

[DOE DEPARTMENT CIRCULAR NO. DC 2011-08-0008, August 26, 2011]

GUIDELINES FOR THE RELEASE AND DISPOSAL OF IMPOUNDED LIQUEFIED PETROLEUM GAS CYLINDERS

WHEREAS, Republic Act (R.A.) No. 7638, otherwise known as the "Department of Energy Act of 1992" mandates the Department of Energy (DOE) to exercise supervision and control over all government activities relative to energy projects, as well as establish and administer programs for the storage of energy resources.

WHEREAS, Batas Pambansa (B.P.) Bilang 33, as amended by Presidential Decree (P.D.) No. 1865, defines and penalizes certain prohibited acts inimical to the public interest and national security involving petroleum and/or petroleum products, and mandates the DOE to issue such rules and regulations to carry into effect the provisions thereof;

WHEREAS, Section 1, Rule X of the Implementing Rules and Regulations (IRR) of B.P. 33, as amended, authorizes the impounding of petroleum and/or petroleum products constituting evidence in the following cases, among others: 1) liquefied petroleum gas (LPG) in cylinders found to be underfilled; 2) LPG filled into cylinders by filling plants without license from the Bureau¹ and /or filled in cylinders not owned by the Filling plant or marketer which do not have written authorization by the owner to use or fill the cylinder; and 3) LPG in cylinders without tare weight, or without seal after the sealing requirement goes into effect.

WHEREAS, Article 45 of the Revised Penal Code of the Philippines provides for the confiscation of the proceeds of the crime and the instruments or tools with which it was committed and subsequently the forfeiture in favor of the Government of these instruments or tools unless these are the property of a third person not liable for the offense;

WHEREAS, over the years, confiscated LPG cylinders have accumulated in the DOE-authorized impounding facilities;

WHEREAS, the proper handling, storage, release and/or eventual disposal of impounded LPG cylinder promotes and ensures public health and safety, and environmental protection;

NOW, THEREFORE, premises considered and pursuant to its statutory mandate, the DOE hereby promulgates the following guidelines:

Section 1. Scope and Application. This Circular shall apply to all LPG Industry Participants specifically on the matter of confiscated LPG cylinders stored in impounding facilities.

Section 2. Definition of Terms. As used in this Circular, the following terms shall be understood to mean, as follows:

a) **"Abandoned Cylinder"** shall refer to an impounded cylinder wherein:

- i. The violator, owner, or respondent fails to claim the cylinder within ten (10) working days from receipt of the Release Order issued by the Director of the Legal Services; or
- ii. The violator, owner or respondent gives the DOE a written notice expressly and absolutely abandoning the cylinders in favor of the latter.

b) **"Brand Owner"** shall refer to a person or entity whose permanent mark appears on the LPG cylinder, irrespective of the party in custody or possession of the cylinder, and regardless of whether such cylinder is, or continues to be, properly marked, stamped or identified to contain its LPG brand, or whether such cylinder is in compliance, or continues to comply with any other product or quality standard prescribed under the law, by the DOE or by the Department of Trade and Industry (DTI), unless there is any unequivocal proof or indication that such cylinder was sold, alienated, or otherwise disposed of by the brand owner to an unrelated third party under a written instrument.

c) **"OIMB"** shall refer to the Oil Industry Management Bureau of the DOE.

d) **"Permanent Marking"** shall refer to the marking of the brand name or name of the owner and such markings that are embossed, etched or stamped on the cylinder collar or foot ring as required under the Philippine National Standards (PNS) 03-1:2000;

e) **"Re-qualification"** shall refer to the method or procedure by which an LPG cylinder is subjected to inspection and re-evaluation by the DTI in accordance with the specifications set forth in PNS 03-2000, "Steel Cylinder for Liquefied Petroleum Gas" Part 2- "Method of Requalification to determine its acceptability for continuous use and distribution and subsequent repair or scrapping, where appropriate";

f) **"Re-qualifier"** shall refer to any person or entity duly accredited by the Department of Trade and Industry (DTI) to engage in the business of re-qualifying LPG cylinders;

g) **"Repair"** shall refer to the removal from and replacement

of parts or attachments of LPG cylinders or the performance of any other necessary corrective and restorative measures pursuant to the PNS, to restore the fitness of LPG cylinders for refilling, distribution and use,

h) **"Repairer"** shall refer to any person, duly certified by the DTI to engage in the business of repairing LPG cylinders;

i) **"Serviceable cylinder"** shall refer to a LPG cylinder that may have defects as provided under PNS 03-2:2000 but may still be repaired or re-qualified by a DTI duly-accredited or certified repairer or requalifier;

j) **"Unserviceable Cylinder"** shall refer to a LPG cylinder that may no longer be repaired and/or re-qualified by a DTI duly-accredited or certified repairer or re-qualifier because of the following defects:

- i. Condemned, rejected and/or completely corroded, dilapidated or scrapped;
- ii. "Chopped-chopped" or with body compartments made up of steel plating component welded together, and/or with bolts and screws on the collar ring, collar plate and cylinder body;
- iii. Original embossed marking is covered by another steel plate with embossed marking;
- iv. Repaired by unauthorized person or entity;
- v. Uncertified and without PNS and/or global check mark;
- vi. Illegally manufactured that do not conform with applicable PNS;
- vii. Illegally imported or without Import Commodity Clearance²; or
- viii. Without permanent markings and does not conform to the PNS on thickness of steel and design.

Section 3. Impounding of LPG Cylinders. Filled LPG cylinders confiscated pursuant to Section 1, Rule X of the IRR of B.P. 33, as amended by P.D. 1865, shall be impounded for the purposes of preserving evidence during the pendency of the administrative and/or criminal case(s).

All impounded filled LPG cylinders shall be accounted quarterly by the OIMB in coordination with the person or entity in charge of the impounding facility and a report thereof shall be submitted to the DOE Secretary.

Section 4. Systems and Procedures in the Handling and Storage of Impounded LPG Cylinders. The following procedures shall be observed in

the proper handling and storage of filled LPG cylinders:

- a) The impounding facility shall comply with the safety requirements of the Bureau of Fire Protection;
- b) The LPG cylinders shall be stored in a secured and covered impounding facility with sufficient distance from a residential area as classified by the land use/zoning ordinances of the concerned Local Government Unit;
- c) The LPG cylinders shall be grouped and classified for easy identification and retrieval on a per case basis and segregated into serviceable and unserviceable;
- d) The LPG cylinders shall be labeled and properly marked, which label shall be covered with plastic to avoid exposure to the elements and shall bear the following details:

- i) Case Number and Title;
- ii) Violator's name;
- iii) Date of confiscation/impounding; and
- iv) Violations committed;

e) The custodian of the impounding facility shall record all confiscated/impounded and released filled LPG cylinders in a logbook and shall issue an official receipt (OR) for reasonable fees for storage, handling and security of the cylinders, trucks, multicab and other equipment upon presentation of the Release Order from the Director of the Legal Services;

f) Security services shall be provided in the premises of the impounding facility; and,

g) Filled LPG cylinders that are determined or found by the OIMB to pose an imminent threat or danger of explosion shall be immediately decanted even in the absence of a Final Decision on the administrative and/or criminal case. The OIMB, in coordination with the custodian of the impounding facility, shall keep a record of such decanted cylinders.

Section 5. Rehabilitation of Impounded LPG Cylinders Prior to Release.

Upon the finality of the administrative and/or criminal case, impounded filled LPG cylinders that are serviceable shall be sent to a repairer or re-qualifier for testing, decanting, repair and/or requalification prior to release to the brand owner or violator-owner. All expenses in connection therewith shall be for the account of the brand owner or violator-owner as the case may be.

Section 6. Procedures for the Release of Impounded LPG Cylinders.

Subject to Section 7(a) hereof, impounded LPG cylinders shall be released upon presentation of the Release Order from the Director of the