



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

03 January 2019

CUSTOMS MEMORANDUM CIRCULAR
NO. 03 - 2019

To: All Deputy Commissioners
All Directors and Division Chiefs
All District/Port Collectors
And Others Concerned

**Subject: Clarification on the Implementation of EO No. 26 /
Establishment of Smoke-Free Environment**

Attached is the Memorandum from the Executive Secretary, Office of the President entitled, "**CLARIFICATION ON THE PROPER IMPLEMENTATION OF CERTAIN PROVISIONS OF EXECUTIVE ORDER (EO) NO. 26 (S. 2017)**", inviting your attention to the following:

"a. Considering that Presidential Decree No. 1096, or the National Building Code of the Philippines, allows for the existence of several facilities in one building, the rule that there can only be one Designated Smoking Area (DSA) per building applies regardless of the number of occupancies or establishments housed in each building;

d. EO No. 26 does not impose an absolute prohibition on smoking. Smoking is only prohibited in "enclosed public places and public conveyances" and such, smoking is still allowed in areas that do not fall under the definition of "enclosed" in EO No. 26, such as vacant lots and sidewalks, subject to the right of persons-in-charge to impose stricter measures on smoking, as recognized in paragraph (i) hereunder;

i. Persons-in-Charge of public and private places are not precluded from enforcing stricter measures to ensure a smoke-free environment. X x x."

For your information and guidance.

MASTER COPY



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt hereof.



REY LEONARDO B. GUERRERO

Commissioner *ls*

JAN 07 2019

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Office of the President
of the Philippines
Malacañang

 DEPARTMENT OF FINANCE
Republic of the Philippines



MALACAÑANG RECORDS OFFICE

Manila, December 06, 2018

Secretary CARLOS G. DOMINGUEZ III
Department of Finance
Manila

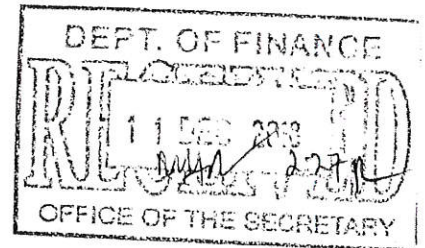
*All Users / Execs &
Heads of Attached Agencies*

Sir:

I have the honor to transmit, for your information and guidance, a certified copy of Memorandum from Executive Secretary, Salvador C. Medialdea dated 05 December 2018 re: "Clarification on the Proper Implementation of Certain Provisions of Executive Order (EO) No. 26 (s. 2017)".

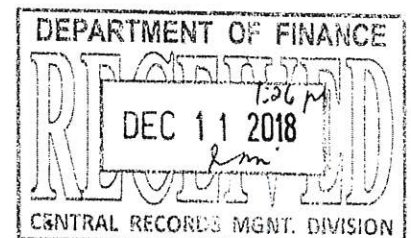
May we request that copy of the above memorandum be disseminated to the bureaus, offices, agencies and corporations under/attached to that Department.

Thank you very much.



Very truly yours,

ATTY. CONCEPCION ZENY E. FERROLINO-ENAD
Director IV



**Office of the President
of the Philippines
Malacañang**

MEMORANDUM FROM THE EXECUTIVE SECRETARY

TO : ALL DEPARTMENT SECRETARIES AND HEADS OF AGENCIES, GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS (GOCCs), GOVERNMENT FINANCIAL INSTITUTIONS (GFIs) AND LOCAL GOVERNMENT UNITS (LGUs)

SUBJECT : CLARIFICATION ON THE PROPER IMPLEMENTATION OF CERTAIN PROVISIONS OF EXECUTIVE ORDER (EO) NO. 26 (S. 2017)

DATE : **DEC 05 2018**

In response to certain queries and in order to ensure accuracy in the implementation of EO No. 26, all issuances from National Government Agencies, GOCCs and GFIs regarding EO No. 26 shall be consistent with the following clarifications on certain provisions of the EO:


- a. Considering that Presidential Decree No. 1096, or the National Building Code of the Philippines, allows for the existence of several facilities in one building, the rule that there can only be one Designated Smoking Area (DSA) per building applies regardless of the number of occupancies or establishments housed in each building;
- b. The "one-DSA-per-building" rule applies to all types of buildings, regardless of utilization, including malls and airports. Where two or more structures are so connected to each other such that they are practically one building, as when at least fifty percent (50%) of the number of floors of one of the structures is directly connected to the other, regardless of the total floor area for each structure, the interconnected structures should be considered as one building under EO No. 26, for which only one DSA may be established, even if each structure is considered as a separate "building" by persons-in-charge. The persons-in-charge may designate or establish the DSA in an area they deem would best address any concern on access restriction, subject to the standards provided under Section 4 of EO No. 26 and other pertinent laws, ordinances and regulations.
- c. In the case of airports with several terminals housed in one building, persons-in-charge may designate or establish the DSA in an area of the airport where passengers for both domestic or international flights, whether departing or arriving, would have common access to, subject to Section 4 of EO No. 26;
- d. EO No. 26 does not impose an absolute prohibition on smoking. Smoking is only prohibited in "enclosed public places and public conveyances" and as such, smoking is still allowed in areas that do not fall under the definition of "enclosed" in EO No. 26, such as vacant lots and sidewalks, subject to the right of persons-in-charge to impose stricter measures on smoking, as recognized in paragraph (i) hereunder;
- e. Persons-in-charge may elect to establish open space DSAs ("open space" as defined in EO No. 26 is an area which is a part of a building or conveyance not covered by a roof or similar structure) or indoor DSAs, provided that such DSAs shall be subject to the standards in Section 4 of EO No. 26. However, there shall be no DSAs in the enclosed


areas of the public places enumerated in Section 4(a) to (e) of EO No. 26. Should such public places where no DSA is allowed (e.g., a clinic) happen to be an establishment within a building housing other establishments (e.g., a mall), the person-in-charge may still establish a DSA in another area within the building;

- f. Since EO No. 26 provides that the enclosed character of a building or conveyance attaches even to its open spaces, a balcony or rooftop is still considered enclosed despite these areas not being covered by a roof. Nonetheless, it should be noted that the enclosed character of a building only attaches to areas that are integrated to such building. Any area outside the premises of a conveyance or outside the outermost wall of the ground floor of a building shall no longer be considered as enclosed, even if the same is covered by overhangs or awnings;
- g. Since EO No. 26 does not prescribe any detailed specifications on the graphic warnings required for DSAs, persons-in-charge may exercise discretion in their compliance with this particular requirement, subject to the ordinary definition of "graphic" (i.e. vivid, realistic, lifelike) for such health warnings. However, pursuant to Section 29 of Republic Act (RA) No. 9211, or the Tobacco Regulation Act of 2003, and Section 4(8) of EO No. 26, the Inter-Agency Committee-Tobacco (IAC-Tobacco) is granted authority to prescribe the particular graphic health warning required under the EO. This authority may be delegated by the IAC-Tobacco to the Department of Health;
- h. Consistent with Section 16, Chapter 2, Title 1, Book 1 of RA No. 7160, or the Local Government Code of 1991, LGUs, including provinces, may directly participate in the promotion of a smoke-free environment through the enactment of local ordinances and/or implementation of reasonable measures within their territories, subject to the provisions of RA No. 9211, and other relevant national laws; and
- i. Persons-in-charge of public and private places are not precluded from enforcing stricter measures to ensure a smoke-free environment. They are not compelled to establish DSAs in the buildings or conveyances which they own or manage, if they desire such places to be totally smoke-free. They may even prohibit smoking in the non-enclosed areas of their properties.

For information and appropriate action.

By authority of the President:


 SALVADOR C. MEDIALDEA

Office of the President
 MALACAÑANG RECORDS OFFICE
CERTIFIED COPY

 ATTY. CONCEPCION E. FERROLINO-ENAD
 DIRECTOR IV



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 26

**PROVIDING FOR THE ESTABLISHMENT OF SMOKE-FREE ENVIRONMENTS IN
PUBLIC AND ENCLOSED PLACES**

WHEREAS, the 1987 Constitution of the Republic of the Philippines declares that the State shall protect and promote the right to health of the people and instill health consciousness among them;

WHEREAS, the Republic of the Philippines, under the World Health Organization Framework Convention on Tobacco Control (FCTC) to which it is a Party, being determined to give priority to the right to protect public health and to promote measures of tobacco control based on current and relevant scientific, technical and economic considerations, agreed to implement the measures provided in that treaty;

WHEREAS, in pursuit of the policy of the State to guarantee the enjoyment of the right of every citizen to breathe clean air, Republic Act No. 8749, or the Philippine Clean Air Act of 1999, prohibits smoking inside enclosed public places including public vehicles and other means of transport, and other enclosed areas, and directs local government units to implement the prohibition;

WHEREAS, Republic Act No. 9211, or the Tobacco Regulation Act of 2003, prohibits smoking in certain public places, and prohibits the purchase and sale of cigarettes and other tobacco products to and by minors and in certain places frequented by minors and provides penalties for any violation of the prohibitions;

WHEREAS, scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, lead to devastating health, social, economic and environmental consequences, and places burdens on families, on the poor, and on national and local health systems;

WHEREAS, public health takes precedence over any commercial or business interest;

WHEREAS, an increasing number of Filipinos become afflicted with and die each year of tobacco-related diseases such as stroke, heart disease, emphysema, various cancers and nicotine addiction, and both the public and workers in facilities where smoking is allowed are most at risk from these and other tobacco-related diseases;

WHEREAS, the FCTC provides that each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law, and actively promote at other jurisdictional levels, the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places;

WHEREAS, in order to minimize access, particularly of minors, to tobacco products and in order to provide a more supportive environment for those who are attempting to quit tobacco use, there is a need to strengthen existing measures on access restriction, including the regulation of sales, distribution and availability, and the measures prescribed under the FCTC;

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

SECTION 1. Definition. For the purpose of this Executive Order, the following terms shall mean:

- (a) "Advertising and promotion" means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.
- (b) "Designated Smoking Area" (DSA) refers to an area of a building or conveyance where smoking may be allowed, which may be in an open space or separate area with proper ventilation subject to the specific standards provided in this Order.
- (c) "Enclosed" means being covered by a roof or other structure serving the purpose of a roof, and having one or more walls or sides, wherein the openings on the walls or sides have an aggregate area that is less than half of the total wall space, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary. Doors and windows that can be opened and shut shall not be considered as openings under this paragraph. The enclosed character of a building or conveyance shall attach to all its areas, including its open spaces.
- (d) "Minor" refers to any person below eighteen (18) years old.
- (e) "Non-Smoking Buffer Zone" is a ventilated area between the door of a DSA not located in an open space and the smoke-free area. There shall be no opening that will allow air to escape from such Non-Smoking Buffer Zone to the smoke-free area, except for a single door equipped with an automatic door closer. Such door is distinct from the door of the DSA, which shall be at least two (2) meters away from the other.
- (f) "Open spaces" refers to those areas forming part of a building or conveyance, which are not covered by a roof or similar structure.

(g) "Person-in-charge" refers to the president/manager in case of a company, corporation, partnership or association, the owner/proprietor/operator in case of a single proprietorship, or the administrator in case of government or private property, facility, office or building, and the city/municipal schools superintendent, school president, dean or principal in case of schools.

(h) "Point-of-sale" refers to any location at which an individual can purchase or otherwise obtain tobacco products.

(i) "Public conveyances" refers to modes of transportation servicing the general population, such as, but not limited to, elevators, airplanes, ships, jeepneys, buses, taxicabs, trains, light rail transits, tricycles and other similar vehicles.

(j) "Public places" means all places, fixed or mobile, that are accessible or open to the public or places for collective use, regardless of ownership or right to access, including but not limited to, schools, workplaces, government facilities, establishments that provide food and drinks, accommodation, merchandise, professional services, entertainment or other services. It also includes outdoor spaces where facilities are available for the public or where a crowd of people would gather, such as, but not limited to, playgrounds, sports grounds or centers, church grounds, health/hospital compounds, transportation terminals, markets, parks, resorts, walkways/sidewalks, entrance ways, waiting areas, and the like.

(k) "Smoke-free" refers to air that is 100% free from tobacco smoke. This definition includes, but is not limited to, air in which tobacco smoke cannot be seen, smelled, sensed or measured.

(l) "Smoking" means being in possession or control of a lit tobacco product regardless of whether the smoke is being actively inhaled or exhaled.

(m) "Tobacco Products" means products entirely or partly made of tobacco leaf as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing, such as but not limited to cigarette, cigar, pipe, shisha/hookah and chew tobacco.

(n) "Workplace" means any place used by people during their employment or work, whether done for compensation or voluntarily, including all attached or associated places commonly used by the workers in the course of their work (for example, corridors, elevators, stairwells, toilets, lobbies, lounges). Vehicles used in the course of work are considered workplaces, such as, but not limited to taxis, ambulances and delivery vehicles.

SECTION 2. Coverage. This Order shall apply to all persons, whether resident or not, and in all places, found within the territorial jurisdiction of the Philippines.

SECTION 3. Prohibited Acts. The following acts are declared unlawful and prohibited:

- (a) Smoking within enclosed public places and public conveyances, whether stationary or in motion, except in DSAs fully compliant with the requirements of Section 4 of this Order;
- (b) For persons-in-charge to allow, abet or tolerate smoking in places enumerated in the preceding paragraph, outside of DSAs fully compliant with Section 4 of this Order;
- (c) For any person to sell, distribute or purchase tobacco products to and from minors. It shall not be a defense for the person selling or distributing that he/she did not know or was not aware of the real age of the minor. Neither shall it be a defense that he/she did not know nor had any reason to believe that the cigarette or any other tobacco product was for the consumption of the minor to whom it was sold;
- (d) For a minor to smoke, sell or buy cigarettes or any other tobacco products;
- (e) Ordering, instructing or compelling a minor to use, light up, buy, sell, distribute, deliver, advertise or promote tobacco products;
- (f) Selling or distributing tobacco products in a school, public playground, youth hostels and recreational facilities for minors, including those frequented by minors, or within 100 meters from any point of the perimeter of these places;
- (g) Placing, posting, displaying or distributing advertisement and promotional materials of tobacco products, such as but not limited to leaflets, posters, display structures and other materials within 100 meters from the perimeter of a school, public playground, and other facilities frequented particularly by minors, hostel and recreational facilities for minors, including those frequented by them, or in an establishment when such establishment or its location is prohibited from selling tobacco products;
- (h) Placing any form of tobacco advertisement outside of the premises of point-of-sale retail establishments; and
- (i) Placing any stall, booth, and other displays concerning tobacco promotions to areas outside the premises of point-of-sale locations or adult-only facilities.

SECTION 4. Standards for DSAs. All DSAs shall strictly comply with the following standards:

- (1) There shall be no opening that will allow air to escape from the DSA to the smoke-free area of the building or conveyance, except for a single door equipped with an automatic door closer; provided that, if the DSA is not located in an open space, such door shall open directly towards a Non-Smoking Buffer Zone (Buffer Zone) as defined in this Order;
- (2) The DSA shall not be located in or within ten (10) meters from entrances, exits, or any place where people pass or congregate, or in front of air intake ducts;

- (3) The combined area of the DSA and the Buffer Zone shall not be larger than 20% of the total floor area of the building or conveyance, provided that in no case shall such area be less than ten (10) square meters;
- (4) No building or conveyance shall have more than one DSA;
- (5) The ventilation system for the DSA other than in an open space and for the Buffer Zone shall be independent of all ventilation systems servicing the rest of the building or conveyance;
- (6) Minors shall not be allowed inside the DSA and the Buffer Zone;
- (7) The DSA shall have the following signages highly visible and prominently displayed:
 - (8.1) "Smoking Area" signage;
 - (8.2) Graphic health warnings on the effects of tobacco use; and
 - (8.3) Prohibition on the entry of persons below eighteen (18) years old.
- (8) Other standards and specifications to better ensure a smoke-free environment as may be prescribed by the Inter-Agency Committee-Tobacco under Republic Act No. 9211, provided that such standards and specifications are consistent with this Order and that persons-in-charge are given sixty (60) days to comply.

However, there shall be no DSAs in the following public places:

- (a) Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for minors;
- (b) Elevators and stairwells;
- (c) Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials;
- (d) Within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries and laboratories; and
- (e) Food preparation areas.

Nothing in this Order shall compel persons-in-charge to establish DSAs nor prevent them from instituting more stringent measures in their buildings and establishments to better ensure a smoke-free environment in their premises.

SECTION 5. Duties and Obligations of Persons-in-Charge. Persons-in-charge shall:

(a) Prominently post and display the "No Smoking" signage, in the locations most visible to the public in the areas where smoking is prohibited. At the very least, the "No Smoking" signage must be posted at the entrance to the area, which shall be at least 8 x 11 inches in size, where the symbol shall occupy no less than 60% of the signage, while the remaining 40% of the signage shall show the pertinent information, as follows:

ex:



STRICTLY NO SMOKING
As per E.O NO.
Violators can be fined up to _____
Report violations to [Hotline Number]

As for the DSA, after complying with the specifications in Section 4, prominently display the following elements in the signage:

"DESIGNATED SMOKING AREA" or "SMOKING AREA"

[place Graphic/Picture-Based Health Warning on
the effects of tobacco use within the signage]

[if available, place number of Smoking Cessation Hotline]

(b) Prominently post and display the "No Smoking" signage in the most conspicuous location within the public conveyance. At the very least, a three and a half (3.5) square inch "No Smoking" signage shall be placed on the windshield and a ten (10) square inch "No Smoking" sign at the driver's back seat;

(c) Remove from the places where smoking is prohibited all ashtrays and other receptacles for disposing of cigarette refuse;

(d) For persons-in-charge of schools, public playgrounds, youth hostels and recreational facilities for minors, including those frequented by minors, post the following statement in a clear and conspicuous manner:

**SELLING, ADVERTISING AND PROMOTING CIGARETTES OR OTHER TOBACCO PRODUCTS NOT
ALLOWED WITHIN 100 METERS FROM ANY POINT IN THE PERIMETER OF [name of SCHOOL /
PLAYGROUND / FACILITY FOR MINORS/ ETC.]**

(e) For persons-in-charge of schools, public playgrounds, youth hostels and recreational facilities for minors, including those frequented by minors, to report to the nearest Smoke-Free Task Force of the concerned city or municipality any tobacco product selling, advertising and/or promotion located within 100 meters from its perimeter;

(f) For persons-in-charge of point-of-sale establishments, post the following notice, together with a graphic/picture-based health warning on the health consequences of tobacco use, as prescribed by the Department of Health, in a clear and conspicuous manner:

SALE/DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS IS UNLAWFUL

(g) Establish internal procedure and measures through which this Order shall be implemented and enforced within the area of which he or she is in charge. This includes compliance with the smoking, sales, distribution, advertising and promotions restrictions (e.g. warning smoking violators in banned areas and requesting them to stop smoking), and if they refuse to comply, asking them to leave the premises, and if they still refuse to comply, reporting the incident to the City/Municipal Health Office, the nearest peace officer, or to any member of the Smoke-Free Task Force;

(h) Ensure that all the employees in the establishment are aware of this Order and the procedure and measures for implementing and enforcing it;

(i) For all signage required to be posted under (a), (b), (d), and (f) above, provide for versions of them in the local dialect or in English;

SECTION 6. Persons Liable. The following persons shall be liable and be punished in accordance with the governing provisions of RA No. 9211 and other applicable laws:

(a) Any person or entity who commits any of the prohibited acts stated in Section 3 hereof;

(b) Persons-in-charge who knowingly allow, abet, authorize or tolerate the prohibited acts enumerated in Section 3, or who otherwise fail to fulfill the duties and obligations enumerated in Section 5 hereof.

SECTION 7. Penalties. Violations of this Order shall be punishable in accordance with the applicable penalties provided under Section 32 of RA No. 9211 and other applicable laws.

SECTION 8. Smoking Cessation Program. Local Government Units (LGUs), particularly the respective City/Municipal Health Officer, in coordination with the Department of Health, are enjoined to develop, promote and implement their respective Local Smoking Cessation Programs consistent with the National Smoking Cessation Program established pursuant to RA No. 9211, and to encourage the participation of public and private facilities which may be able to provide for the requirements of the program. Smokers who are willing to quit and/or those found violating this Order may be referred to the Local Smoking Cessation Program and its facilities.

SECTION 9. Smoke-Free Task Force. All cities and municipalities are enjoined to form a local Smoke-Free Task Force to help carry out the provisions of this Order.

Members of the Philippine National Police and Smoke-Free Task Forces are directed to carry out the provisions of this Order, including the apprehension of violators and the institution of criminal proceedings for violations of this Order, in accordance with relevant laws, rules and regulations, and strictly observing due process.

SECTION 10. Funding. The amount necessary to implement the provisions of this Order shall be identified by the Department of Budget and Management. The appropriations necessary for the continued implementation of this Order in succeeding years shall be prepared in accordance with regular government budget procedures and shall be included in the budget of the concerned national government agencies under the annual General Appropriations Act.

SECTION 11. Separability Clause. If any section or part of this Order is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force or effect.


SECTION 12. Repealing Clause. All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Order are hereby repealed, amended or modified accordingly.

SECTION 13. Effectivity. This Order shall take effect sixty (60) days after publication in a newspaper of general circulation.

DONE, in the City of Manila, this 16th day of **May** in the year of our Lord, Two Thousand and Seventeen.

By the President:

Duterte 


SALVADOR C. MEDIALDEA
Executive Secretary