



January 27, 2021

EMB MEMORANDUM CIRCULAR
No. 2021 - 01

SUBJECT : CLARIFICATION ON THE IMPLEMENTATION OF SECTION 10 OF DENR ADMINISTRATIVE ORDER NO. 2016-08

Pursuant to Republic Act No. 9275, otherwise known as the “*Philippine Clean Water Act of 2004*”, and its implementing rules and regulations, and to provide clarification on the proper interpretation of Section 10 of DENR Administrative Order No. 2016-08, otherwise known as Water Quality Guidelines and General Effluent Standards of 2016, this Memorandum is hereby issued to guide the stakeholders.

The law provides that:

SEC. 19. Lead Agency. — The Department shall be the primary government agency responsible for the implementation and enforcement of this Act unless otherwise provided herein. As such, it shall have the following functions, powers and responsibilities:

x x x x x

f) Review and set effluent standards every five (5) years from the effectivity of this Act or sooner as determined by the Department: *Provided*, That in the interim, the provisions of DENR Administrative Order No. 35 of the Department shall apply: *Provided, further*, That when new and more stringent standards are set in accordance with this section, the Department may establish a grace period with a maximum of five (5) years: *Provided, finally*, That such grace period shall be limited to the moratorium on the issuance of cease and desist and/or closure order against the industry’s operations except in the event such operation poses serious and grave threat to the environment, or the industry fails to institute retooling, upgrading or establishing an environmental management system (EMS) (underscoring ours)¹.

Further, DENR Administrative Order No. 2016-08 provides:

Section 10.0. Grace Period. A grace period of not more than five (5) years may be given, provided that the establishment submits Compliance Action Plan and periodic status of implementation to the DENR on the steps taken for the establishment’s compliance schedule within the prescribed grace period. Cases wherein grace period may be given shall be limited to any of the following:

- a) Values for the GES have become stringent compared to the values in DAO 1990-35. In such cases, DAO 1990-35 shall apply during the grace period.
- b) New significant effluent quality parameters were identified for the sector

Such grace period shall include, but not limited to, moratorium on the issuance of cease and desist and/or closure order, fines, and other penalties against the establishment’s operations.²

Hence, in clarifying, the grace period already commenced from the time DAO 2016-08 has been effective, or when the new and more stringent standards are set. As a consequence, the grace period shall be lifted on June 18, 2021, which includes all its advantages.

In view of this, the following is provided:

1. All establishments with covered by the above provisions which submitted their respective CAP before June 18, 2021 is entitled to the advantages of the grace period until the same is lifted. However, establishments which failed to submit their respective CAP cannot avail of the advantages of the grace period;

¹Section 19 (f), RA 9275

² Section 10, DAO 2016-08



2. CAPs approved with work plans extending beyond June 18, 2021, may only be benefited by the advantages of the grace period until the same is lifted;
3. Upon the lifting of the grace period, regular compliance is expected. Hence, any violation committed by establishments from June 18, 2021, either with approved CAP or otherwise, shall be subject to impossible penalties provided under RA. 9275 and its implementing rules and regulations.

EMB Memorandum Circular No. 2019-001³, and all other related previous issuances of this Office inconsistent with this clarification are herein revoked.

This Memorandum Circular shall take effect immediately after its publication in a newspaper of general circulation and upon acknowledgment of receipt of a copy thereof by the Office of the National Administrative Register (ONAR).


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Director



³ Supplementary Clarification on the Coverage of DAO 2016-08 Relative to the Granting of Not More Than Five Years Grace Period