



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
CENTRAL OFFICE
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DEPARTMENT MEMORANDUM)

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FOR / TO : Undersecretaries
Assistant Secretaries
Service Directors
Bureau Directors
Regional Directors
Heads of UPMOs
District Engineers
This Department

For information and guidance, attached is 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)**".

A copy of said Memorandum may also be downloaded from the **DPWH website: <http://dpwhweb>**. If an office cannot access the DPWH website, a hard copy may be obtained from the Records Management Division, HRAS, upon request.

For dissemination to all concerned.


B. ELIZABETH E. YAP, Ph.D., CESO II
Assistant Secretary for Support Services

cc: Office of the Secretary

10.1.4 MKBA/RMB

**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

