



Republic of the Philippines  
**DEPARTMENT OF ENERGY**

DEPARTMENT CIRCULAR No. DC 2011-12-0013

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**UTILIZATION OF LOCALLY-PRODUCED BIOETHANOL IN THE PRODUCTION OF  
E-GASOLINE CONSISTENT WITH THE BIOFUELS ACT OF 2006**

**WHEREAS**, Republic Act No. 9367, otherwise known as the "*Biofuels Act of 2006*", sets out the policy to reduce the country's dependence on imported fuels with due regard to the protection of public health, the environment, and the natural ecosystems consistent with the country's sustainable economic growth that would expand opportunities for livelihood by mandating the use of locally-sourced biofuels, such as biodiesel and bioethanol, into the fuel supply mix;

**WHEREAS**, Section 5 of the *Biofuels Act of 2006* mandates the use of locally-sourced biofuels and exhaustion of its supply before importing biofuels that will be blended with liquid fuels for motors and engines sold in the Philippines;

**WHEREAS**, Sections 5.1 and 5.2 of the *Biofuels Act of 2006* recognizes that the country may not have sufficient bioethanol production, to meet the mandated volume of gasoline-bioethanol blend (E-gasoline) to be sold by the oil companies. Given this situation, bioethanol may be imported by the oil companies subject to the guidelines set forth by the Department of Energy (DOE) and the Department of Finance under the DOE Circular No. 2006-08-0011 and Revenue Regulation No. 8-2006, respectively;

**WHEREAS**, DOE Circular No. DC-2011-02-0001 mandates that by 06 August 2011, a minimum of ten percent (10%) blend of biofuel by volume into all gasoline fuel distributed and sold by each and every Oil Company;

**WHEREAS**, consultations with various stakeholders and the National Biofuels Board determined that the volume of local bioethanol production remains insufficient to supply the oil industry with the volumes set to meet the mandated gasoline-bioethanol blend; and

**WHEREAS**, in order to sustain and expand the local bioethanol industry, the mandatory exhaustion of locally-sourced bioethanol must be complied and importations of biofuel-blended fossil fuels shall not be considered as part of the compliance to the biofuels mandate pursuant to the *Biofuels Act of 2006*.

**NOW, THEREFORE**, in consideration of the aforementioned premises, the DOE hereby establishes the following Guidelines:

**SECTION 1. Title.** This Circular shall be known as the "Guidelines on the Utilization of Locally-produced Bioethanol in the Production of E-gasoline."

**SECTION 2. Scope.** This Circular shall provide the guidelines to Bioethanol Producers and Oil Companies on the matter of the utilization of Locally-produced Bioethanol in the production of E-Gasoline, and in the event of shortage, the necessary importation of Bioethanol.

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

- a. *Allocating Month* refers to the month when the Bioethanol Producers submit their committed volumes available for lifting for the succeeding third (3<sup>rd</sup>) month and when the OIMB circulates the Local Monthly Allocation (LMA) of the Oil Companies which shall be lifted on the succeeding third (3<sup>rd</sup>) month from such Allocating Month. The Allocating Month shall refer to each month of the year in reference to the succeeding third (3<sup>rd</sup>) month. For example, January 2012 is the Allocating Month for April 2012 and February 2012 is the Allocating Month for May 2012;
- b. *E-Gasoline* refers to unleaded gasoline blended with Bioethanol, complying with the PNS (e.g. E-10 is a blend of 10% Bioethanol and unleaded gasoline);
- c. *Force Majeure Event* 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;
- d. *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. The Lifting Month is the third (3<sup>rd</sup>) month from the Allocating Month. For example, January 2012 is the Lifting Month for the Allocating Month of October 2011 and February 2012 is the Lifting Month for the Allocating Month of November 2011;
- e. *Locally-produced Bioethanol* refers to Bioethanol derived from feedstocks grown/planted, harvested and processed in the Philippines;
- f. *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;
- g. *Market Share* refers to an Oil Company's share in the total sales of gasolines sold in the Philippines and consequently, the same percentage shall be used to determine the Oil Company's share in the total domestic supply of bioethanol;
- h. *NABI* refers to the Notice of Allowable Bioethanol Importation based on recommendation by the NBB and issued by the OIMB to Oil Companies for a quarter, but broken down for each Allocating Month;

- i. *NBB* refers to the National Biofuel Board;
- j. *OIMB* refers to the DOE's Oil Industry Management Bureau;
- k. *Procurement Plan* refers to the report to be submitted by Oil Companies on the fifteen (15<sup>th</sup>) day of each month beginning 15 January 2012 which contains the name and addresses of the suppliers of Bioethanol taking into account their LMA circulated by the OIMB on the previous month;
- l. *REMB* refers to the DOE's Renewable Energy Management Bureau;
- m. *Supply Sales* refers to the sales of Bioethanol among refiners and importers for blending into its gasolines to be sold to end-users;

**SECTION 4. Obligations of the Bioethanol Producers.** The Bioethanol Producers shall:

- a. Submit to the REMB on the first (1<sup>st</sup>) 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.
- b. Submit to the REMB on the first (1<sup>st</sup>) day of each month the Monthly Volume Report containing:
  - i. Committed volume available for lifting by Oil Companies on the third (3<sup>rd</sup>) month from the date of the report (the "Lifting Month"). For 01 January 2012, the committed volume available for lifting on April 2012 shall be reported; for 01 February 2012, the committed volume available for lifting on May 2012 shall be reported; and so on. Any Force Majeure Event that will result in the non-compliance of its committed volume shall be included in this report;
  - ii. Projected volume available for lifting by Oil Companies on the fourth (4<sup>th</sup>) and fifth (5<sup>th</sup>) month from the date of the report. For 01 January 2012, the projected volume available for lifting on May and June 2012 shall be reported; for 01 February 2012, the projected volume available for lifting on June and July 2012 shall be reported; and so on; and
  - iii. Beginning February 2012, schedule of deliveries with corresponding volume and customers for the previous month. For February 2012, the schedule of deliveries with corresponding volume and customers for January 2012 shall be reported; for March 2012, the schedule of deliveries with corresponding volume and customers for February 2012 shall be reported; and so on.

- c. Submit to the REMB on the fifteenth (15<sup>th</sup>) day of each month the Monthly Accomplishment Report containing:
  - i. Actual monthly Biofuel production, sales, and inventory report of previous month;
  - ii. Projected monthly Biofuel production, sales and inventory report for current and next 2 months;
  - iii. Safety and accident reports, if applicable;
  - iv. Product quality analysis of production batches of previous month to check compliance with the Philippine National Standard (PNS);
  - v. Feedstock production reports and technology enhancements, if any;
  - vi. Biofuel supply contract with Oil Companies and other end users or Sworn Sales Report (SSR);
  - vii. Updated list of distributors; and
  - viii. Updated list of feedstock suppliers.
- 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. Certify the actual sale to Oil Companies specifying, among others the volume of Bioethanol purchased and delivery period for a specified month or months, which certification shall be submitted by the Oil Companies to the OIMB;
- f. 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.; and
- g. Participate in the Monthly Allocation and Compliance.

**SECTION 5. Obligations of the Oil Companies.** The Oil Companies shall:

- a. Submit to the OIMB within the month of January of each year, the Performance Compliance Report of the prior year containing its compliance plan with the minimum Biofuel blends, as well as other information that may be required by the DOE. Such report shall be duly certified and signed by an authorized responsible officer of the Oil Company;
- b. Submit to the OIMB on the first (1<sup>st</sup>) day of each month its projected volume requirement for Bioethanol on the third (3<sup>rd</sup>) fourth (4<sup>th</sup>) and fifth (5<sup>th</sup>) months from the date of the report. For 01 January 2012, the projected volume requirement for Bioethanol for April, May and June 2012 shall be reported; for 01

February 2012, the projected volume requirement for Bioethanol for May, June and July 2012 shall be reported; and so on;

- c. Submit to the OIMB on the fifteenth (15<sup>th</sup>) day of each month the following Monthly Reports:
  - i. Activity reports as required under the Republic Act No. 8479 otherwise known as the "*Downstream Oil Deregulation Act of 1998*" and related issuances;
  - ii. Procurement plan of local and imported Bioethanol for the Lifting Month including the names and addresses of the suppliers of bioethanol. For 15 January 2012, the procurement plan for March 2012 shall be reported; for 15 February 2012, the procurement plan for April 2012 shall be reported; and so on;
  - iii. Actual purchases of local and imported Bioethanol and blends for the previous month including the names and addresses of the suppliers of Bioethanol, dates, volume, and price of actual importation of Bioethanol and local purchases of Bioethanol and Biofuel blends. For February 2012, the actual purchases for January 2012 shall be reported; for March 2012, the actual purchases for February 2012 shall be reported; and so on;
  - iv. Actual consumption, sales & inventory for EP-99.5 and EP-98 (denatured Bioethanol) for the previous month;
  - v. Supply agreements for Bioethanol executed on the previous month; and
  - vi. Certification issued by the Bioethanol Producer specifying, among others, the volume of Bioethanol purchased and the delivery period, issued on the previous month.
- d. Submit to the OIMB on the fifteenth (15<sup>th</sup>) day of the quarter a certification by an authorized responsible officer stating that it has complied with its LMA for the previous quarter and the ten percent (10%) mandated blend of Biofuel by volume into all gasoline fuel distributed and sold; and
- e. Participate in the Monthly Allocation and Compliance Meeting.

**SECTION 6. Obligations of the REMB.** The REMB shall:

- a. Provide the OIMB and the NBB with a comprehensive report based on the submissions of Bioethanol Producers under Section 4 (a) and (b) of this Circular every 4<sup>th</sup> day of the month;
- b. Monitor the operation, production and quality of the Bioethanol at local sources or Biofuel plant;
- c. Encourage, guide and assist the Bioethanol Producers to increase local production capacity and improve logistics to meet local demand at competitive prices;

- d. Explore existing incentives programs and packages provided under relevant laws to assist in expanding the logistics capabilities of the Bioethanol Producers in areas such as acquisition of isotanks, new storage facilities, etc. to ensure that Bioethanol is transported to demand centers at competitive prices;
- e. Undertake measures to advocate increased utilization of E-gasoline;
- f. Conduct Information and Educational Campaigns (IEC) to promote use of bioethanol/e-gasoline fuel;
- g. Impose penalties on Bioethanol Producers committing Prohibited Acts under Section 9 of this Circular; and
- h. Participate in the Monthly Allocation and Compliance Meeting.

**SECTION 7. Obligations of the OIMB.** The OIMB shall:

- a. Provide the REMB and NBB with a comprehensive report based on the submissions of Oil Companies under Section 6 (a) and (b) of this Circular every 4<sup>th</sup> day of the month;
- b. On the 10<sup>th</sup> day of each Allocating Month, calculate and circulate the respective LMA of each Oil Company for the Lifting Month in accordance with the report and recommendation of NBB, based on the average market share computed as follows:
  - i. The historical sales data for the fifth (5<sup>th</sup>), sixth (6<sup>th</sup>) and seventh (7<sup>th</sup>) month before the Lifting Month. For January 2012, the historical sales data for June, July, and August 2011 shall be the basis;
  - ii. Market share of the Oil Company:

$$\text{Oil Company share, \%} = \frac{\text{gasoline Sales Oil Co}_i}{\sum_{i=1}^n \text{Sales, OilCo}_n (\text{gasolines})} \times 100\%$$

- iii. LMA Oil Company = [Total Committed Volume of All Bioethanol Producers x Market share of the Oil Company (%)]
- c. On the 15<sup>th</sup> day of the Allocating Month, issue to the Oil Company a NABI for the applicable Lifting Month, based on the recommendation of the NBB. In the event of a decrease in local production due to any Force Majeure Event, the OIMB shall, upon the recommendation of NBB, recalculate the monthly local allocation and the allowable importation subsequently issuing an amended NABI.

For example:

For the Allocating Month of January 2012 and the Lifting Month of April 2012 the LMA and NABI may be computed as follows:

The average market share of Oil Companies A, B, and C is 50%, 30%, and 20%, respectively.

The total volume requirement of Oil Companies A, B, and C is 20 million, 12 million, and 8 million, respectively.

The aggregate committed volume of Bioethanol Producers X and Y is 10 million for the Lifting Month of April 2012.

Based on these volumes, the LMA and NABI shall be computed as follows:

Table 1. Sample LMA and NABI Computation:

		Total Requirement	LMA	NABI
Oil Company	Bioethanol Average Market Share / Volume	40	10	30
A	50%	20	5	15
B	30%	12	3	9
C	20%	8	2	6

- d. Issue the certification to the Oil Companies for the volumes of Bioethanol import arrivals that qualify for the preferential MFN tariff rate of 1% under Executive Order No. 449, series of 2005;
- e. Monitor the compliance of Oil Companies of their LMA as well as their compliance to the ten percent (10%) mandated blend of Biofuel by volume into all gasoline fuel distributed and sold;
- f. Calculate the effect or adjustment in the pump price of gasolines 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 feedstocks. Further explanation or justification from the Oil Companies or Bioethanol Producers or both may be required as deemed necessary.

- g. Impose penalties on Oil Companies committing Prohibited Acts under Section 9 of this Circular; and
- h. Participate in the Monthly Allocation and Compliance Meeting.

**SECTION 8. Obligations of the NBB.** The NBB shall:

- a. Create a Bioethanol Committee (NBB-BC) who shall determine and subsequently recommend to the OIMB the total volume of bioethanol that will be used by the latter as basis for calculating the LMA and NABI of each Oil Company. Such volume of Bioethanol shall be based on the committed volumes by the local Bioethanol Producers of available Bioethanol for lifting by the Oil Companies.
- b. Conduct the Monthly Allocation and Compliance Meeting among the Bioethanol Producers and Oil Companies every fifteenth (15<sup>th</sup>) day of 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 to 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, Oil Companies, DOE, or NBB may wish to discuss; and
  - iii. Compliance with the LMA for the previous quarter shall be verified every fifteenth (15<sup>th</sup>) day of April, July, October, and January. The DOE shall commence the process of imposing penalties or sanctions upon verification of any instance of non-compliance.
- c. Publish a monthly price index for bioethanol every first (1<sup>st</sup>) day of the month based on data from the Sugar Regulatory Administration (SRA) and Department of Agriculture (DA) to determine the reasonableness of the price of Locally-Produced Bioethanol.

**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*. Upon conviction thereof, 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 Sections 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 or 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*;
  - ii. Sale of Bioethanol-blended gasoline that does not conform with the specifications of Section 5 the *Biofuels Act of 2006*; and
  - iii. 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. 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 (Php500.00) for every liter of locally-produced bioethanol not purchased as prescribed as LMA or amended LMA;
  - ii. Five Hundred Pesos (Php500.00) for every liter of bioethanol blended gasoline that fails to comply with the minimum blend in violation of Section 5 of the *Biofuels Act of 2006*; and
  - iii. Five Hundred Pesos (Php500.00) for every liter for non-production of committed volume for reasons other than a Force Majeure Event 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 Biofuel 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.
- e. The prohibited acts and sanctions under Sections 1 to 6 Chapter VIII of JAO No. 2008-1 Series of 2008 not in conflict with this Section are incorporated and made an integral part of this Circular.

The fines under this Section are non-exclusive. In addition to these fines, the DOE may impose the suspension or closure of business as penalty as provided under Section 13 of the *Biofuels Act of 2006*.

**SECTION 10. Periodic Review.** This Circular shall be reviewed within two (2) years or sooner when the circumstances so warrant after consultation with the NBB.

**SECTION 11. Repealing Clause.** Sections or provisions of previous DOE circulars and issuances inconsistent with this Circular are hereby deemed repealed or modified accordingly.

**SECTION 12. 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 13. Effectivity.** This Circular shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Signed this 15<sup>th</sup> day of December 2011, Fort Bonifacio, Taguig City.

**JOSE RENE D. ALMENDRAS**

Secretary

