

IMPLEMENTING GUIDELINES FOR THE AUTOMATIC RENEWAL OF REGISTRATION OF SUBIC BAY FREEPORT ENTERPRISES/LOCATORS AND SYSTEM OF FINES AND PENALTIES FOR VIOLATIONS AND NON-COMPLIANCES WITH LAWS, RULES AND REGULATIONS

I. POLICY

All Certificates of SBF (Subic Bay Freeport) Registration (Certificate of Registration and Tax Exemption or "CRTE") and Permits To Operate ("PTO") issued to Subic Bay Freeport Locators/Enterprises shall be valid for a period of one (1) year from issuance and shall be automatically renewed every year upon payment of a renewal fee amounting to US\$250.00 and US\$150.00 (for SBF Permit To Operate holders), at least ten (10) days prior to the expiration of the said one year period, pursuant to the Implementing Rules and Regulations of R.A. 7227, Chapter III, Section 23, which state that:

SECTION 23. Validity. All certificates (of registration) issued by the SBMA shall be valid for a period of one (1) year from issuance and shall be automatically renewed every year (i) upon payment of the prescribed fees at least ten (10) days prior to the expiration of the said one (1) year period for the particular year involved, and (ii) for as long as the SBF Enterprise [or Resident] remains qualified to continue its business operations [or reside] within the SBF under similar terms and conditions for which the original certificate(s) was/were issued.

2. The SBMA shall adhere to and implement a system of fines and penalties pursuant to the provisions of Section 27 of the Implementing Rules and Regulations which states that:

SECTION 27. Revocation, Suspension or Cancellation of Certificates of Registration [or Residency]. Without prejudice to the imposition of penalties prescribed under pertinent provisions of the Tariff and Customs Code of the Philippines and the National Internal Revenue Code of the Philippines, the Certificates of Registration issued by SBMA to any SBF Enterprise [or Resident] may be revoked, suspended, or cancelled for any of the following grounds:

- a. Failure to maintain the qualifications for registration or license as required by the Act;
- b. Violation of any provision of Philippine law, the Act, or these Rules;
- c. Violation of the corresponding implementing memoranda or circulars or any of the general and specific terms of the registration or license agreement between the SBMA and the SBF Enterprise.

Provided, that, the SBMA may prescribe and impose administrative penalties, fines, and sanctions in lieu of the revocation, cancellation or suspension of the Certificates of Registration [or Residency] for minor violations. The SBMA may also graduate the penalties, fines or sanctions to be imposed based on the gravity and frequency of the violation concerned.

II. RENEWAL PROCEDURE

- b. The SBMA Business Development Group shall update and finalize a list of the anniversary dates of the CRTEs or PTOs of SBF Locators/Enterprises on or before 31 January of every year. It shall be incumbent upon locators to be fully aware of their anniversary dates.
- c. Three (3) months before the anniversary month of a renewing locator, SBMA's Locator Registration and Licensing Department (LRLD) shall write thereto a reminder letter which shall include an endorsement of payment or "payment order" for the renewal fee.
- d. The renewing locator shall promptly pay the same to the SBMA Treasury or SBMA's authorized collecting bank not later than ten (10) days before the anniversary date of their CRTEs or Permits To Operate, and present to LRLD, for photocopying and filing, the Official Receipt or proof of such payment.
- e. Late payments shall automatically incur a surcharge or penalty of 12% p.a.
- f. The SDA For Business Development shall endorse the said proof of payment, together with an executive summary of the status of the business review procedure which shall be undertaken by the LRLD, and the appropriate form or document entitled "Renewal Of Certificate Of Registration And Tax Exemption" or "Renewal Of Permit To Operate", to the Administrator for his signature and issuance.

III. BUSINESS REVIEW PROCEDURE

- b. As part of SBMA's annual business review of SBF Locators/Enterprises, but not as a pre-condition to renewal of CRTEs or PTOs, the LRLD shall make timely advise to concerned SBMA departments to inspect and evaluate locators' or enterprises' compliance with SBMA Rules and Regulations.
 - c. Concerned departments shall inspect and conduct evaluation of Locators' and Enterprises' compliance with SBF Rules and Regulations, furnish locators copies of their inspection/evaluation reports, and submit the same to LRLD.
3. Concerned SBMA Departments shall adopt and implement a system of fines and penalties for violations of, or non-compliance with, laws, rules and regulations within their respective areas of responsibility, as follows:

ECOLOGY: DENR Rules and Regulations; Pollution Control Law; Wildlife Resources Conservation and Protection Act; SBMA Environmental Impact Statement (EIS) System; Tree Cutting Guidelines; Waste Management Guidelines; other SBMA environmental rules and regulations.

FIRE DEPARTMENT: The Fire Code of the Philippines

ENGINEERING/PUBLIC WORKS & TECHNICAL SERVICES GROUP:
The National Building Code of The Philippines

LABOR DEPARTMENT: Labor Code of the Philippines; S.S.S., Pag-Ibig, Philhealth

LAND AND ASSET DEVELOPMENT DEPARTMENT: The General House Rules For SBMA Housing Facilities, Addendum To The General Guidelines On SBMA Housing of October 2001

LAW ENFORCEMENT DEPARTMENT/ANTI - SMUGGLING TASK FORCE (SUBIC): Revised Penal Code of the Philippines, Tariff and Customs Code

PUBLIC HEALTH AND SAFETY: Occupational Safety and Health Standards, Sanitation Code of the Philippines

SEAPORT DEPARTMENT: Rules and Regulations For Prevention, Containment, Abatement and Control Of Marine Pollution

TELECOMMUNICATIONS: R.A.7925 Public Telecommunications Policy Act of the Philippines; R.A. 3846 Radio Control Law of the Philippines; NTC Rules and Regulations.

4. SBMA Departments shall classify violations or non-compliances as major or minor. A violation or non-compliance is minor when the penalty to be imposed is only a fine. A violation or non-compliance is major when the penalty to be imposed in the first instance, or over and above fines and other penalties, is either suspension, or revocation and cancellation of a CRTE/PTO.

5. Notwithstanding the classification of violations or non-compliances as minor in such laws, rules and regulations, SBMA Departments may recommend the additional penalty of suspension, or revocation and cancellation of a CRTE or PTO as may be warranted by the gravity or frequency of the violation or non-compliance.

6. LRLD shall prepare and submit to the Senior Deputy Administrator for Business Development, its business review which will show locators'/enterprises' compliance with rules and regulations, as well as the following:

- a. Profit and liquidity status of the renewing locator;
- a. Renewing locator's status with regard to outstanding obligations with SBMA Accounting Department or a current payment scheme agreement with SBMA for the settlement of outstanding accounts if any;
- b. Status of renewing locator's lease agreement or sublease agreement of an SBF facility;
- c. Evaluation of development and investments commitment;
- d. Verification if the renewing locator has a pending case with the SBMA Legal Department;
- f. The renewing locator has not been involved in any smuggling activities anywhere in the Philippines.

7. All recommendations for suspension, revocation and cancellation of CRTEs or PTOs shall be evaluated by the Senior Deputy Administrator for Business Development who shall ensure that the violating or non-complying SBF Locator/Enterprise has been accorded full due process prior to recommending the same to the Administrator for his endorsement to and for final action of the SBMA Board of Directors as may be warranted by the violation or non-compliance of a locator/enterprise.

Appeals from the decisions or resolutions of SBMA Departments in cases where the penalty is only a fine or does not involve suspension, revocation or cancellation of CRTEs or PTOs, may be made to the SBMA Administrator who

may either affirm such decision or resolution, or refer the same to a panel of officers for their review and recommendations.

IV. VIOLATIONS AND NON-COMPLIANCES, CLASSIFICATION INTO MAJOR OR MINOR, FINES AND PENALTIES

Hereunder are the major and minor violations or non-compliances as classified by SBMA Departments:

ECOLOGY:

Major (Suspension or Cancellation of CRTE/PTO over and above fine not exceeding P50,000)

- a. Operating without Environmental Compliance Certificate (ECC) or Certificate of Non-Coverage (CNC);
 - a. Non-compliance with any condition in ECC or CNC;
 - b. Those which pose imminent danger or damage to the environment;
 - c. Acts tending to increase potential exposure to hazardous wastes and toxic chemical substances;
 - d. Chronic and recalcitrant violations;
 - e. Substantial (more than 50%) deviation from effluent or emission standards or from terms of permit;
 - f. Falsification of self-monitoring reports to mislead the Ecology Department in assessing compliance;
 - g. Refusal of entry for Ecology Department inspectors to assess compliance, non-compliance or violations

A Cease-And-Desist Order may be issued by the Ecology Department against the violating locator to prevent any furtherance of the foregoing acts, failure to comply with which within reasonable time may warrant a recommendation for suspension or cancellation of a CRTE or PTO, based on the gravity and frequency of the violation.

Minor:

- a. Those which pose no imminent danger to the environment;
- b. Those that can be solved or remedied expeditiously;
- c. First-time violations or non-compliances which pose no threat from hazardous wastes or toxic substances;
- d. P.D. 984 (Pollution Control Law): Throwing, running, draining or otherwise disposing of any organic or inorganic matter or substance in gaseous or liquid form into any of the air, water or land resources of the Philippines that shall cause pollution thereof: Fine not exceeding P5,000.00 per day during which such violation or default continues.
- e. R.A. 9147 (Wildlife Resources Conservation and Protection Act) which makes unlawful for any person to willfully and knowingly exploit wildlife resources and their habitats, or collect, hunt or possess wildlife, their by-products and derivatives: imprisonment of ten (10) days to one (1) month and a fine of P1,000.00 to P5,000.00.

ENGINEERING/PUBLIC WORKS & TECHNICAL SERVICES GROUP

Major Violations

Unauthorized changes, modifications, alterations during construction in the plans and specifications submitted to SBMA for which it had issued building permits;

Unauthorized changes in the type of construction from “more fire-resistant” to “less fire-resistant”;

Non-compliance with order to abate or demolish;

Non-compliance with a work stoppage order for construction/demolition without permit;

Change in the existing use or occupancy without Certificate of Change of Occupancy/Use/Operation.

Excavations left open without any work being done at the site for more than one hundred twenty (120) days.

Minor Violations

Failure to post Certificate of Occupancy/Use/Operation;

Failure to post Building Permit Construction information sign;

Failure to provide or install appropriate safety measures for the protection of workers, inspectors, visitors, immediate neighbors, and pedestrians.

Non-compliance with work stoppage order for alteration/addition/conversion/repair without permit.

Use or occupancy of building / structure without appropriate Certificate of Occupancy/Use/Operation.

Schedule of Fines and Penalties

TYPE OF VIOLATION	Notice			
	1st	2nd	3rd	4th
Major Violation (a to f)	Warning	P10,000 Fine; and Suspension or Cancellation of CRTE/PTO		
Minor Violation (a to c)	Warning	P5,000 Fine	P8,000 Fine	P10,000 Fine; and Suspension or Cancellation of CRTE/PTO
Minor Violation (d & e)	Warning	P8,000 Fine	P10,000 Fine; and Suspension or Cancellation of CRTE/PTO	

Other Penalties and Surcharges

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

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

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

FIRE DEPARTMENT:

The following administrative fines are hereby prescribed for violations under three (3) major categories, to wit:

Failure to provide safety measures for the manufacture, storage, handling and/or use of hazardous material P500 – P2,500.00

- b. Failure to provide safety measures for hazardous operations/procedures P2,500.00 – P5,000.00
- c. Failure to provide safety construction and protective warning systems P5,000.00 – P15,000.00

Violations or deficiencies must be corrected within the period prescribed in the Fire Code of the Philippines. Upon expiration of the period to correct the violation or deficiency, re-inspection shall be conducted to determine compliance. If correction was not effected or if compliance does not conform to the required standards, the First Violation is committed for which the offender shall be fined and further ordered to effect the correction. Repeated failure on the part of on the part of the offender to effect corrections will constitute the second, third, fourth and subsequent violations corresponding to number of times of re-inspection and orders to effect the correction, and for which corresponding fines shall be imposed. A daily fine may imposed if, in the opinion of the responsible Fire Officer concerned, the same is necessary to compel the offender to effect the correction.

Closure and/or Stoppage of Operations. - Closure of establishments and/or stoppage of operation shall be resorted to when the offender is recalcitrant in complying with repeated orders for him to correct the deficiency. The same recourse shall also be resorted to when the violation or deficiency constitutes a clear and imminent danger to life and property such that evacuation

of the building or establishment and stoppage of operations therein are extremely necessary.

Abatement.

1. All fire hazards shall be abated immediately. Abatement is any act that would remove or neutralize a fire hazard. Such acts are specified in the Notice of Violation.

2. Abatement includes, among others, any combinations or all of the following:

- a. Removal of the source of ignition;
- b. Rearranging or adjusting articles within the minimum clearances or dimensions;
- c. Reduction in the amount/quantity of flammable, combustible, and hazardous materials;
- d. Changes in procedure in the conduct of hazardous operation;
- e. Constructions to limit and control the spread of fire and smoke;
- f. Installation of fire protective and/or warning, systems; and
- g. Remodeling, repairing, strengthening, reconstructing, removal and demolition, either partial or total, of the building or structure.

3. Under certain circumstances, where there is inaction on part of the violator, abatement may be made summarily by the SBMA, at the cost of the locator, if this is the only recourse to remove the imminent danger to life and property and achieve fire safety.

Failure to Pay Fine. - Failure on the part of the violator to pay the administrative fine within the period fixed in the Notice, shall constitute a ground for the issuance of an Order for Closure of the building or portion thereof , or stoppage of the hazardous operation in such building.

LABOR DEPARTMENT:

Major Violations

The commission, within one (1) year, of any three (3) of the following offenses/violations/non-compliances shall be penalized by way of a fine in the amount of P5,000.00 for every month of non-correction. Failure to correct a major violation within a period of six (6) months shall be penalized by way of suspension of CRTE/PTO. Violations or non-compliances persisting for one (1) year shall be penalized by cancellation of CRTE/PTO.

Illegal Deductions

Under Payment of any of the following: Wages, COLA, Overtime Pay, Holiday Pay, Special Holiday Pay, Rest Day Pay, Night Shift Differential, 13th Month Pay, Separation Pay, Service Incentive Leave, Tax Refund, Service Charge

Non-Payment of any of the following: Wages, COLA, Overtime Pay, Holiday Pay, Special Holiday Pay, Rest Day Pay, Night Shift Differential, 13th Month Pay, Separation Pay, Service Incentive Leave, Tax Refund, Service Charge

Violations relative to Maternity Leave Benefits

Violations relative to Paternity Leave Benefits

Non-coverage by SSS, Pag-Ibig, Philhealth

Non-presentation of required documents for inspection

Violation of other labor-related laws

Minor Violations

Commission within a year of any of the above offenses/violations/non-compliances shall be penalized by way of a fine or penalty in the amount of

P2,000.00 for every month that they are not corrected. Failure to correct a minor violation within a period of six (6) months shall be penalized by suspension of CRTE/PTO. Violations or non-compliances persisting for more than one (1) year shall be penalized by cancellation of CRTE/PTO.

LOCATORS LICENSING AND REGISTRATION DEPARTMENT/ANTI-SMUGGLING TASK FORCE (SUBIC)

Smuggling: Pursuant to SBMA Board Resolution No. 05-03-0188, locators/enterprises caught smuggling shall be penalized as follows:

Suspension of operations for three (3) months, during which time the Bureau of Customs and/or Task Force Subic should file an administrative case;

Transfer of custody of seized goods in favor of the Bureau of Customs;

Suspension or deferment of issuance of CRTE/PTO;

In the event that a locator is reported in a smuggling case for a total of three (3) times, each time via an incident report, but in all instances no administrative case is filed, SBMA shall suspend the issuance of import permits for a maximum of nine (9) months.

Indefinite suspension of PTO and non-renewal of CRTE upon filing of smuggling case

PUBLIC HEALTH AND SAFETY GROUP

Major (Suspension or Cancellation of CRTE/PTO in addition to Closure of Business Premises and fines ranging from P5,000 to P10,000)

- a. Violations or non-compliances which endanger life or property;
- Failure to secure sanitary clearance (for food service providers);
- Failure to undertake initial physical examination of employees (for all establishments);

The aforementioned major violations shall be penalized by way of a fine in the amount of P10,000 for every month that they are not corrected, without prejudice to SBMA's exercise of its authority to close or padlock the violator's business premises in cases endangering life, health or property. Failure to correct a major violation within a period of three (3) months shall be penalized by cancellation of CRTE/PTO.

Minor violations uncorrected over a period of one (1) year.

Minor

All other violations/non-compliances under the Occupational Safety and Health Standards of the Labor Code of the Philippines and the Code On Sanitation of the Philippines which are not herein classified as major, and for which a fine of not less than P5,000 is imposed for every month that the violation is not corrected, are herein considered as minor.

Failure to correct a minor violation or non-compliance within a period of six (6) months shall be penalized by suspension of CRTE/PTO. Violations or non-compliances persisting for over one (1) year shall be penalized by cancellation of CRTE/PTO.

SEAPORT DEPARTMENT

SBMA Seaport Instruction 94-007 (Rules and Regulations For Prevention, Containment, Abatement and Control Of Marine Pollution): For Throwing or Dumping any refuse matter into or upon the territorial and inland navigable waters of the Zone: \$5,000-\$10,000, and/or suspension from the exercise of marine profession;

TELECOMMUNICATIONS DEPARTMENT

Major Violations (Suspension or cancellation of CRTE/PTO, without prejudice to the imposition of applicable fines and penalties as prescribed by relevant laws, rules and regulations and other pertinent government issuances)

Relative to the regulation of basic and enhanced wireline and wireless telecommunications systems, network facilities and services:

Providing telecommunications services without franchise, Certificate of Public Convenience (CPC) or Certificate of Public Convenience and Necessity (CPCN), or Provisional Authority (PA) either from Congress, or the National Telecommunications Commission (NTC) or the SBMA;

Providing telecommunications services beyond the authority given under a franchise, CPC or CPCN/PA;

Manufacturing Customer Premise Equipment (CPE) and Radio Communications Equipment (RCE), including parts and accessories without valid registration from NTC or SBMA;

- d. Providing Value-Added Services without NTC or SBMA registration;
- e. Operating and maintaining Television Receive Only (TVRO) system and facility without permit/license from and registration with NTC or SBMA.

Minor Violations

Relative to SBF Enterprises/Locators whose businesses are not telecommunications and radio communications, but in support of which, require the use of radio or telecommunications equipment:

Late renewal of radio station licenses and dealer's and/or manufacturer's permits, and operator's license or permit: Surcharge equivalent to 50% of prescribed basic annual fee if application is filed within 180 days beyond expiration date; 100% surcharge if application filed after 180 days but not beyond 365 days after expiration of license or permit;

Spectrum Users Fees (SUF) shall be paid not later than 31 January of every year. A surcharge of 25% of the amount of SUF due plus one (1%) percent of the principal per month of delay shall be imposed on late payments;

- c. Fines prescribed by R.A. 3846 or the Radio Control Law of the Philippines.

FOR ILLEGAL POSSESSION, INSTALLATION/CONSTRUCTION,
AND/OR OPERATION ,

For Individual

For illegal purchase/possession of radio transmitter/transceiver (per unit) P 1,000.00
with forfeiture of equipment

For illegal installation/construction (per station)

a. with permit to purchase/possess P 2, 000.00

b. without permit to purchase/possess and construct P 2,000.00
with forfeiture of equipment

allowing the operation with an unlicensed operator (station covered with an appropriate permits/license) P1,000.00

operation with an unlicensed operator (station not covered by appropriate permits/licenses) P 2,000.00
with forfeiture of equipment

use of unauthorized frequency (station covered by appropriate permits/licenses) P 1,500.00

use of unauthorized frequency (station not covered by appropriate permits and license) P 2,000.00
with forfeiture of equipment

VIOLATION OF TERMS AND CONDITIONS OF A RADIO CONSTRUCTION OR LICENSE:

operating beyond the authorized working hours

For Individual P 2,000.00
For Company, Association, or Corporation P 3,500.00

allowing operation by an operator with inappropriate license

For Individual P 1,000.00
For Company, Association or Corporation P 3,000.00

c. excessive calling (for maritime station only) P 2,500.00

d. unauthorized equipment

For Individual P 2,000.00
For Company, Association or Corporation P 3,500.00

unauthorized power

For Individual P 2,000.00
For Company, Association or Corporation P 3,500.00

f. unauthorized emission P 3,500.00

OPERATING A RADIO TRAINING SCHOOL WITHOUT A CERTIFICATE OF RECOGNITION FROM THE NTC

Other violation relative to its operations as a Radio Training School P 2,000.00

FOR FAILURE TO INSTALL APPROPRIATE RADIO FACILITIES AS REQUIRED	P 3,000.00
ILLEGAL SALE (per unit)	
sale by an authorized dealer to a non-authorized person/entity	P 2,000.00
b. unauthorized dealer	P 2,000.00 with forfeiture of equipment
VI. FOR OTHER VIOLATIONS (per count)	P 2,000.00
For Company Association, or Corporation	
For illegal purchase/possession of radio transmitter/ Transceiver (per unit)	P 2,500.00
For illegal installation/construction (per station)	
with permit to purchase/possess and construct	P 3,000.00
without permit to purchase/possess and construct	P 4,000.00 with forfeiture of equipment
c. allowing operation with an unlicensed operator (station covered with an appropriate permits/license)	P4,000.00
d. operating with an unlicensed operator (station not covered by appropriate permits/licensed)	P5,000.00 with forfeiture of equipment
use of unauthorized frequency (station covered by appropriate permits and licenses)	P 4,000.00
use of unauthorized frequency (station not covered by appropriate permits and licenses)	P 5,000.00 with forfeiture of equipment
g. no logbook (per station)	P 500.00

V. EFFECTIVITY

These Guidelines shall become effective immediately upon their publication by posting in the websites of the SBMA and the Subic Bay Freeport Chamber of Commerce, as well as in prominent places of the Freeport, or by announcement in the Freeport's Cable T.V. Channel, or publication in local print media.