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RULES AND REGULATIONS IMPLEMENTING THE NEW GENERAL EFFLUENT STANDARDS PURSUANT TO LLDA BOARD RESOLUTION NO. 523, S. 2017, ENTITLED "ADOPTION OF DEPARTMENT ADMINISTRATIVE ORDER (...

MEMORANDUM CIRCULAR NO. 2017-05, January 25, 2018

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Adopted: 22 November 2017
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In the interest of the service and in order to guide the Authority as regards the implementation of the new General Effluent Standards (GES) promulgated by the DENR thru Administrative Order No. 2016-08 pursuant to Republic Act No. 9275 otherwise known as the Philippine Clean Water Act of 2004, of which the LLDA adopted thru LLDA Board Resolution No. 523 series of 2017, and for the continuous implementation of the Environmental User Fee System (EUFS) in the Laguna de Bay Region, the following rules and regulations shall be adopted.

I. COVERAGE

These guidelines shall apply to all existing and/or new development projects, installations and activities that are required to secure a discharge permit, pursuant to LLDA Board Resolution No. 322 series of 2007 or the Modified Wastewater Charge System in the Laguna de Bay Region.

II. POLICY GUIDELINES IN THE IMPLEMENTATION OF SPECIFIC PROVISIONS OF DENR DAO 2016-08

The rules and regulations implementing specific provisions of the DENR DAO
2016-08, specifically those that pertains to the adoption of the GES are hereby promulgated, as follows:

1. General Effluent Standards (Section 7.0 of DAO 2016-08)

> 1.1 Discharges from any point source shall, at all times, meet the effluent standards set forth in Tables 9 and 10 of DENR DAO 2016-08 to maintain the required Class C water quality for water bodies within the Laguna de Bay Region, and Class SB for Manila Bay as mandated by the DENR;
>
> 1.2 With this new GES, industries shall only be required to monitor their effluent quality parameters determined to be significant to them. Results of laboratory analysis for all significant effluent parameters shall be submitted to the LLDA as part of its Self-Monitoring Report (SMR).
> 1.3 Wastewater generated by an establishment shall not be allowed to be re- used for irrigation and other agricultural purposes without a valid certification issued by the Department of Agriculture (DA) in accordance with Administrative Order 2007-26 issued by said Department, and for subsequent amendment or issuance by the DA to conform with the new water quality guidelines and general effluent standards issued by the DENR;
>
> Certification from the DA should be valid for the duration of the
> Discharge Permit issued to the said establishment.

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1.4 Effluent quality monitoring procedures shall be in accordance with the Effluent Quality Monitoring Manual issued by DENR-EMB through Memorandum Circular 2008-008 as adopted by LLDA

2. Significant Effluent Quality Parameters per Sector (Section 7.1)

2.1 In general, individual point sources of pollution shall be categorized into sectors consistent with the Philippine Standard Industrial Classification (PSIC, 2009). The significant effluent quality parameters for each sector or industry type shall be based on Table 8 of said DAO, for purposes of streamlining compliance and enforcement of the GES;

In cases where a certain establishment does not fall in one of the identified sectors in Table 8 of said DAO, the LLDA shall identify the most probable pollutants that the said establishment will discharge into the environment. These identified parameters will then be used for that particular establishment's discharge permit, and for compliance monitoring and enforcement;

2.2 Wastewater treatment facilities of establishment that caters both process wastewater and domestic sewage shall be monitored for effluent parameters significant to them, including parameters intended for domestic sewage as listed in PSIC Code No. 37000;

2.3 The LLDA shall include additional effluent parameter/s other than those listed in their assigned PSIC Code for laboratory analysis, if this particular parameter/s is deemed significant based on actual inspection of its process or activities.

3. Effluent Standards for BOD for Strong Wastewater (Section 7.2)

3.1 Establishments with Strong Wastewater has to request and submit at least ten (10) monthly monitoring results or a minimum of twelve (12) monitoring results of a 6-month period showing that influent BOD is equal to or greater than 3,000 mg/L, at all times. Analysis of samples shall be from a DENR-recognized, third-party laboratory. The LLDA may conduct validation tests, review of submitted SMRs, among others, to verify if such a claim is valid;

3.2 Those establishments with verified influent BOD of at least 3,000 mg/L, the applicable effluent standards in Table 10 shall at all times be enforced and complied with Laboratory analysis for influent BOD shall be conducted consistent with the analysis of effluent samples which shall be included in the submission of its Self-Monitoring Report;

3.3 Since Manila Bay is re-classified into Class SB pursuant to the continuing mandamus of the Supreme Court, all establishments directly draining into the Manila Bay with BOD as one of its significant effluent parameters and considered as strong waste shall comply with the maximum BOD value set in Table 9;

3.4 For parameters other than BOD, Table 9 shall apply.

4 Modification of GES (Section 8.0)

4.1 Any person, both natural and juridical, May request for the modification of the GES as described in this section;

4.2 The request shall include a clear and scientifically valid evidence having a probative value to demonstrate that such modification is consistent with RA 9275 and its Implementing Rules and Regulations Request for modification shall be submitted to the Office of the General Manager of the LLDA, actions of which shall be subject to further consultation with the DENR;

The requesting entity has to submit at least ten (10) monthly monitoring results or a minimum of twelve (12) monitoring results of a 6-month period among other supporting documents, to prove that its request for modification is based on empirical and scientific findings or studies. The LLDA shall conduct validation tests,

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review of submitted SMRs, among others, to verify if such a claim is valid.

5. Modification of Significant Effluent Quality Parameters and GES Values (Section 8.3)

5.1 In cases where a particular significant parameter is present in an establishment's waste stream but is not listed in Table 8 of the DAO, the LLoA shall require the establishment to comply with such particular significant parameter;

The LLDA shall inform the establishment of the findings and of the need to include such parameter in the succeeding issuances of its Discharge Permit, as well as in the succeeding compliance monitoring and enforcement;

The establishment may file a motion for reconsideration within fifteen (15) days after receipt of such findings. The LLDA reserves the right to reject or accept the appeal based on justifiable grounds;

5.2 In cases where a particular significant parameter is not present in an establishment's waste stream, such establishment may request for exclusion of such particular parameter in its succeeding monitoring regime and in its Discharge Permit, provided the following conditions are met;

5.2.1 Based on the DENR-approved method of analysis, the parameter of concern is below the method detection level (MDL) for at least ten (10) monitoring events;

Monitoring events shall refer to self-monitoring activities with a frequency of at least twice a month;

5.2.2 No change in technology and raw materials used in its operations or process;

During the monitoring periods for purposes of effluent quality measurement, there should be no changes in technology and raw materials used in its operations or process;

Once exclusion of a particular parameter is approved, the establishment shall inform the Authority of any changes in technology and raw materials used in its operations or processes to verify if such exclusion is still valid. This shall be included as one of the conditions in its Discharge Permit;

The LLDA shall conduct validation tests, review of submitted SMRs, among others, to verify if such a claim is valid

6. Grace Period (Section 10.0)

6.1 An establishment may request for a grace period of not more than five (5) years to be able to fully comply with the GES, provided the requesting establishment submits a Compliance Action Plan (CAP). Cases wherein a grace period may be granted shall be limited to any of the following:
6.1.1 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;
6.1.2 New significant effluent quality parameters were identified for the sector

6.2 The minimum content of the Compliance Action Plan to avail of the grace period are as follows:

6.2.1 description of the establishment;
6.2.2 justifications why it needs to request for a grace period (i.e., new parameters, stricter parameters in the new DAO, etc);
6.2.3 process production flow (including flow rate, material balance, water balance, etc);
6.2.4 characterization or nature of existing wastewater stream, historical trends of its regulated parameters based on the submitted SMRs (within the last three years to present);
6.2.5 description of existing wastewater treatment facility, such as its type, design rate and actual capacity, date constructed/installed, projected useful life, etc.;
6.2.6 proposed modification on the existing wastewater treatment facilities to address new and/or stringent

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parameters of the new DAO;
6.2.7 timeline of the establishment's corrective actions and modifications, including annual projected milestones, to fully comply with the new standards within the requested grace period;
6.2.8 investment cost and other related expenses for the implementation of the CAP.

6.3 Compliance Action Plan submitted before the issuance of this IRR need not follow the suggested content. However, the establishment may opt to submit or the LLDA may request for submission of a revised CAP to include other details not considered in the earlier submitted CAP;

6.4 Filing for the request of grace period thru the submission of CAP shall be made at least three (3) months before expiration/revalidation of its Discharge Permit for CY 2018;

6.5 The start of the grace period is upon approval of the submitted CAP;

6.6 After approval of its Compliance Action Plan, periodic status of implementation, or annual progress report, shall be submitted to update the LLDA on the steps taken for the establishment’s approved compliance schedule, including milestones achieved, implementation challenges, among others;

6.7 Within the approved grace period, a moratorium is in effect which includes issuance of cease and desist and/or closure order, fines, and other penalties against establishment’s operations;

However, DAO 1990-35 remains in effect during the grace period which must be complied with at all times. Thus, failure in any of the regulated parameters under DAO 1990-35 shall not be covered in the above- mentioned moratorium;

6.8 Failure to submit annual progress report or periodic status of implementation may form the basis for the cancellation and/or revocation of approved grace period. In such cases, the applicable general effluent standards for that particular establishment shall be enforced and complied with at all times;

6.9 The LLDA may grant an extension of the approved grace period provided that a catch-up plan was submitted six (6) months before the lapse of the grace period, provided also that the delay and/or implementation challenges was duly reported in its submitted periodic (annual) status of implementation. In no case shall the grace period be extended to an aggregate total of five (5) years;

6.10 After the lapse of the grace period, the new GES shall be automatically enforced and complied with at all times.

7. Fines, Damages and Penalties (Section 12.0)

7.1 Any person, both natural or juridical, found violating or failing to comply with any Order or Decision of the Authority or any provision of this Order, shall be liable under Section 28 of RA 9275, in the amount of:
7.1.1 PHP 10,000 per day of violation (minimum);
7.1.2 PHP 200,000 per day of violation (maximum);
7.1.3 The fines herein prescribed shall be increased by 10% every two (2) years to compensate for inflation and to maintain the deterrent function of such fines.

7.2 Appropriate fines and penalties as stated under LLDA Board Resolution
No 404, s. 2012, adopting the fines and penalties under Section 28 of RA
9275 shall apply;

7.3 The existing rates of fines and penalties to be imposed are without prejudice to the new sets of fees and charges that the LLDA Board of Directors may issue for the purpose.

III. WATER POLLUTION CASE PENDING WITH THE PUBLIC HEARING COMMITTEE

Those establishments with water pollution case pending before the Public Hearing Committee, the case shall be deemed recommended for dismissal if the non-compliant parameter is no longer included in the list of its new significant parameters. The cut-off date for the computation of daily penalty and Environmental User Fee to be imposed, as pre-requisites for dismissal of the said case, shall be at the date of effectivity of this IRR.

However, those who submitted a Compliance Action Plan, wherein the DAO
1990-35 shall apply for the duration of the grace period, the case will remain active until it complies with the effluent standards set for the said DAO.

IV. REVIEW AND AMENDMENT

The review of this Implementing Rules and Regulations shall be conducted after two (2) years of its implementation, or as may be necessary.

V. EFFECTIVITY

This Memorandum Circular shall take effect fifteen (15) days after its publication in a newspaper of general circulation, posting in the LLDA official website and

upon acknowledgment of receipt of a copy by the Office of the National
Administrative Register (ONAR).

(SGD) JAIME C. MEDINA
General Manager

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