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MEMORANDUM CIRCULAR

No. 2004 - 16

SUBJECT: AMENDMENT OF SECTION 4, RULE XXXV OF DENR ADMINISTRATIVE ORDER NO. 2000-81 RE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 8749

Pursuant to Section 46 "Violation of Standards for Motor Vehicles" and Section 51 "Implementing Rules and Regulations" of Republic Act No. 8749, Section 4 "Apprehension and Impounding of Vehicles Exceeding Emission Limits", Rule XXXV of DENR Administrative Order No. 2000-81 re Implementing Rules and Regulations of Republic Act No. 8749 is hereby amended as follows:

Section 1. Procedures for Roadside Apprehension and Impounding of Vehicles Exceeding Emission Limits

A vehicle suspected of violating the emission standards through visual inspection shall be flagged down by the apprehending officer.

- a. If the apprehending team has the emission test equipment at the time of apprehension, the following procedures shall be followed:
 - 1) The apprehending officer shall conduct an emission test of the vehicle using the portable emission testing equipment following the test procedures listed in Annex B and Annex C (DAO 2000-81). Should the results show an exceedance of the emission limits, the computerized printout, or hard copy of the test result generated by the portable emission testing equipment shall serve as prima facie evidence of violation of the emission standards.
 - 2) Should the test result show that there is an exceedance of the standards, the apprehending officer shall issue a ticket to the driver. A warrant of constructive or actual distraint to the owner of the motor vehicle as provided for in Republic Act No. 4136 shall commence unless the vehicle has been previously found violating the standards three (3) or more times within the last 365-day period. In the latter case, the motor vehicle registration shall be suspended for a period of one (1) year.

- 3) Upon payment of the fine at the Department of Transportation and Communication (DOTC) through the Land Transportation Office (LTO) or any DOTC-designated enforcement unit or deputized agency or private entity, the vehicle plate(s) shall be surrendered to the apprehending officer and the driver shall be issued a temporary pass allowing him to take possession of the vehicle for the purpose of undertaking the needed repairs within a period not later than seven (7) days from the date the vehicle is temporarily released.
 - 4) Motor vehicles released for purposes of repairs shall not be operated or used in public roads except for the purpose of transporting the same to the service center for repairs and to the authorized emission testing center for emission testing.
 - 5) Upon completion of the necessary vehicle repairs, the vehicle shall undergo emission testing at the designated testing center of the Department of Environment and Natural Resources-Natural Resources Development Corporation (DENR - NRDC) to ascertain if it already meets the emission standards.
 - 6) Once the vehicle meets the standards, the DENR-NRDC designated testing center shall issue a Certificate of Emission Compliance (CEC). The driver shall retrieve his vehicle and/or vehicle plates from the DOTC through the LTO and/or DOTC-designated enforcement unit(s) which has custody over the vehicle or vehicle plates.
- b. Should conduct of the roadside emission testing be impractical, the following procedures shall be followed:
- 1) The emission shall be rated using the Ringelmann Chart. If the emission is rated Shade 3 (60%) or greater, the apprehending officer shall issue a charge/subpoena ticket to the driver/operator of the vehicle.
 - 2) The driver/operator shall be required to bring the vehicle for emission testing to a designated testing center within a period not exceeding 24 hours. The apprehending officer shall strictly follow applicable rules and regulations to ensure that the driver/operator shall abide by this requirement.
 - 3) Emission test for vehicles shall be conducted at any designated testing center. If the vehicle meets the standards and there is no legal impediment based on the Land Transportation Law, the driver's license/vehicle plates shall be immediately released and returned to the vehicle owner or driver.

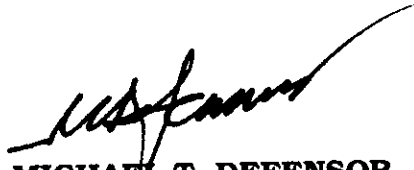
- 4) If the vehicle fails the emission standards, the driver's license/vehicle plates shall be turned over to the LTO Central Office. The vehicle, after undergoing repairs or other remedial measures, shall be subject to emission testing at the designated testing center of the DENR-NRDC to ascertain its compliance with emission standards. A CEC shall be issued if the vehicle meets the standards.
- 5) The official receipt of payment of fines from the LTO and CEC issued shall be the basis for the release of the confiscated license/vehicle plates.

Section 2. Separability Clause

All orders, circulars, and instructions inconsistent herewith are hereby repealed or amended accordingly.

Section 3. Effectivity

This Circular shall take effect after fifteen (15) days from date of its publication in at least two newspapers of general circulation and date of filing of three (3) certified copies with the University of the Philippines Law Center.



MICHAEL T. DEFENSOR
Secretary

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