

[DOE, September 01, 1995]

**RULES AND REGULATIONS IMPLEMENTING DOE-AO 95-001
RELAXING CERTAIN NON-PRICING REGULATIONS GOVERNING
THE DOWNSTREAM PETROLEUM INDUSTRY**

Pursuant to the Department of Energy Administrative Order 95-001, dated April 10, 1995 relaxing certain non-pricing regulations governing the downstream petroleum industry, the Energy Industry Administration Bureau (EIAB) hereby adopts and promulgates the following rules and regulations to govern petroleum products trade and business activities.

Rule I

Title, Scope and Coverage and Definition of Terms

SECTION 1. Title - These rules shall be known and cited as the implementing rules and regulations (IRR) of DOE-AO 95-001 in the downstream sector of the petroleum industry.

SECTION 2. Scope of Coverage - The provisions of this IRR shall apply to the importation, exportation, marketing, handling, storage, sale, distribution and other similar activities connected with the business and trade of petroleum products, such as but not limited to: constructing and establishing or operating, remodelling and/or refurbishing of all petroleum products retail outlets, whether company-owned or not; the registration of all dealership agreements including the change or substitution of any petroleum products dealer or petroleum products retail outlet operators, LPG marketers, refillers, LPG dealers, operators of bulk plants, depots, repackers, marketers of lubricating oils, process oils, specialty oils, basestocks, recycled oils, used/slop oils, blended fuel oils, emulsified fuels and other petroleum products.

SECTION 3. Definition of Terms - The terms used in this IRR shall have the following respective meanings:

- a. Bureau - shall mean the Energy Industry Administration Bureau (EIAB).
- b. BPS - shall refer to the Bureau of Product Standards of the Department of Trade and Industry.
- c. Certificate of Compliance (COC) - shall refer to any permit granted by the Bureau authorizing the importation or exportation of crude or petroleum products.
- d. Consumer or End-User - shall mean any person consuming or using petroleum products for his own needs.
- e. Days - shall mean official working days, unless the context provides otherwise.
- f. Dealer - shall mean any person engaged in the retail of petroleum products with a dealership agreement registered with the Bureau.

g. Dealership Agreement - shall refer to the contract governing the petroleum products supplier-dealer relationships.

h. DENR - shall refer to the Department of Environment and Natural Resources.

i. Department - shall refer to the Department of Energy.

j. EMB - shall refer to the Environment Management Bureau.

k. Fuel - means any substance used to produce heat, power, or illumination by burning.

l. Filipino Citizen - shall include a partnership, association, company or corporation wholly owned or controlled by citizens of the Philippines.

m. Guaranteed Product Specification - means the physical or chemical characteristics of the product (guaranteed by the supplier) as set in minimum and/or maximum limits.

n. Importer/Exporter - shall refer to any person authorized to import and/or export crude and unbranded petroleum products in bulk, sells to marketers and end-users, but is not allowed to retail.

o. IRR - shall refer to the Implementing Rules and Regulations of DOE-AO 95-001.

p. License - shall refer to any license granted by the Bureau authorizing a person to engage in a particular activity covered under this IRR.

q. Liquefied Petroleum Gas (LPG) - shall mean commercial propane gas or commercial butane gas or a mixture of the two gases, with properties meeting the specifications of the Bureau of Products Standards.

r. LPG Cylinder - shall refer to any portable pressure-vessel; or container, conforming to the specifications set by the Bureau of Product Standards.

s. Manufacturer - shall refer to any person engaged in the processing of intermediate feedstocks.

t. Marketer - is any person engaged in the bulk sale or trading of petroleum products including LPG. A marketer may not manufacture or process the products sold. A marketer is differentiated from an oil company in that marketers include companies dealing in one product only such as LPG. An oil company is also a marketer.

u. Oil Company - shall refer to one which locally refines crude oil and other naturally occurring petroleum hydrocarbons, or has a long-term processing contract with a local oil company and sells locally varied petroleum products under its own brand name to dealers, and sells in bulk to marketers and direct large consumers/end-users. It may also engage in importation and exportation of various petroleum products as well as refilling of LPG. It shall also refer to the three (3) oil companies existing and operating at the time of the promulgation of these rules and such other companies that may be organized for this purpose:

v. Person - shall mean any being, natural or juridical, that engages or is capable of engaging in the production, importation, exportation, marketing, handling, storage, sale and other similar activities connected with the business and trade of petroleum

products, and includes, among others, every individual, co-partnership, joint stock company or corporation, whether domestic or foreign, their lessees, trustees and receivers, as well as any municipality, province, city, government-owned or controlled corporation, or agency of the government of the Philippines and such other persons or entities that may own, possess or operate any petroleum products facilities or retail outlet or has a refinery or access to refinery capacity or is engaged in the marketing of a broad range of petroleum products for the consuming public in the Philippines.

w. Petroleum products - shall refer but is not limited to diesel oil, gasoline, kerosene, aviation, gasoline, asphalts, naphtha, reformat, solvents, aviation turbo or jet fuel, LPG, mineral oil, turpentine, bunker fuel, reduced crude oil feedstock, lubricating oils and greases and other similar petroleum-based products containing not less than fifty percent (50%) by weight petroleum.

x. PNS - shall refer to the Philippine National Standards.

y. Qualified LPG serviceman - shall refer to an individual who has been trained, qualified and certified by the Philippine Liquefied Petroleum Gas Association (PLPGA) or by training school duly organized and accredited by the government to have successfully completed an approved training course for LPG serviceman.

z. Refilling plant - shall refer to installations that have LPG bulk storage and filling/refilling facilities for bottling and/or resale of LPG.

aa. Retailer - shall refer to any person engaged in retailing of petroleum-based and other specialty products which are branded and packed in sealed containers.

ab. Supplier - shall refer to an oil company or marketer.

Rule II General Provisions

SECTION 1. License Requirements - No person or entity shall engage in the petroleum business as covered by Rule I Section 2 hereof, unless an application for the necessary license is filed with and approved by the Bureau.

SECTION 2. Permit to Import/Export - No person shall be allowed to import or export any petroleum or petroleum -based products unless an application is filed with and approved by the Bureau and the corresponding Certificate of Compliance (COC) is granted, on a per shipment basis.

SECTION 3. Dealership Agreement - No dealer shall undertake any retailing activity, unless the dealership agreement is registered by the supplier with the Bureau. Any amendment(s) thereto shall likewise be submitted to the Bureau for registration, not later than ten (10) days from the date of such amendment(s). The dealers shall sell only the products purchased from the supplier with whom he has a dealership agreement, except during force majeure and other similar contingencies/emergencies, provided that an application for the purpose is filed with and approved by the Bureau.

With regard to change/substitution of dealer, the same may be done provided that the change/substitution of dealer is not contrary to the dealership contract entered into between the supplier and dealer concerned and said change/substitution shall only be effective upon registration with the Bureau.

In the event that a dealer voluntarily withdraws from operation, notice of such intent to withdraw shall be given to the supplier concerned ninety (90) days prior to such withdrawal. The supplier shall then immediately take measures toward the protection of the consumers served by said dealer.

SECTION 4. Fees and Charges - All fees relative to the operation in the downstream sector of the petroleum business as laid down in the Department's Schedule of Fees and Charges, must first be paid with the Bureau before the proper license is issued to the applicant.

a. *License* - All application fees are due upon filing while the license fees are due upon release of the license.

b. *Certificate of Compliance (COC)* - All application fees for importation or exportation of petroleum products are due upon filing of the request while fees for COCs are due upon release of the certificate.

c. *Miscellaneous certifications/approvals* - All applications fees are due upon filing while the applicable fees are due upon release of the certification/approval.

SECTION 5. Renewal of Licenses - All licenses granted by the Bureau shall be renewed annually not later than January 31 of each year, except for licenses of those engaged in the LPG and hauling business, which shall not be later than July 31 of each year.

Rule III

Marketing, Importation and Exportation of Major Petroleum Products

SECTION 1. Scope - This Rule shall cover the activities of oil companies, manufacturers, marketers and importers/exporters of the following petroleum products:

- a. motor gasolines (leaded or unleaded, premium or regular)
- b. aviation gasoline
- c. aviation turbo fuel (avturbo/jet fuel)
- d. kerosene
- e. diesel, gas oil
- f. fuel oil/fuel oil components/feedstocks base oil feedstock
- g. solvents/thinners
- h. asphalt
- i. naphtha
- j. reformat
- k. cracker feedstock
- l. other products containing not less than fifty (50%) by weight petroleum, whether naphthenic, paraffinic, aromatic combination

SECTION 1.2. This Rule shall likewise cover the importation and/or exportation of LPG.

SECTION 1.3 Retail marketing of petroleum products shall be governed by the provisions of Rule IV and V of this IRR.

SECTION 2. Marketing of Petroleum Products -

SECTION 2.1 License requirements - All marketers of petroleum products covered by this Rule shall obtain the necessary license to market before engaging in actual buying and/or selling of such products.

SECTION 2.2 Who may apply - Unless otherwise disqualified by law, any person seeking to market petroleum products shall file an application with the Bureau in the manner provided for under this Rule.

SECTION 2.3 Contents and documents to accompany application - All applications shall be made in writing and shall include the requirements prescribed under Annex A* of this IRR. The Bureau shall conduct an actual inspection of the applicant's facilities prior to issuance of the license.

SECTION 2.4 Evaluation of application - Within ten (10) days from the submission of all the required documents and inspection of facilities, the Bureau shall evaluate and process the application and render decision thereon.

SECTION 2.5 Criteria for evaluation of application - In processing an application for a license to market petroleum products, the Bureau shall be guided by the following:

- a. Compliance of the applicant with all the requirements set by the Bureau;
- b. Technical and financial feasibility of the project;
- c. Marketing and distribution capabilities of the applicant;
- d. Suitability of facilities for intended use
- e. Compliance to guaranteed/standard specifications of the products.

SECTION 2.6 Obligations of marketers of petroleum products - Unless extended in writing by the Bureau, all required documents, papers and pertinent data prescribed under Annex A of this IRR shall be submitted on or before 22nd day of the succeeding month.

SECTION 2.7 Effectivity/validity of license to market - Unless sooner revoked for cause, all licenses to market issued by the Bureau shall be effective and valid for a period of one (1) year and may be renewed annually.

SECTION 3. Importation of Petroleum Products -

SECTION 3.1 Contents and Documents to accompany application - All applications for permit to import petroleum products shall be made in writing and shall include the requirements prescribed under Annex A of this IRR.

SECTION 3.2 Evaluation of application - The Bureau shall process and evaluate any application for permit to import within ten (10) days after full compliance with the requirements of this IRR. Once the application is approved, the Bureau shall issue the corresponding Certificate of Compliance (COC).