

## **GUIDELINES FOR STRICT ADHERENCE TO THE RULES ON DUE PROCESS UPON FAILURE BY A PETC TO COMPLY WITH THE RULES ON AUTHORIZATION AS LAID DOWN BY JAO NO. 1 EMBODIED IN DEPARTMENT ORD...**

*DOTC DEPARTMENT ORDER NO. 2009-11, January 20, 2009*

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### Rule 1

#### General Provisions

SECTION 1. Objective - To provide a Summary Procedure, consistent with the basic principle of substantive due process, in addressing violation/s on Rules of Authorization incurred by PETC in order to carry out the mandate of the Clean Air Act, Republic Act 8749.

SECTION 2. Coverage - These Rules shall cover violation on the Rules of Authorization incurred by a PETC as contained in the Regional Monitoring Committee Report.

### Rule 2

#### Procedure

SECTION 1. RMC Report - The Due Process Proper commences when the RMC directly endorse its monitoring report, which finds a prima facie violation on the Rules of Authorization by PETC, to the LTO Central Office Assistant Secretary who shall forward the aforesaid report to the LTO Central Office PETC Monitoring Team.

SECTION 2. Validation by CO PETC Monitoring Team - The CO PETC Monitoring Team examines the allegation and evidence of the RMC Report and if it finds a clear showing of non-compliance or violation with the requirements of Authorization, the CO PETC Monitoring Team shall undertake an ocular inspection where objects or tangible things, sufficient to establish the alleged act or omission perpetrated by subject PETC, may be exhibited to, examined or viewed by the Team.

During the ocular inspection, the registered PETC owner/operator or his duly authorized representative shall be given ample opportunity to be heard and present his side to clarify any material issue insofar as validation of the RCM Report is concerned.

After conducting a summary evaluation thereon without need of a formal hearing as maybe warranted by factual issues, oral arguments and other evidences presented, the Team Leader shall ask the PETC owner, operator or his duly authorized representative to submit a verified explanation, with affidavits of witnesses and documentary evidence; if necessary, within three (3) calendar days thereof on why no immediate sanction and/ or disciplinary actions be taken against him and that failing which, he shall be deemed to have waived his right to present his side and the case shall be decided based on the evidence on hand.

SECTION 3. Rendition of Resolution - A formal resolution of complaint rest upon the findings of facts and strictly upon the evidence submitted by the parties so that within five (5) days from receipt of the Aforementioned verified answer, the Chairman of the CO PETC Monitoring Team shall convene the Team and through a

Resolution, stating clearly and distinctly the reasons therefore, stating the facts relied and signed by majority of the members, recommend to the Assistant Secretary the imposition of the proper penalty or liability as provided for by PETC rules and regulations as the situations so warrant.

SECTION 4. Action of the LTO Assistant Secretary - The Assistant Secretary may adopt, modify or reject the resolution in whole or in part, or recommit it to the Team for further instruction and for which reason, the Team shall act accordingly.

SECTION 5. Notice to the Parties - The parties shall be notified and be allowed three (3) calendar days from receipt of the resolution within which to file a motion for reconsideration which is non-extendible. After the expiration of the period therefore, the resolution becomes final and executory.

SECTION 6. Appeal to the PETC National Executive Committee and DOTC Secretary - If the Motion for Reconsideration is denied, the aggrieved party shall have three (3) calendar days within which to file an Appeal to the PETC National Executive Committee whose action thereon shall be appealable with the office of the DOTC Secretary. The decision of the Secretary shall be final and executory. The grounds for appeal shall be limited to grave abuse of discretion and serious errors in the finding of fact, which may cause grave or irreparable injury to the aggrieved applicant.

SECTION 7. Repealing Clause - All orders, memoranda, circulars, rules and regulations or parts thereof inconsistent with the provision of this Department Order are hereby repealed or modified accordingly.

SECTION 8. Effectivity - This Department Order shall take effect after fifteen (15) days following its publication in the Official Gazette or in any newspaper of general circulation.

Adopted: 20 Jan. 2009

(SGD.) LEANDRO R. MENDOZA  
Secretary

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