NATIONAL ADMINISTRATIVE REGISTER · JUNE 21, 2005

RULES ON APPREHENSION, IMPOUNDING AND ADJUDICATION OF MOTOR VEHICLES EXCEEDING EMISSION LIMITS

LTO MEMORANDUM, June 21, 2005

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Pursuant to the pertinent provisions of R.A. 8749 and consistent with DENR AO No. 03-2000, dated January 7, 2000, in order to provide for a uniform and consistent standard operating procedure in the apprehension, testing and adjudication of smoke-belching motor vehicles and to clarify and effect the application and implementation of R.A. 8749, Sections 4 and 5 of its Implementing Rules and Regulations set-out in DENR AO No. 81-2000, dated November 7, 2000, are hereby reiterated, adopted and incorporated herein for the information and guidance of all concerned as to proper procedures in the apprehension, impounding and adjudication of smoke-belching violations, to wit:

"RULE XXXV Roadside Inspection of Motor Vehicles (IRR of R.A. 8749)

x x x

SECTION 4. Apprehension and Impounding of Vehicles Exceeding Emission Limits -

Pursuant to Section 46 of the Act, the procedure for apprehension and impounding of vehicles which emit pollutants beyond allowable limits shall be as follows:

a. A vehicle suspected of violation of emission standards through visual signs shall be flagged down by the apprehending officer.

b. The apprehending officer shall conduct an emission test of the vehicle using portable emission testing equipment and using test procedures given in Annex B and Annex C, to determine whether the vehicle complies with the emission standards. Should the results show an exceedance of the emission limits, the computerized print-out, or other test result generated by the portable emission testing equipment shall serve as prima facie evidence of violation of the emission standards.

c. Should the test result show that there is an exceedance of the standards, a ticket will be issued to the driver and a warrant of constructive or actual distraint to any owner of the motor vehicle as provided for in Republic Act 4136 shall commence unless the vehicle has been previously found violating 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

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period of one (1) year.

d. Upon payment of the fine at the DOTC through LTO or DOTC designated enforcement unit(s) or deputized agency or private entity, the vehicle plate(s) will be surrendered to the apprehending officer and the driver will 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.

e. 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.

f. When the repairs are made, the vehicle must undergo an emission test at a DOTC/LTO testing center or its authorized and accredited emission testing center to ascertain if it already meets the emission standards.

g. Once the vehicle meets the standards, the DOTC/LTO testing center or its authorized and accredited emission testing centers shall issue a Certificate of Emission Compliance to the driver of the vehicle. The CEC will have no validity period, its sole purpose is to secure the release of the impounded vehicle or the vehicle license plates, whichever is applicable and which were confiscated as a consequence of that specific violation.

h. Upon presentation of the Certificate of Emission Compliance, the driver shall recover his vehicle or his vehicle plates, whichever is applicable, from the DOTC through LTO and/or DOTC-designated enforcement unit(s) which has custody over the vehicle or vehicle plates.

Further refinement of the apprehension procedure stated in the Act shall be developed and/or approved by the DOTC. All apprehensions shall be made strictly adopting the above procedure. Failure of enforcers to observe said procedure shall merit review of the apprehension by the adjudication service and/or waiver of fines and penalties.

SECTION 5. Appellate Procedure - In the event the driver of the apprehended vehicle contests the fines imposed and/or for the violation of emission standards, he may appeal the same with the DOTC-Designated Traffic Adjudication Service where he will be given opportunity to be heard.

x x x."

All orders, memoranda, and circulars issued in conflict herewith are hereby repealed and superseded accordingly.

This Memorandum takes effect immediately upon submission of three (3) copies thereof to the UP Law Center.

Adopted: 21 June 2005

(SGD.) ANNELI R. LONTOC

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