



MEMORANDUM CIRCULAR NO. 2015-01

SUBJECT : AMENDING MEMORANDUM CIRCULAR No. 2014-03

“DEFINING REFUSAL OF ENTRY AND PROVIDING SANCTIONS THEREFOR”, SPECIFICALLY PROVIDING FOR HIGHER AND STRICTER PENALTIES FOR VIOLATION THEREOF

WHEREAS, as the Authority, through the Environmental Regulations Department, strengthens its enforcement, surveillance and monitoring functions, a lot of incidents were reported whereby proponents or establishments under surveillance refuse to allow the Authority’s engineers to conduct inspections and other monitoring activities;

WHEREAS, these incidents have increased over time, as can be gleaned from the number of complaints for refusal of entry filed and docketed with the Legal and Adjudication Division of this Authority;

WHEREAS, despite the filing of such cases against violating establishments, proponents continue to commit this illegal act with impunity by simply paying the prescribed penalty therefor, which has been perceived as too modest and nominal so as to discourage and prevent further violations; hence, a higher and stricter penalty clause is imperative for the efficient implementation of subject Circular;

WHEREAS, Republic Act No. 9275, otherwise known as the Philippine Clean Water Act of 2004 provides that any person who commits any of the prohibited acts provided for under said Act or its implementing rules and regulations, shall be fined in the amount not less than Ten Thousand Pesos (P10,000.00) nor more than Two Hundred Thousand Pesos (P200,000.00) for every day of violation¹;

WHEREAS, in order to address this issue and to effectively implement Memorandum Circular No. 2014-03 by curbing these incidents of refusal of entry, Memorandum Circular 2014-03 is hereby amended to read as follows:

Section 1. Scope of Application

These guidelines shall cover inspection, surveillance, investigation, monitoring and other activities conducted by the Authority relative to the abatement and control of pollution coming from point sources, and/or imminent and possible sources of pollution, such as, but not limited to industrial, manufacturing, processing, commercial establishments and other developmental activities as defined in LLDA Board Resolution No. 408, Series of 2011.

¹ Section 28, Republic Act No. 9275, March 22, 2004.

Section 2. Definition of Terms

As used in and for purposes of these guidelines, the following terms and phrases shall have their corresponding meanings as herein below stated:

LLDA Inspector – refers to any person employed by the Laguna Lake Development Authority who is authorized in writing to conduct monitoring, inspection, surveillance, investigation and other related activities.

Mission Order – refers to a written authorization issued by the General Manager or duly authorized representative ordering the LLDA Inspector to conduct monitoring, inspection, surveillance, investigation and other related activities.

Official Vehicle – refers to any four-wheeled motor vehicle owned by and/or registered with the Authority that is used to transport LLDA Inspectors in going to and from establishments that are subject of inspection, monitoring, surveillance, investigation and other related activities.

Refusal of Entry – refers to acts, hereinafter enumerated, that prevent LLDA Inspectors from conducting monitoring, inspection, surveillance, investigation, and other related activities for the abatement and control of pollution coming from point sources and/or imminent and possible sources of pollution coming from but not limited to industrial, manufacturing, processing, commercial establishments and other developmental activities as defined in LLDA Board Resolution No. 408, Series of 2011.

Section 3. Policy Guidelines

1. Commission of the following acts by the officer, staff, representative, or agent of the establishment subject to inspection, investigation, surveillance, monitoring and other related activities related to the abatement and control of pollution coming from point sources and/or imminent and possible sources of pollution coming from but not limited to industrial, manufacturing, processing, commercial establishments and other developmental activities as defined in LLDA Board Resolution No. 408, Series of 2011, shall constitute *prima facie* evidence of Refusal Of Entry:
 - a) Failure to provide LLDA Inspector/s immediate ingress to the premises of the establishment within thirty (30) minutes after the purpose of the visit has been announced by said inspector/s to the security personnel on duty and/or the PCO as the case may be;
 - b) Causing or committing acts against the LLDA inspector/s that delay or impede the conduct of compliance monitoring, inspection, investigation, surveillance, monitoring, and other related activities;

- c) Other analogous circumstances;
2. Commission of the foregoing acts shall be reported using a prescribed form.
 - 2.1. The name and designation of the officer, staff, representative, or agent of the establishment shall be indicated and the corresponding signature shall be affixed therein;
 - 2.2. In case of refusal to affix his/her signature in the said form, the LLDA Inspector shall state "Refused to Sign" in the aforementioned portion of the said form, after which, the report shall be forwarded within three (3) working days to the Legal and Adjudication Division for its appropriate action.
 3. LLDA inspectors are enjoined to comply with the minimum occupational, safety, and health requirements, including the wearing of the prescribed personal protective equipment during monitoring, inspection, surveillance, investigation and other related activities for the abatement and control of pollution coming from point sources and/or imminent and possible sources of pollution coming from but not limited to industrial, manufacturing, processing, commercial establishments and other developmental activities as defined in LLDA Board Resolution No. 408, Series of 2011.
 4. LLDA inspectors shall use LLDA official vehicle, and inform the officer, staff, representative, or agent of the establishment the reason of the visit and shall present valid LLDA ID and Mission Order.

Section 4. Grounds for Refusal of Entry

The following instances are valid grounds for refusal of entry:

- Failure on the part of LLDA inspector/s to comply with the minimum personal protective equipment requirement or other requirements as conditions may warrant;
- No valid LLDA ID and Mission Order
- Not using LLDA official vehicle during the visit.

Section 5. Penalty Clause

Refusal of entry shall be punished with the imposition of administrative fine or penalty, as follows:

- | | | |
|----------------|---|---|
| First offense | - | Fine of P25, 000.00 |
| Second offense | - | <i>Ex-parte</i> – Cease and Desist Order (CDO) ² |

² Sections 2 and 3, Rule 7 of BR 192, s. 2004

Nothing in these guidelines shall preclude the Authority from instituting separate criminal action(s) against violators of these guidelines, as provided for under Republic Act No. 4850, as amended.

Section 6. Repealing Clause

All existing circulars, orders, and other related issuances that are inconsistent with this Circular shall be deemed revoked and repealed.

Section 7. Separability Clause

If any portion or provision of this Circular is declared unconstitutional or invalid, the other portions or provisions hereof, which are not affected thereby, shall continue to be in full force and effect.

Section 8. Effectivity Clause

This amended Circular shall take effect 30 calendar days after publication in a newspaper of general circulation and registration with the Office of the National Register, UP Law Center.

ISSUED this 5th day of January 2015 in Quezon City.

J.R. NEREUS O. ACOSTA, Ph.D.

Secretary/Presidential Adviser for Environmental Protection
General Manager, LLDA