CLARIFICATION ON THE INCINERATOR BAN IN THE PHILIPPINE CLEAN AIR ACT OF 1999 (REPUBLIC ACT NO. 8749)

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Pursuant to Section 20 of Republic Act No. 8749 otherwise known as the "Philippine Clean Air Act of 1999," incineration for treating municipal, bio-medical and hazardous wastes, which process emits poisonous and toxic fumes is prohibited. Further, Section 5t of the same Act defines poisonous and toxic fumes as emissions and fumes which are beyond internationally - accepted standards, including but not limited to World Health Organization (WHO) guideline values.

Further, in a decision of the Supreme Court in the case of the Metro Manila Development Authority (MMDA) versus Jancom Environmental Corporation G.R. No. 147465 dated 3o January 2002, it held in agreement with the ruling of the Court of Appeals on 13 November 2001 that Section 20 of RA 8749 does not prohibit incineration of wastes except those burning processes which emit poisonous and toxic fumes. Quoted hereunder is an excerpt of said decision.

> "Section 20 does not absolutely prohibit incineration as a mode of waste disposal, rather only those burning processes which emit poisonous and toxic fumes are banned."

In view of the Supreme Court decision, this Memorandum Circular hereby clarifies that any thermal treatment technology, whether burn or non-burn as defined in DAO 2000-81, that meets the emission standard for stationary sources as listed in Section 19 of RA 8749 and companies with all other relevant provisions of RA 8749 and other applicable laws of the Republic, is allowed to be operated in the country.

However, in the meantime that this office has insufficient capabilities with respect to the monitoring of emission from municipal solid waste incineration, i.e. personnel, equipment, infrastructure, etc., this Memorandum Circular covers only the incineration of toxic and hazardous as well as medical and bio-medical wastes, in view of the limited appropriate disposal techniques and procedures for said wastes. Toxic and hazardous wastes are those defined in RA 6969 while medical and bio-medical wastes are those indicated in RA 8749 and its Implementing Rules and Regulations (DENR Administrative Order No. 2000-81, Series of 2000).

Moreover, incineration of said wastes shall only be allowed in state-of-the-art facilities which are proven to emit minimal air pollutants, the concentrations of which shall meet the standards as provided for in RA 8749 and its Implementing Rules and Regulations.

The Environmental Management Bureau (EMB) shall issue the appropriate technical and procedural guidelines necessary to facilitate implementation of this Circular.

Adopted; 12 July 2002

(SGD.) HEHERSON T. ALVAREZ
Secretary

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