

[DOE DEPARTMENT CIRCULAR NO. DC2011-12-0013, December 15, 2011]

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

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

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

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

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

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

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

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

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

gasoline.”

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

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

- a. *Allocating Month* refers to the month when the Bioethanol Producers submit their committed volumes available for lifting for the succeeding third (3rd) month and when the OIMB circulates the Local Monthly Allocation (LMA) of the Oil Companies which shall be lifted on the succeeding third (3rd) month from such Allocating Month. The Allocating Month shall refer to each month of the year in reference to the succeeding third (3rd) month. For example, January 2012 is the Allocating month for April 2012 and February 2012 is the Allocating Month for May 2012;
- b. *E-Gasoline* refers to unleaded gasoline blended with Bioethanol, complying with the PNS (e.g. E-10 is a blend of 10% Bioethanol and unleaded gasoline);
- c. *Force Majeure Event* refers to any act of God, fire, riot, war, civil unrest, natural disaster, accident, act of government which would prevent it from producing its committed volume;
- d. *Lifting Month* refers to the month when Bioethanol Producers deliver the committed volume and when the Oil Companies lift the bioethanol products based on their LMA or adjusted LMA. The Lifting Month is the third (3rd) month from the Allocating Month. For example, January 2012 is the Lifting month for the Allocating Month of October 2011 and February 2012 is the Lifting Month for the Allocating Month of November 2011;
- e. *Locally-produced Bioethanol* refers to Bioethanol derived from feedstocks grown/ planted, harvested and processed in the Philippines;
- f. *Local Monthly Allocation (LMA)* refers to the local bioethanol volume imposed on the Oil Companies based on the committed volume by the local bioethanol producers of bioethanol available for lifting by the Oil Companies and computed and circulated by the OIMB in compliance with the legal obligation of Oil Companies to use locally-sourced bioethanol before importing

bioethanol that will be blended with gasoline to be sold in the Philippines;

- g. *Market Share* refers to an Oil Company's share in the total sales of gasolines sold in the Philippines and consequently, the same percentage shall be used to determine the Oil Company's share in the total domestic supply of bioethanol;
- h. *NABI* refers to the Notice of Allowable Bioethanol Importation based on recommendation by the NBB and issued by the OIMB to Oil Companies for a quarter, but broken down for each Allocating Month;
- i. *NBB* refers to the National Biofuel Board;
- j. *OIMB* refers to the DOE's Oil Industry Management Bureau;
- k. *Procurement Plan* refers to the report to be submitted by Oil Companies on the fifteen (15th) day of each month beginning 15 January 2012 which contains the name and addresses of the suppliers of Bioethanol taking into account their LMA circulated by the OIMB on the previous month;
- l. *REMB* refers to the DOE's Renewable Energy Management Bureau;
- m. *Supply Sales* refers to the sales of Bioethanol among refiners and importers for blending into its gasolines to be sold to end-users;

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

- a. Submit to the REMB on the first (1st) day of February of each year:
 - i. Copy of annual local government licenses and permits;
 - ii. Projected monthly production capacity for the current year for eP-95 (95% purity bioethanol) and EP-99.5 (99.5% purity bioethanol); and
 - iii. Storage capacity for each location, product grade, and tank, as of the current year.

b. Submit to the REMB on the first (1st) day of each month the Monthly Volume Report containing:

- i. Committed volume available for lifting by Oil Companies on the third (3rd) month from the date of the report (the "Lifting Month"). For 01 January 2012, the committed volume available for lifting on April 2012 shall be reported; for 01 February 2012, the committed volume available for lifting on May 2012 shall be reported; and so on. Any Force Majeure Event that will result in the non-compliance of its committed volume shall be included in this report;
- ii. Projected volume available for lifting by Oil Companies on the fourth (4th) and fifth (5th) month from the date of the report. For 01 January 2012, the projected volume available for lifting on May and June 2012 shall be reported; for 01 February 2012, the projected volume available for lifting on June and July 2012 shall be reported; and so on; and
- iii. Beginning February 2012, schedule of deliveries with corresponding volume and customers for the previous month. For February 2012, the schedule of deliveries with corresponding volume and customers for January 2012 shall be reported; for March 2012, the schedule of deliveries with corresponding volume and customers for February 2012 shall be reported; and so on.

c. Submit to the REMB on the fifteenth (15th) day of each month the Monthly Accomplishment Report containing:

- i. Actual monthly Biofuel production, sales, and inventory report of previous month;
- ii. Projected monthly Biofuel production, sales and inventory report for current and next 2 months;
- iii. Safety and accident reports, if applicable;
- iv. Product quality analysis of production batches of previous month to check

- compliance with the Philippine National Standard (PNS);
 - v. Feedstock production reports and technology enhancements, if any;
 - vi. Biofuel supply contract with Oil Companies and other end users or Sworn Sales Report (SSR);
 - vii. Updated list of distributors; and
 - viii. Updated list of feedstock suppliers.
- d. Actively market their products, with due consideration to their production, storage and distribution capabilities, to the Oil Companies to establish a high level of trust and reliability between buyers and sellers leading to a more stable market share;
- e. Certify the actual sale to Oil Companies specifying, among others the volume of Bioethanol purchased and delivery period for a specified month or months, which certification shall be submitted by the Oil Companies to the OIMB;
- f. Improve distribution infrastructure and system to better serve the unique requirements of the downstream oil industry, such as providing for isotanks/containers, consolidated or jointly operated storage tanks, etc.; and
- g. Participate in the Monthly Allocation and Compliance.

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

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