



Republic of the Philippines
Department of Environment and Natural Resources
POLLUTION ADJUDICATION BOARD
DENR Compound, EMB Building, Visayas Avenue
Diliman, Quezon City

**IN THE MATTER OF
THE AIR POLLUTION
CONTROL AND
ABATEMENT CASE**

**DENR-PAB Case No.
08-000092-21-A**

-versus-

FOR: Violation of
**Section 12,
Rule XIX, DAO
No. 2004-26,
IRR OF R.A
8749**

D'GASOLINE BOY FILLING STATION

Brgy. Bugko, Mondragon, Northern Samar

Respondent.

X- - - - - X

ORDER

For consideration before the Board is the water pollution case of respondent docketed as DENR-PAB Case No. **08-000092-21-A** for non-submission of Self-Monitoring Report (SMR) as stipulated condition of the Permit to Operate Air Pollution Source and Control Installation.

Records of the case reveal that on **14 July 2021**, technical personnel from the Provincial Environmental Management Unit-Northern Samar of the EMB Regional Office No. VIII conducted a compliance monitoring inspection upon herein respondent. The findings revealed the non-submission by the respondent of the Self-Monitoring Report. Consequently, the EMB Regional Office issued a Notice of Violation dated **21 October 2021** stating the violation.

Pursuant to **Pollution Adjudication Board Resolution No. 02, Series of 2020** or the **Interim Guidelines of the Pollution Adjudication Board during the Public Health Emergency due to COVID-19**, in lieu of a technical conference/hearing, the respondent was directed to submit a position paper fifteen (15) days from receipt of the NOV.

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On **23 November 2021**, the respondent submitted a position paper under which it claims that the failure to submit the required report is purely based on inadvertence and excusable negligence, where such inadvertence is attributable to the current COVID-19 pandemic.

Upon a thorough review of the inspection report and such all other available evidence on record, the Hearing Officer submitted the case for the Order of the Board, thru this Office, and is of the opinion that the alleged violation must be dismissed, and the Respondent be relieved from any liability, there being a lawful ground to do the same.

RULING

The Board, in turn, thru this Office, finds no cogent reason or legal justification to deviate from the opinion and recommendation of the Hearing Officer. The said opinion and recommendation are hereby adopted in arriving with the ruling of this case.

Section 12, Rule XIX of DENR Administrative Order No. 2004-26, Implementing Rules and Regulations of R.A 8749 or the Philippine Clean Air Act of 1999 requires that the owner or the pollution control officer in charge shall keep a record of its operational data and control test indicating its operational efficiency and shall furnish a copy of the same to the EMB quarterly.

Section 47 of R.A 8749, meanwhile, provides that "For violations of all other provisions provided in this Act and of the rules and regulations thereof, a fine of not less than Ten thousand pesos (P10,000) but not more than One Hundred Thousand Pesos (P100,000) or six (6) months to six (6) years imprisonment or both shall be imposed. xxx", subject to the provisions of **PAB Resolution No. 01-2019**.

Here, office records of the EMB Regional Office will reveal that no SMR submission has been made by the respondent. There is likewise no showing to the contrary by the respondent.

Notwithstanding, however, the alleged violation must be dismissed for **Section 2, PAB Resolution No. 2021-03** provides that Fines and other Monetary Penalties for non-filing or late filing of Self-Monitoring Report (SMR) as required by the Clean Air Act (R.A 8749) and the Clean Water Act (R.A 9275) during the existence of the community quarantine shall be waived. However, the establishment is still required to submit their Self-Monitoring Reports, either Manual or Online, during the effectivity of this Resolution.

WHEREFORE, after due deliberation, the Board hereby resolves to **DISMISS** the alleged violation and the respondent be relieved from any liability.

In addition, the respondent is likewise directed to ensure the subsequent and all submission of the SMRs, assuming submissions are yet to be made. Otherwise, any future similar infractions shall be dealt with severely by law.

The Legal Officer or his duly authorized representative is directed to serve this Order within seventy-two (72) hours from receipt hereof.

SO ORDERED.

Tacloban City, Philippines. FEB 17 2022.

By authority of the Secretary:


ENGR. REYNALDO B. BARRA
OIC- Regional Director