



Tourism Infrastructure and Enterprise Zone Authority
Office of the Chief Operating Officer

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<div style="border: 1px solid black; padding: 5px; text-align: center;">Tourism Infrastructure & Enterprise Zone Authority Legal Department SEP 30 2020 RECEIVED By: _____</div>			



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MEMORANDUM

FOR : **POCHOLO J.D. PARAGAS**
Chief Operating Officer

FROM : **DARREN D. FERNANDEZ**
Chief Regulator

SUBJECT : **DAO 2016-08 GRACE PERIOD**

DATE : **30 September 2020**

This is to provide briefer or concerns relative to the above subject:

Reference / Provisions	Remarks / Concerns												
DAO No. 2016-08 Dated 24 May 2016 Section 10 - Subject to submission of Compliance Action Plan (CAP) and periodic status of implementation to the DENR, cases wherein grace period may be given: a) Values for GES have become stringent compared to DAO 1990-35 b) New significant effluent quality parameters were identified	<p>New significant effluent quality parameters applicable to BIWC are the following:</p> <table border="1"><tr><td>Fecal Coliform</td></tr><tr><td>Ammonia</td></tr><tr><td>Nitrate</td></tr><tr><td>Phosphate</td></tr></table> <p>For industries under PSIC Code 37000 (BIWC), there are seven (7) significant parameters</p> <table border="1"><tr><td>Fecal Coliform</td><td>BOD</td></tr><tr><td>Ammonia</td><td>Oil & Grease</td></tr><tr><td>Nitrate</td><td>Surfactants</td></tr><tr><td>Phosphate</td><td></td></tr></table>	Fecal Coliform	Ammonia	Nitrate	Phosphate	Fecal Coliform	BOD	Ammonia	Oil & Grease	Nitrate	Surfactants	Phosphate	
Fecal Coliform													
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Fecal Coliform	BOD												
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EMB Memorandum Circular No. 001 Series of 2019 Dated 31 January 2019 - Reiterated Section 10 of DAO 2016-08 that provides a grace period of not more than five (5) years - Deemed STP existing or under construction upon effectivity of DAO No. 2016-08 of 15 June 2016 - Compliance Action Plan (CAP) must be approved NLT 31 December 2019 and grace period will be until 31 December 2022 only	Appears inconsistent on the grace period (GP) of until 31 December 2022 if maximum GP is 5 years (15 June 2021) & reckoned on effectivity date of DAO which is 15 June 2016												

EMB Approval of BIWC CAP Dated 27 December 2019 - grace period granted until 31 December 2022 - limited only to Chemical Oxygen Demand, Total Suspended Solids, Color, Total Coliform, Ammonia, Nitrate, Phosphate and Surfactants	Parameters	DAO No.	
		1990-35	2016-08
	COD	60	60
	TSS	50	70
	Color	100	100
	TC	3000	3000
	Ammonia	-	0.5
	Nitrate	-	20
	Phosphate	-	1
	Surfactants	2	3
It appears on the above table that: - stringent: NONE ; some were even relaxed like TSS and Surfactants; - new: Fecal Coliform, Ammonia, Nitrate & Phosphate			
EMB Memorandum to all Regional Directors Dated 23 September 2020 Establishments may be granted grace period extension, provided these 2 conditions: <ol style="list-style-type: none"> 1. given max 5 years and GP ends within 2020 – additional 1 year on top of the max 5 2. Not given max 5 years and grace period granted will end within 2020 – additional years not to exceed total of 5 years 	Condition 1: conjunction “and” How can an establishment possibly have a max 5 years GP that ends in 2020 when DAO took effect on June 2016? None of the conditions applies to BIWC as their grace period ends 31 December 2022		

Additional information from BIWC reportedly transpired between Ayala Land Inc and Engr. William Cuñado, the OIC-Director of EMB who was the signatory to the EMB Memorandum dated 2 September to all its Regional Directors.

EMB CENTRAL MEMO: GRACE PERIOD EXTENSION

This refers to the COVID-19 pandemic which adversely affected the local and global economy including cash flow issues and delayed project implementation such as halted construction activities and stoppage in the operations of establishments.

In this regard, please be informed that for the grace period under Section 10 of DENR Administrative order (DAO) 2016-08 (Water Quality Guidelines and General Effluent Standards), the following scheme will be arranged in the availment of grace period:

- The memo directly referred to the COVID-19 pandemic and its effect to **cash flows** and **project implementation schedules** as reason for coming up with the extension scheme.
- **Per Director Cunado**, the Law did not specify a date on the start and end of the 5-year grace period. It only mentioned that industries/establishments will be given 5-year grace period to comply, which will **commence upon the approval of the CAP**.
- The intent of the guidelines, according to Director Cunado, is to provide the opportunity for establishments to maximize the 5-year grace period for those not given the full give (5) years and offer a full-year extension to those who have already maximized the 5-year period, given the effects of COVID-19.

If the above information is accurate that the grace period commences only upon approval of the Compliance Action Plan (CAP), then BIWC can still request for an additional grace period until 27 December 2024 as its CAP was approved on 27 December 2019. However, it would need to justify as their approved CAP projected DAO 2016-08 compliance by 31 December 2022. Further, the statement in the meeting transcript (bullet # 2) is inconsistent with EMB Memorandum Circular No. 001 Series of 2019 which specifies the grace period to be until 31 December 2022 only.

RO shall further verify (technical review) any foreseen delay beyond the CAP-approved grace period to merit a TIEZA endorsement of their reported request for extension.

For your information and guidance.

Thank you.



DARREN D. FERNANDEZ
Chief Regulator