



DEPARTMENT CIRCULAR NO. DC2015-06-0007

**REVISED GUIDELINES ON THE UTILIZATION OF LOCALLY-PRODUCED
BIOETHANOL IN THE PRODUCTION OF E-GASOLINE**

WHEREAS, Department Circular No. 2011-12-0013 was issued on 15 December 2011 with the primary purpose of ensuring that all locally produced bioethanol by the accredited bioethanol producers are purchased and utilized by the oil companies before the latter are allowed to import supplemental bioethanol to comply with the Bioethanol mandate;

WHEREAS, through Department Circular No. 2011-12-0013, the mechanism of Local Monthly Allocation (LMA) and Notice of Allowable Bioethanol Importation (NABI) was institutionalized specifically to monitor actual bioethanol requirement and utilization of both local and imported bioethanol on a monthly basis, with non-compliance therewith to be subject to certain penalties;

WHEREAS, during its implementation, it has been determined and subsequently validated by all the oil companies, that planning, ordering, purchasing and scheduling deliveries for local and imported bioethanol were too tight especially when un-programmed delays or cancellations of deliveries occur, thus, adversely affecting the stability, continuity and ability of the oil companies to make E- gasoline available in the market;

WHEREAS, during the 5-6 March 2013 Workshop in Antipolo City for the Review, Assessment and Consultation on the DOE Department Circulars participated in by all the stakeholders in the Bioethanol Program, various implementation issues were discussed and solutions were developed specifically to resolve and address future supply constraint through the review and amendment of DC No. 2011-12-0013;

WHEREAS, the amendments to the above-cited Circular were discussed and agreed upon by the National Biofuel Board in its Board Meeting of 4 July 2013 and further refined in succeeding Bioethanol Committee meetings of 24 February 2015 and 22 April 2015 and these amendments include:

1. the elimination of the notice of allowable bioethanol importation (NABI) and requirement of minimum inventory of the component to produce E10;
2. the consideration for major equipment breakdown;
3. the expanded definition of supply sales, the allowance of carry over for advance liftings; clarification of required reports and due dates;
4. all monthly volumes reported for the quarter by the local bioethanol producers are committed volumes;
5. reported committed volumes shall now be production and inventory;
6. submission of a Certificate of Sale of Bioethanol by both the local bioethanol producers and oil companies which shall be the basis of the former's sale and the latter's compliance with its local monthly allocation (LMA); and

7. submission by the oil companies of the Summary of Planned and Actual Lifting;

NOW, THEREFORE, in consideration of the foregoing, the DOE hereby issues, adopts and promulgates this Department Circular revising **DC No. 2011-12-0013**:

Section 1. Title. This Circular shall be known as the "*Revised Guidelines on the Utilization of Locally-Produced Bioethanol.*"

Section 2. Scope and Application. This Circular shall apply to all entities involved in the Biofuels Program.

Section 3. Definition of Terms. As used in this Circular, the following terms shall be understood to mean as follows:

- a. *Advance Lifting* refers to volume(s) lifted by an oil company beyond its LMA for the quarter and for volume(s) beyond the ethanol producers' committed/projected volumes for the same quarter.
- b. *First Month of the Allocating Quarter* refers to the month when the Bioethanol Producers submit their committed volumes available for lifting for the succeeding quarter and when the OIMB circulates the Local Monthly Allocation (LMA) of the Oil Companies. For example, January 2015 is the Allocating Month for the 2nd quarter of 2015 (April – June).
- c. *Certificate of Sale of Bioethanol* refers to the Certificate issued by the local bioethanol supplier to the oil company after every bioethanol lifting made by the oil company.
- d. *Contracted Volume* refers to the volume of locally-produced bioethanol which is agreed upon by a bioethanol producer with an oil company through a supply contract and is not available for direct sale to other oil companies.
- e. *Conventional, Neat, or Unblended gasoline* refers to gasoline not blended with any biofuel, and may be used interchangeably.
- f. *E-Gasoline* refers to unleaded gasoline blended with Bioethanol complying with the PNS (e.g. E-10 is a blend of 10% Bioethanol and gasoline);
- g. *Force Majeure* refers to any act of God, fire, riot, war, civil unrest, natural disaster, accident, act of government which would prevent it from producing its committed volume.
- h. *Historical Sales* refers to the sales for the same period of previous year.
- i. *Lifting Month* refers to the month when Bioethanol Producers deliver the committed volume and when the Oil Companies lift the bioethanol products based on their LMA or adjusted LMA.
- j. *Locally produced Bioethanol* refers to Bioethanol derived from feedstock grown/planted, harvested and processed in the Philippines;
- k. *Local Monthly Allocation (LMA)* refers to the local bioethanol volume imposed on the Oil Companies based on the committed volume by the local bioethanol producers of bioethanol available for lifting by the Oil Companies and computed and circulated by the OIMB in compliance with the legal obligation of Oil

Companies to use locally-sourced bioethanol before importing bioethanol that will be blended with gasoline to be sold in the Philippines;

- l. Major Equipment Breakdown* refers to any unexpected equipment failure beyond the control of a bioethanol producer that requires a plant shutdown of five (5) days or more before normal operation can resume, as listed in Annex A.
- m. Market Share* refers to an Oil Company's percentage share in the total sales of gasoline sold in the Philippines based on historical sales of gasoline.
- n. NBB* refers to the National Biofuel Board;
- o. OIMB* refers to the DOE's Oil Industry Management Bureau;
- p. Procurement Plan* – see Summary of Monthly Planned Lifting;
- q. REMB* refers to the DOE's Renewable Energy Management Bureau;
- r. Summary of Monthly Planned/Actual Lifting*, which contains the lifting dates for the month, the name/s and address/es of the local bioethanol suppliers and the volume to be lifted as agreed upon by both the oil company and the local bioethanol supplier. Summary of Monthly Planned Lifting shall be submitted before the first day of the lifting month while the Summary of Monthly Actual Lifting shall be submitted fifteen (15) days after the lifting month.
- s. Supply Sales* refers to the sales of Bioethanol among refiners and oil importers for blending into their gasoline to be sold to end users. In the case of E10, supply sales shall refer to sales among oil industry participants.

Section 4. Obligations of the Bioethanol Producers. The Bioethanol Producers shall:

- a. Secure and maintain a DOE accreditation as a 'Bioethanol Producer.'
- b. Submit to the REMB on the first (1st) day of February of each year:
 - i. Copy of annual local government licenses and permits;
 - ii. Projected monthly production capacity for the current year for EP-95 (95% purity bioethanol) and EP-99.5 (99.5% purity bioethanol); and.
 - iii. Storage capacity for each location, product grade and tank as of the current year.
- c. Submit to the REMB not later than the first (1st) day of each Allocating month the Monthly Volume Report containing:
 - i. Committed volume available for lifting by the oil companies on the third (3rd) month (the "Lifting Month") succeeding the Allocating month. For example, for the Allocating month of January, the committed volume available for lifting on April, May and June shall be reported. Any Force Majeure Event or Major Equipment Breakdown that will result in non-compliance with committed volume for the allocating or succeeding months shall be included in this report; and,
 - ii. Contracted volume and volume available for lifting by other Oil Companies. Contracted volume shall be part of the committed volume but needs to be

declared to apprise the other Oil Companies of the available volume of local bioethanol for lifting.

- d. Actively market their products, with due consideration to their production, storage and distribution capabilities, to the Oil Companies to establish a high level of trust and reliability between buyers and sellers leading to a more stable market share;
- e. Reply within seven (7) calendar days upon receipt of any request on quotation and offer to buy from the Oil Companies. Failure to reply to the Oil Companies at the prescribed period shall automatically mean that a bioethanol producer is not capable of supplying the required volume of locally-produced bioethanol;
- f. Issue the Certificate of Sale of Bioethanol to the Oil Company for every volume of bioethanol lifted; (Form- Annex B);
- g. Improve distribution infrastructure and system to better serve the unique requirements of the downstream oil industry, such as providing for isotanks/containers, consolidated or jointly operated storage tanks, etc.;
- h. Notify the DOE-REMB and all customers within 24 hours of any substantial disruption to production operations resulting from Force Majeure Event or Major Equipment Breakdown and submit a confirmatory report to DOE-REMB and all customers within 5 days from the occurrence of the breakdown. The confirmatory report shall contain the adjustments of the estimated committed volume and delivery schedules including the list of equipment / production facilities that broke down subject to validation by DOE-REMB, projected date of resumption of normal operations and repair plan. Otherwise, the confirmatory report shall contain an assurance that committed volume and deliveries would be met;
- i. Strictly comply with the committed monthly volume to be produced for a specific quarter as indicated in the Monthly Volume Report submitted to REMB. Failure to comply with said commitment shall constitute a prohibited act and shall be subject to penalties under Section 9 of this Circular; and
- j. Participate in the NBB Bioethanol Committee (NBB-BC) monthly meeting.

Section 5. Obligations of the Oil Companies. The Oil Companies shall:

- a. Secure and maintain a DOE accreditation as an 'Oil Industry Participant in the Fuel Bioethanol Program;'
- b. Notify in writing the OIMB every purchase of locally-produced bioethanol prior to actual lifting;
- c. Submit to the OIMB within the month of January of each year, the Performance Compliance Report of the prior year containing its compliance with the minimum biofuel blends, as well as other information as may be required by the DOE. Such report shall be duly certified and signed by an authorized responsible officer of the Oil Company;
- d. Submit to OIMB the following Monthly Reports:
 - i. Summary of Monthly Planned Lifting not later than the first (1st) day of each month; (Form- Annex C);
 - ii. On the fifteenth (15th) day of each month:

1. Activity reports as required under Republic Act No. 8479, otherwise known as the "Downstream Oil Deregulation Act of 1998" and related issuances;
 2. Actual purchases of local and imported Bioethanol for the previous month, including the names and addresses of suppliers of Bioethanol, dates, volume and price (OISMD Schedule 1 & II- Annex D & E).
 3. Summary of Monthly Actual Lifting, together with the Certificate/s of Sale of Bioethanol issued by the local bioethanol producer; (Form – Annex F)
 4. At the end of each allocating quarter, its' Quarterly Procurement Plan of locally-produced bioethanol containing the names and addresses of the suppliers of bioethanol, lifting schedules, and volume of bioethanol to be lifted.
- e. Ensure the monthly lifting of LMA that has been negotiated with the bioethanol producers although reckoning of LMA compliance for purposes of penalties is on a quarterly basis;
 - f. Furnish the OIMB with the relevant documentation of any offer to buy that was accepted or denied/un-responded to by the bioethanol producer before the 15th day of the second month of the allocating quarter;
 - g. Maintain a 15-day minimum in-country inventory of blending components of E10 (neat gasoline and bioethanol fuel). The inventory shall include owned and contracted volumes located in the Free Port Zones;
 - h. Strictly comply with the LMA. Failure to comply shall constitute a prohibited act and shall be subject to penalties under Section 9 of this Circular;
 - i. Participate in the NBB Bioethanol Committee (NBB-BC) monthly meeting.

Section 6. Obligations of the REMB. The REMB shall:

- a. Accredite qualified 'Bioethanol Producers;'
- b. Provide the OIMB and the NBB reports of committed volumes per allocating period per producer within the time frame necessary for the preparation of the LMA and the actual sales per oil company consummated by the bioethanol producers for the Compliance Report.
- c. Monitor the operation, production and quality of the Bioethanol at source or production plant;
- d. Encourage, guide and assist the Bioethanol Producers to increase local production capacity and improve logistics to meet local demand at competitive prices;
- e. Conduct Information Educational and Communication (IEC) Campaigns to promote the use of bioethanol and bioethanol-blends;
- f. Within fifteen (15) working days upon receipt of confirmatory report of any disruption to production operations of bioethanol production facilities due to Force Majeure Event or Major Equipment Breakdown, conduct site validation and submit a comprehensive report to the NBB Bioethanol Committee. The report shall include the list of equipment affected, the adjustments of committed volume and

delivery schedules, if any, projected date of resumption of normal operations and the repair plan of the bioethanol producer;

- g. Monitor compliance of bioethanol producers with the monthly committed volumes although reckoning of compliance for purposes of penalties is on a quarterly basis. Report to the NBB Bioethanol Committee quarterly committed volume compliance of bioethanol producers;
- h. Require the bioethanol producers to submit their latest annual audited financial statements by May 15 of every year;
- i. Participate in the NBB Bioethanol Committee (NBB-BC) monthly meeting and report therein the quarterly compliance of the bioethanol producers with their committed and projected ethanol volumes for the quarter, as well as actual production and sales for the period.

Section 7. Obligations of the OIMB. The OIMB shall:

- a. Accredite qualified oil industry participants in the Fuel Bioethanol Program;
- b. On the 10th day of the first month of the Allocating Quarter, calculate and circulate the respective LMA of each Oil Company for the Lifting Quarter in accordance with the report and recommendation of the NBB Bioethanol Committee, based on the average market share computed as follows:
 - i. Determine the monthly gasoline (E0 and E10) sales of each Oil Company and the total industry for the previous year. For the computation of the LMA for the first quarter of the current year (January, February and March), all gasoline sales data of the Oil Companies for the same period of the previous year shall be the basis;
 - ii. Determine the gasoline market share for the quarter of each Oil Company based on the above;
 - iii. Determine the LMA for each Oil Company based on their respective gasoline market share and using the total monthly committed volumes of the local bioethanol producers for the subject quarter.

For a New Oil Company whose activity includes importation and distribution of gasoline, the LMA shall be computed using the percentage of historical local bioethanol production to total historical bioethanol demand, in lieu of Market Share, multiplied by ten percent (10%) of the estimated volume of its gasoline importation for the subject quarter, as shown in the formula hereunder. Such importation shall comply with the applicable DOE rules and regulations;

$$\text{LMA of a New Oil Company, } kl = \frac{(\text{Historical bioethanol production} \times 100 \times \text{Estimated gasoline import } (kl) \times 10\%)}{\% \text{ historical bioethanol demand}}$$

- c. In lieu of the NABI, strictly monitor compliance of Oil Companies with the monthly lifting of local bioethanol pursuant to the LMA, although reckoning of compliance for purposes of penalties is on a quarterly basis;
- d. Monitor compliance to the 15-day minimum in-country inventory of blending components of E10 (neat gasoline and bioethanol fuel);

- e. Upon agreement by the concerned bioethanol producer and Oil Company, carry over to the succeeding quarter advance liftings by the latter;
- f. Calculate the effect or adjustment in the pump price of gasoline sold in the Philippines based on the blending ratio. The share of ethanol price on the adjustment in the pump shall be based on the reported local and imported Bioethanol prices of the Oil Companies. It shall be the sum of the respective difference between the weighted average price of local and imported Bioethanol for the current and previous months.

The reported Bioethanol import price shall be validated using the average industry import cost and international ethanol price indices, while the reported local price shall be validated based on the agreed formula of the local Bioethanol producers using the SRA indices for the various feedstock. Further explanation or justification from the oil companies or Bioethanol producers or both shall be required as may be deemed necessary;

- g. Participate in the NBB Bioethanol Committee (NBB-BC) monthly meeting and report therein the quarterly compliance of the Oil Companies with the LMA.

Section 8. Obligations of the NBB. The NBB shall:

- a. Conduct the Monthly Allocation and Compliance Meeting among the Bioethanol Producers and Oil Companies every twenty-second (22nd) day of the month wherein the following shall be resolved:
 - i. Oil Companies and Bioethanol Producers are given the opportunity to reconcile, adjust, and balance any shortfalls in the delivered or lifted bioethanol products. Purchases of local bioethanol under the Supply Sales arrangement can be credited as compliance with the LMA of the buyer. However, sales under the Supply Sales arrangement cannot form part of the seller's LMA;
 - ii. Other issues which the Bioethanol Producers or Oil Companies, DOE or NBB may wish to discuss; and,
 - iii. Compliance with the LMA for the previous quarter shall be verified every fifteenth (15th) day of April, July, October and January. The DOE shall commence the process of imposing the penalties or sanctions upon verification of any instance of non-compliance to commitment;
- b. Publish, through the Sugar Regulatory Administration (SRA), a monthly price index for bioethanol every first (1st) day of the month based on data from the Sugar Regulatory Administration (SRA) and Department of Agriculture (DA) as reference for the determination of the reasonableness of the price of Locally-Produced Bioethanol;
- c. Resolve, through the NBB-BC, within fifteen (15) days upon receipt of REMB report whether the substantial disruption in production operations will qualify as Force Majeure Event or Major Equipment Breakdown.
- d. Recommend to the DOE the penalties to be imposed to Oil Companies and bioethanol producers who are found to be in violation of the provisions of DC 2011-12-0013 and this Circular.

Section 9. Prohibited Acts and Penalties.

- a. Non-compliance with any of the foregoing provisions shall be considered as a prohibited act under Section 12(d) of the *Biofuels Act of 2006*. In the event of a criminal action against the offender, upon conviction thereof, the offender shall suffer the penalty of one (1) year to five (5) years imprisonment and a fine ranging from a minimum of One Million Pesos (Php1,000,000.00) to Five Million Pesos (Php5,000,000.00);
- b. The DOE shall confiscate any amount of such products that fail to comply with the requirements of Section 4 and 5 of the *Biofuels Act of 2006*, and implementing issuances of the DOE. The DOE shall determine the appropriate process and the manner of disposal and utilization of the confiscated products. The DOE is also empowered to stop and suspend the operation of businesses for refusal to comply with any order of instruction of the DOE Secretary in the exercise of his functions under the *Biofuels Act of 2006*. Further, the DOE is empowered to impose administrative fines and penalties for any violation of the provisions of the *Biofuels Act of 2006*, implementing rules and regulations and other issuances relative to the *Biofuels Act of 2006*;
- c. Pursuant to the authority granted by the *Biofuels Act of 2006*, the DOE shall, upon complaint or *motu proprio*, hear and decide administrative cases pertaining to the following violations of the law:
 - i. Prohibited acts under Section 12 (b) to (e) of the *Biofuels Act of 2006*, Section 33, Rule 9 of DC No. 2007-05-0006, and Section 1, Chapter VIII of JAO No. 2008-1.
 - ii. Refusal of businesses to comply with any order or instruction of the DOE Secretary in the exercise of his functions under the *Biofuels Act of 2006*.
- d. In addition to the sanctions and penalties provided in this Circular, the DOE shall impose the following fines on any person, natural or juridical, found to be in violation of this Circular:
 - i. Five hundred pesos (Php500) for every liter of locally-produced bioethanol not purchased based on prescribed LMA reckoned aggregately on a quarterly basis;
 - ii. Five hundred pesos (Php500) for every liter of non-production of committed volume for reasons other than Force Majeure Event and qualified Major Equipment Breakdown as validated by REMB and resolved by the NBB-BC, reckoned aggregately on a quarterly basis and for bioethanol diverted, whether locally-produced or imported, for purposes other than those stated in the *Biofuels Act of 2006*, Its Implementing Rules and Regulations, Joint Administrative Order (JAO) No. 2008-1, series of 2008, entitled "*Guidelines Governing the Biofuels Feedstocks Production and Biofuels and Biofuel Blend Production, Distribution and Sale under Republic Act No. 9367*", the Certificate of Registration issued by the DOE, and any administrative issuances that may be subsequently promulgated.

Section 10. Repealing Clause. DOE Circular No. 2011-12-0013 and other issuances inconsistent with this Circular are hereby deemed repealed, amended or modified accordingly.



Section 11. Separability Clause. If for any reason, any section or provision of this circular is declared unconstitutional or invalid, such parts not affected shall continue to remain in full force and effect.

Section 12. Periodic Review. This Circular shall be reviewed by the NBB when the circumstances so warrant.

Section 13. Effectivity. This Circular shall be effective upon its publication in two (2) newspapers of general circulation and shall remain in effect until revoked.

Issued at Energy Center, Bonifacio Global City, Taguig City.


CARLOS JERICHO L. PETILLA
Secretary

 Republic of the Philippines
DEPARTMENT OF ENERGY 

IN REPLYING PLS CITE:
SOE-JLP-15003847


JUN 11 2015

LIST OF MAJOR EQUIPMENT

1. Instrumentation

- 1.1. Distillery UPS
- 1.2. DCS (Boiler, Mill & Distillation)

2. Distillery

- 2.1. Distilling Columns, Condenser and Reboiler – Leakage and Material Failure
 - 2.1.1. Mash
 - 2.1.2. Dealdehyde
 - 2.1.3. Rectifier
 - 2.1.4. Recovery
 - 2.1.5. Dehydration
- 2.2. Cooling Tower for Fermentation and Distillation
 - 2.2.1. Induced Draft Fan Assembly

CERTIFICATE OF SALE OF BIOETHANOL

This is to Certify that based on our records, (Name of Oil Company/Buyer) with business address at _____, has purchased the amount of (volume purchased in KL) of bioethanol covering the LMA period (e.g. Jan – March LMA) and lifted the amount of (volume lifted in KL) on (date of lifting). (If the lifted volume is in behalf of another oil company/buyer, the Bioethanol Producer should indicate the name of this company for whom the lifted volume is intended.)

This Certification is being issued pursuant to the provision of Department Circular No, 2011-12-0013 on the Utilization of Locally-Produced Bioethanol in the Production of E-gasoline consistent with Biofuels Act of 2006.

(Place of Issuance)

(Date of Issuance)

Issuing Bioethanol producer
(Signature over printed name)

Conforme: (by Oil Company/Buyer Representative):

(Signature over printed name)

Note 1: The term "sale" shall refer to the actual lifting of the bioethanol from the local producer/seller's facility.

Note 2: Date of sale/lifting shall be the referenced date in the determination of compliance to the LMA for a particular period. Lifting date shall be reckoned from start of loading the vessel up to full load of vessel.

Note 3: A certificate of sale shall be issued per lifting commenced.

Note 4: The certificate shall be submitted by the oil company to OIMB on the 15th day of the succeeding month after the reporting month, as part of the attachment/proof for the Monthly Bioethanol reports submitted.

Note 5: The Procurement plan shall now be replaced with the submission of the agreed "Lifting Schedule" between the Bioethanol Local producer and the oil company. The "Summary of the Lifting Schedule" for the month shall be submitted on or before the 15th day of the succeeding month after the reporting month. For the consequent months of the lifting quarter, the "Lifting Schedule" shall be submitted before the beginning of the lifting month.

