



Republic of the Philippines  
Office of the President  
**DANGEROUS DRUGS BOARD**

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**BOARD RESOLUTION NO. 141**  
**Series of 2013**

**SUBJECT: IMPOSITION OF TEN THOUSAND PESO (PHP 10,000.00) FINE AGAINST PSMC PHILIPPINES, INC. FOR ITS NOVEMBER 14, 2012 IMPORTATION WITHOUT THE NECESSARY PDEA PERMIT**

**WHEREAS**, pursuant to Section 81 (b) and (r) of Article IX of RA 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 (RA 9165), the Board issued Board Regulation No. 3, Series of 2003 which provides for the “Comprehensive Guidelines on Importation, Distribution, Manufacture, Prescription, Dispensing and Sale of, and Other Lawful Acts in Connection with any Dangerous Drugs, Controlled Precursors and Essential Chemicals and other Similar or Analogous Substances”;

**WHEREAS**, pursuant to Section 81 (b) and (r) of Article IX of RA 9165, the Board likewise issued Board Regulation No. 5, Series of 2006, which provides for the “Imposition of Fines and other Sanctions for Violations Committed on the Pertinent Provisions of Board Regulation No. 3, Series of 2003;

**WHEREAS, PSMC PHILIPPINES, INC.**, with business address at Clark Free Port Zone, Pampanga is possessed of a PDEA P5IM License with License No. P5IM-01346001-N000 (license to import specified controlled chemicals as end – user), valid until August 3, 2013;

**WHEREAS**, on September 23, 2012, subject shipment arrived at the Port of Manila from Busan, South Korea with **PSMC PHILIPPINES, INC.** as consignee consisting of Holplanik NP Replenisher with a total weight of 400 kilos, containing 15% Sulfuric Acid by weight;

**WHEREAS**, subject shipment arrived without the necessary importation permit / certificate of exemption, in violation of Section 6 (2) (b) of Board Regulation No. 3, Series of 2003 which states that no operator shall import any dangerous drug or controlled chemicals and their preparations in the absence of a separate import permit or Certificate of Exemption;

**WHEREAS**, Section 29 (d) of Board Regulation No. 3, Series of 2003 provides that a consignment of a dangerous drug or controlled chemical is liable to forfeiture if there is no import permit from the PDEA;

**WHEREAS**, on September 28, 2012, the PDEA directed **PSMC PHILIPPINES, INC.** to pay Php 10,000.00 fine as provided for in Board Regulation No. 5, Series of 2006 without prejudice to the conduct of forfeiture proceedings by the Bureau of Customs;

**WHEREAS**, after evaluation of the Technical Working Group (TWG) on Exemption, it has been determined that the violation committed by **PSMC PHILIPPINES, INC.** was not willful and without intent to flout existing Board

Regulations, for there was only simple negligence on the part of PSMC when it erroneously assumed that the presence of a PDEA License would suffice to allow importation of products with controlled chemicals;

**WHEREAS**, the TWG also made a background review and found out that **PSMC PHILIPPINES, INC.** has not been previously involved in any violation of rules and regulations enforced by the PDEA and the company has also manifested that it is willing to pay the imposed fine and is only appealing the penalty of forfeiture;

**WHEREAS**, the Sulfuric Acid content is only fifteen percent (15%), therefore, the controlled chemical component is very minimal and neither does it present a risk of abuse nor the quantity of the same be recovered to present such risk;

**WHEREAS**, the mixture is formulated in such a way that the controlled chemical component can neither be extracted nor it can be used for the illicit manufacture of dangerous drug;

**WHEREAS**, the TWG also believes that to subject the shipment to forfeiture proceedings due to an unintentional lapse or simple negligence would not be commensurate to the violation committed and may be construed as an act that will hamper operations of legitimate industries.

**WHEREFORE**, be it **RESOLVED**, as it is hereby **RESOLVED**: That -

- a. That the penalty of **TEN THOUSAND PESOS (Php 10,000.00)** be imposed against **PSMC PHILIPPINES, INC.** as a result of its importation of products containing controlled chemicals without the proper import permit / certificate of exemption;
- b. The September 23, 2012 shipment of **PSMC PHILIPPINES, INC.** has satisfactorily **COMPLIED** with the DDB / PDEA administrative and regulatory requirements;
- c. The recommendation of forfeiture be **WITHDRAWN** without prejudice to whatever sanctions the Bureau of Customs may impose for violation/s of the Tariff and Customs Code;
- d. **PSMC PHILIPPINES, INC. SUBMIT** with the Board an **EXPLANATION** of corrective measures that it would undertake to avoid a repetition of the incident within **TEN (10) WORKING DAYS**;
- e. The DDB – PDEA Monitoring Team shall be allowed access to **PSMC PHILIPPINES, INC.** premises where raw materials and finished products are being kept and / or used; and,
- f. **PSMC PHILIPPINES, INC. IS STERNLY WARNED THAT A REPETITION OF SAID ACT SHALL BE DEALT WITH MORE SEVERELY.**

**APPROVED and ADOPTED** this 6<sup>th</sup> day of May, in the year of Our Lord, 2013 in Pampanga.

(Sgd) **Secretary ANTONIO A. VILLAR, JR.**  
Chairman, Dangerous Drugs Board

Attested:

(Sgd) **Undersecretary JOSE MARLOWE S. PEDREGOSA**  
Secretary of the Board