigation or rainwater, which picks up pollutants from farms and urban areas (section 4 z).

10. Classification of groundwater sources – The Environmental Management Bureau (EMB) of DENR shall coordinate with the NWRB and other relevant agencies in the classification of groundwater sources. (Rule 19.10).
11. Classification and re-classification of water bodies – All water bodies shall be classified according to their potential beneficial usage, taking into account, among, others, the following: (a) existing quality of the body of water; (b) size, depth, surface area covered, volume, direction, rate of flow and gradient stream; (c) most beneficial existing and future use of said bodies of water and lands bordering them, such as for residential, agricultural, aqua cultural, commercial, industrial, navigational, recreational, wildlife conservation and aesthetic purposes; and (d) vulnerability of surface and groundwater to contamination from pollutive and hazardous wastes, agricultural chemicals and underground storage tanks of petroleum products (Rule 19.11)
12. Information and dissemination campaigns – these cover the effects of water pollution on health and environment, water quality management, and resource conservation and recovery to encourage an environmentally action-oriented society in coordination with other government agencies (Section 19 n).

On the other hand, the Local Government Units (LGUs) are responsible in the management and improvement of water quality within their territorial jurisdictions. Each local government unit shall, through its Environment and Natural Resources Office (ENRO) established in Republic Act No.7160⁶, have the following powers and functions (Section 20):

- a) Monitoring of water quality;
- b) Emergency response;
- c) Compliance with the framework of the Water Quality Management Action Plan;
- d) To take active participation in all efforts concerning water quality protection and rehabilitation; and
- e) To coordinate with other government agencies and civil society and the concerned sectors in the implementation of measures to prevent and control water pollution.

Moreover, the DENR and the LGUs, in coordination with the appropriate government agencies. and in consultation with the business and industrial sectors including commerce, shall formulate appropriate incentives for the adoption procedures that will preserve and protect our water bodies through the introduction of innovative equipment and processes that reduce if totally eliminate discharge of pollutants into our water bodies (Section 21).

The Department and its concerned attached agencies including the Laguna Lake Development Authority (LLDA) shall coordinate and enter into agreement with other government agencies, industrial sector and other concerned sectors in the furtherance of the objectives of this Act- The following agencies shall perform tile functions specified hereunder (Section 22):

- a) Philippine Coast Guard in coordination with DA and the DENR shall enforce for the enforcement of water quality standards in marine waters, set pursuant to this Act, specifically from offshore sources;
- b) The Department of Public Works and Highways (DPWH) through its attached agencies, such as the Metropolitan Waterworks and Sewerage System (MWSS), Local Water Utilities Administration (LWUA), and including other urban water utilities for the provision or sewerage

⁶ Local Government Code of 1991

and sanitation facilities and the efficient and safe collection, treatment and disposal of sewage within their area of jurisdiction;

- c) the Department of Agriculture (DA), shall coordinate with the DENR in the formulation of guidelines for the re-use of wastewater for irrigation and other agricultural uses and for the prevention, control and abatement of pollution from agricultural and aquaculture activities. the Bureau of Fisheries and Aquatic Resources (BFAR) of the DA shall be primarily responsible for the prevention and control of water pollution for the development, management and conservation of the fisheries and aquatic resources;
- d) The Department of Health (DOH) shall be primarily responsible for the promulgation, revision and enforcement of drinking water quality standards;
- e) The Department of Science and Technology (DOST), in coordination with the Department and other concerned agencies, shall prepare a program for the evaluation, verification, development and public dissemination of pollution prevention and cleaner production technologies; and
- f) The Department of Education (DepEd), Commission Higher Education (CHED), Department of the Interior and Local Government (DILG) and Philippine Information Agency (PIA) shall assist and coordinate with the Department in, the preparation and implementation of a comprehensive program pursuant to the objectives of this Act.

The DENR, in coordination with the Department of Science and Technology (DOST), other concerned agencies and academic research institutions, shall establish a national research and development program for the prevention and control of water pollution. As part of said program, the DOST shall conduct and promote the coordination and acceleration of research, investigation, experiments, training, survey and studies relating to the causes, extent, prevention and control of pollution among concerned government agencies and research institutions (Section 24).

National water quality management fund

A National Water Quality Management Fund to be administered by the DENR, in coordination with other concerned agencies, as a special account in the National Treasury, is established and to be used to finance the following (Section 9):

- a) Finance containment and clean-up operations of the government in water pollution cases;
- b) Guarantee restoration of ecosystems and rehabilitation of affected areas;
- c) Support research, enforcement and monitoring activities;
- d) Provide technical assistance to the implementing agencies;
- e) Grant rewards and incentives;
- f) Support information and educational campaign; and
- g) Such other disbursements made solely for the prevention, control or abatement of water pollution and management and administration of the management areas in the amounts authorized by the Department.

In addition, the Area Water Quality Management Fund is established for the maintenance and upkeep of the water bodies in a water quality management area. The fund shall be utilized for the grant of rewards and incentives for entities whose effluent discharges are better than the water quality criteria of the target classification of the receiving body of water, loans for acquisitions and repairs of facilities to reduce quantity and improve quality of wastewater discharges, and regular maintenance of the water bodies within the management area (Section 10).

Water pollution permits and charges

A wastewater charge system in all management areas will be implemented. Wastewater charges shall be established taking into consideration the following (Section 13):

- a) To provide strong economic inducement for polluters to modify their production or management processes or to invest in pollution control technology in order to reduce the amount of water pollutants generated;
- b) To cover the cost of administering water quality management or improvement programs;
- c) Reflect damages caused by water pollution on the surrounding environment, including the cost of rehabilitation;
- d) Type of pollutant;
- e) Classification of the receiving water body; and
- f) Other special attributes of the water body.

The discharge permit, specifying, among others, the quantity and quality of effluent that said facilities are allowed to discharge into a particular water body, compliance schedule and monitoring requirement shall be the legal authorization from the DENR to discharge wastewater (Section 14).

Prohibited acts

The following acts are hereby prohibited (Section 27):

- a) Discharging, depositing or causing to be deposited material of any kind directly or indirectly into the water bodies or along the margins of any surface water, where, the same shall be liable to be washed into such surface water, either by tide action or by storm, floods or otherwise, which could cause water pollution or impede natural flow in the water body;
- b) Discharging, injecting or allowing to seep into the soil or sub-soil any substance in any form that would pollute groundwater.
- c) Operating facilities that discharge regulated water pollutants without the valid required permits or after the permit was revoked for any violation of any condition therein;
- d) Disposal of potentially infectious medical waste into sea water by vessels unless the health or safety of individuals on board the vessel is threatened by a great and imminent peril;
- e) Unauthorized transport or dumping into sea waters of sewage sludge or solid waste as defined under Republic Act No.9003;
- f) Transport, dumping or discharge of prohibited chemicals, substances or pollutants listed under Republic Act No.6969;
- g) Operate facilities that discharge or allow to seep, willfully or through gross negligence, prohibited chemicals, substances or pollutants listed under R. A. No. 6969 into water bodies or wherein the same shall be liable to be washed into such surface, ground, coastal, and marine water;
- h) Undertaking activities or development and expansion of projects, or operating wastewater/sewerage facilities in violation of Presidential Decree. No.1586 and its implementing rules, and regulations;
- i) Discharging regulated water pollutants without the valid required discharge permit pursuant to this Act or after the permit was revoked for any violation of condition therein;
- j) Non-compliance of the LGU with the Water Quality Framework and Management Area Action Plan. In such a case, sanctions shall be imposed on the local government officials concerned;
- k) Refusal to allow entry, inspection and monitoring by the Department in accordance with this Act;
- l) Refusal to allow access by the Department to relevant reports and records in accordance with this Act;
- m) Refusal or failure to submit reports whenever required by the Department in accordance with this Act;
- n) Refusal or failure to designate pollution control officers whenever required by, the Department in accordance with this Act; and
- o) Directly using booster pumps in the distribution system or tampering with the water supply in such a way as to alter or impair the water quality.

Fines, damages and penalties

Fines, damages and penalties to be filed by the DENR Secretary, upon the recommendation of the Pollution Adjudication Board (PAB), include (Section 28):

1. For any person committing any of the prohibited acts or violating any of the provision of the law or its IRR – not less than Ten thousand pesos (P10,000.00) nor more than Two hundred thousand pesos (P200,000.00) for every day of violation (to be increased by ten percent (10%) every two (2) years to compensate for inflation and to maintain the deterrent function of such fines); closure, suspension of development or construction, or cessation of operations or, where appropriate disconnection of water supply, until such time that proper environmental safeguards are put in place and/or compliance with this Act or its rules and regulations are undertaken.
2. Failure to undertake clean-up operations, willfully, or through gross negligence – imprisonment of not less than two (2) years and not more than four (4) years and a fine not less than Fifty thousand pesos (P50,000.00) and not more than One hundred thousand pesos (P100,000.00) per day for each day of violation.
3. Failure or refusal to undertake clean-up operations which results in serious injury or loss of life and/or irreversible water contamination of surface, ground, coastal and marine water – imprisonment of not less than six (6) years and one day and not more than twelve (12) years, and a fine of Five Hundred Thousand Pesos (P500,000.00) per day for each day during which the omission and/or contamination continues.
4. For gross violation (includes: (a) deliberate discharge of toxic pollutants identified pursuant to Republic Act No.6969 in toxic amounts; (b) five {5} or more violations within a period of two (2) years; or (c) blatant disregard of the orders of the PAB, such as the non-payment of fines, breaking of seals or operating despite the existence of an order for closure, discontinuance or cessation of operation) – with a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than Three million pesos (P3,000,000.00) per day for each day of violation or imprisonment of not less than six {6} years but not more than ten {10} years, or both, at the discretion of the court.
5. For violations falling under Section 4 of Presidential Decree No.979⁷ - a fine of not less than Fifty thousand pesos {P50,000.00) nor more than One million pesos (P1,000,000.00) or by imprisonment of not less than one {1} year nor more than six (6) years or both, for each offense, without prejudice to the civil liability of the offender in accordance with existing laws.
6. Water pollution cases involving acts or omissions --- committed within the Laguna Lake Region shall be dealt with in accordance with the procedure under R. A. No.4850⁸ as amended.

⁷ unlawful for any person to (a) discharge, dump or suffer, permit the discharge of oil, noxious gaseous and liquid substances and other harmful substances from or out of any ship, vessel, barge, or any other floating craft, or other man-made structures at sea, by any method, means or manner, into or upon the territorial and inland navigable waters of the Philippines; (b) throw, discharge or deposit, dump, or cause suffer or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of vessel of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state into tributary of any navigable water from which the same shall float or be washed into such navigable water; and (c) deposit or cause, suffer or procure to be deposited material of any kind in any place on the bank of any navigable water or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed or increased the level of pollution of such water.

⁸ Laguna Lake Development Authority Act states that “Any person, natural or juridical, who shall violate any of the provisions of this Act or any rule or regulation promulgated by the Authority pursuant thereto shall be liable to imprisonment of not exceeding three

Repealed and amended laws

The CWA repealed Presidential Decree No.984 Providing for the Revision of Republic Act No. 3931, Commonly Known as the Pollution Control Law, and for Other Purposes, signed on August 18, 1976. On the other hand, the following laws are amended and modified accordingly:

1. Republic Act No. 6969 – An Act to Control Toxic Substances and Hazardous and Nuclear Wastes, Providing Penalties for Violations Thereof, and for Other Purposes, signed on October 26, 1990
2. Republic Act No. 4850, as amended – An Act Creating the Laguna Lake Development Authority, Prescribing its Powers, Functions and Duties, Providing Funds Thereof, and for Other Purposes” signed on 18 July 1966.
3. Presidential Decree No. 1586 – Establishing An Environmental Impact Statement System, Including Other Environmental Management Related Measures And For Other Purposes signed on June 11, 1978.
4. Presidential Decree No.1152 – Philippine Environmental Code signed on June 6, 1977
5. Presidential Decree No.979 – Providing for the Revision of Presidential Decree No. 600 Governing Marine Pollution signed on August 18, 1976
6. Presidential Decree No.856 – Code On Sanitation signed on December 23, 1975

CONCLUSION

The Philippines is blessed with water resources, which have played a significant role in its development. The CWA is one way to safeguard these water resources. It provides sanctions for those who will pollute the water. The success of the CWA depends on its implementation and on each individual’s effort to protect these water resources.

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years or to a fine not exceeding Five Thousand Pesos or both at the discretion of the court. If the violator be a corporation, partnership or association, the officer or officers of the organization concerned shall be liable therefor. The Authority is hereby authorized to pursue separate civil actions for damages resulting from infractions of the provisions of this Act, rules or regulations issued pursuant thereto and/or conditions embodied in the clearances or permits issued by the Authority." (Section 27 of P.D. No. 813, adding a new section after Section 39 of R.A. No. 4850 to be known as Section 39-A)

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