

DEPARTMENT ADMINISTRATIVE ORDER No. 08
Series of 2003

SUBJECT: GUIDELINES FOR THE MANDATORY ACCREDITATION
OF REBUILDING CENTERS

ARTICLE I
COVERAGE, OBJECTIVES AND DEFINITION OF TERMS

Section 1. Coverage

Under this Order, all establishments, which conduct or provide rebuilding services for trucks falling under any of the following categories: M3, N1, N2 or N3 of PNS:1891:2000, must be accredited first by the DTI before they can legally engage in the business of truck rebuilding.

Section 2. Objectives

- (a) To assure the public that all rebuilt trucks are safe and roadworthy and meet the standards on exhaust emission.
- (b) To develop technical and management expertise in truck rebuilding to pave the way for rebuilding programs covering other types of vehicles.
- (c) To supplement the provisions of P.D. 1572 (Regulation of Repair and Service Shops), Republic Act No. 7394 (The Consumer Act of the Philippines) and Republic Act No. 8749 (The Clean Air Act of 1999).
- (d) To implement the DTI function of accrediting establishments and practitioners (Section 10 (1), Title X, Book IV of the Administrative Code 1987) and provide for redress mechanism pursuant to EO 913 and Ministry Order No. 69.

Section 3. Definition of Terms

The following terms, which are used in this Order, shall have the meaning indicated for each term:

- (a) *Accreditation* : A formal recognition by DTI of a truck rebuilding center as competent to carry out truck rebuilding activities.
- (b) *Applicant* : A person, natural or juridical, seeking accreditation under this Order.
- (c) *Assessment* : A process that determines whether an organization, individual, process or service meets the requirements of standards or guides.
- (d) *Assessment Procedure Manual* : A document embodying the standards and procedures for the accreditation of truck rebuilding centers.

- (e) *Assessment Team* : A group of technical persons constituted by the Regional Office/Provincial Office for the primary purpose of evaluating and assessing the applicant's eligibility to be accredited as truck rebuilding center and to engage in truck rebuilding activities.
- (f) *BOC* : Bureau of Customs
- (g) *Bond* : The bond mentioned in Section 10 of this Order.
- (h) *BIS* : Bureau of Import Services
- (i) *CAI* : Certificate of Authority to Import
- (j) *Category M3* : Vehicles used for the carriage of passengers and comprising more than eight seats in addition to the driver's seat and having a maximum weight exceeding 5 metric tones.
- (k) *Category N1* : Vehicles used for the carriage of goods and having a maximum weight not exceeding 3.5 metric tones.
- (l) *Category N2* : Vehicles used for the carriage of goods and having a maximum weight exceeding 3.5 but not exceeding 12 metric tones.
- (m) *Category N3* : Vehicles used for the carriage of goods and having a maximum weight exceeding 12 metric tones.
- (n) *CEC* : Certificate of Emission Compliance
- (o) *CKD* : Completely Knocked-Down
- (p) *Director* : Director of BIS
- (q) *DOTC* : Department of Transportation and Communications
- (r) *DTI* : Department of Trade and Industry
- (s) *Flat Rate* : Fixed pricing for the same job no matter how long it actually took.
- (t) *IED* : Import Entry Declaration
- (u) *LC* : Letter of Credit
- (v) *LTO* : Land Transportation Office
- (w) *PO* : Provincial Office
- (x) *PD* : Provincial Director
- (y) *RO* : Regional Office
- (z) *RD* : Regional Director

- (aa) *Rebuilding* : Process of restoring a whole unit to its design capacity and efficiency using directly imported or locally acquired used components/parts.
- (bb) *Rebuilt Motor Vehicle* : A locally-assembled vehicle using a combination of new or used major parts or components, i.e. engine, chassis, body and cabin / cowl.
- (cc) *Secretary* : Secretary of DTI
- (dd) *SPVs* : Special Purpose Vehicles
- (ee) *TESDA* : Technical Education and Skills Development Authority.
- (ff) *Truck* : Any motor vehicle whose body configuration is designed to carry heavy loads, general freight, or for special purpose, regardless of gross vehicle weight.
- (gg) *Truck Rebuilding Center* : Any sole proprietorship, partnership, corporation or cooperative, engaged in the rebuilding of truck, hereinafter referred to as "center".
- (hh) *This Order* : This Department Administrative Order.

ARTICLE II REQUIREMENTS FOR ACCREDITATION

I. Application requirements

Section 4. Qualification of Applicant

Any natural person who is at least 18 years of age or any juridical person who/which is not disqualified by any existing law or regulation to engage in the rebuilding of any road vehicle is qualified to apply for accreditation provided that the requirements set forth in this Article are complied with.

Section 5. Documentary Requirements

- (a) A duly accomplished application form, under oath.
- (b) A certified copy of the following:
 - i. For sole proprietorship: Certificate of Business Name Registration.
 - ii. For corporation/partnership: Securities and Exchange Commission (SEC) Certificate of Registration; Articles of Incorporation/Partnership; and Board Resolution under oath specifying the name of its authorized representative.
 - iii. For Cooperative: Cooperative Development Authority (CDA) Certificate of Registration; Articles of Cooperation; and Board Resolution under oath specifying the name of its authorized representative.

- (c) Location map of the center.
- (d) Layout of the center including dimensions.
- (e) Chart of Organizational Structure showing the relationship between the center and other operations of the applicant, when applicable.
- (f) Chart of Organizational Structure of the center showing its personnel and their respective functions.
- (g) List of personnel involved in the operation of the center including their job descriptions, qualifications and responsibilities.
- (h) Certificate of competency on rebuilding of road vehicles issued by TESDA or other DTI-accredited institutions providing the same and other relevant training skills.
- (i) List of all equipment, including reference materials required for truck rebuilding.
- (j) Manual on personnel, equipment and procedure for truck rebuilding.
- (k) Certified copy of the insurance policy and the official receipt showing payment of the premium. Insurance coverage shall be not less than One Million Pesos (P1,000,000.00) and shall cover the following risks: theft, pilferage, fire, flood and loss to cover the motor vehicles stored in the premises of the center for purposes of truck rebuilding.
- (l) Such other documents that the Director may require from time to time to protect the interests of the government and the general public.

II. General Requirements

Section 6. Philippine National Standards Applicable

The applicable standards for truck rebuilding shall be the following Philippine National Standards (PNS) :

- (a) PNS 1951:2000 (Road Vehicles – Requirements for Rebuilding);
- (b) PNS 1891:2000 (Road vehicles classification), in particular, categories M3, N1, N2 and N3.
- (c) PNS 1259:1995 (Requirements for repositioning right hand drive to left hand drive on road vehicles);
- (d) PNS 1892:2000 (Road vehicles safety belts and restraint system specifications)

Section 7. Personnel

The truck rebuilding center shall have sufficient personnel who have the necessary education, training, technical knowledge and experience for their assigned functions.

Section 8. Work Area

The minimum work area shall be one thousand (1,000) square meters.

Section 9. Equipment and Reference Manual

The truck rebuilding center shall have all the equipment and instruments required in rebuilding as well as reference manual necessary to rebuild road vehicles.

Section 10. Bond

A surety bond, equivalent to ten percent (10%) of the center's assets or One Million Pesos (P1,000,000.00) whichever is higher, shall be issued in favor of the Republic of the Philippines by a surety or insurance company duly accredited by the Office of the Insurance Commission and acceptable to the DTI. The bond which shall guarantee the faithful performance of the job by the center, shall be callable on demand and shall remain in force and effect until cancelled or released by the Director/PD.

The other acceptable form of bond and their corresponding amount shall be as follows:

- (a) Bank Guarantee – Ten percent (10%) of assets or One Million Pesos (P1,000,000.00) whichever is higher.
- (b) One Million Pesos (P1,000,000.00) in cash or in any of the following equivalent forms:
 - b.1 Manager's check
 - b.2 Cashier's check
 - b.3 Insurable letter of credit
 - b.4 Bank draft.

**ARTICLE III
IMPORTATION OF PARTS**

Section 11. Qualified Importers

Only DTI-accredited truck rebuilders may import used components/parts for rebuilding purposes.

All importations of chassis, engines, body and cabin/cowl of the importer-rebuilder shall be for the sole purpose of rebuilding and not for sale as is, except to another DTI-accredited truck rebuilder which shall use said parts for truck rebuilding.

Section 12. Import Procedures

12.1 Prior authorization from the BIS shall be required for importation of CKD trucks, buses and SPVs for rebuilding purposes.

12.2 The application for CAI shall be filed with the BIS using the BIS' prescribed application form. The duly accomplished application form shall be submitted together with the following documents:

12.2.1 Application Fee at P600 per one (1) set of chassis, engine, body and cabin/cowl.

12.2.2 One (1) Original Pro-forma invoice indicating the following information:

- a. classification code of the unit/s
- b. quantity
- c. brand and model
- d. chassis and engine models/numbers
- e. unit price
- f. total amount
- g. rated gross vehicle weight
- h. year model/s
- i. number of wheels

12.3 The CAI shall be valid for a period of sixty (60) days for importations under the L/C Mode of Payment, and one hundred twenty (120) days for importations under non-L/C Mode of Payment (i.e., Self-Funded, Document Against Payments, etc) reckoned from the date of issuance of the CAI and cannot be extended without prejudice to re-application should the import authority expire unutilized. On self-funded importation, the authority addressed to the importer shall be used to transact business with the BOC.

12.4 Amendment/s on the authorized importation (i.e., change in the name of supplier, commodity description, authorized agent bank, number of units, value, terms of payment) shall require prior clearance/authority from the BIS.

Section 13. Monitoring

13.1 Endorsement for Registration

The BIS shall endorse the rebuilt unit for LTO registration upon submission of the following:

- a. Copy of CAI
- b. Complete set of shipping documents:
 - 1) Commercial Invoice
 - 2) Packing List
 - 3) Bill of Lading
- c. Certified copy of fully processed IED from trader if components / parts are locally-acquired
- d. Certificate of Payment issued by the BOC - Bureau of Customs
- e. Notarized "Deed of Sale" if unit/s were bought from duly accredited importer/rebuilder, if applicable, or Invoice.

- f. Affidavit of Undertaking by the importer / rebuilder that the unit is rebuilt using components/parts legally imported or locally acquired.
- g. CEC from a DTI accredited emission testing center.

13.2 Inspection

The BIS shall conduct ocular inspection on the premises of the importer / rebuilder. In this regard, the BIS or its authorized representatives shall be afforded reasonable access, during business hours, to the importer's/rebuilder's rebuilding site or warehouse to allow them to inspect the imported components/parts.

13.3 Records / Inventory

The importer/rebuilder shall make, keep and make available for inspection, reproduction and validation, on request of the BIS or its authorized representatives, legible and systematic records, showing the importer's/rebuilder's import transactions and utilization of the imported components/parts.

The BIS shall maintain a record of inventory and utilization of the accredited rebuilders imported engine, body, cabin / cowl for rebuilding purposes to ensure that the number of units endorsed for registration corresponds to the existing inventory thereof.

This record and inventory requirement also supports the government's drive against anti-carnapping.

Section 14. Penalties (Administrative Fines)

Failure to comply with the provisions of Article III shall constitute a violation which carry the following penalties, payable at the DTI Cashier's office, without prejudice to other sanctions imposed under the Revised Penal Code and other laws:

- (a) No CAI.....P 50,000.00/unit
- (b) Road vehicles outside of road vehicle category
N1, N2, N3 & M3.....P100,000.00/unit

ARTICLE IV ACCREDITATION PROCEDURE

Section 15. Where to File

Applications for accreditation and payment of the applicable fees shall be filed with the BIS if the applicant's center is in the National Capital Region or with the PO where the center is located.

Section 16. Review of Documents

The BIS/PO shall review the documentary requirements within five (5) working days from receipt thereof. The applicant shall be notified in writing of the review findings within five (5) working days also. Should there be findings of deficiency/ies, the applicant shall be required to rectify the same within thirty (30) working days from notice.

Section 17. Assessment

An on-site assessment in accordance with the review criteria set forth in the Assessment Procedure Manual shall be conducted by the Assessment Team.

The assessment of the applicant's eligibility for accreditation shall include assessment of the competence of the applicant in terms of its organization in reference, its method of rebuilding, equipment capability, personnel competence of, and compliance with the requirements herein provided and in other applicable laws and regulations.

Section 18. Assessment Report

- (a) An Assessment Report, in a prescribed form, shall be prepared and submitted by the Assessment Team to the Director/PD after completion of the assessment. The Report shall contain the findings and recommendations of the Assessment Team.
- (b) In case of finding of deficiencies, the Director/PD shall notify the applicant in writing those areas in which the center failed to meet the requirements/standards and require any corrective action that must be performed within thirty (30) working days.

Section 19. Corrective Action/s

Within thirty (30) working days, the applicant shall submit evidence of corrective actions on deficiencies. The Director/PO may grant upon request of the applicant, a thirty (30) working days extension to perform the corrective action/s. The application shall be deemed abandoned and the corresponding application fee shall be forfeited in favor of BIS/PO if corrective action/s are not done and submitted within the specified period.

Section 20. Final Assessment Report and Evaluation Report

A Final Assessment Report, in a prescribed form, shall be prepared and submitted to the Director/PD by the Assessment Team after completion of the assessment. The Report shall contain the findings of the Assessment Team and shall be indorsed by the PD to the RD if the application is filed with the PO.

Section 21. Issuance of Certificate of Accreditation/Disapproval of Application

Based on the evaluation result and recommendation of the Assessment Team, the Director/RD shall either (1) issue a Certificate of Accreditation, upon payment of the prescribed fees and posting of required bond, or (2) notify the applicant in writing of the application's disapproval and the ground/s why the application was denied.

Section 22. Appeals

In case of denial of the application by the Director/RD, the applicant may, within fifteen (15) days from receipt of said decision, file a motion for reconsideration with the Director/RD. If said motion is denied, the applicant may, within fifteen (15) days from receipt of the order of denial, appeal to the DTI-OSEC, which may refer the same to its Appeals Committee, for review and recommendation. After approval by the DTI Secretary, the decision of the Appeals Committee may in turn be appealed to the Office of the President and thereafter to the Court of Appeals as provided under Rule 43 of the Rules of Court.

The grounds for appeal to the DTI-OSEC are limited to any of the following:

- a. Grave abuse of discretion which may cause grave or irreparable injury to the applicant; or
- b. Serious errors in the findings of facts or in the interpretation/application of pertinent law(s)/jurisprudence, which may cause grave or irreparable injury to the applicant.

**ARTICLE V
CERTIFICATE OF ACCREDITATION**

Section 23. Period of Validity of the Certificate.

The Certificate of Accreditation shall be valid for a period of three (3) years from the date of issuance (as stated in the certificate) and must be renewed within three (3) months before its expiration date, unless sooner cancelled voluntarily or on grounds enumerated under Article XI hereof.

Section 24. Non-transferability of the Certificate.

The grantee of a Certificate of Accreditation shall not transfer or alienate in whatever manner, nor authorize another to use said Certificate.

Section 25. Replacement of Certificate

In case the Certificate is lost or destroyed, the accredited truck rebuilding center may apply for the issuance of certified copy of the Certificate based on the records upon payment of the prescribed fee.

**ARTICLE VI
RENEWAL OF ACCREDITATION**

As stated above, the Certificate of Accreditation shall be renewed within three (3) months prior to the expiry date. The application for renewal of accreditation shall be accompanied with the following documents:

- (a) A duly accomplished application form, under oath.
- (b) A certified copy of the following:
 - i. For sole proprietorship: Certificate of Business Name Registration.
 - ii. For corporation/partnership: Securities and Exchange Commission (SEC) Certificate of Registration; Articles of Incorporation/Partnership; and Board Resolution under oath specifying the name of its authorized representative.
 - iii. For Cooperative: Cooperative Development Authority (CDA) Certificate of Registration; Articles of Cooperation; and Board Resolution under oath specifying the name of its authorized representative.
- (c) Certificate of competency on rebuilding of road vehicles issued by TESDA or other DTI-accredited institutions providing the same and other relevant training skills.
- (d) List of all equipment, including reference materials required for truck rebuilding.
- (e) Manual on personnel, equipment and procedure for truck rebuilding.
- (f) Certified copy of the insurance policy and the official receipt showing payment of the premium. Insurance coverage shall be not less than One Million Pesos (P1,000,000.00) and shall cover the following risks: theft, pilferage, fire, flood and loss to cover the motor vehicles stored in the premises of the center for purposes of truck rebuilding.
- (g) Such other documents that the Director may require from time to time to protect the interests of the government and the general public.

**ARTICLE VII
BRANCH OFFICE**

Every branch office of a center shall apply for a separate accreditation. It shall be subject to the same requirements, processing procedure for accreditation, and fees imposed on its main center.

**ARTICLE VIII
CONDITIONS OF ACCREDITATION**

Following the grant of accreditation, the center shall abide by the following commitments:

Section 26. Maintenance and Calibration of Equipment

All adjusting, servicing and rebuilding equipment shall be maintained in good condition. Instruments and equipment requiring calibration or adjustment shall be calibrated and adjusted in accordance with the instructions of the manufacturer and the requirements of the BIS.

Section 27. Inspection

The BIS/RO/PO shall conduct an on-site inspection within six (6) months after the initial Certificate of Accreditation has been granted, and at least once a year, thereafter. In this regard, the BIS/RO/PO or its authorized representatives shall be afforded with reasonable access during business hours to the center's premises to allow them to inspect the equipment, facilities and documents pertaining to their operation and to verify competence of and compliance by the center's personnel with the standards set in their Manual.

Section 28. Records

The center shall make, keep and make available for inspection and reproduction, on request of the BIS/RO/PO or its authorized representatives, legible and systematic records, showing the center's transactions for a period of not less than three years after completion of any transaction. Records required to be maintained shall include copies of the following:

- (a) Quantity and type of vehicles rebuilt.
- (b) Complaints pertaining to the center's rebuilt vehicles.
- (c) Records on the relevant qualifications, training skills, and experience of the technical personnel.
- (d) Records shall be maintained for all equipment including number of units, date acquired, location (permanent facility) and condition.

Section 29. Display

All centers shall comply with the following provisions governing display of documents and signage:

- (a) *Certificate of Accreditation.* The Certificate of Accreditation of the center and of its technician shall be posted prominently in the center.
- (b) *Official Signboard.* The center shall display conspicuously an official signboard outside its facility.

The Director/PD may order the replacement of any official signboard or price list, which is not visible or no longer visible.

Section 30. Posting of Prices

The center shall post conspicuously in an area frequented by customers and make available upon request by the customer, a list of prices for specific activities for which it is licensed. Such posted prices shall include, but not limited to:

- (a) Price charged for each type of vehicles, if such prices differ
- (b) Flat rate of each kind of service to be performed

Section 31. Warranty

The center shall provide a minimum warranty of three (3) months covering the workmanship of the rebuilt unit.

Section 32. Subcontracting

The center may only subcontract specialized work, such as repair/adjustment of the vehicle emission control system and fuel system calibration. However the center must obtain authorization from the customer for subcontract work and shall be responsible for the repairs performed by the subcontractor as if the repairs were performed by the center or by itself.

Section 33. Reportorial Requirement

The authorized representative of the center shall report in writing to the BIS/PO:

- (a) Any change of information related to the center such as change in authorized representatives, personnel or equipment not later than five (5) working days following such change.
- (b) Change of address or name of the center must be made known not later than five (5) working days before effecting such change.
- (c) Relevant statistics of their operation, such as number of motor vehicles rebuilt, complaints received and action taken in the manner and form the BIS will prescribe, to be submitted to the BIS/PO not later than five (5) working days after the end of each month.
- (d) Such other reports which the Director may deem necessary for the effective implementation of this Order and other related laws and regulations.

**ARTICLE IX
SCHEDULE OF FEES**

The following fees relative to the accreditation of centers shall be payable to the DTI:

Application Fee (Non-refundable. Payable upon issuance of application form)	P 300.00
Assessment Fee (Including document review, evaluation and inspection. Non-refundable.)	500.00/man-hour
Reassessment Fee (Including document review, evaluation and inspection. Non-refundable.)	500.00/man-hour
Accreditation Fee (Payable upon issuance of Certificate of Accreditation)	30,000.00
Other Fees:	
1. Issuance of a certified copy of a lost or destroyed Certificate of Accreditation	500.00
2. Issuance of any other certification	100.00

**ARTICLE X
RESPONSIBILITIES AND FUNCTIONS**

Section 34. Bureau of Import Services (BIS)

The BIS shall perform the general function of overseeing the implementation of the accreditation scheme for centers. The BIS shall perform the following specific functions:

- 1.1 Formulate policy guidelines for the effective implementation of the accreditation scheme for centers;
- 1.2 Maintain a Registry of Accredited Truck Rebuilding Centers and of accredited technicians under their respective employ;
- 1.3 Maintain a manual for the conduct of the accreditation;
- 1.4 Maintain a Registry of recognized and authorized assessors;
- 1.5 Enter into agreement with other government agencies as well as with private sector in the implementation of these guidelines;
- 1.6 Represent DTI in various consultative meetings or workshops geared towards the upgrading and improvement of the accreditation scheme; and
- 1.7 Undertake such other measures as may be deemed necessary to improve the accreditation scheme for centers.

Section 35. Regional Office (RO)

The RO shall perform the following functions:

- (a) Constitute an Evaluation Committee which shall evaluate and review the Assessment Report and prepare an Evaluation Report thereon.
- (b) Issue Certificates of Accreditation to applicants that comply with the requirements for accreditation.
- (c) Exercise the adjudicatory functions of the Secretary under EO 913 s. 1983 relative to complaints arising from the implementation of this Order.

Section 36. Provincial Office (PO)

The PO shall perform the following functions:

- (a) Accept applications for accreditation of applicants operating within its provincial jurisdiction.
- (b) Constitute and convene the Assessment Team to conduct assessment of applicant's compliance with the accreditation requirements provided in this Order.
- (c) Maintain records of accredited Truck Rebuilding Centers and of accredited technicians under their employ, within its provincial jurisdiction.
- (d) Exercise the delegated functions under E.O. No. 913 s. 1983 relative to complaints arising from the implementation of this Order.
- (e) Exercise visitorial powers over truck rebuilding centers which are covered by this Order, whether or not accredited under this Order, to determine their compliance with this Order.

Section 37. Truck Rebuilding Centers – Advisory Committee

The Truck Rebuilding Centers – Advisory Committee, hereinafter referred to as the TRC-AC, is hereby created.

3.1 The TRC-AC shall be composed of:

- (a) Director of BIS as Chairman
- (b) Director of Bureau of Product Standards
- (c) A representative from Regional Operations Group
- (d) A private sector representative
- (e) A representative from TESDA

The TRC-AC shall function as an advisory body to the BIS. It shall assist the BIS in the review and formulation of policies pertaining to accreditation of centers and their technicians. The TRC-AC shall establish rules to govern its internal affairs. The presence of four (4) members shall constitute a quorum, and the vote of the majority of the members present, there being a quorum, shall be necessary for the adoption of any act or decision of the TRC-AC.

Section 38. Assessment Team

The Director/PD shall constitute an Assessment Team composed of representative/s from the BIS/PO and technical experts/assessors duly recognized by the BIS, as members. The team shall be headed by a DTI-representative designated by the Director/PD.

The functions of the Assessment Team are:

- (a) Review and evaluate the application and the documentary requirements.
- (b) Conduct on-site assessment/reassessment of the applicant's and/or the accredited center's facility and equipment, and prepare an Assessment Report.
- (c) Exercise visitorial powers to monitor the activities of the accredited centers in order to ensure their faithful compliance with these guidelines.

ARTICLE XI GROUNDS FOR ADMINISTRATIVE SANCTIONS

- (a) Operating a truck rebuilding center or engaging in truck rebuilding business without proper accreditation by DTI;
- (b) Violation of any of the conditions of accreditation;
- (c) Engaging in acts of misrepresentation for the purpose of securing an accreditation or renewal thereof or in the pursuit of business, such as giving a material false statement in the application or submitting falsified or spurious documents;
- (d) Obstructing or attempting to obstruct inspection by the BIS/PO, BIS or its authorized representative/s;
- (e) Doing any willful or fraudulent act as a consequence of which another is injured or damaged;
- (f) Willful and deliberate abandonment without lawful and/or just excuse of any job accepted or undertaken by the center;
- (g) Any act or omission similar or analogous to the foregoing.

**ARTICLE XII
ADMINISTRATIVE ADJUDICATION**

Section 39. Modes of Commencing an Administrative Action

An administrative action in the BIS or in the PO may be commenced either:

- a. by the Director/PD motu proprio, by signing a Formal Charge against the offender; or
- b. by any other person (natural or juridical) or by an entity authorized by law to sue, by filing a complaint against the offender, with BIS/PO concerned. The complaint shall not be converted to a Formal Charge.

Section 40. When to File a Complaint/Formal Charge

The Complaint/Formal Charge shall be filed within three (3) years from the date of the commission of the offense or from the date of the discovery thereof. After the said period of three (3) years, the filing thereof shall be barred.

**ARTICLE XIII
COMPLAINTS**

Section 41. Probable Cause Rule

The probable cause rule and not the prima facie case rule shall be applied to complaints and Formal Charges.

Section 42. Mandatory Mediation

In either of the two (2) modes above, it shall be mandatory for the Mediation Officer to conduct a mediation of the case.

Section 43. Three (3) kinds of Decision in the Mediation Stage; Order of Dismissal

The Director/PD may render the following decisions during the mediation stage:

- a. Decision based on compromise agreement between the parties. This decision is immediately executory and is not appealable.
- b. Decision based on a Voluntary Undertaking submitted by the respondent.. This decision is immediately executory and is not appealable. The conforme of the complainant is not required because this is not a compromise agreement.

- c. Decision based on the respondent's admission of the offense charged (like "plea of guilty"). The Director/PD shall impose on the offender, penalties/sanctions taken from E.O. 913 and Ministry Order No. 69, S. 1983. The penalties/sanctions, whether one (1) only or more than one (1) should be commensurate to the offense, taking into account the admission of the offense and other circumstances. This decision can be appealed to the Office of Legal Affairs (if the decision was rendered by the Director) or to the Regional Director (if the decision was rendered by a PD) within fifteen (15) days from receipt of the decision.
- d. The Director/PD may also issue an Order of Dismissal of the case, based on the following:
 - 1. The BIS/PO elects not to adjudicate the case. This order of dismissal is not appealable. (Section 15 (b), M.O. 69).
 - 2. There is no probable cause. This may be appealed to the Regional Director within fifteen (15) days from receipt of the order.
 - 3. Based on a joint motion to dismiss filed by both parties to the case. This is not appealable.
 - 4. Based on a motion to dismiss filed by the complainant. This is not appealable.

Section 44. Elevation of Case

In case of failure of mediation, or in case no decision or order of dismissal (mentioned in the preceding Section) is rendered/issued in the mediation stage, the complaint or the Formal Charge shall be elevated as follows:

- a. Case originating from BIS – elevate to the Office of Legal Affairs (OLA), DTI.
- b. Case originating from PO – elevate to the Regional Office concerned. The Hearing Officer of OLA or of the RO shall conduct a formal hearing of the case and thereafter either dismiss the case or render a decision. The penalties/sanctions (one or more) shall be commensurate to the offense committed. The decision/order of dismissal of the Hearing Officer of OLA or of the RO shall be subject to the approval of the OLA Director or RD.

Section 45 Powers of the Director/PD

The Director/PD shall have the following powers:

- a. To file a formal charge against any person (natural or juridical) or entity who/which is believed to have committed or is committing a violation of this Order, based on reports, documents, verification, monitoring, inspection and other sources of information.
- b. To designate, from among the employees under his supervision or control, the prosecution officer, mediation officer and other officers who may be needed in carrying out the BIS'/PD's functions under this Order.

Section 46. Administrative Penalties/Sanctions

After formal hearing, the OLA Hearing Officer or the RD may impose one or more of the following administrative penalties, even if not prayed for in the complaint: (M.O. 69, E.O. 913)

1. the issuance of a cease and desist order;
2. the acceptance of a voluntary assurance of compliance or discontinuance under such terms and conditions as may be imposed;
3. the condemnation or seizure of products which are the subject of the offense;
4. the forfeiture of the products subject of the offense, the paraphernalia and all properties, real or personal, which have been used in the commission of the offense;

5. the imposition of administrative fines in such amount as deemed reasonable by the OLA Hearing Officer/RD which shall in no case be less than five hundred pesos nor more than one hundred fifty thousand pesos plus not more than one thousand pesos for each day of continuing violation. The fine imposed under this Section shall be regardless of the limits of the criminal fine fixed in the "trade and industry law" violated;
6. the cancellation of any permit, license, authority, or registration which may have been granted by the Department, or the suspension of the validity thereof for such period of time as the OLA Hearing Officer/RD may deem reasonable which shall not, however, exceed one year;
7. the withholding of any permit, license, authority or registration which is being secured by the respondent from the Department;
8. the assessment of damages;
9. censure; and
10. other analogous penalties or sanctions, such as closure for a period not exceeding one (1) year.

Section 47. Supplementary Rules

The procedure provided in this Article shall be supplemented by M.O. No. 69, S. 1983, as amended.

Section 48. A schedule of fines contained in Annex "A" which is made as integral part of this Order shall be the basis in the imposition of administrative fine. The circumstances such as mitigating, aggravating, and alternative, set forth in DAO No. 7, s. 1999, shall be taken into account to arrive at an appropriate fine.

ARTICLE XIV SEPARABILITY CLAUSE

If for any reason these rules and regulations or any of its provisions or the application of such provision/s or portions thereof is declared invalid, all other provisions unaffected thereby shall continue to remain in full force and effect.

ARTICLE XV
REPEALING CLAUSE

All issuances and rules and regulations which are inconsistent herewith are hereby repealed or amended accordingly by this Order.

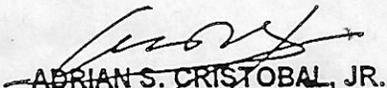
ARTICLE XVI
EFFECTIVITY

This Order shall be published in full in a newspaper of general circulation and shall take effect sixty (60) days after said publication.

Oct. 10, 2003, Makati City, Philippines


MAR ROXAS
Secretary

RECOMMENDING APPROVAL:


ADRIAN S. CRISTOBAL, JR.
Undersecretary, CWTRG

CERTIFIED TRUE PHOTOCOPY


RAQUEL M. CLEMENTE
Head, Records Section

ANNEX "A"

SCHEDULE OF FINES

FREQUENCY OF VIOLATION	BASIC FINES		ATTENDING CIRCUMSTANCES			
	E.O. 913		Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
	Company Officers	Corporations				
1 st Offense	P25,000.00	50,000.00	Less 25% of the Basic Fine	Add 15% to Basic Fine	Add 30% to Basic Fine	Add 50% to Basic Fine
2 nd Offense	50,000.00	75,000.00				
3 rd Offense and succeeding offenses	150,000.00	150,000.00	Not Applicable			