

1 **AMENDMENT TO DEPARTMENT CIRCULAR NO. DC2019-10-0013**

2
3 **WHEREAS**, pursuant to Section 2, Article XII, of the 1987 Philippine Constitution, all
4 forces of potential energy and other natural resources within the Philippine territory
5 belong to the State and their exploration, development and utilization shall be under
6 the full control of the State;

7 **WHEREAS**, under Section 2 of Republic Act (RA) No. 7638, as amended, otherwise
8 known as the “*Department of Energy Act of 1992*”, the Department of Energy (DOE)
9 is mandated to prepare, integrate, coordinate, supervise and control all plans,
10 programs, projects and activities of the Government relative to energy exploration,
11 development, utilization, distribution and conservation, among others;

12 **WHEREAS**, Section 5(b) of the same Act empowers the DOE to develop and update
13 the existing Philippine energy program which shall provide for an integrated and
14 comprehensive exploration, development, utilization, distribution and conservation of
15 energy resources, with preferential bias for environment-friendly, indigenous, and low-
16 cost sources of energy, and which program shall include a policy direction towards the
17 privatization of government agencies related to energy, deregulation of the power and
18 energy industry and reduction of dependency on oil-fired plants;

19 **WHEREAS**, Section 2 of RA No. 9136, otherwise known as the “*Electric Power*
20 *Industry Reform Act of 2001*” or “*EPIRA*”, declares that it is the policy of the State to,
21 among others, (i) ensure and accelerate the total electrification of the country; (ii)
22 enhance the inflow of private capital and broaden the ownership base of the power
23 generation, transmission and distribution sectors; (iii) assure socially and
24 environmentally compatible energy sources and infrastructure; and (iv) promote the
25 utilization of indigenous and new and renewable energy resources in power generation
26 in order to reduce dependence on imported energy;

27
28 **WHEREAS**, Joint Administrative Order (JAO) No. 2008-1, Series of 2008, otherwise
29 known as the “*Guidelines Governing the Biofuel Feedstocks Production, and Biofuels*
30 *and Biofuel Blends Production, Distribution and Sale*”, provides for the accreditation
31 of biofuel producers, among others, under RA No. 9367, otherwise known as the
32 “*Biofuels Act of 2006*”;

33
34 **WHEREAS**, Section 2 of RA No. 9513, otherwise known as the “*Renewable Energy*
35 *Act of 2008*” or “*RE Act*”, directs the State to encourage and accelerate the exploration,
36 development and utilization of renewable energy (RE) resources such as, but not
37 limited to, biomass, solar, wind, hydropower, geothermal, and ocean energy sources,
38 and including hybrid systems;

39
40 **WHEREAS**, Section 19(c), Rule 6 of Department Circular (DC) No. DC2009-05-0008
41 which prescribes the Implementing Rules and Regulations (IRR) of the RE Act,
42 requires the DOE to issue a regulatory framework containing the guidelines that shall
43 govern the transparent and competitive system of awarding RE Service/Operating
44 Contracts from Pre-Development to Development onto Commercial Operations stage,

45 or the awarding of direct operating contracts to specific RE technologies, among
46 others;

47 **WHEREAS**, under Section 2 of RA No. 11032, otherwise known as the “*Ease of Doing*
48 *Business and Efficient Government Service Delivery Act of 2018*”, it is the duty of the
49 State to, among others, promote integrity, accountability, proper management of public
50 affairs and public property, aimed at efficient turnaround of the delivery of government
51 services and the prevention of graft and corruption in government;

52 **WHEREAS**, in Section 2 of RA No.11234, otherwise known as the “*Energy Virtual*
53 *One-Stop Shop Act*” or “*EVOSS Act*”, the State is likewise commanded to, among
54 others, ensure transparency and accountability in the process of approving power
55 generation, transmission, or distribution projects, and deliver efficient and effective
56 service to the public;

57 **WHEREAS**, on 01 August 2019, the DOE issued DC No. DC2019-08-0012 which aims
58 to introduce Energy Storage System (ESS) technologies to serve a variety of functions
59 in the generation, transmission, and distribution of electric energy;

60 **WHEREAS**, after DC No. DC2019-10-0013 took effect, the DOE implemented further
61 enhancements in the award and administration of RE Contracts and the registration
62 of RE Developers, to wit:

63

- 64 (a) DC2009-07-0011 dated 12 July 2009;
- 65 (b) DO2013-08-0011 dated 20 July 2013;
- 66 (c) DO2013-10-0018 dated 09 October 2013;
- 67 (d) DO2013-12-0020 dated 02 December 2013;
- 68 (e) DO2013-12-0023 dated 27 December 2013;
- 69 (f) DO2014-06-0010 dated 09 June 2014;
- 70 (g) DO2014-10-0018 dated 14 October 2014;
- 71 (h) DO2016-09-0011 dated 05 September 2016;
- 72 (i) DO2016-06-0010 dated 24 June 2016;
- 73 (j) DO2017-04-0005 dated 07 April 2017;
- 74 (k) DO2018-03-0003 dated 16 March 2018;
- 75 (l) DO2019-01-0003 dated 11 January 2019; and
- 76 (m) DO2019-07-0018 dated 30 July 2019;

77

78 **WHEREAS**, after DC No. DC2019-10-0013 took effect, the DOE implemented further
79 enhancements in the award and administration of RE Contracts and the registration
80 of RE Developers, to wit:

81

- 82 (a) DC2022-11-0034 dated 15 November 2022;
- 83 (b) Advisory No. 1 dated 15 March 2023;
- 84 (c) Advisory No. 2 dated 15 March 2023; and
- 85 (d) Advisory No. 3 dated 29 April 2023;

86

87 **WHEREAS**, there is a need to integrate the above issuances and the DOE’s recent
88 policies for an effective and efficient award and administration of RE Contracts and
89 registration of RE Developers;

90 **NOW, THEREFORE**, in consideration of the foregoing premises, the DOE hereby
91 issues the following revised guidelines and procedures governing the awarding of RE
92 Contracts, and the registration and management of RE Projects:

93
94 **CHAPTER I - GENERAL PROVISIONS**

95
96 **Section 1. Title.** This Circular shall be known as the *“Revised Omnibus Guidelines*
97 *Governing the Award and Administration of Renewable Energy Contracts and the*
98 *Registration of Renewable Energy Developers.”*

99
100 **Section 2. Coverage.** This Circular shall prescribe the guidelines and procedures on:

- 101 2.1 The pre-application, application, and award of RE Contracts;
- 102
- 103 2.2 The conversion of existing service contracts to RE Contracts for the
- 104 exploration, development or utilization of RE resources with the DOE,
- 105 subject to Section 39, Rule 13, of the IRR of the RE Act;
- 106
- 107 2.3 The issuance by the DOE of Certificates of Registration (COR) for RE
- 108 Developers of projects with or without RE Contracts; and
- 109
- 110 2.4 The administration of RE Contracts.
- 111

112 **Section 3. Definition of Terms.** As used in this Circular and in other issuance of the
113 DOE, the following terms shall be understood to mean, as follows:

114 3.1 *“Biomass Energy Operating Contract”* or *“BEOC”* refers to the RE Contract
115 issued for the development and operation of RE Projects utilizing biomass as
116 RE Resource.

117
118 3.2 *“Blocking System”* refers to the subdivision of the Philippines, for purposes of
119 RE Applications for wind, geothermal and ocean resources, into RE meridional
120 blocks (RE blocks) of 30 seconds of latitude and 30 seconds of longitude using
121 Philippine Reference System of 1992 (PRS’92) as the standard reference
122 system. One (1) RE block shall have an approximate area of eighty-one (81)
123 hectares. Each block shall have a unique number designated by the DOE.

124
125 3.3 *“Certificate of Authority”* refers to the certificate duly signed by the DOE
126 Secretary exclusively authorizing an RE Developer to procure the necessary
127 permits and tenorial instruments for the exploration, development, construction
128 and installation, and commercial operation of the RE Project and conduct
129 reconnaissance and other activities needed for pre-feasibility studies.

130

- 131 3.4 “*Certificate of Confirmation of Commerciality*” or “*COCOC*” refers to the
132 certificate duly signed by the DOE Secretary confirming the Declaration of
133 Commerciality by the RE Developer and shall serve as a notice to proceed for
134 the construction of the RE Project or the installation of the RE Facilities. The
135 date of issuance of the COCOC shall be considered as the commencement
136 date of the Development Stage of the RE Project.
137
- 138 3.5 “*Commercial Operations*” refers to the phase commencing at the operation of
139 the RE Project, following its successful testing and commissioning, and
140 confirming its readiness to inject power into the grid to sell or supply its
141 produced energy, as duly confirmed by the DOE and other relevant regulatory
142 bodies.
143
- 144 3.6 “*Commercial Quantities*” refers to quantities of energy to be produced from the
145 RE Resources using commercially available technology to develop the RE
146 Systems which have a reasonable chance of being sufficient and technically
147 compliant to support the Commercial Operations of the project.
148
- 149 3.7 “*Contract Area*” refers to the total area, which is the subject of the RE Contract
150 as detailed and outlined in the map with its technical description, and where the
151 RE Developer has the exclusive right to explore, develop and utilize the RE
152 Resources. Provided, that for BEOC/WTEOC, the Contract Area refers to the
153 project site.
154
- 155 3.8 “*Declaration of Commerciality*” or “*DOC*” refers to a written declaration made by
156 the RE Developer to the DOE, stating that the RE Resource is of Commercial
157 Quantities.
158
- 159 3.9 “*Direct Application*” refers to the mode of RE Application whereby the RE
160 Applicant identifies a Contract Area it wishes to explore and develop. The
161 identified Contract Area must first be certified by the DOE to be free and open
162 for exploration or development.
163
- 164 3.10 “*Energy Application Management System*” or “*EAMS*” refers to an intranet-
165 based system utilizing radio frequency identification (RFID) technology to
166 uniquely identify an application and monitor its real-time location.
167
- 168 3.11 “*Financial Closing*” refers to such milestone in the Pre-Development or
169 Development Stage of the RE Project when the RE Developer has secured a
170 written commitment from the financier/s to provide its full funding
171 requirements through equity and/or commercial borrowings, or other financing
172 schemes.
173
- 174 3.12 “*Financial Qualifications*” refers to the criteria and procedures set out by the

175 DOE to establish the financial capability of the RE Developer to implement the
176 RE Project.

177
178 3.13 *“Force Majeure”* refers to extraordinary events not foreseeable or avoidable,
179 events that could not be foreseen, or which, though foreseen, are inevitable.

180
181 3.14 *“Geothermal Service Contract”* or *“GSC”* refers to the RE Contract issued for
182 the exploration, development and/or utilization of geothermal resources as RE
183 Resource for the operation of RE Projects.

184
185 3.15 *“Hydropower Service Contract”* or *“HSC”* refers to the RE Contract for the
186 exploration, development and/or utilization of hydropower resources as RE
187 Resource for the operation of RE Projects.

188
189 3.16 *“Letter of Intent”* or *“LOI”* refers to the written notice or document submitted
190 by a Person to the DOE, indicating interest in the exploration, development,
191 utilization and commercialization of RE Resource.

192
193 3.17 *“Ocean Energy Service Contract”* or *“OESC”* refers to the RE Contract for the
194 exploration, development and/or utilization of ocean resources for the
195 operation of RE Projects.

196
197 3.18 *“Pre-Determined Area”* or *“PDA”* refers to area/s with RE Resource potential
198 through sufficient available technical data as may be determined by the
199 REMB, and approved by the DOE Secretary for its inclusion in the Open and
200 Competitive Process (OCSP).

201
202 3.19 *“Person”* refers to a natural or juridical person, as the case may be.

203
204 3.20 *“Production Area”* refers to that portion of the Contract Area identified in metes
205 and bounds by the RE Developer and approved by the DOE, where RE
206 Resources are utilized to produce electricity in Commercial Quantities.

207
208 3.21 *“RE Applicant”* refers to any Person, subject to the limitations provided in this
209 Circular, who applies for the assessment, exploration, harnessing,
210 development, utilization and commercialization of RE Resources.

211
212 3.22 *“RE Application”* refers to the set of documents submitted by RE Applicants
213 pertaining to their legal, technical and financial qualifications to enter into an
214 RE Contract with the government, in accordance with the requirements under
215 this Circular. For this purpose, the RE Application shall be comprised of one
216 (1) electronic copy and four (4) printed copies, where one (1) set of the printed
217 copy shall be in the original.

218

- 219 3.23 *“RE Contract”* refers to the service agreement between the Government,
220 through the DOE, and an RE Developer over an appropriate period as
221 determined by the DOE which grants to the RE Developer the exclusive right
222 to explore, develop, or utilize the RE Resource within a particular area. The
223 RE Contract may be in the nature of a financial or technical assistance
224 agreement which shall be entered into by the Government, through the
225 President of the Philippines, pursuant to Article XII, Section 2 of the Philippine
226 Constitution.
227
- 228 3.24 *“RE Developer”* refers to an individual or juridical entity created, registered
229 and/or authorized to operate in the Philippines in accordance with existing
230 Philippine laws, and engaged in the exploration, development and/or
231 utilization of RE Resources, and actual operation of RE Project. It shall include
232 existing entities engaged in the exploration, development and/or utilization of
233 RE Resources, or the generation of electricity from RE Resources, or both.
234
- 235 3.25 *“RE Operating Contract”* refers to the service agreement between the DOE
236 and RE Developer for the development and/or utilization of biomass, solar and
237 other RE Resources as may be determined by the DOE which, due to their
238 inherent technical characteristics, need not go through Pre-Development
239 Stage.
240
- 241 3.26 *“RE Project”* refers to the power generation and related facilities utilizing RE
242 Resources under a particular RE Contract or COR issued by the DOE
243 pursuant to the RE Act.
244
- 245 3.27 *“RE Project for Non-Commercial Operations”* refers to an RE Project which is
246 intended for demonstration purposes of any new or modified RE technologies,
247 and those that are covered by Official Development Assistance (ODA), and all
248 other programs and projects which are not designed and operated for profit.
249
- 250 3.28 *“RE Project for Own-Use”* refers to an RE Project located within the premises
251 of or in an area contiguous to an End-User’s premises, and operated solely
252 for the supply of a portion or all of the electricity requirements of such End-
253 User. For this purpose, an *“End-User”* shall refer to any person or entity
254 requiring the supply and delivery of electricity generated by the RE Project
255 dedicated for its own consumption, which facility is installed either by the End-
256 User or through a third-party provider.
257
- 258 3.29 *“RE Resource”* refers to energy resources that do not have an upper limit on
259 the total quantity to be used. Such resources are renewable on a regular basis,
260 and whose renewal rate is relatively rapid to consider availability over an
261 indefinite period of time. These include, but are not limited to, biomass, solar,
262 wind, geothermal, ocean energy, and hydropower, conforming with

263 internationally accepted norms and standards on dams, and other emerging
264 RE technologies.

265

266 3.30 *“RE Service Contract”* refers to a service agreement between the Philippine
267 Government, through the President or the DOE Secretary, and RE Developer,
268 covering an appropriate period as stated therein, in which the RE Developer
269 shall have the exclusive right to explore, develop and utilize geothermal,
270 hydropower, wind, ocean and other RE Resources within a particular area.

271

272 3.31 *“Renewable Energy Management Bureau”* or *“REMB”* refers to the unit of the
273 DOE created under Section 32 of the RE Act, mandated to, among others,
274 implement policies, plans, and programs aimed at accelerating the
275 development, transformation, utilization, and commercialization of RE
276 Resources and technologies.

277

278 3.32 *“Solar Energy Operating Contract”* or *“SEOC”* refers to the RE Contract
279 issued for the development and operation of RE Projects utilizing solar energy
280 as RE Resource.

281

282 3.33 *“Waste-to-Energy Operating Contract”* or *“WTEOC”* refers to the RE Contract
283 issued for the development and operation of RE Projects utilizing Waste-to-
284 Energy Resources.

285

286 3.34 *“Waste-to-Energy Resources”* refers to municipal and industrial wastes that
287 do not have an upper limit on the total quantity to be used and are renewable
288 on a regular basis, and whose renewal rate is relatively rapid to consider
289 availability over an indefinite period of time.

290

291 3.35 *“Wind Energy Service Contract”* or *“WESC”* shall refer to the RE Contract
292 issued for the exploration, development and/or utilization of wind energy as
293 RE Resource for the operation of RE Projects.

294

295 3.36 *“Offshore Wind Energy Service Contract”* or *“OSWESC”* refers to the RE
296 Contract issued and awarded by the DOE for the exploration, development
297 and/or utilization of wind energy in offshore areas, which include estuaries and
298 other bodies of water. This includes WESCs awarded for offshore wind
299 development prior to the issuance of Executive Order No. 21 and its
300 Implementing Guidelines.

301

302 3.37 *“Work Program”* refers to the plans and programs and other related activities
303 formulated for the performance of the work obligations under the RE Contract
304 by the RE Developer, along with the corresponding budgetary estimate, duly
305 approved by the DOE.

306

307 **CHAPTER II – BIOMASS ENERGY / WASTE-TO-ENERGY RESOURCES**
308

309 **Section 1. Biomass Projects.** Biomass projects shall refer to energy systems which
310 use biomass resources to produce heat, steam, mechanical power or electricity
311 through either thermochemical, biochemical or physico-chemical processes, or
312 through such other technologies which shall comply with prescribed environmental
313 standards pursuant to applicable laws and regulations.
314

315 **Section 2. Waste-to-Energy Projects.** Waste-to-energy projects shall refer to energy
316 systems with a process of converting non-recyclable waste materials into usable heat,
317 electricity, or fuel through processes such as anaerobic digestion, direct combustion,
318 and gasification, among others, subject to the provisions and intent of RA No. 8749 or
319 the “Clean Air Act of 1999” and RA No. 9003 or the “Ecological Solid Waste
320 Management Act of 2000”.
321

322 **Section 3. Eligibility of Biomass Energy or Waste-to-Energy Operating Contract**
323 **Applicant.** Any Person, local or foreign, may apply for Biomass Energy Operating
324 Contract (BEOC) or Waste-to-Energy Operating Contract (WTEOC), subject to the
325 provisions in this Chapter.
326

327 3.1. The BEOC/WTEOC Applicant may be a Filipino and/or a foreign citizen, or a
328 Filipino- and/or foreign-owned corporation or association which is authorized
329 by its articles or deed of incorporation to engage in biomass/waste-to-energy
330 development and utilization;
331

332 3.2. In case the BEOC/WTEOC Applicant is a joint venture or a consortium, the
333 partners of the joint venture or members of the consortium shall organize
334 themselves as a corporation under the RA No. 11232, otherwise known as
335 the “Revised Corporation Code of the Philippines,” or secure the appropriate
336 license from the Securities and Exchange Commission, in case the joint
337 venture or consortium was incorporated outside of the Philippines.
338

339 **Section 4. Modes of Awarding Biomass Energy or Waste-to-Energy Operating**
340 **Contract.** BEOC/WTEOC shall be awarded through Direct Application.
341

342 4.1. Direct Application shall be available for the selection and award of
343 BEOC/WTEOC in an area available for development and/or utilization of
344 biomass/waste-to-energy resources.
345

346 4.2. Biomass/waste-to-energy Projects for Own-Use and/or for Non-Commercial
347 Purposes shall not require the issuance of BEOC/WTEOC but shall comply
348 with the registration requirements provided under **Chapter VIII Section 15** of
349 this Circular.
350
351
352

353 **Section 5. Procedure for Awarding Biomass Energy or Waste-to-Energy**
354 **Operating Contract under Direct Application.**

355
356 5.1. **Coverage.** Direct Application shall be observed in processing BEOC/WTEOC
357 Applications for biomass/waste-to-energy resources.

358
359 ***Part 1. Pre-Application Process***

360
361 5.2. **Registration in the EVOSS System.** If the interested participant has no
362 EVOSS System account yet, it shall submit a request for registration in the
363 EVOSS System with Biomass Energy Management Division (BEMD).

364 5.3. **Submission of Letter of Intent.** All interested participants shall submit
365 through the EVOSS System an LOI to develop a certain area, in accordance
366 with the mapping requirements (Annex L) as well as proof of access to the
367 proposed/applied area as referred to Section 5.5 of this Chapter. The LOI shall
368 be addressed to the REMB Director and shall indicate whether the interested
369 participant will avail of the Certificate of Authority referred to in **Sections 6**
370 **and 7.1** of this Chapter. The submission of the LOI shall not be considered as
371 a filing of a BEOC/WTEOC Application and shall not commence the
372 application process.

373
374 ***Part 2. Area Verification and Technical Guidelines***

375
376 5.4. **Configuration of Area of Interest (AOI).** The interested participant shall
377 comply with the mapping requirements under Annex L.

378
379 5.5. **Proof of Access to Proposed/Applied Area.** The BEOC/WTEOC Applicant
380 shall submit an Affidavit of Acquisition of Possessory Rights in accordance with
381 Annex K, as the case may be, and a copy of the Board Resolution authorizing
382 the affiant to execute the instrument on behalf of the BEOC/WTEOC Applicant.

383
384 5.6. **Area Verification.** Within fourteen (14) days from receipt of the LOI, ITMS
385 shall complete the area verification and determine whether the AOI is:

386
387 5.6.1. Covered by an existing PDA under the OCSP or BEOC/WTEOC
388 pending application, or other energy resource assessment activities
389 as submitted by the concerned DOE unit and verified by ITMS;

390
391 5.6.2. Within or overlaps with the area of an existing energy service or
392 operating contract such as Petroleum Service Contract (PSC), Coal
393 Operating Contract (COC), Small-Scale Coal Mining Permit (SSCMP)
394 or Renewable Energy Service Contract (RESC), other than
395 BEOC/WTEOC;

397 5.6.3. Within or overlaps with the area of an existing energy service or
398 operating contract application such as Petroleum SC, COC, SSCMP
399 or RESC, other than BEOC/WTEOC Application;

400
401 5.6.4. Within the protected and environmentally critical areas under RA No.
402 11038, or the “Expanded National Integrated Protected Areas System
403 Act of 2018” (“ENIPAS”), i.e., within or outside the strict protection
404 zones, ancestral domains with Certificate of Ancestral Domain Title or
405 Claim, areas with Tenurial Instruments from other government
406 agencies, areas prohibited, reserved, or used for national defense,
407 navigation, irrigation, and other development projects, and other
408 areas covered by significant geospatial data that will be identified as
409 necessary in the evaluation of the BEOC/WTEOC Application based
410 on available data on file with ITMS and the National Mapping
411 Resource Information Authority’s Philippine Geoportal Project
412 website.

413
414 Pursuant to the mandate of the DOE to supervise and control all
415 government activities relative to energy projects under the EPIRA,
416 concerned government agencies and entities shall provide the DOE
417 the list of abovementioned areas with technical description;

418
419 5.6.5. Covered by the LOI of the same or other energy resource; or

420
421 5.6.6. Open for BEOC/WTEOC Applications.

422
423 **5.7. Area Verification Results.** ITMS shall provide BEMD with the results of area
424 verification through the EVOSS System. BEMD shall conduct the final technical
425 verification and determine whether the proposed biomass/waste-to-energy
426 project will cause substantial disruption to an existing biomass/waste-to-energy.
427 Within three (3) days upon receipt of the final technical verification results,
428 BEMD, through the REMB Assistant Director, shall endorse the final verification
429 results and upload the letter containing the results of area verification in the
430 EVOSS System.

431
432 If the BEOC/WTEOC Application cannot proceed based on the final technical
433 verification results, the interested participant may either (a) reconfigure the
434 AOI, or (b) file a request to allow the development of multiple resources in the
435 area; or (c) comply with Section 5.7.3 of this Chapter, as applicable.

436
437 **5.7.1. Reconfigured Area of Interest.** Within ten (10) days from uploading
438 of the final technical verification results, the interested participant and
439 BEMD may conduct an assessment if the AOI may be reconfigured
440 without material adverse effect on the feasibility of the proposed

441 biomass/waste-to-energy project. The interested participant may
442 reconfigure its AOI to cover only such portion as may allow the
443 BEOC/WTEOC Application to proceed. After confirmation by ITMS that
444 no portion of the reconfigured AOI falls under Sections 5.6.1, 5.6.2,
445 5.6.3 or 5.6.5 of this Chapter, BEMD shall upload in the EVOSS
446 System a Notice to Apply to the interested participant for the filing of
447 the BEOC/WTEOC Application.
448

449 **5.7.2. Multiple Resources in an Area.** If the AOI of the interested participant
450 overlaps with the area of an existing energy service or operating
451 contract or an application therefor as provided under Sections 5.6.2
452 and 5.6.3 of this Chapter, the interested participant may still pursue the
453 BEOC/WTEOC Application, subject to the provisions herein below set
454 forth:
455

456 (a) The interested participant shall:

457
458 (i) Explain in writing why the proposed biomass/waste-to-
459 energy project will not be feasible without the overlapping
460 area, duly supported by technical data, proposed project
461 design, and other relevant information.
462

463 (ii) Submit a notarized acknowledgment and undertaking that
464 the interested participant recognizes and shall continue to
465 recognize the prior rights of the existing applicants and/or
466 developers of other energy resources within the overlapping
467 area; that the design of the proposed biomass/waste-to-
468 energy project will ensure safe and optimal development of
469 biomass/waste-to-energy and other energy resources in the
470 overlapping area; and that all costs needed therefor shall be
471 borne by the interested participant.
472

473 (b) BEMD shall inform the applicant or energy contractor/developer on
474 the intent to develop the biomass/waste-to-energy resources within
475 the overlapping area. Copies of the interested participant's LOI, the
476 written explanation, and their supporting documents shall be
477 furnished to the applicant or contractor/developer.
478

479 (c) If no objection is received from the applicant or energy
480 contractor/developer within the prescribed period, BEMD shall
481 upload in the EVOSS System a Notice to Apply to the interested
482 participant for the filing of the BEOC/WTEOC Application.
483

484 (d) If the applicant or energy contractor/developer objects to the
485 proposal, the said applicant or energy contractor/developer shall
486 notify BEMD thereof within ten (10) days from receipt of notice,
487 citing the impracticability of multiple resource development as to
488 additional costs, safety, substantial decrease in the utilization of the
489 energy resource, and other relevant factors. Copies of the written
490 objection shall be furnished to the DOE Division processing the
491 application or administering the energy project. A statement that
492 multiple resource development in the overlapping area is
493 impracticable without technical basis shall not be considered as an
494 objection.

495
496 (e) Within five (5) days from receipt of an objection, BEMD shall furnish
497 the interested participant with a copy thereof. Within the same
498 period, BEMD and the concerned DOE Division shall jointly
499 determine whether exploration of biomass/waste-to-energy
500 resources within the overlapping area may be conducted without
501 material adverse effect on the activities of the energy
502 contractor/developer. Such determination shall consider the
503 interested participant's proposal, the objection and the technical
504 bases cited therein. The evaluation shall be endorsed to the REMB
505 Director.

506
507 (f) Upon receipt of the endorsement, the REMB Director may issue a
508 Notice to Apply if s/he concurs that the exploration will not cause
509 material injury. The contract area of the BEOC/WTEOC so awarded
510 shall be finally determined by REMB prior to the Development
511 Stage based on the feasibility of multiple resource development in
512 the overlapping area.

513
514 **5.7.3. Other Areas.** If the AOI of the interested participant overlaps with the
515 area as provided under Section 5.6.4 of this Chapter, the interested
516 participant may still pursue the BEOC/WTEOC Application if there is no
517 material adverse effect on the feasibility of the proposed biomass/waste-
518 to-energy project after applying the provisions herein below set forth:

519
520 (a) If the AOI overlaps with areas within strict protection zones under the
521 ENIPAS, the interested participant shall submit a revised AOI net of
522 the said areas.

523
524 (b) If the AOI overlaps with areas outside strict protection zones under
525 the ENIPAS, the REMB Director shall issue a Notice to Apply for the
526 said AOI; Provided, that the contract area may be reduced shall be
527 subject to the ENIPAS and its implementing rules and regulations.

528 (c) If the AOI overlaps with ancestral domains with Certificate of
529 Ancestral Domain Title or Claim, the REMB Director shall issue a
530 Notice to Apply for the said AOI; Provided, that the contract area may
531 be reduced subject to RA No. 8371 or “The Indigenous Peoples
532 Rights Act of 1997” and its implementing rules and regulations.

533
534 (d) If the AOI overlaps with areas with Tenurial Instruments from other
535 government agencies, the REMB Director shall issue a Notice to
536 Apply for the said AOI; Provided, that the contract area may be
537 reduced subject to the relevant rules and regulations of the
538 concerned government agency.

539
540 (e) If the AOI overlaps with areas prohibited, reserved, or used for
541 national defense, navigation, irrigation, and other development
542 projects, and other areas, the REMB Director shall issue a Notice to
543 Apply for the said AOI; Provided, that the contract area may be
544 reduced subject to the relevant rules and regulations of the
545 concerned government agency.

546
547 **5.8. Orientation of Interested Participant.** The orientation is intended to inform
548 interested participants about the BEOC/WTEOC Application requirements,
549 and to guide them through the process for evaluation thereof, awarding of
550 BEOC/WTEOC and the registration of a biomass/waste-to-energy project.

551
552 5.8.1. In the Notice to Apply, all interested participants shall be informed of
553 the schedule of orientation or briefing on the BEOC/WTEOC
554 Application requirements and processes.

555
556 5.8.2. Any interested participant may waive attendance to the orientation in
557 writing either in its LOI or in response to the notice of the schedule of
558 orientation provided in the preceding paragraph.

559
560 ***Part 3. Filing and Evaluation of Biomass Energy or Waste-to-Energy***
561 ***Operating Contract Applications***

562
563 **5.9. Receipt of Biomass Energy or Waste-to-Energy Operating Contract**
564 **Applications.** After the Notice to Apply is uploaded in the EVOSS System,
565 the interested participant may file its BEOC/WTEOC Application by complying
566 with the procedures and requirements, as follows:

567
568 5.9.1. The BEOC/WTEOC Applicant shall submit through the EVOSS System
569 the complete set of documentary requirements based on the Checklist
570 of Requirements (Annex M).

572 5.9.2. BEMD shall check the completeness and consistency of the submission
573 and ITMS shall validate the area applied for the biomass/waste-to-
574 energy project within three (3) days.

575
576 5.9.3. If the submission is complete, BEMD shall upload a copy of the order of
577 payment for the application and processing fees. The EVOSS System
578 shall notify the BEOC/WTEOC Applicant through a system-generated
579 email to pay the application and processing fees within five (5) days.
580 Failure to do so will result in the abandonment of the application.

581
582 5.9.4. The EVOSS System shall notify LS, FS and ITMS of the complete
583 submission.

584 **5.10. Evaluation of Biomass Energy or Waste-to-Energy Operating Contract**
585 **Applications.**

586
587
588 5.10.1. After the payment of the processing fee, BEMD, LS, and FS shall
589 conduct the simultaneous technical, legal, and financial evaluations
590 within five (5) days from uploading of the proof of payment of application
591 and processing fees in the EVOSS System.

592
593 5.10.2. Preference shall be given to proposed biomass/waste-to-energy
594 projects that are situated in close proximity to existing and available
595 transmission facilities. Alternatively, preference may also be given to
596 BEOC/WTEOC Applicants with a proposal for the construction of the
597 necessary transmission facilities.

598 5.10.3. BEMD shall consolidate all the evaluation results and proceed with the
599 processing of the application, as follows:

600
601 (a) If the BEOC/WTEOC Application passes the evaluations, BEMD
602 shall, within two (2) days from its receipt of the evaluation documents,
603 prepare REMB's memorandum for the Secretary endorsing the
604 award of the BEOC/WTEOC Application; the draft Certificate of
605 Authority; and the draft BEOC/WTEOC. The endorsement must
606 include the original copy of the results of area verification and the
607 legal, technical and financial evaluations with all their attachments,
608 and the project area map and its technical descriptions. Upon
609 concurrence of ITMS, FS, REMB and LS on the endorsement, the
610 Secretary shall act on the BEOC/WTEOC Application in accordance
611 with Section 7 of this Chapter.

612
613 (b) If the BEOC/WTEOC Application does not pass the legal, technical,
614 and/or financial evaluations, BEMD shall notify the BEOC/WTEOC

615 Applicant through the EVOSS System to rectify the submission within
616 ten (10) days.

617
618 (i) Failure of the BEOC/WTEOC Applicant to submit
619 supplementary documents within the prescribed period shall be
620 deemed an abandonment of the BEOC/WTEOC Application.
621 BEMD shall notify the BEOC/WTEOC Applicant, LS, FS, and
622 ITMS of the disqualification through the EVOSS System.

623
624 (ii) If the BEOC/WTEOC Applicant submits supplementary
625 complete documents within the prescribed period above,
626 BEMD, LS and FS shall be notified by the EVOSS System of
627 the submission. BEMD, FS and LS shall finish the simultaneous
628 technical, legal, and financial evaluations within three (3) days.

629
630 (iii) Should the BEOC/WTEOC Application still fail to pass any of
631 the subsequent legal, technical, or financial evaluations, BEMD
632 shall notify the BEOC/WTEOC Applicant, LS and FS, and ITMS
633 of the disqualification through the EVOSS System.

634
635 5.10.4. The BEOC/WTEOC Applicant shall submit all supplemental documents
636 through the EVOSS System. Documents submitted outside the EVOSS
637 System and those submitted through the EVOSS System but beyond
638 the prescribed period shall not be accepted or evaluated.

639
640 5.10.5. No Request for Reconsideration (RR) of any of the legal, technical,
641 financial evaluation or the disqualification shall be entertained, except
642 when the BEOC/WTEOC Applicant failed to submit the required
643 documents within the prescribed timelines due to a fault in the EVOSS
644 System, as confirmed by Investment Promotion Office (IPO). In such
645 circumstances, the BEOC/WTEOC Applicant shall file the RR with
646 REMB within three (3) days from uploading of the Notice of
647 Disqualification.

648
649 (a) Upon receipt of the RR, BEMD shall request IPO to confirm the
650 occurrence of the technical problem. If so confirmed and the same
651 prevented the timely submission, BEMD, FS and/or LS shall evaluate
652 the BEOC/WTEOC Application considering the additional submission.

653
654 (b) If the BEOC/WTEOC Application passes the evaluation, REMB shall
655 grant the RR. Thereafter, BEMD shall proceed in accordance with
656 Section 5.10.3(a) of this Chapter.

657

658 5.11. If the Biomass/Waste-to-Energy Developer waived the Certificate of Authority
659 during the pre-application process, BEMD shall proceed with the application
660 in accordance with Section 5.2 of this Chapter.
661

662 **Section 6. Terms of Certificate of Authority.** The awardee of a BEOC/WTEOC shall
663 have exclusive authority to procure permits or certifications and tenurial instruments
664 needed for the exploration, development and utilization of the biomass/waste-to-
665 energy resources within an area specified in the BEOC/WTEOC Application upon the
666 issuance of Certificate of Authority by the DOE.
667

668 6.1. The Certificate of Authority shall be valid for a period not exceeding three (3)
669 years. During its validity, the Certificate of Authority shall serve as the DOE's
670 exclusive endorsement for the Biomass/Waste-to-Energy Developer to secure
671 the necessary permits or certifications and tenurial instruments from
672 government agencies, entities or instrumentalities having jurisdiction over any
673 aspect of the biomass/waste-to-energy operations. The denomination of each
674 permit or certification or tenurial instrument to be procured for the
675 biomass/waste-to-energy project shall be listed in the Certificate of Authority.
676

677 6.2. The Certificate of Authority shall reflect the metes and bounds of the area as
678 proposed in the BEOC/WTEOC Application over which permits and tenurial
679 instruments may be secured by the Biomass/Waste-to-Energy Developer for
680 the project. For this purpose, a copy of the technical description of the area to
681 be covered by the BEOC/WTEOC shall form part of the Certificate of Authority.
682

683 6.3. The validity of the Certificate of Authority shall not be extendible. Any permit,
684 certification, or tenurial instrument that remains unissued upon the lapse of the
685 Certificate of Authority shall be procured and the necessary activities therefore
686 conducted, as part of the Development Stage.
687

688 6.4. The Biomass/Waste-to-Energy Developer shall have the option to shorten the
689 period of validity of the Certificate of Authority or utilize its full term.
690

691 6.4.1. If the Biomass/Waste-to-Energy Developer opts to shorten the period of
692 validity, it shall give written notice to the DOE with a request to execute
693 the BEOC/WTEOC and a proposed Work Program.
694

695 6.4.2. If the Biomass/Waste-to-Energy Developer opts to utilize the full term, it
696 shall give written notice to the DOE with a request to execute the
697 BEOC/WTEOC and a proposed Work Program not earlier than six (6)
698 months but not later than three (3) months prior to the expiration of the
699 validity of the Certificate of Authority.
700

701 6.5. Within three (3) days from notice, BEMD shall prepare REMB's memorandum
702 for the Secretary endorsing the execution of the BEOC/WTEOC in accordance
703 with Section 7.2 of this Chapter.

704
705 **Section 7. Award of Biomass Energy or Waste-to-Energy Operating Contract**
706 **and Registration of Biomass/Waste-to-Energy Developers.**
707

708 **7.1. Issuance of Certificate of Authority.** After the approval of a BEOC/WTEOC
709 Application and before the execution of a BEOC/WTEOC, the DOE shall issue
710 a Certificate of Authority; Provided, that the Certificate of Authority may be
711 waived in accordance with Section 6.4 of this Chapter.
712

713 **7.2. Signing of the Biomass Energy or Waste-to-Energy Operating Contract.**
714 The following procedure shall govern the awarding of BEOC/WTEOC:
715

716 **7.2.1. Notification of Award.** The DOE shall notify the qualified (under Direct
717 Application) BEOC/WTEOC Applicant of the award of the
718 BEOC/WTEOC.
719

720 **7.2.2. Signing of the Biomass Energy or Waste-to-Energy Operating**
721 **Contract.** The signing of the BEOC/WTEOC shall be divided into two
722 stages, namely: a) pre-signing by the BEOC/WTEOC Applicant; and b)
723 signing of the DOE Secretary.
724

725 **7.2.2.1.** The REMB Supervising Assistant Secretary shall review the
726 recommendation and endorse the same to the REMB Supervising
727 Undersecretary within two (2) days from receipt thereof. The
728 Undersecretary shall act on the endorsement within two (2) days
729 from receipt of the documents. Within one (1) day from the
730 concurrence of the Undersecretary with the REMB's
731 recommendation, the REMB Director shall require the
732 BEOC/WTEOC Applicant to pre-sign the original copies of the
733 BEOC/WTEOC following the prescribed template.
734

735 **7.2.2.2.** Within one (1) day, the BEMD shall validate the pre-signed
736 BEOC/WTEOC, and shall forward the pre-signed BEOC/WTEOC,
737 along with the endorsement and all its attachments to the Office of
738 the DOE Secretary.
739

740 **7.2.2.3.** The Office of the DOE Secretary shall receive the pre-signed
741 BEOC/WTEOC and all its attachments, and the DOE Secretary
742 shall act on the documents within seven (7) days from receipt
743 thereof.
744

745 **7.2.3. Payment of Signing Fee.** The BEMD, through the EVOSS System, shall
746 issue the Order of Payment within one (1) day. The BEOC/WTEOC
747 Applicant shall pay the signing fee within fifteen (15) days, which shall
748 be paid directly to the Treasury, and post the performance bond, within
749 the relevant period, covering the first contract year.

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The BEOC/WTEOC Applicant shall upload proof of payment of the signing fee within fifteen (15) days from receipt of notice. The failure of the Biomass/Waste-to-Energy Developer to do so shall be deemed as an abandonment of the BEOC/WTEOC Application and shall cause the revocation of the BEOC/WTEOC. Further, non-posting of the performance bond within thirty (30) days from receipt of notice shall cause the BEOC/WTEOC to be deemed void.

7.2.4. Delivery of the Signed Biomass Energy or Waste-to-Energy Operating Contract. The BEMD shall upload the signed and notarized copy of the BEOC/WTEOC and COR, as applicable, and inform the Biomass/Waste-to-Energy Developer to pick up the said documents. Simultaneous with the receipt of the BEOC/WTEOC, the Biomass/Waste-to-Energy Developer shall surrender to the DOE the Certificate of Authority issued pursuant to this Circular.

7.2.5. Duty to Maintain Records. The BEMD shall maintain a record of all LOIs received, pending BEOC/WTEOC Applications, and signed BEOC/WTEOC in the EVOSS System.

7.2.6. The ITMS shall make the area available to other applicants only when: a) the BEOC/WTEOC Applicant failed to qualify; or b) withdraws or abandons its LOI or BEOC/WTEOC Application, as the case may be, and only after due notice is given to the concerned interested participant/ BEOC/WTEOC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Once an area is declared to be available, subsequent BEOC/WTEOC Applications covering the same may be allowed, and only on a first-come, first-served basis.

7.3. Registration of Biomass/Waste-to-Energy Developers. The DOE, through the REMB, shall issue a COR to a Biomass/Waste-to-Energy Developer holding a valid BEOC/WTEOC for purposes of entitlement to the incentives under Chapter XIII of this Circular upon Financial Closing. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the BEOC/WTEOC, at the option of the Biomass/Waste-to-Energy Developer.

In the case of biofuels producers, accreditation of biofuel producers shall be governed by the procedures under Joint Administrative Order No. 2008-1, Series of 2008 pursuant to Republic Act No. 9367. At their option, accredited biofuels producers may register with the DOE as RE Developers to avail of incentives under the RE Act and shall be issued with a COR.

794 **Section 8. Terms of Biomass/Waste-to-Energy Service Contract.** The
795 development of biomass/waste-to-energy resources shall be covered by a
796 BEOC/WTEOC following the prescribed template (Annex A).

797
798 8.1. The Biomass/Waste-to-Energy Developer shall be given a non-extendible
799 period of three (3) years, called the Development Stage, from the date of
800 execution of the BEOC/WTEOC to achieve Commercial Operations of the
801 biomass/waste-to-energy project.

802
803 8.2. The BEOC/WTEOC shall have a term of twenty-five (25) years from the date
804 of execution, which shall include the Development/Commercial Stage but
805 shall exclude the period covered by the Certificate of Authority.

806
807 8.3. Not earlier than six (6) months prior to the expiration of the twenty-five (25)
808 year period, the BEOC/WTEOC may be renewed for another twenty-five (25)
809 years, subject to the terms and conditions of the BEOC/WTEOC.

810
811 **Section 9. Stages of Biomass Energy or Waste-to-Energy Operating Contract.**

812 A BEOC/WTEOC shall cover only the Development/Commercial Stage, which
813 involves the development, construction and installation and commercial operation of
814 the biomass/waste-to-energy project, including the achievement of Financial Closing.

815
816 **Section 10. Investments.**

817
818 10.1. **New Investments.** Biomass/Waste-to-Energy Developers seeking to
819 develop new generation facilities outside of the Contract Area shall apply for
820 a new BEOC/WTEOC.

821
822 10.2. **Additional Investments.** Additional investment may cover investment for
823 improvements, modernization, rehabilitation, or expansion duly registered
824 with the DOE, which may or may not result in increased capacity, subject to
825 the conditions to be determined by the DOE, such as, but not limited to, the
826 following:

- 827
828 (a) Identification of and investment in sequential phases/stages of
829 production, or undertaking scheduled modernization or rehabilitation of
830 the biomass/waste-to-energy systems; and
831 (b) Improvements to the biomass/waste-to-energy systems such as
832 reduced production/operational costs, increased production, improved
833 operational efficiency, and better reliability of the biomass/waste-to-
834 energy project.

835
836 If, by reason of the additional investment, the capacity of the
837 biomass/waste-to-energy project will be increased by at least ten percent
838 (10%), the Biomass/Waste-to-Energy Developer shall have the option to
839 pre-terminate its existing contract and enter into a new BEOC/WTEOC,

840 subject to constitutional term limits. Upon the award of the new
841 BEOC/WTEOC, the incentives under the RE Act shall be reset.

842
843 If the additional investment will not increase the capacity of the
844 biomass/waste-to-energy project by thirty percent (30%), the
845 Biomass/Waste-to-Energy Developer shall only be entitled to such
846 incentives as may be warranted under the RE Act.

847
848 **CHAPTER III – GEOTHERMAL ENERGY RESOURCE**

849
850 **CHAPTER IV – SOLAR ENERGY RESOURCE**

851
852 **CHAPTER V – HYDROPOWER ENERGY RESOURCE**

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854 **CHAPTER VI – OCEAN ENERGY RESOURCE**

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856 **CHAPTER VII – WIND ENERGY RESOURCE**

857
858 **CHAPTER VIII – ADMINISTRATION OF RENEWABLE ENERGY**
859 **SERVICE/OPERATING CONTRACTS**

860
861 **Section 1. Posting of a Performance Bond.** The RE Developer shall post a bond or
862 any other guarantee of sufficient amount as referred in Annex O, but not less than the
863 minimum expenditures commitment for the first contract year, which shall be a
864 condition precedent for the effectivity of the RE Contract. A valid and subsisting
865 performance bond is required to be maintained annually until the completion of the RE
866 Project.

867
868 **Section 2. Updating of RE Projects Data to the EVOSS System and DOE Website.**
869 The following shall govern the posting and updating of RE Contracts awarded and
870 pending RE Applications on the DOE website.

871
872 2.1. The REMB-Technical Service Management Division (TSMD), in coordination
873 with the relevant REMB divisions, shall collate and update the list of RE
874 Contracts awarded and RE Applications filed and under evaluation on a
875 quarterly basis. Upon full operation of the EVOSS System, updating of data
876 shall be in accordance with the periods provided in the system.

877 2.2. All concerned DOE units shall provide updates to the EVOSS System and
878 DOE websites.

879 2.3. All RE Developers shall be required to register with the EVOSS System for
880 regular updating of their respective RE Projects.

881
882 **Section 3. Transition from Pre-Development Stage to Development/Commercial**
883 **Stage.** The RE Service Contract shall transition from the Pre-Development Stage to
884 Development/Commercial Stage only after issuance by the DOE of a COCOC.

886 **3.1. Procedure for the Transition from Pre-Development to Development.**

887 3.1.1. The RE Developer shall submit through the EVOSS System the
888 complete documentary requirements specified in Annex L of this
889 Circular prior to the expiration of the Pre-Development Stage. The
890 concerned REMB division shall determine the completeness and
891 consistency of the submission within three (3) days.

892 3.1.2. If the submission is complete, the concerned REMB division, ITMS
893 and LS shall conduct the evaluations and upload the evaluation
894 results through the EVOSS System within seven (7) days.

895 3.1.3. The concerned REMB division shall consolidate the evaluation
896 results and endorse, through REMB Director, the recommendation
897 for approval of LS within two (2) days.

898 3.1.4. The Supervising Assistant Secretary and Undersecretary shall act on
899 the recommendation and endorse the same to the DOE Secretary
900 for approval within four (4) days.

901 3.1.5 The concerned REMB division, through the EVOSS System, shall
902 upload the signed letter and COCOC and notify the Hydropower
903 Developer to pick-up the said documents.

904 3.1.6. Within thirty-one (31) days from receipt of the DOC, the DOE shall
905 either:

906 3.1.6.1. Issue the COCOC, if the results of the evaluation of the DOC
907 are satisfactory, which shall likewise be considered the
908 transition of the RE Contract from Pre-Development Stage to
909 Development/ Commercial Stage; or

910 3.1.6.2. Issue a written notice to the RE Developer indicating that it
911 has the remainder of the Pre-Development Stage to correct any
912 deficiencies and/or satisfy the requirements for issuance of the
913 COCOC, if the results of the evaluation of the DOC are
914 unsatisfactory. Said written notice shall be signed by the REMB
915 Director.

916 3.1.7. The failure of the RE Developer to correct any deficiencies or
917 otherwise satisfy the requirements for issuance of the COCOC
918 before the expiration of its Pre-Development Stage shall be a cause
919 for the termination of its RE Contract.

920
921 **Section 4. Conversion to the New RE Contract Template.** Holders of
922 contracts/agreements prior to the effectivity of this Circular may apply for conversion
923 to the new RE Contracts templates provided in Annexes A to F hereof, and are subject
924 to the conditions and procedures hereinbelow provided.

925
926 **4.1. Requirements for Conversion to New RE Contract Template.**
927 Contractors/RE Developers may apply for conversion to the new RE
928 Contract templates subject to the following conditions:

929
930 4.1.1. Contractors/RE Developers must be fully compliant with the terms of
931 the approved Work Program/Work Plan and the material terms and

932 conditions of the contract/agreement for the past six (6) months prior
933 to the date of filing its application for conversion. For RE Developers
934 with RE Contracts executed less than six (6) months from date of
935 application for conversion, the evaluation of their compliance of the
936 commitments under the approved Work Program and of the material
937 terms and conditions of the RE Contract shall be the basis of their
938 performance.

939 4.1.2. Submission of a letter of application for conversion with the following
940 documentary requirements:

941 (a) Work Program covering the first five (5) years of the
942 remaining term of the old contract/agreement, reckoned
943 from the date of its execution.

944 (b) Revised Contract Area following the mapping requirements
945 provided in Annex J hereof. In the case of biomass and
946 solar development, the revised Contract Area is its
947 Production Area only. Any remaining portion of the original
948 Contract Area shall be deemed relinquished.

949
950 4.1.3. The conversion of RE Contracts awarded under the RE Act but prior
951 to the effectivity of this Circular shall be limited to those covering RE
952 projects which are under pre-commissioning/commercial operation
953 phase.
954

955 4.2 **Procedures for Application.** Applications for conversion to the new RE
956 Contract template shall be processed based on the following procedures:

957
958 4.2.1. The RE Developer shall submit through the EVOSS System the
959 complete documents, and the relevant REMB division shall check
960 the completeness and consistency of the submission within three (3)
961 days.

962 4.2.2. The concerned REMB division and LS shall conduct technical and
963 legal (if required) evaluation based on performance of the
964 contractor/RE Developer of its contractual obligations under the old
965 contract/agreement and its application documents within five (5)
966 days.

967 4.2.3. The REMB shall then endorse the mapping requirements to the
968 ITMS who shall produce/print the map of the Production Area within
969 three (3) days.

970 4.2.4. Qualified applications shall be endorsed by the REMB to the
971 Supervising Assistant Secretary and Undersecretary, which shall be
972 acted upon within four (4) days.

973 4.2.5. Upon the concurrence of the Assistant and Undersecretary, the
974 REMB shall notify the RE Developer of such fact and require the pre-
975 signing of the HSC within two (2) days.

976 4.2.6. Within one (1) day from the RE Contract pre-signing, the REMB shall
977 endorse the pre-signed RE Contract along with the evaluation results
978 to the DOE Secretary for approval. The DOE Secretary shall act on
979 the documents within seven (7) days from receipt thereof.

980 4.2.7. The REMB, through the EVOSS System, shall upload the copy of
981 the New RE Contract and notify the Hydropower Developer to pick-
982 up a copy of said document.

983 **Section 5. Amendment of RE Contracts.**

984 **5.1 Amendment of RE Contracts.** RE Contracts shall be amended in any of the
985 following instances:

986 5.1.1 Change to the Contract Area;

987 5.1.2 Increase or decrease in the installed capacity of the RE project;

988 5.1.3 Change of location of project site (for hydro power sources only);

989 5.1.4 Change of terms of the RE Contract; or

990 5.1.5 Additional feedstock for biomass/waste-to-energy operations.

991
992
993
994 5.2 No amendment to the RE Contract is required when the RE project transitions
995 from the Pre-Development to the Development Stage. However, the
996 relinquishment of a portion of the Contract Area after identifying the Production
997 Area pursuant to Section 5.3 of this Chapter shall result in the issuance of new
998 annex to the RE Contract, indicating the revised Contract Area, with
999 corresponding map and technical description.

1000
1001 **5.3 Requirements for Amendments to the Contract Area.** The RE Developer
1002 shall submit a request in writing addressed to the REMB Director, and shall
1003 comply with the following:

1004
1005 5.1.1 Technical description of proposed amendment to the Contract Area
1006 indicates the technical specifications and other mapping
1007 requirement for the purpose of area verification;

1008 5.1.2 The proposed amendment, upon verification by the ITMS pursuant
1009 to the process in Sections 5.6 of Chapter II, is available and open
1010 for RE resource exploration, development and/or utilization;

1011 5.1.3 The amendment of the Contract Area is justified and reasonable,
1012 which may be proven by: (a) the results of the resource
1013 assessment, duly verified by the concerned REMB unit; (b) proof
1014 that the RE Developer is not in default of its technical and financial
1015 obligations under the RE Contract; and (c) other relevant facts
1016 and/or documents; and

1017 5.1.4 The Work Program with respect to the amended Contract Area is
1018 acceptable.
1019

1020 **5.4 Requirements for Other Amendments.** The RE Developer shall submit a
1021 request in writing addressed to the REMB Director, together with the following:

- 1022
- 1023 5.4.1 Proof that the amendment is justified and reasonable;
- 1024 5.4.2 Proof that the RE Developer is not in default of its technical and
1025 financial obligations under the RE Contract; and
- 1026 5.4.3 Other relevant facts and/or documents.

1027

1028 5.5. Only a revised COR shall be issued in case of the following changes:

- 1029 5.5.1. Company name of the RE Developer; and/or
- 1030 5.5.2 Assignment of RE Contract in accordance with the terms thereof,
1031 to an entity that has the legal, technical, and financial
1032 qualifications to undertake the RE project.

1033

1034 The amendments under this Section shall require the surrender of the original COR
1035 prior to evaluation of the request; Provided, that in the case of an amendment solely
1036 for the change of the company name, the request shall be directly endorsed to the
1037 DOE Secretary after legal evaluation.

1038

1039 **5.6. Evaluation of Results for Amendment of RE Service Contract.** The RE
1040 Developer shall submit through the EVOSS System the complete set of
1041 documentary requirements for the request for amendment of RE Contract,
1042 which shall be processed as follows:

1043

1044 5.6.1. The concerned REMB division shall check the completeness and
1045 consistency of the submission within three (3) days.

1046 5.6.1.1. If the submission is complete, REMB shall upload a copy
1047 of the order of payment to pay for the application and
1048 processing fees. The EVOSS System shall notify the
1049 Hydropower Developer through a system generated email
1050 to pay the fees within five (5) days.

1051

1052 5.6.2 After payment of the processing fee, the concerned REMB
1053 Division shall evaluate the request within five (5) days. In case the
1054 evaluation of the concerned REMB Division shows that: (a) there
1055 are additional costs to be incurred that should warrant another
1056 financial evaluation; (b) there are any legal concerns regarding
1057 the RE Project; and/or (c) there is a need of re-plotting the
1058 Contract Area, REMB, through the EVOSS System, shall endorse
1059 the request to FS, LS and/or ITMS which shall conduct
1060 simultaneous financial and legal evaluations, and/or area
1061 verification within five (5) days.

1062

1063 5.6.3 The concerned REMB Division shall consolidate all the evaluation
1064 results and recommend the same to the REMB Director for further
1065 action and if the RE Developer passes the evaluation, endorse

1066 the Memorandum to the Undersecretary and Approval Letter /
1067 Revised COR through LS within two (2) days.

1068
1069 5.6.4 The Supervising Assistant Secretary and Undersecretary shall act
1070 on the recommendation and endorse the same to the DOE
1071 Secretary for approval within four (4) days.

1072
1073 5.6.5 Requests to change the terms of the RE Contract other than those
1074 in Section 5.1 of this Chapter may be considered by the DOE if
1075 the RE Developer complies with the conditions set forth in Section
1076 5.4 hereof, subject to negotiations between the DOE and the RE
1077 Developer.

1078
1079 **5.7. Revision of Work Program.** Subject to terms and conditions stipulated in the
1080 RE Contract, the RE Developer may request for revision of its Work Program
1081 with justification on such revision; Provided, that such revision shall not
1082 extend the Pre-Development Stage.

1083
1084 **5.7.1. Evaluation of Requests for Revision of the Work Program.** The
1085 RE Developer shall submit through the EVOSS System the
1086 complete set of documentary requirements for the request for
1087 revision of the Work Program, which shall be processed as
1088 follows:

1089
1090 5.7.1.1 The concerned REMB division shall check the
1091 completeness and consistency of the submission within
1092 three (3) days.

1093 5.7.1.2 If the submission is complete, REMB, LS and FS shall
1094 conduct simultaneous technical, legal (if necessary), and
1095 financial (for Pre-Development Stage only) evaluations
1096 within five (5) days.

1097 5.7.1.3 The concerned REMB Division shall consolidate all the
1098 evaluation results and recommend the same to the REMB
1099 Director for further action and if the RE Developer passes
1100 the evaluation, endorse the Memorandum to the
1101 Undersecretary and Approval Letter, through LS, within two
1102 (2) days. REMB, through the REMB Director, shall provide
1103 the Supervising Assistant Secretary with its
1104 recommendation on the request and the complete basis
1105 thereof.

1106 5.7.1.4 The Supervising Assistant Secretary shall act on the
1107 recommendation and endorse the same to the
1108 Undersecretary for approval within two (2) days.

1109 5.7.1.5 The concerned REMB Division, through the EVOSS
1110 System, shall notify the RE Developer of the approval and
1111 upload a copy of the letter approving the revised work
1112 program.

1113 5.7.1.6 The concerned REMB Division shall immediately provide
1114 to the TSMD, ITMS, and DOE-Investment Promotion Office
1115 (IPO) the status of the RE Contract and/or COR for timely
1116 update of database.

1117
1118 5.7.2 The changes to the Work Program necessitated by Force Majeure
1119 that extends the Pre-Development Stage shall be treated as an
1120 amendment of the RE Contract and shall be approved in
1121 accordance with Section 5.

1122
1123 **Section 6. Assignment of RE Contracts.**

1124
1125 6.1. All assignments of RE Contracts shall be subject to prior written approval of
1126 the DOE.

1127
1128 6.2. The RE Developer may assign all of its rights and obligations under the HSC
1129 to its Affiliate or any third party, subject to Section 6.1 hereof, and in
1130 accordance with the following:

1131
1132 6.2.1. The RE Developer shall submit to the DOE copies of the written
1133 document which unequivocally shows the agreement of the
1134 parties thereat to the assignment of the RE Contract;

1135
1136 6.2.2. The RE Developer shall guarantee in writing to the DOE the
1137 performance of the assigned rights and obligations; and

1138
1139 6.2.3. The assignee shall be substituted for the RE Developer in the
1140 performance bond posted in accordance with Section 1 of this
1141 Chapter.

1142
1143 6.3. **Evaluation of Requests for Assignment of RE Contract.** The RE
1144 Developer shall submit through the EVOSS System the complete set of
1145 documentary requirements for the request for assignment of the RE
1146 Contract, which shall be processed as follows:

1147
1148 6.3.1. The concerned REMB Division shall check the completeness and
1149 consistency of the submission within three (3) days.

1150
1151 6.3.2. If the submission is complete, the concerned REMB shall upload
1152 a copy of the order of payment to pay for the application and
1153 processing fees. The EVOSS System shall notify the RE
1154 Developer through a system generated email to pay the fees
1155 within five (5) days.

1156
1157 6.3.3. After payment of the processing fee, REMB, LS and FS shall
1158 conduct simultaneous technical, legal, and financial evaluations
1159 within seven (7) days.

1160

1161 6.3.4. The concerned REMB Division shall consolidate all the evaluation
1162 results and endorse, through REMB Director, the
1163 recommendation for approval of LS within two (2) days.

1164 6.3.5. The Supervising Assistant Secretary and Undersecretary shall act
1165 on the recommendation and endorse the same to the DOE
1166 Secretary for approval within four (4) days.
1167

1168 **Section 7. Change in Control.** Any sale or acquisition of shares or other share capital
1169 that results in a change in control over the RE Developer shall be subject to the prior
1170 written approval of the DOE. Such approval shall be given if the RE Developer remains
1171 legally, technically and financially qualified and capable of discharging the obligations
1172 under the RE Contract. For this purpose, the RE Developer shall submit to the DOE
1173 copies of the instrument of conveyance and other documents showing that the sale or
1174 acquisition will not affect its legal, technical and financial qualification. The procedure
1175 for evaluation approval of the sale or acquisition shall be in accordance with Section
1176 6.3 of this Chapter.
1177

1178 Control is presumed to exist when, as a result of the sale or acquisition, the buyer/s or
1179 transferee/s shall own more than one half (1/2) of the voting power of the Hydropower
1180 Developer.
1181

1182 **Section 8. Abandonment.** The Abandonment and Termination Plan shall be prepared
1183 by the RE Developer and submitted as a requirement for issuance of a COCOC and
1184 approved by the Department of Environment and Natural Resources (DENR) and the
1185 DOE for the decommissioning, abandonment and surface restoration or rehabilitation
1186 of the Contract Area. Such abandonment work plan may be amended, supplemented
1187 or modified by the RE Developer, the DOE, and the DENR from time to time.

1188 **Section 9. Performance Review and Audit.**

1189 9.1. The DOE shall conduct regular performance review of the RE Developers and
1190 recommend appropriate actions therefor.
1191

1192 9.2. The DOE shall have the right to inspect the RE Developers books and
1193 accounts directly relating to the RE Contract for any calendar or fiscal year
1194 sixty (60) months following the end of each calendar or fiscal year. Any such
1195 audit shall be completed within one (1) year from its commencement. Any
1196 exceptions must be made to the RE Developer in writing within ninety (90)
1197 days following the completion of such audit. If the DOE fails to give such
1198 written exception within such time, then the RE Developer's books of
1199 accounts and statements for such calendar or fiscal year shall be established
1200 as correct and final for all purpose.
1201

1202 9.3. The DOE, upon at least fifteen (15) days advance written notice to the RE
1203 Developer, is entitled to access, during reasonable hours without affecting
1204 RE operations, all books of accounts and records and may inspect such sites
1205 and facilities as necessary.
1206

1207 9.4. If the DOE notifies the RE Developer of an exception to the RE Developer's
1208 books of accounts within the period specified in Section 9.2 of this Chapter,
1209

1210 the RE Developer shall within ninety (90) days from receipt of written
1211 exception from the DOE, question its validity, otherwise, the same shall
1212 become final and binding on the RE Developer. If the DOE and the RE
1213 Developer are not able to agree on the exceptions or adjustments after ninety
1214 (90) days from the date of receipt of the RE Developer's response to the
1215 DOE's exception report, they shall resolve the dispute in accordance with the
1216 RE Contract.

1217

1218 **Section 10. Suspension of Obligations under the RE Service/Operating Contract.**

1219 In case the default of the RE Developer is attributable to Force Majeure, the obligation
1220 of the RE Developer may be suspended for a period of six (6) months or until the Force
1221 Majeure event ceases to exist, whichever comes earlier, subject to the following
1222 conditions:

1223

1224 10.1. The RE Developer shall file a notice of Force Majeure to the concerned
1225 REMB Division within fifteen (15) days from its existence along with proof
1226 that:

1227 10.1.1. The Force Majeure exists;

1228 10.1.2. The event/s occurred independent of the will of the RE
1229 Developer;

1230 10.1.3. The event/s rendered it impossible for the RE Developer to fulfill
1231 its obligations in a normal manner;

1232 10.1.4. The RE Developer is free of participation in, or aggravation of,
1233 the injury to the DOE.

1234

1235 10.2. After due validation which shall be made within twenty (20) days from receipt
1236 of such notice, the REMB Director shall issue an approval of suspension of
1237 contractual obligation/s affected by Force Majeure; Provided, that if the
1238 suspension of the obligations will extend the Pre-Development Stage, the
1239 REMB Director shall endorse the approval to the DOE Secretary.

1240

1241 10.3. Within ten (10) days from receipt of the notice of approval, the concerned
1242 REMB Division shall submit a new Work Program to be acted upon by the
1243 Supervising Assistant Secretary and thereafter endorsed to the
1244 Undersecretary for approval.

1245

1246 10.4. The RE Developer shall continue to post the performance bond, if necessary,
1247 observe administrative requirements and comply with reportorial obligations
1248 on its work commitments not affected by Force Majeure.

1249

1250 10.5. Once the Force Majeure has ceased, the RE Developer shall notify the
1251 REMB within five (5) days from cessation together with the revised Work
1252 Program covering the remaining contract term.

1253

1254 10.6. Any failure or delay on the part of the RE Developer or the DOE in the
1255 performance of its obligations or duties under the RESC shall be excused to
1256 the extent attributable to Force Majeure.

1257

1258 10.7. If the RE operations are curtailed or prevented by such causes, then the time
1259 for enjoying the rights and carrying out the obligations thereby affected, and

1260 all rights and obligations hereunder shall be extended for a period equal to
1261 the period of delay, curtailment or prevention; Provided, however, that the
1262 suspension of obligation shall in no way extend the term of the contract;
1263 Provided, further, that if operations are delayed, curtailed or prevented by
1264 Force Majeure for a continuous period of six (6) months, the RE Developer
1265 may, at its option (a) terminate the RESC, or (b) request for the suspension
1266 of the RE Contract in accordance with Section 11 of this Chapter, subject to
1267 confirmation of the DOE.

1268
1269 10.8. The party whose ability to perform its obligations under the RE Contract is
1270 so affected shall notify the other party thereof in writing stating the cause and
1271 such affected party shall do all reasonably within its power to remove such
1272 cause.

1273
1274 **Section 11. Suspension of the RE Service/Operating Contract.** In case the RE
1275 operations are delayed, curtailed or prevented by Force Majeure for a continuous
1276 period of six (6) months, the efficacy of the RE Contract may be suspended for a
1277 maximum period of three (3) years or until the Force Majeure event ceases to exist,
1278 whichever comes earlier. The period of such suspension shall not be counted against
1279 the constitutional term limits.

1280 The RE Developer and the DOE shall comply with the following conditions:

1281
1282 11.1. Upon strict compliance with the conditions under Section 10 of this Chapter,
1283 the RE Developer may file a request for suspension of the RE Contract with
1284 REMB within fifteen (15) days following the last day of the said six (6)-month
1285 period.

1286
1287 11.2. The concerned REMB Division shall endorse the request to the REMB. For
1288 a period of ninety (90) days from receipt of endorsement, REMB shall exert
1289 best efforts to enable the RE Developer to resume plant operations.

1290
1291 11.3. If, despite such efforts, the Force Majeure persists and the RE operations
1292 cannot resume, the DOE shall approve the request for suspension of the RE
1293 Contract. Notice of suspension shall be given to the RE Developer within
1294 fifteen (15) days following the last day of the ninety (90)-day period.

1295
1296 11.4. Within ten (10) days from receipt of notice of suspension, the RE Developer
1297 shall submit a sworn undertaking to notify the DOE and submit proof that the
1298 Force Majeure has ceased. Failure to give notice within ten (10) days from
1299 cessation shall be deemed a relinquishment of the RE Contract.

1300
1301 11.5. If the RE Developer intends to resume operations, it shall submit to REMB
1302 a request to resume RE operations together with the notice abovementioned.

1303
1304 11.6. After due evaluation and if warranted, the concerned REMB Division shall
1305 endorse the approval of the request to the REMB Director, who may endorse
1306 the same to the DOE Secretary for approval.

1307

1308 11.7. The RE Developer may only avail of the above suspension of the RE
1309 Contract once during its term.

1310

1311 **Section 12. Power to Compel or Conduct Operations.** The DOE shall have the
1312 power to compel the RE Developer to perform RE operations when the following
1313 conditions exist:

1314

1315 a. The RE Developer fails, refuses or neglects to perform the RE operations
1316 without any justifiable cause; and

1317 b. Such failure, refusal or neglect:

1318

1319 i. Results in or contributes to a shortage in the supply of electricity, based on
1320 the report of the EPIMB; and

1321 ii. Poses an imminent threat to the country's national security and/or
1322 economy, as determined by the DOE Secretary and as recommended by
1323 the concerned government agencies.

1324

1325 If the RE Developer does not comply with the DOE's directive within three (3) calendar
1326 days from receipt, such noncompliance shall be deemed sufficient authority for the
1327 DOE to conduct RE operations directly or through another government entity;
1328 Provided, that the DOE's authority herein set forth shall only subsist for such period
1329 as may be needed to avert or arrest the threat, or upon the RE Developer's resumption
1330 of RE operations, whichever comes earlier.

1331

1332 **Section 13. Termination of RE Contracts.** The DOE shall have the power to
1333 terminate RE Contracts, after due notice to the RE Developer.

1334

1335 13.1. **Evaluation Process for RE Contract Termination.** The concerned REMB
1336 Division shall recommend the termination of the RE Contract within the
1337 following timelines:

1338

1339 13.1.1. Five (5) days from the lapse of the Pre-Development Stage of the
1340 RE Contract where the RE Developer failed to submit its DOC;

1341

1342 13.1.2. Three (3) days from the voluntary relinquishment of the RE
1343 Developer of the RE Contract;

1344

1345 13.1.3. Prior to the pre-construction phase of the RE Contract, upon the
1346 discovery that the RE Developer failed to maintain the required
1347 performance bond;

1348

1349 13.1.4. During the Development Stage, upon the DOE's finding that the
1350 conditions set forth in Section 18(a) and (b) of this Chapter exist;
1351 or

1352

1353 13.1.5. At any stage of the RE Contract, upon findings of any of the
1354 grounds for RE Contract termination as stipulated therein.

1355

1356 The failure of the DOE to adhere to the periods provided above shall not be
1357 construed as a waiver of its power to evaluate and recommend the termination
1358 of RE Contracts at a later time.
1359

1360 13.2. With respect to Sections 13.1.1, 13.1.4 and 13.1.5 of this Chapter, the
1361 concerned REMB Division shall prepare a letter, signed by the REMB
1362 Director, requiring the RE Developer to explain in writing why its RE Contract
1363 should not be terminated. The RE Developer shall be given a non-extendible
1364 period of thirty (30)–days to submit its explanation, which shall be
1365 accompanied by supporting documents.
1366

1367 13.3. No later than twenty (20) days from its receipt of the RE Developer’s written
1368 explanation, the concerned REMB Division shall submit its findings and
1369 recommendation to the REMB Director.
1370

1371 13.4. Within three (3) days from receipt of the findings and/or recommendation,
1372 the REMB Director shall act upon the same and recommend a course of
1373 action to the DOE Secretary, through its Supervising Assistant Secretary and
1374 Undersecretary.
1375

1376 13.5. In case the DOE Secretary approves the REMB Director’s recommendation,
1377 the RE Developer shall be notified in writing of the termination of its RE
1378 Contract. The concerned REMB Division shall inform the TSMD, ITMS, and
1379 IPO of such fact.
1380

1381 13.6. Subject to the conditions under this Section, areas covered by terminated
1382 RE Contracts shall be declared by the DOE open for development, specifying
1383 the mode of awarding of the RE Contract, which, if the area is determined as
1384 within a RE Zone or a PDA, RE Contract Applications shall be through REZA
1385 or OCSP, respectively, as provided herein. Otherwise, the area shall be
1386 available to all interested parties for RE resource development under Direct
1387 Application, and only on a first- come first-served basis
1388

1389 **Section 14. Request for Reconsideration.** An RE Developer whose RE Contract
1390 was terminated may request for the reconsideration of the same. The request shall be
1391 made in writing, addressed to the REMB Director, and filed within ten (10) days from
1392 the RE Developer’s receipt of the notice of termination. The REMB Director shall
1393 evaluate the merits of the request for reconsideration and endorse such
1394 recommendations to the DOE Secretary, through the REMB Supervising Assistant
1395 Secretary and Undersecretary.
1396

1397 14.1. **Procedures for Processing of Request for Reconsideration.** Request for
1398 reconsideration shall be processed based on the following procedures:
1399

1400 14.1.1. The RE Developer shall submit through the EVOSS System the
1401 complete documents, and the concerned REMB Division shall
1402 check the completeness and consistency of the submission
1403 within three (3) days.
1404

- 1405 14.1.2. The REMB, LS, FS, ITMS shall conduct simultaneous technical,
1406 legal, financial evaluations and area verification within ten (10)
1407 days.
1408 14.1.3. The concerned REMB Division shall consolidate all the
1409 evaluation results and endorse, through the REMB Director, the
1410 recommendation for approval of LS within three (3) days.
1411
1412 14.1.4. Qualified applications shall be endorsed by the REMB to the
1413 Supervising Assistant Secretary and Undersecretary, which
1414 shall be acted upon within six (6) days.
1415
1416 14.1.5. Upon the concurrence of the Assistant and Undersecretary,
1417 REMB shall endorse the recommendation to the DOE Secretary.
1418 The DOE Secretary shall act on the documents within five (5)
1419 days from receipt thereof.
1420
1421 14.1.6. The concerned REMB Division, through the EVOSS System,
1422 shall upload a copy of the letter approving or denying the request
1423 for reconsideration and notify the RE Developer to pick-up a
1424 copy of said document.
1425

1426 **Section 15. Registration of RE Projects for Own-use and/or Non- commercial**
1427 **Operations.**
1428

1429 15.1. **Certificate of Registration.** A Certificate of Registration is the proof of
1430 registration of the RE Developer with the DOE and is required to avail of the incentives
1431 under the RE Act. A RE Contract is required for the issuance of a COR except for RE
1432 Projects for Own-Use and/or Non-Commercial Operations.
1433

1434 **CHAPTER IX – INCENTIVES**
1435

1436 **Section 1. Fiscal Incentives for Renewable Energy Projects and Activities.** DOE-
1437 certified existing and new RE Developers of RE facilities, including Hybrid Systems, in
1438 proportion to and to the extent of the RE component, for both Power and Non-Power
1439 Applications, shall be entitled to the following incentives under the RE Act:
1440

1441 **A. Income Tax Holiday (ITH)**
1442

1443 **(1) Period of Availment.** The duly registered RE Developer shall be fully exempt
1444 from income taxes levied by the Government for the period as follows:
1445

- 1446 (a) Existing RE Projects — seven (7) years from the start of Commercial
1447 Operations;
1448

1449 All RE Developers that acquire, operate and/or administer existing RE
1450 facilities that were or have been in Commercial Operation for more than

1451 seven (7) years, upon the effectivity of the RE Act, shall not be entitled
1452 to ITH, except for any additional investment.

1453

1454 (b) New investment in RE Resources — seven (7) years from the start of
1455 Commercial Operations resulting from new investments; and

1456 (c) Additional investment in the RE Project — not more than three (3) times
1457 the period of the initial availment by the existing or new RE project or
1458 covering new or additional investments.

1459

1460 The maximum period within which an RE Developer may be entitled to
1461 an ITH shall be twenty-one (21) years, inclusive of the initial seven (7)-
1462 year ITH for its new and additional investments in a specific RE facility.

1463

1464 **(2) Entitlement for New and Additional Investments subject to prior approval**
1465 **by the DOE**

1466

1467 (a) New Investment. A fresh package of ITH from the start of commercial
1468 operations shall apply.

1469

1470 (b) Additional Investment. The ITH for additional investments in an existing
1471 RE project shall be applied only to the income attributable to the
1472 additional investment.

1473

1474 **B. Exemption from Duties on RE Machinery, Equipment, and Materials**

1475 Within the first ten (10) years from the issuance of a COR to an RE Developer,
1476 the importation of machinery and equipment, and materials and parts thereof,
1477 including control and communication equipment, shall be exempt from tariff
1478 duties.

1479

1480 (1) **Conditions for Duty-Free Importation.** An RE Developer may import
1481 machinery and equipment, materials and parts thereof exempt from the
1482 payment of any and all tariff duties due thereon subject to the following
1483 conditions:

1484

1485 (a) The machinery and equipment are directly and actually needed and will
1486 be used exclusively in the RE facilities for the transformation of and
1487 delivery of energy to the point of use;

1488

1489 (b) The importation of materials and spare parts shall be restricted only to
1490 component materials and parts for the specific machinery and/or
1491 equipment authorized to be imported;

1492

1493 (c) The kind of capital machinery and equipment to be imported must be in
1494 accordance with the approved work and financial program of the RE
1495 facilities; and

1496
1497 (d) Such importation shall be covered by shipping documents in the name
1498 of the duly registered RE Developer/operator to whom the shipment will
1499 be directly delivered by customs authorities.

1500
1501 (2) **Sale or Disposition of Capital Equipment.** Any sale, transfer, assignment,
1502 donation, or other modes of disposition of originally imported capital
1503 equipment/machinery including materials and spare parts, brought into the
1504 RE facilities of the RE Developer which availed of duty-free importation
1505 within ten (10) years from date of importation shall require prior
1506 endorsement of the DOE. Such endorsement shall be granted only if any of
1507 the following conditions is present:

1508
1509 (a) If made to another RE Developer enjoying tax and duty exemption on
1510 imported capital equipment;

1511
1512 (b) If made to a non-RE Developer, upon payment of any taxes and duties
1513 due on the net book value of the capital equipment to be sold;

1514
1515 (c) Exportation of the used capital equipment, machinery, spare parts, or
1516 source documents or those required for RE development; and

1517
1518 (d) For reasons of proven technical obsolescence as may be determined by
1519 the DOE.

1520
1521 When the aforementioned sale, transfer, or disposition is made under
1522 any of the conditions provided for in the foregoing paragraphs after ten
1523 (10) years from the date of importation, the sale, transfer, or disposition
1524 shall require prior endorsement by the DOE and shall no longer be
1525 subject to the payment of taxes and duties.

1526 1527 **C. Special Realty Tax Rates on Equipment and Machinery**

1528
1529 Realty and other taxes on civil works, equipment, machinery, and other
1530 improvements by a registered RE Developer actually and exclusively used for RE
1531 facilities shall not exceed one and a half percent (1.5%) of their original cost less
1532 accumulated normal depreciation or net book value; Provided, that in the case of
1533 an integrated RE resource development and Generation Facility as provided under
1534 the RE Act, the real property tax shall be imposed only on the power plant.

1535

1536 "Original Cost" shall refer to (1) the tangible cost of construction of the power plant
1537 component, or of any improvement thereon, regardless of any subsequent transfer
1538 of ownership of such power plant; or (2) the assessed value prevailing at the time
1539 the RE Act took into effect or at the time of the completion of the power plant project
1540 after the effectivity of the RE Act, as the case may be, and in any case assessed
1541 at a maximum level of eighty percent (80%), whichever is lower.

1542
1543 "Net Book Value" shall refer to the amount determined by applying normal
1544 depreciation on the original cost based on the estimated useful life.

1545
1546 **D. Net Operating Loss Carry-Over (NOLCO)**

1547
1548 The NOLCO of the RE Developer during the first three (3) years from the start of
1549 commercial operation shall be carried over as a deduction from gross income for
1550 the next seven (7) consecutive taxable years immediately following the year of
1551 such loss, subject to the following conditions:

1552
1553 (a) The NOLCO had not been previously offset as a deduction from gross
1554 income; and

1555
1556 (b) The loss should be a result of the operation and not from the availment
1557 of incentives provided for in the RE Act.

1558
1559 **E. Corporate Tax Rate**

1560
1561 After availment of the ITH, all Registered RE Developers shall pay a corporate tax of
1562 ten percent (10%) on their net taxable income as defined in the National Internal
1563 Revenue Code (NIRC) of 1997, as amended; Provided, that the RE Developers shall
1564 pass on the savings to the end-users in the form of lower power rates.

1565
1566 All RE Developers that acquire, operate, and/or administer existing RE facilities that
1567 were or have been in commercial operation for more than seven (7) years, upon the
1568 effectivity of the RE Act, shall pay a corporate tax rate of ten percent (10%) on their
1569 net taxable income, upon registration with the DOE.

1570
1571 **F. Accelerated Depreciation**

1572
1573 If an RE project fails to receive an ITH before full operation, the RE Developer may
1574 apply for accelerated depreciation in its tax books and be taxed on the basis of the
1575 same.

1576
1577 If an RE Developer applies for accelerated depreciation, the project or its expansions
1578 shall no longer be eligible to avail of the ITH.

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1589

Plant, machinery and equipment that are reasonably needed and actually used for the exploration, development and utilization of RE Resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Department of Finance (DOF) and the provisions of the NIRC of 1997, as amended. Any of the following methods of accelerated depreciation may be adopted:

- (a) Declining balance method; and
- (b) Sum-of-the years digit method.

G. Zero Percent Value-Added Tax Rate

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The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the NIRC of 1997, as amended:

- (a) Sale of fuel from RE sources or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels;
- (b) Purchase of local goods, properties and services needed for the development, construction, and installation of the plant facilities of RE Developers; and
- (c) Whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.

H. Tax Exemption of Carbon Credits

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1609
1610
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1612

All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes.

I. Tax Credit on Domestic Capital Equipment and Services Related to the Installation of Equipment and Machinery

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1620

A tax credit equivalent to one hundred percent (100%) of the value of the VAT and customs duties that would have been paid on the RE machinery, equipment, materials, and parts had these items been imported shall be given to a registered RE Developer who purchases machinery, equipment, materials, and parts from a domestic manufacturer, fabricator or supplier subject to the following conditions:

1621 (a) That the said equipment, machinery, and spare parts are reasonably
1622 needed and shall be used exclusively by the Registered RE Developer
1623 in its registered activity;

1624
1625 (b) That the purchase of such equipment, machinery, and spare parts is
1626 made from an accredited or recognized domestic source, in which case,
1627 prior approval by the DOE should be obtained by the local manufacturer,
1628 fabricator, or supplier; and

1629
1630 (c) That the acquisition of such machinery, equipment, materials, and parts
1631 shall be made within the validity of the RE Service/Operating Contract.
1632

1633 Any sale, transfer, assignment, donation, or other mode of disposition of machinery,
1634 equipment, materials, and parts purchased from domestic source, if made within ten
1635 (10) years from the date of acquisition, shall require prior DOE approval.
1636

1637 **Section 2. Hybrid and Co-generation Systems.** The tax exemptions and/or
1638 incentives provided for in Section 13 and item D, Section 17 of the IRR of the RE Act
1639 shall be availed of by a registered RE Developer of hybrid and cogeneration systems
1640 utilizing both RE sources and conventional energy. However, the tax exemptions and
1641 incentives for hybrid and cogeneration systems shall apply only to the equipment,
1642 machinery, and/or devices utilizing RE Resources.

1643
1644 **Section 3. Incentives for RE Commercialization.** All manufacturers, fabricators, and
1645 suppliers of locally produced RE equipment and components shall be entitled to the
1646 privileges set forth below pursuant to the RE Act:

1647
1648 **A. Tax and Duty-free Importation of Components, Parts, and Materials**

1649
1650 All shipments necessary for the manufacture and/or fabrication of RE equipment and
1651 components shall be exempted from importation tariff and duties and value-added tax
1652 (VAT); Provided, that the said components, parts, and materials are:

1653
1654 (1) Not manufactured domestically in reasonable quantity and quality at
1655 competitive prices;

1656
1657 (2) Directly and actually needed and shall be used exclusively in the
1658 manufacture/fabrication of RE equipment; and

1659
1660 (3) Covered by shipping documents in the name of the duly registered
1661 manufacturer/fabricator to whom the shipment will be directly delivered by

1662 customs authorities. Prior approval of the DOE shall be required before the
1663 importation of such components, parts, and materials.
1664

1665

1666 **B. Tax Credit on Domestic Capital Components, Parts, and Materials**
1667

1668 A tax credit equivalent to one hundred percent (100%) of the amount of the value-
1669 added tax (VAT) and customs duties that would have been paid on the components,
1670 parts, and materials had these items been imported shall be given to an RE equipment
1671 manufacturer, fabricator, and supplier who purchases RE components, parts, and
1672 materials from a domestic manufacturer; Provided, that such components and parts
1673 are directly needed and shall be used exclusively by the RE manufacturer, fabricator,
1674 and supplier for the manufacture, fabrication and sale of the RE equipment; Provided,
1675 further, That prior approval by the DOE was obtained by the local manufacturer.
1676

1677 **C. Income Tax Holiday and Exemption**
1678

1679 For seven (7) years starting from the date of recognition/accreditation provided under
1680 Section 18 of the IRR of the RE Act, an RE manufacturer, fabricator, and supplier of
1681 RE equipment shall be fully exempt from income taxes levied by the National
1682 Government on net income derived only from the sale of RE equipment, machinery,
1683 parts, and services.
1684

1685 **D. Zero-Rated Value-Added Tax Transactions**
1686

1687 All manufacturers, fabricators, and suppliers of locally produced RE equipment shall
1688 be subject to zero-rated value-added tax on their transactions with local suppliers of
1689 goods, properties, and services.
1690

1691 **Section 4. Incentives for Farmers Engaged in the Plantation of Biomass**
1692 **Resources.** All individuals and entities engaged in the plantation of crops and trees
1693 used as biomass resources shall be entitled to duty-free importation and exemption
1694 from payment of VAT on all types of agricultural inputs, equipment, and machinery
1695 within ten (10) years from the effectivity of the RE Act, subject to the certification by
1696 the DOE and the following conditions:
1697

1698 (a) That the crops and trees such as, but not limited to, jatropha, coconut,
1699 and sugarcane shall be actually utilized for the production of biomass
1700 resources; and
1701

1702 (b) That the agricultural inputs, equipment and machinery such as, but not
1703 limited to, fertilizers, insecticides, pesticides, tractors, trailers, trucks,
1704 farm implements and machinery, harvesters, threshers, hybrid seeds,
1705 genetic materials, sprayers, packaging machinery and materials, bulk

1706 handling facilities, such as conveyors and mini-loaders, weighing scales,
1707 harvesting equipment, and spare parts of all agricultural equipment shall
1708 be used actually and primarily for the production of said biomass
1709 resources.

1710

1711 **Section 5. Other Incentives and Privileges.**

1712

1713 **A. Tax Rebate for Purchase of RE Components**

1714

1715 To encourage the adoption of RE technologies, the DOF shall, in consultation with the
1716 Department of Science and Technology (DOST), DOE, and Department of Trade and
1717 Industry (DTI), provide rebates for all or part of the tax paid for the purchase of RE
1718 equipment for residential, industrial, or community use.

1719 **B. Financial Assistance Program**

1720

1721 Government financial institutions (GFIs) such as the Development Bank of the
1722 Philippines (DBP), Land Bank of the Philippines (LBP), Philippine Exim Bank and
1723 others shall, in accordance with and to the extent allowed by the enabling provisions
1724 of their respective charters or applicable laws, provide preferential financial packages
1725 for the development, utilization, and commercialization of RE projects that are duly
1726 recommended and endorsed by the DOE.

1727

1728 **C. Exemption from the Universal Charge**

1729

1730 "Universal Charge" refers to the charge, if any, imposed for the recovery of the
1731 stranded cost and other purposes pursuant to Section 34 of the EPIRA.

1732 All consumers shall be exempted from paying the Universal Charge under the
1733 following circumstances:

1734

1735 (1) If the power or electricity generated through the RE System is consumed
1736 by the generators themselves; and/or

1737 (2) If the power or electricity through the RE System is distributed free of
1738 charge in the off-grid areas.

1739

1740 **D. Cash Incentive of Renewable Energy Developers for Missionary 1741 Electrification**

1742

1743 An RE Developer registered pursuant to Section 15 of the RE Act and Section 18 of
1744 the IRR of the RE Act, shall be entitled to a cash generation-based incentive per
1745 kilowatt-hour rate generated, equivalent to fifty percent (50%) of the universal charge
1746 for the power needed to service missionary areas where it operates the same, to be
1747 chargeable against the universal charge for Missionary Electrification. This provision
1748 shall apply to RE capacities for Missionary Electrification undertaken upon effectivity
1749 of the Act.

1750

1751 **E. Payment of Transmission Charges**

1752
1753 A registered RE Developer producing power and electricity from an intermittent RE
1754 Resource may opt to pay the transmission and wheeling charges of National
1755 Transmission Corporation (TRANSCO), its concessionaire or its successor-in-
1756 interests on a per kilowatt-hour basis at a cost equivalent to the average per kilowatt-
1757 hour rate of all other electricity transmitted through the Grid.

1758
1759 **F. Priority and Must Dispatch for Intermittent RE Resource**

1760
1761 Qualified and registered RE generating units with intermittent RE Resources shall be
1762 considered "must dispatch" based on available energy and shall enjoy the benefit of
1763 priority dispatch.

1764
1765 TRANSCO or its successor-in-interest shall, in consultation with stakeholders,
1766 determine, through technical and economic analysis, the maximum penetration limit
1767 of the intermittent RE-based power plants to the Grid.

1768
1769 The Philippine Electricity Market Corporation (PEMC) and TRANSCO or its successor-
1770 in-interest shall implement technical mitigation and improvements in the system in
1771 order to ensure safety and reliability of electricity transmission.

1772
1773 "RE generating units with intermittent RE Resources" refers to an RE generating unit
1774 or group of units connected to a common connection point whose RE Resource is
1775 location-specific, naturally difficult to precisely predict the availability of the RE
1776 Resource thereby making the energy generated variable, unpredictable and irregular,
1777 and the availability of the resource inherently uncontrollable, which include plants
1778 utilizing wind, solar, run-of-river hydropower, or ocean energy.

1779
1780 **Section 6. Incentive Regime.** In lieu of the incentives allowed under the RE Act, as
1781 enumerated in the preceding Sections of this Chapter, an RE Developer may elect to
1782 avail itself of the incentives under the NIRC of 1997, as amended by RA No. 11534,
1783 otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises Act"
1784 or "CREATE". Unless the RE Developer signifies its intention to avail itself of the
1785 incentives under CREATE at the time of issuance of COR, it shall be considered as
1786 having availed itself of the incentives under the RE Act. Once the RE Developer elects
1787 to avail itself of the incentives under CREATE, such election shall be considered
1788 irrevocable and no incentives under the RE Act shall be allowed thereafter.

1789
1790 **CHAPTER X – TRANSITORY PROVISIONS**

1791
1792 **Section 1. Evaluation of Pending Applications.** RE Applications filed prior to the
1793 effectivity of this Circular shall be governed by the existing guidelines at the time of the
1794 filing of the applications. The ITMS shall report to the REMB all areas covered by
1795 pending RE Applications and RE Contracts within fifteen (15) days from the date of

1796 this Circular. REMB shall use this information to commence the process of identifying
1797 PDAs for preparation of the OCSP. RE Applicants that have passed the legal,
1798 technical and financial requirements under the existing guidelines prior to the
1799 effectivity of this Circular shall be given an option to choose which RE Contract
1800 template to adopt: *Provided, however*, that should there be any new application
1801 requirements for RE Contract covering development of a particular type of RE
1802 resource, the applicant must satisfy first such requirement/s.
1803

1804 **Section 2. Re-filing of the Application for RE Contract and Certificate of**
1805 **Registration.** Pending applications for RE Contract or issuance of CORs may be re-
1806 applied, at the option of the RE Applicant, within (30) days from effectivity of this
1807 Circular without need of new or re-payment of the application fees. Failure of the
1808 applicants to re-file its application within the said period shall be construed as its
1809 decision to: (a) submit to the ongoing evaluation of its RE Application under the prior
1810 rules or guidelines, and (b) comply with the results of such evaluation of its pending
1811 RE Application.
1812

1813 **CHAPTER XI – FINAL PROVISIONS**

1814

1815 **Section 1. Extension of Timelines.** Subject to the provisions of RA No. 11032, the
1816 respective timelines provided under this Circular may be extended for the same period
1817 prior to the lapse of the subject period, *Provided*, That the DOE shall notify the affected
1818 party in writing of the reason for the extension and shall provide the final date of
1819 release of the matter requested.
1820

1821 Only one extension is allowed and shall, in no case, exceed sixty (60) days.
1822

1823 For this purpose, the Citizen’s Charter of the REMB shall be amended to reflect the
1824 timelines herein provided.
1825

1826 **Section 2. Information, Education and Communication Activities.** Pursuant to
1827 Section 31, Rule 10 of the IRR of the RE Act, the DOE, together with National
1828 Renewable Energy Board, shall develop and implement a comprehensive information,
1829 education and communication activities that are designed to increase the public
1830 awareness and appreciation of this Circular and the RE industry in general.
1831

1832 **Section 3. Separability Clause.** If for any reason, any provision of this Circular is
1833 declared unconstitutional or invalid by a court of competent jurisdiction, the other parts
1834 or provisions not affected thereby shall remain in full force and effect.
1835

1836 **Section 4. Repealing Clause.** The provisions of other circulars, orders, issuances,
1837 rules and regulations, which are inconsistent with the provisions of this Circular are
1838 hereby repealed, amended, superseded or modified accordingly.
1839

1840 **Section 5. Effectivity.** This Circular shall take into effect fifteen (15) days following its
1841 publication in at least two (2) newspapers of general circulation. Copies of this Circular
1842 shall be filed with the University of the Philippines Law Center – Office of the National
1843 Administrative Register.

