

[DOLE Department Order No. 144, s. 2015, May 22, 2015]

GUIDELINES ON THE IMPLEMENTATION OF THE SOCIAL AMELIORATION AND WELFARE PROGRAM FOR WORKERS IN THE BIOFUEL INDUSTRY UTILIZING MOLASSES AS FEEDSTOCK

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I. Legal Basis

Section 11 (e) of Republic Act No. 9367, otherwise known as 'The Biofuels Act of 2006' provides for the role that the Department of Labor and Employment (DOLE) shall (1) Promote gainful livelihood opportunities and facilitate productive employment through effective employment services and regulation; (2) Ensure the access of workers to productive resources and social protection coverage; and (3) Recommend plans, policies and programs that will enhance the social impact of the National Biofuels Program (NBP).

Section 17 of the same Act mandates the National Biofuels Board (NBB) shall establish a similar mechanism provided under the Sugar Amelioration Act of 1991 or RA 6982 for the benefit of other biofuel workers.

Per authority granted under Joint Administrative Order No. 2008-1 Series of 2008, the Department of Labor and Employment (DOLE) shall be the implementing agency for the development and management of the Social Amelioration and Welfare Program (SAWP) for biofuel workers. In pursuance thereof, the foregoing Guidelines on the SAWP for Workers in the Biofuel Industry, using Molasses as feedstock, are hereby issued:

II. Definition of Terms

For purposes of these Guidelines, the following definitions shall apply:

1. Act - refers to Republic Act No. 9367, otherwise known as the Biofuel Act of 2006;
2. Bioethanol - refers to ethanol (C_2H_5OH) produced from feedstock and other biomass that shall be technically proven and approved by the DOE for use in gasoline-fed engines, including hydrous ethanol, with quality specifications in accordance with the PNS, and for higher blends beyond the 10% blend, the DOE shall issue appropriate PNS;
3. Bioethanol Producer - refers to any person or entity accredited by the DOE to engage in the production of PNS compliant bioethanol;

4. Biofuel - refers to bioethanol and biodiesel and other fuels made from biomass and primarily used for motive, thermal and power generation with quality specifications in accordance with the PNS, and added or blended to petroleum fuels to enhance or alter the chemical or physical properties and improve performance/usage of the fuels;
5. Bioethanol Plant - refers to the area of bioethanol production which includes, but not limited to the processing plant waste management facilities and other facilities directly related to bioethanol production;
6. Bioethanol Plant Worker - refers to the rank and file workers or employees in the bioethanol plant who are directly involved in the production of bioethanol;
7. Bureau - refers to the Bureau of Workers with Special Concerns (BWSC) of the Department of Labor and Employment created under Executive Order No. 366 s 2007;
8. Crop Year - refers to the 12-month milling period declared by the SRA. The crop year commences September 1 and ends August 31 of the following year;
9. Delivery Receipt - refers to the document that evidences the quantity of sugarcane and/or molasses delivered to the bioethanol plant as feedstock in the production of bioethanol;
10. DOE - refers to the Department of Energy created under Republic Act No. 7638, as amended;
11. DOF - refers to the Department of Finance created under Administrative Order No. 127 and 127-A;
12. DOLE - refers to the Department of Labor and Employment created under Executive Order No. 126, as amended;
13. Feedstock - refers to organic sources such as molasses, sugarcane, cassava, coconut, jatropha, sweet sorghum, oil palm and other biomass used in the production of biofuels;
14. Lien - refers to the levy collected from the production of bioethanol utilizing molasses as feedstock, to support the Social Amelioration and Welfare Program for bioethanol plant workers;
15. Liter Ethanol or LE - refers to the volume of bioethanol produced from sugarcane or molasses;
16. Lkg - refers to a unit of measurement which is equivalent to 50 kilograms;
17. Managerial Employee - refers to one is vested with power or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees, pursuant to Rule 1, Book V of the Implementing Rules and Regulations of the Labor Code, as amended;
18. Mill District - refers to a centrifugal sugar mill together with all plantations adherent thereto;
19. PNS - refers to Philippines National Standards consistent with Section 26 of RA No. 8749 otherwise known as the "Philippine Clean Air Act of 1999";
20. Regional Office - refers to the Regional Office of the Department including its Provincial and other extension offices;
21. SRA - refers to the Sugar Regulatory Administration of the Department of Agriculture created under Executive Order No. 18 s 1986; and
22. TCC - refers to the Tripartite Consultative Council for SAWP in the Bioethanol Sector of the Biofuel Industry tasked to be the advisory body to the DOLE in the policy and program development and implementation of SAWP.

III. Objectives

1. Promote gainful livelihood opportunities;
2. Facilitate productive employment through effective employment services and regulations; and
3. Ensure the access of workers to productive resources and social protection coverage.

IV. Coverage

1. Employers who are Bioethanol Producers duly accredited under RA 9367 or existing laws, who own and operate bioethanol producing plant; that uses molasses as feedstock.
2. Workers or Employees of bioethanol producing plants whose names appear in the payroll of Bioethanol Producer including those "who are employed through an agency or contractor who are directly involved in the production of bioethanol utilizing molasses, except managerial employees.

V. Tripartite Consultative Council

1. The DOLE shall create a Tripartite Consultative Council for SAWP in the Bioethanol Sector of the Biofuel Industry (TCC SAWP) composed of representatives of management, labor and government sectors, which shall serve as the advisory body of the Department in policy-making, program implementation and monitoring of the SAWP for bioethanol workers.
2. Local TCCs shall likewise be created as may be necessary.
3. The BWSC and the Regional Office concerned shall provide secretariat and technical support to the TCC and LTCC, respectively.

VI. The BWSC and DOLE Regional Offices

1. Role of the BWSC
 - a. Assist the DOLE Secretary in carrying out the provisions of these guidelines and developing other related policies, and procedures;
 - b. Opening and maintaining an interest bearing bank account in an authorized government depository bank under the name of the Department of Labor and Employment, for which SAWP lien will be deposited as a trust in behalf of the biofuel workers;
 - b. Monitor and report the status of compliance on the collection and remittance of the SAWP lien including the utilization of SAWP fund;
 - c. Coordinate, monitor and evaluate the social and economic programs, projects and activities undertaken pursuant to these guidelines;
 - d. Provide technical assistance and support to the Regional Offices in implementing the SAWP for bioethanol workers;
 - e. Develop appropriate manual of operations and procedures as may be necessary for the effective and efficient implementation of the SAWP; and

f. Prepare reports to the DOLE Secretary on the program.

2. Role of the DOLE Regional Offices

- a. Conduct advocacy and information dissemination on relevant policies and projects on the SAWP for bioethanol workers;
- b. Enforce compliance of all concerned producers on the collection and remittance of the SAWP lien;
- c. Provide technical assistance to the program stakeholders on the development, implementation, of social and economic projects;
- d. Monitor and evaluate the status of programs and projects implemented at the regional level;
- e. Submit to the DOLE Secretary, through the TCC, periodic reports and status on SAWP implementation including the required financial reports;
- f. Provide secretariat and technical support to the local TCCs, as may be created; and
- g. Perform such other functions as may be deemed necessary.

VII. Management of the Lien

1. Nature and Purpose

A lien shall be imposed and collected for the implementation of Social Amelioration and Welfare Program (SAWP) for workers engaged in the bioethanol production using molasses as feedstock. It shall be primarily utilized to improve the socio-economic well-being of the bioethanol plant workers and their dependents.

2. Fund Allocation, Budget and Audit

- a. Ninety five percent (95%) of the Fund shall be allocated for the social and economic programs and projects for distillery workers of the bioethanol plant to be distributed as follows:
 - a.1 Fifty per cent (50%) for livelihood assistance;
 - a.2 Twenty per cent (20%) for training and educational assistance;
 - a.3 Fifteen per cent (15%) for social protection and welfare benefits; and
 - a.4 Ten per cent (10%) for emergency assistance.
- b. Five per cent (5%) of the Fund shall be for the management and implementation of the SAWP by the DOLE and for the operation of TCC or local consultative bodies that may be created;
- c. For the implementation of programs and projects that will benefit the bioethanol plant workers and their dependents, the same allocation as provided under RA 6982 may be followed, unless other allocation scheme as may be recommended by the Tripartite Consultative Council and approved by the DOLE Secretary.
- d. The BWSC, in collaboration with the TCC, shall prepare an annual budget for the above purpose, to be approved by the Secretary; and
- e. The said fund shall be audited by the Commission on Audit (COA).

3. Amount Lien

- a. The SAWP lien on molasses-based bioethanol shall be equal or equivalent to the lien share of sugar mill imposed on raw sugar produced as provided under Republic Act 6982 or the Sugar Amelioration Act of 1991. To ensure equivalent collection of SAWP lien, conversion of the amount of SAWP lien collected per 50 kilogram (Lkg) of raw sugar produced shall be computed and multiplied by 35% or percentage share of nearest operating sugar mill district as industry practice.

The following computation shall be observed to determine the equivalent

SAWP lien per liter of molasses-based bioethanol produced:

$$\begin{aligned} \text{Equivalent Lien/liter} &= \frac{\text{Lien on raw sugar produced per TC} \times \text{No. of Lkg plant}}{\text{No. of Liter Ethanol per TC}} \times 35\% \text{ share of bioethanol} \\ &= \frac{\text{Php7.90513 Lkg} \times 1.70 \text{ Lkg per TC}}{70 \text{ LE per TC}} \times 35\% \text{ share of bioethanol plant} \\ &= \text{Php0.19 per liter on bioethanol} \times 35\% \text{ share of bioethanol plant} \\ &= \textbf{Php0.07 per liter of molasses-based bioethanol} \end{aligned}$$

4. Collection and Remittance of the SAWP Lien

a. Collection

- a.1 The Bioethanol Producer shall immediately collect the SAWP lien of Php0.07 per liter of molasses-based ethanol upon production and sale as may be evidenced by delivery receipt (DR) and Official Receipt (OR).

b. Remittance

- b.1 The Bioethanol Producer shall directly remit to the DOLE-SAWP Bioethanol Collection Account maintained at the Land Bank of the Philippines, Intramuros Branch, the 100% SAWP Lien due from Molasses-based Bioethanol produced and sold, not later than the 15th day after the reference month

c. Penalty of Non-Remittance of SAWP Lien Collection

A penalty of ten percent (10%) per month on the unremitted SAWP lien collection shall be imposed upon the violator. Such penalties for non-