

DEPARTMENT CIRCULAR NO. DC 2007-05-0006

RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 9367

Pursuant to Section 15 of Republic Act. No. 9367, otherwise known as Biofuels Acts of 2006, the Department of Energy, in consultation with the National Biofuels Board, appropriate government agencies, and other stakeholders, hereby issues, adopts and promulgates the following implementing rules and regulations.

Rule 1. General Provisions

Section 1. Title, Purpose, and Scope.

1.1 This Department Circular shall be known as the Implementing Rules and Regulations (IRR) of Republic Act No. 9367, otherwise known as the Biofuels Act of 2006 and referred to as the “Act” in this IRR.

1.2 It shall cover the production, blending, storage, handling, transportation, distribution, use, and sale of biofuels, biofuel-blends, and biofuel feedstock in the Philippines.

1.3 Further, it clarifies specific provisions of the Act and the roles and functions of the different government agencies and their relationship with the National Biofuels Board.

Section 2. Declaration of Policy.

It is hereby declared the policy of the State to reduce dependence on imported fuels with due regard to the protection of public health, the environment, and natural ecosystems consistent with the country’s sustainable economic growth that would expand opportunities for livelihood by mandating the use of biofuels as a measure to:

- a) develop and utilize indigenous renewable and sustainably-sourced clean energy sources to reduce dependence on imported oil;
- b) mitigate toxic and greenhouse gas (GHG) emissions;
- c) increase rural employment and income; and
- d) ensure the availability of alternative and renewable clean energy without any detriment to the natural ecosystem, biodiversity and food reserves of the country.

Section 3. Definition of Terms.

3.1 As used in the Biofuels Act of 2006 and this Implementing Rules and Regulations (IRR), the following terms shall be defined as follows:

- a) Act - shall refer to the Biofuels Act of 2006;
- b) AFTA - shall refer to the ASEAN Free Trade Agreement initiated by the Association of Southeast Asian Nations;
- c) Alternative Fuel Vehicles/Engines - shall refer to vehicles/engines that use alternatively fuels such as biodiesel, bioethanol, natural gas, electricity, hydrogen, and automotive LPG, instead of gasoline and diesel
- d) Bioethanol - shall refer to ethanol (C₂H₅OH) produced from feedstock and other biomass;
- e) Biodiesel - shall refer to Fatty Acid Methyl Ester (FAME) or mono-alkyl esters derived from vegetable oils or animal fats and other biomass-derived oils that shall be technically proven and approved by the DOE for use in diesel engines with quality specifications in accordance with Philippine National standards (PNS);
- f) Bioethanol Fuel - shall refer to hydrous or anhydrous bioethanol suitable denatured for use as motor fuel, with quality specifications in accordance with the PNS;
- g) Biofuel - shall refer 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;
- h) Biofuel blends - shall refer to gasoline or diesel that has been blended with biofuels such as, but not limited to, bioethanol and biodiesel;
- i) Biomass - shall refer to any organic matter, particularly cellulosic or lingo-cellulosic matter, which is available on a renewable or recurring basis, including basis, including trees, crops and associated residues, plant fiber, poultry litter and other animal wastes, industrial wastes, and the biodegradable component of solid waste;
- j) DA - shall refer to the Department of Agriculture created under Executive Order No. 116, as amended;
- k) DENR - shall refer to the Department of Environment and Natural Resources created under Executive Order No. 192, as amended;
- l) Diesel - shall refer to refined petroleum distillate, which may contain small amounts of hydrocarbon or nonhydrocarbon additives to improve ignition quality or other

characteristics, suitable for compression ignition engine and other suitable types of engines with quality specifications in compliance with the PNS;

m) DOE - shall refer to the Department of Energy created under Republic Act No. 7638, as amended;

n) DOF - shall refer to the Department of Finance created under Administrative Orders Nos. 127 and 127-A;

o) DOLE - shall refer to the Department of Labor and Employment created under Executive Order No. 126, as amended.

p) DOST - shall refer to the Department of Science and technology under Republic Act No. 2067;

q) DOTC - shall refer to the Department of Transportation and Communications created under Executive Order No. 125-A, as amended;

r) DTI - shall refer to the Department of Trade and Industry created under Executive Order No. 133, as amended;

s) Feedstock - shall refer to organic sources such as molasses, sugarcane, cassava, coconut, jatropha, sweet sorghum or other biomass used in the production of biofuels;

t) Gasoline - shall refer to volatile mixture of liquid hydrocarbon, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engine with quality specifications in compliance with the PNS;

u) Locally-sourced biofuels - shall refer to biofuels derived from feedstocks grown/planted, harvested and processed in the Philippines;

v) Motor Fuel - shall refer to all volatile and inflammable liquids and gas produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles;

w) MTBE - shall refer to Methyl Tertiary Butyl Ether;

x) National Biofuels Program / Philippine Biofuels Program - shall refer to the program which the DOE is mandated to formulate under Section 7 of the Act;

y) NBB or BOARD - shall refer to the National Biofuels Board created under Section B of the Act;

z) Oil Company - shall refer to any entity that distributes and sells petroleum fuel products;

aa) Oxygenate - shall refer to substances which, when added to gasoline, increase the amount of oxygen in that gasoline blend;

bb) PCA - shall refer to Philippine Coconut Authority created under P.D. 232 as amended by Presidential Decrees 961 and 1468;

cc) Petroleum Depot or Terminal - shall refer to the supply point of petroleum products (or bulk storage facilities) operated by oil companies;

dd) PNS - shall refer to the Philippine National Standards consistent with Section 26 of R.A. No. 8749 otherwise known as the "Philippine Clean Air Act of 1999";

ee) Renewable Energy Sources - shall refer to energy sources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time;

ff) SRA - shall refer to Sugar Regulatory Administration created under Executive Order No. 18 s. 1986;

gg) Sugarcane industry - shall refer to the industry that integrates the agricultural production systems of growing sugarcane into the industrial processing of the same into sugar, ethanol and other products with the consequent production of by-products including but not limited to bagasse, filter cake, and molasses. The sugarcane industry also covers the processing and manufacture of any of the by-products (bagasse, filter cake, molasses and others) into other value-added products or commodities; and

hh) WTO - shall refer to the World Trade Organization.

3.2 All other terms not covered in the Act or in the Act or in this IRR shall be defined by concerned government agencies in the exercise of their respective regulatory and/or policy formulating functions.

Rule 2. Operation of the Mandate

Section 4. Phasing Out of the Use of Harmful Gasoline Additives and/or Oxygenates

4.1 Pursuant to Section 4 of the Act, the DOE shall gradually phase out the use of harmful gasoline additives and/or oxygenates such as, but not limited to MTBE, according to duly accepted international standards.

4.2 The DOE, in consultation with the concerned government agencies and stakeholders, shall issue the appropriate department circular for the purpose within six (6) months from the effectivity of the Act.

Section 5. Mandatory Use of Biofuels.

Pursuant to Section 5 of the Act, all liquid fuels for motors and engines sold in the Philippines shall contain locally-sourced biofuels components as follows:

5.1 Bioethanol

a) Within two (2) years from the effectivity of the Act, at least five percent (5%) bioethanol shall comprise the annual total volume of gasoline fuel actually sold and distributed by each and every oil company in the country, subject to the requirement that all bioethanol fuel by volume: *Provided*, That the bioethanol blend conforms to the PNS.

b) Within four (4) years from the effectivity of the Act, the NBB created under Section 8 of the Act is empowered to determine the feasibility and thereafter recommend to the DOE to mandate a minimum of ten percent (10%) blend of bioethanol by volume into all gasoline fuel distributed and sold by each and every oil company in the country: *Provided*, That the same conforms to the PNS.

5.2 Biodiesel

a.) Within three (3) months from the effectivity of the Act, a minimum of one percent (1%) biodiesel by volume shall be blended into all diesel fuels sold in the country: *Provided*, that the biodiesel blend conforms to the PNS.

b.) Within two (2) years from the effectivity of the Act, the NBB is empowered to determine the feasibility and thereafter recommend to DOE to mandate a minimum of two percent (2%) blend of biodiesel by volume which may be increased after taking into account considerations including, but not limited to, domestic supply and availability of locally-sourced biodiesel component.

5.3 Other Biofuels

In the event that fuels derived from biomass other than bioethanol and biodiesel are developed pursuant to the Act as technically validated by the DOST, the DOE shall issue, upon consultation with the entities concerned and upon the recommendation of the NBB, the appropriate department circular to promote the utilization of such fuels and provide the appropriate incentives consistent with the provisions of the Act: *Provided*, that the appropriate PNS for such fuel is established and complied with.

5.4 The DOE shall issue, in consultation with the concerned government agencies and entities, further guidelines relative to the above provisions which shall include, among others, the standards and reportorial requirements to be complied with. The issuance of these further guidelines shall not be a condition precedent to the implementation of the above provisions.

Section 6. Importation in case of supply shortage of locally-produced bioethanol.

6.1 Pursuant to Section 5.2 of the Act, in the event of a supply shortage of locally-produced bioethanol during the first four-year period of implementation of the Act, as may be confirmed by the NBB, oil companies shall be allowed to import bioethanol to the extent of the shortage as may be determined by the NBB.

6.2 Prior to the importation of bioethanol due to the supply shortage, the importing oil company may apply for the issuance of a DOE Certification to the effect that the bioethanol to be imported shall be used for the National Biofuels Program.

6.3 The DOE Certification may be used by the oil company to avail itself of reduced tariff on bioethanol pursuant to Executive Order No. 449.

6.4 The issuance of the DOE Certification shall be made in accordance with existing DOE guidelines.

Section 7. Incentives under the Act

7.1 To encourage investments in the production, distribution, and use of locally-produced biofuels at and above the minimum mandate blends, and without prejudice to enjoying applicable incentives and benefits under existing laws, rules, regulations, the following additional incentives are hereby provided:

a.) **Specific Tax.** The specific tax on local or imported biofuels component of the blend per liter of volume shall be zero. For the purpose of availing a zero specific tax, local or imported bioethanol shall be suitably denatured into bioethanol fuel in accordance with existing revenue regulations. The gasoline and diesel fuel component shall remain subject to the prevailing specific tax rates.

b.) **Value Added Tax.** The sale of sale of raw material used in the production of biofuels such as, but not limited to, coconut, jathropha, sugarcane, cassava, corn, and sweet sorghum shall be exempt from the value added tax.

The tax incentives provided under items (a) and (b) of this Section shall be subject to rules and regulations to be promulgated by the DOF.

c.) **Water Effluents.** All water effluents, such as but not limited to distillery slops from the production of biofuels used as liquid fertilizer and for other agricultural purposes are considered “reuse” and are therefore, exempt from wastewater

charges under the system provided under Section 13 of RA 9275, also known as the Philippine Clean Water Act: *Provided, however,* that such application shall be in accordance with the guidelines issued pursuant to RA 9275, subject to the monitoring and evaluation by the DENR and approved by the DA; and

d.) **Financial Assistance.** Government financial institutions, such as the Development Bank of the Philippines, Land Bank of the Philippines, Quedancor, and other government institutions providing financial services shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to extend financial to financial to Filipino Citizens or Entities, at least sixty per cent (60%) of the capital stock of which belongs to citizens of the Philippines that shall engage in activities involving production, storage handling, and transport of biofuel and biofuel feedstock, including blending of biofuels with petroleum, as certified by the DOE.

7.2 The appropriate government agencies shall issue the necessary guidelines for the availment of such incentives.

Rule 3. The National Biofuels Board

Section 8. Creation and Organizational Structure of the National Biofuels Board.

8.1 Pursuant to Section 8 of the Act, the National Biofuels Board (NBB) is created and shall be composed of the Secretary of DOE as Chairman and the Secretaries of the DTI, DOST, DA, DOF, DOLE, and the Administrators of the PCA and SRA, as members.

a. The Secretary of the DOE, as the Chairman, shall be assisted by a duly designated Undersecretary who shall act as his alternate; and

b. The member Secretaries and Administrators may assign alternate representatives who must be occupying at least the level of Assistant Secretary; *Provided,* that only the Department Secretaries/Administrators sign official documents and issuances of the NBB.

8.2 The NBB shall create a Technical Secretariat which shall provide for the Administrative, policy, and technical services of the Board.

8.3 The NBB shall determine the appropriate compensation / remuneration of the members and the Technical Secretariat staff and personnel in accordance with existing laws, rules and regulations, and shall make appropriate requests and representations to the Office of the President and the DBM for the allocation and appropriation of funds necessary to effectively perform its duties and functions.

Section 9. Meetings of the NBB

Regular meetings of the NBB shall be held at least once every quarter on a date and in a place fixed by the Board.

Section 10. Powers and Functions of the NBB.

Pursuant to Section 9 of the Act, the NBB shall have the following powers and functions:

a.) Monitor the implementation of, and evaluate for further expansion, the National Biofuels Program prepared by the DOE pursuant to section 7(b) of the Act;

b.) Monitor the supply and utilization of biofuels and biofuel-blends and recommend appropriate measures in cases of shortage of feedstock supply for approval by the Secretary of DOE. For this purpose;

i. The NBB is empowered to require all entities engaged in the production, blending and distribution of biofuels to submit reports of their actual and projected sales and inventory of biofuels in a format to be prescribed for this purpose;

ii. The NBB shall determine the availability of locally-sourced biofuels and recommend to the DOE the appropriate level or percentage of locally sourced biofuels to the total annual volume of gasoline and diesel sold and distributed in the country;

iii. To ensure an adequate supply of bioethanol, the NBB shall recommend to the DOE the amount of bioethanol that may be imported at any given time by DOE-certified oil companies in the event of shortage in the supply of locally-sourced bioethanol during the first four years from the effectivity of the Act.

c.) Review and recommend to the DOE the adjustment in the minimum mandated biofuel blends subject to the availability of locally-sourced biofuels; *Provided*, That the minimum blend may be decreased only within the first four (4) years from the effectivity of the Act. Thereafter, the minimum blends of five percent (5%) and two percent (2%) for bioethanol and biodiesel, respectively, shall not be decreased;

In determining the availability of locally-sourced biofuels, the NBB may take into account factors such as, but not limited to, shortage in the supply of biofuels and feedstock and constraints or difficulties in the distribution of biofuel blends.

d.) Recommend to the DOE a program that will ensure the availability of alternative fuel technology for vehicles, engines and parts in consonance with the

mandated minimum biofuel-blends, and to maximize the utilization of biofuels, including other biofuels;

e.) Recommend to the DOE the use of biofuel-blends in air transport taking into account safety and technical viability.

f.) Recommend specific actions to be executed by the DOE and other appropriate government agencies concerning the implementations of the NBP, including its economic, technical, environment and social impact; and

g.) Exercise such other powers and functions as may be necessary or incidental to attain the objectives of the Act.

Section 11. The Technical Secretariat.

Pursuant to section 8 of the Act, the NBB shall be assisted by a Technical Secretariat attached to the Office of the Secretary of the DOE.

a.) **Composition.** The technical Secretariat shall be headed by a Director to be appointed by the NBB. The number of staff of the Technical Secretariat and corresponding positions shall be determined by the NBB subject to existing civil service rules and regulations and the approval of the Department of Budget and Management (DBM).

b.) **Functions and responsibilities.** The Technical Secretariat shall have the following functions and responsibilities;

i. Provide administrative and general support services to NBB in collecting, securing, and processing pertinent information / data from all entities engaged in the production, blending and distribution of biofuels and biofuel-blends including, but not limited to, actual and projected sales and inventory and data on the availability of locally-sourced biofuels;

ii. Provide all members of the NBB appropriate information / data on appropriate vehicle technologies, including air transportation, in consonance with the mandated minimum biofuel blends;

iii. Monitor and coordinate with all government entities the performance of their respective functions and responsibilities in the implementation of the National Biofuels Program

iv. Identify issues, concerns, concerns and/or barriers on the implementation of the National Biofuels Program, including the mandated minimum biofuel blends, and propose measures / solutions to address the same, in coordination with all stakeholders of the biofuel industry; and

v. Perform such other functions, as may be directed by the NBB.

c.) **Creation of an Interim Technical Secretariat.** Within one (1) month from the effectivity of this IRR, the NBB shall designate an interim technical secretariat to be known as the NBB-Project Management Office (NBB-PMO) to hold office for a period of one (1) year or until such time that the organization of the Technical Secretariat is completed, subject to existing rules and regulations of the Department of Budget and Management and the Civil Service Commission. Prior to the organization of the NBB-PMO, the Energy Utilization Management Bureau (EUMB) of the DOE shall serve as the Technical Secretariat of the NBB; and

The NBB-PMO staff and personnel shall be provided with appropriate compensation and remuneration in accordance with existing rules and regulations of the Department of Budget and Management and the Civil Service Commission.

Rule 4. Role of the Department of Energy and other Government Agencies

Section 12. The Department of Energy

Pursuant to Section 7 of the Act, the DOE is mandated to take appropriate and necessary actions to implement the provisions of the Act, in addition to its existing powers and functions. In pursuance thereof, it shall, within three (3) months from the effectivity of the Act:

a) Prepare the National Biofuels Program consistent with the Philippine Energy Plan and taking into consideration the DOE's existing biofuels program and the programs of other government agencies, such as, but not limited to, the feedstock supply program of the DA, PCA and SRA, technology research and development program of the DOST, and the vehicle development program of the DTI;

b) Establish technical fuel quality standards for biofuels and bio-fuel-blended gasoline and diesel which comply with the PNS;

c) Establish the guidelines for the transport, storage and handling of biofuels and biofuel-blends;

d) Accredite producers and distributors of biofuels and developers / owners of the biofuel production facilities following DOE's accreditation guidelines;

e) Endorse qualified biofuel producers to the Board of Investments for the availment of appropriate fiscal incentives;

f) Conduct regular monitoring, announced or unannounced inspections, sampling and laboratory testings of biofuels in all biofuel production facilities and feedstock production areas, and bio-fuel-blended gasoline and diesel in all blendings/storage/distribution facilities and retail stations;

g) Stop the sale of biofuels and biofuel-blended gasoline and diesel that are not in conformity with the specifications provided for under Section 5 of the Act, the PNS and corresponding issuances of the Department;

h) Impose fines and penalties against persons or entities found to have committed any of the prohibited acts under Section 12 (b) to (e) of the Act;

i) Conduct various research and development activities and studies on biofuels, biofuel-blended gasoline and diesel, and/or other biomass-derived fuels for use in motors and engines, including air transport, and other vehicle technologies;

j) Provide laboratory support services to other government entities and the private sector in the conduct of research and development activities on biofuels, biofuel-blends, and other biomass-derived fuels;

k) Formulate guidelines for the importation of biofuels, taking into consideration relevant existing rules and regulations issued by the DOE and other government agencies; and

l) Conduct, in coordination with biofuel stakeholders, information campaign to promote the use of biofuels.

Section 13. The Department of Finance

The DOF shall monitor, in coordination with other concerned government agencies, the production and importation of biofuels through the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC)

The DOF shall promulgate the rules and regulations necessary to implement its mandate under the Act.

Section 14. The Department of Science and Technology.

The DOST shall:

a) Coordinate with the DA in identifying and developing viable feedstock for the production of biofuels;

- b) Develop and implement, through the Philippine Council for Industry and Energy Research and Development (PCIERD), a research and development program supporting a sustainable improvement in biofuel production and utilization technology. For this purpose, the DOST shall establish a network of academic and research institutions; and
- c) Publish and promote related technologies developed locally and abroad.

Section 15. The Department of Agriculture.

The DA, through its relevant agencies, shall have the following functions and responsibilities:

- a) Coordinate with the DOST in identifying and developing viable and quality feedstock, including production and primary postharvest processing technologies for biofuels;
- b) Within three (3) months from the effectivity of the Act, develop a national program for the production of crops for use as feedstock supply. For this purpose, the Administrators of the SRA and the PCA, and other DA-related agencies, within their authority, shall develop and implement policies in support of the National Biofuels Program and submit the same for consideration and approval by the Secretary of the DA;
- c) Ensure increased productivity and sustainable supply of biofuel feedstocks. The DA shall institute a program that would guarantee that a sufficient and reliable supply of feedstock is allocated for biofuel production;
- d) Publish information on available and suitable areas for cultivation and production of biofuel crops, available and accessible technologies, sources of planting materials, and financial assistance;
- e) In cooperation with SRA, PCA, other attached agencies, and bureaus, shall undertake the identification and publication of potential areas suitable for the expansion and production of raw materials as feedstocks for biofuels;
- f) Undertake biofuel feedstock research and development which may include identifying new feedstock, developing high yielding varieties, and developing new processing technologies in cooperation with public and private research agencies, and international research institutes; and
- g) Promulgate such necessary rules and regulations necessary to implement its mandate under the Act.

Section 16. The Sugar Regulatory Administration.

Pursuant to its mandate under Executive Order No. 18 and the Act, the SRA shall:

- a. at all times ensure that the supply of sugar is sufficient to meet the domestic demand and the price of sugar is stable; and
- b. together with the DA, PCA, and other DA-attached agencies, develop and implement policies supporting the National Biofuels Program and submit the same to the Secretary of the DA for consideration.

Section 17. The Philippine Coconut Authority.

Pursuant to its mandate to formulate and adopt a general program of development for the coconut and other palm oil industry in all its aspects, under PD 1468, Article II, Section (3) (a), the PCA shall develop, implement policies and programs within the coconut industry in support of the National Biofuels Program.

To this end, the PCA shall:

- a. Review and assess the policies, projects and activities of all other government agencies related to the National Biofuels Program and integrate/adopt them into the National Coconut Industry Development Program;
- b. Develop, formulate and implement a massive nationwide rehabilitation, planting, and replanting program using high-yielding coconut varieties including the strengthening of its organization, manpower and capabilities to fully support the National Biofuels Program;
- c. Formulate and implement the necessary regulatory measures to ensure the availability, sufficiency, quality, and sustainability of the supply of coconut raw materials for the National Biofuels Program;
- d. Require the accreditation/registration of reputable and credible oil mills who shall supply the coconut oil (CNO) requirements of coco biodiesel producers;
- e. Formulate industry policies and regulations which shall include the retention of CNO volume to support the required minimum of one percent (1%), and later on two percent (2%), coconut methyl ester (CME) of the biodiesel blends which may be increased later upon the recommendation of the NBB;
- f. Explore and expand the domestic and foreign markets of coconut biofuel products and by-products; and

g. Seek funds for its sustainable operation and continuous support for the National Biodiesel component program.

Section 18. The Department of Labor and Employment

The DOLE shall:

- a) Promote gainful livelihood opportunities and facilitate productive employment through effective employment services and regulation;
- b) Ensure the access of workers to productive resources and social protection coverage;
- c) Recommend policies, plans, and programs that will enhance the social impact of the National Biofuels Program; and
- d) Promulgate such necessary rules and regulations to implement its mandate under the Act.

Section 19. The Department of Trade and Industry.

19.1 Pursuant to the State's policy of protecting public health through, among others, the reduction of toxic and greenhouse gas emissions, the DTI shall formulate and implement, in coordination with the DOTC and the DENR, national motor vehicle inspection and maintenance program as a measure to substantially reduce emissions from motor vehicles pursuant to Art. 4, Section 21 (d) of RA 8749, otherwise known as the Philippine Clean air Act of 1999;

19.2 pursuant to its program under existing laws, the DTI shall promote the development of an alternative fuel technology for vehicles, engines and parts in consonance with the requirements of the mandated minimum biofuel-blends.

Section 20. The Tariff Commission.

The Tariff Commission, in coordination with the appropriate government agencies, shall create and classify a tariff line for biofuels and biofuel-blends in consideration of WTO and AFTA agreements.

Section 21. The Local Government Units.

The Local Government Units shall assist the DOE in monitoring the distribution, sale and use of biofuels and biofuel-blends by:

- a) Ensuring strict implementation of local permitting requirements applicable to business engaged in the distribution and sale of biofuels and biofuel blends;
- b) Ordering the closure of any business engaged in the distribution and sale of biofuel and biofuel blends found to be operating without the necessary permits and licenses;
- c) Reporting to the DOE violations of the Act being committed by any person involved in the distribution, sale , and use of biofuels and biofuel-blends; and
- d) Revoking local permits previously issued to business entities found to have violated pertinent rules and regulations of the DOE and other concerned government agencies, upon the recommendation of the DOE or the concerned agency, as the case may be.

Rule 5. Role of the Players in the Biofuels Industry

Section 22. Oil Companies.

22.1 Blending of Biofuels. Blending of biodiesel and bioethanol with diesel and gasoline fuels, respectively, shall be undertaken by the oil companies using appropriate blending methodologies at their respective refineries, depots or blending facilities prior to the sale of biofuel-blends to customers / end-users: *Provided*. That blending methodologies shall be in accordance with duly accepted international standards as well as guidelines issued by the DOE for this purpose. *Provided further*, That oil companies shall ensure compliance of the biofuel blends with the PNS.

22.2 Supply and Distribution. To ensure compliance of the minimum mandated biofuel blends with the PNS, oil companies shall observe the following guidelines, in addition to what may be prescribe by the DOE under subsequent issuances:

- a) Supply of biofuels shall be sourced only from biofuel producers accredited by the DOE. The procurement of biofuels may be covered by biofuels supply contracts or agreements;
- b) Ensure proper logistics and application of appropriate technologies in blending, handling, transportation, and distributing biofuel-blends; and
- c) Observe proper diligence in the supervision of company-operated, dealer-owned or dealer operated retail service stations carrying their brand in order to ensure that the quality and integrity of PNS-compliant biofuels shall be maintained.

22.3 Supply Shortage. In the event of supply shortage of locally-produced bioethanol during the first four-year period of the effectivity of the Act, oil companies may apply for the issuance of the certification to import bioethanol from the DOE in accordance with existing guidelines.

22.4 Reportorial Requirements. For proper monitoring of the compliance by oil companies with this IRR, each oil company shall submit to the DOE the following reports:

a. **Performance Compliance Report.** Every oil company shall submit on an annual basis a Performance Compliance Report containing its compliance plan with the minimum mandated biofuel blends as well as other information that may be required by the DOE. Each report shall be duly certified and signed under oath by an authorized responsible officer of the oil company who shall personally attest to the veracity and accuracy of its contents.

b. **Periodic Reports.** The oil companies shall likewise submit periodic reports as may be required by the DOE.

Section 23. Biofuel Producers.

23.1 Accreditation of Biofuels Producers.

a) Any individual or entity intending to engage in the production of biofuels shall apply for accreditation as a biofuel producer with the DOE. The DOE, in consultation with the stakeholders, shall issue the appropriate guidelines for this purpose, shall indicate the requirements for quality assurance, quality management system, and analogous quality production standards.

b) Pending the issuance of these guidelines, only those biofuel producers who have existing accreditation or have been issued a permanent Certificate of Fuel Additive Registration (CFAR) and who have pending applications for accreditation pursuant to Memorandum Circular No. 55 shall be allowed to produce and sell biofuels.

23.2 All biofuels producers, in addition to what may be required by the DOE under subsequent guidelines, shall:

- a) Register their distributors with the DOE;
- b) Ensure proper logistics and appropriate technologies in handling biofuels.
- c) Submit to the DOE the following data and information:

- i. Monthly production, sales and inventory of biofuels;
 - ii. Monthly report on projected production, sales and inventory of biofuels;
 - iii. Report on the application of technologies in the production, handling, storage and distribution of biofuels; and
 - iv. Such other data and information as may be required by the DOE and/or the NBB.
- d.) Maintain a minimum inventory of biofuels equivalent to its average monthly sales to meet the minimum mandate;
 - e.) Conduct and/or support local research and development to improve biofuels feedstock productivity; and
 - f.) Report to DOE the weekly price of biofuels.

Section 24. Importer End-Users. End users who are direct importers of diesel or gasoline shall also be subject to the required use of the mandated biofuel blend. To determine their compliance, such entities shall submit the following reports, in addition to what may be required by the DOE under subsequent guidelines:

- a) Monthly report to the DOE of its importation and consumption of gasoline/diesel:
and
- b) Monthly report on the purchase and consumption of biofuels and biofuel blends.

Rule 6. Standards for Biofuel and Biofuel Blends

Section 25. Quality Standards. All biofuels and biofuel blends that qualify under the Act shall be limited to those compliant with the PNS.

Facilities for the production, handling, distribution and storage of biofuels and biofuel blends shall likewise conform to standards and guidelines set by the DOE.

Section 26. Quality Assurance. All biofuels producers shall assure compliance with quality standards in accordance with the following guidelines, in addition to what may be required by the DOE under subsequent issuances:

- a) All biofuel deliveries must be accompanied by a Certificate of Quality to be issued by the distributor/supplier indicating the properties of the delivered biofuels, which must be in compliance with the PNS;
- b) Biofuels packaged in individual containers shall be appropriately labeled and shall contain information such as DOE CFAR number, batch manufacturing date, and expiry date in accordance with the guidelines that will be issued by the DOE; and
- c) Biofuel producers shall establish management system covering quality assurance, environmental management and occupational health and safety standards in accordance with the accreditation guidelines to be issued by the DOE.

Rule 7. Security of Domestic Sugar and Feedstock Supply

Section 27. Security Of Domestic Sugar Supply.

27.1. The SRA shall develop and implement policies within the sugarcane industry in support of the National Biofuels Program. It shall form a consultative body within the sugarcane industry to undertake the initiatives stated herein.

27.2 Towards this end, the SRA shall formulate the necessary guidelines in ensuring that the supply of sugar is sufficient to meet the domestic demand and that the price of sugar is stable.

a. The SRA shall ensure full utilization of sugarcane and adequate supply of sugar in the domestic market and for other requirements. To this end, it shall conduct a periodic assessment of the domestic sugar supply and demand situation, and report the same to the NBB on a regular basis: *Provided*, That in case of shortage of locally produced bioethanol, the SRA in consultation with stakeholders, shall initiate appropriate actions to increase local production and propose measures to the NBB to address the supply shortage.

b. The SRA shall develop appropriate schemes to facilitate orderly allocation of sugarcane for both sugar and ethanol. For this purpose, it shall report to the NBB the supply and demand situation of sugarcane and shall require regular submission of prescribe reports from bioethanol producers.

The SRA, pursuant to this existing mandate, shall formulate issuances consistent with its existing sugar classification functions, to effect an appropriate system of classification and allocation in terms of sugar and sugar equivalent.

Section 28. Security of Domestic Biofuels Feedstock Supply.

Pursuant to Section 11, paragraph (d) (2) of the Act, the DA shall ensure increased productivity and sustainable supply of biofuels feedstocks. Towards this end, the DA in consultation with PCA, SRA, and other entities concerned, shall develop and implement appropriate programs and guidelines in order to ensure a reliable supply of biofuel feedstocks.

Rule 8. Development of Social Amelioration and Welfare Program for Workers in the Production of Biofuels

Section 29. Objectives of the Program. A Social Amelioration and Welfare Program (“Program”) similar to that of the Sugar Amelioration Act of 1991 or R.A. 6982, shall be developed for the following objectives:

- a. Promote gainful livelihood opportunities;
- b. Facilitate productive employment through effective employment services and regulation; and
- c. Ensure the access of workers to productive resources and social protection coverage.

Section 30. Coverage. The Program shall cover all rank and file employees of biofuel plants, workers and farmers engage in production of crops used as feedstocks in biofuels.

Section 31. Components of the Program. The Program shall provide basic benefits and assistance that will augment the income and improve the standard of living of workers engage in the production of biofuels. It may consist of among others, the following components:

- a) training and education assistance;
- b) livelihood assistance;
- c) social protection and welfare benefits; and
- d) distribution of financial benefits.

Section 32. Establishment of Guidelines and Mechanisms.

Pursuant to Section 17 of the Act, the NBB shall formulate and issue, through the appropriate NBB member-agency/ies, the guidelines covering or governing the mechanisms, management, and monitoring of the Program similar to the prescribed under R.A. 6982 or the Sugar Amelioration Act of 1991.

However, the Act and this IRR shall not in any way result in the forfeiture or diminution of the existing benefits enjoyed by the sugar workers as prescribed under the Sugar Amelioration Act, in case sugarcane shall be used as feedstock.

Rule 9. Prohibited Acts, Penal and Administrative Provisions

Section 33. Prohibited Acts. Any person or entity found in violation of any provision of the Act and this IRR shall be subject to appropriate criminal, civil, and/or administrative sanctions as provided herein and other existing applicable laws, rules and regulations.

Under Section 12 of the Act, the following shall be prohibited:

- a) Diversion of biofuels, whether locally produced or imported, to purposes other than those envisioned in the Act;
- b) Sale of biofuel-blended gasoline or diesel that fails to comply with the minimum biofuel-blend by volume in violation of the requirement under Section 5 of the Act;
- c) Distribution, sale, and use of automotive fuel containing harmful additives such as, but not limited to, MTBE at such concentration exceeding the limits to be determined by the NBB;
- d) Non-compliance with the established guidelines of the PNS and DOE adopted for the implementation of the Act; and
- e) False labeling of gasoline, diesel, biofuels, and biofuel-blended gasoline and diesel.

Section 34. Penal Provisions.

34.1 In accordance with Section 13 of the Act, any person, who willfully aids or abets in the commission of the crime prohibited in the Act, or who causes the commission of any such act by another shall be liable in the same manner as the principal;

34.2 In the case of association, partnership or corporations, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, directors or officers, responsible for the violation; and

34.3 The commission of an act enumerated in Section 12 of the Act, upon conviction thereof, shall suffer the penalty of one year to five years imprisonment and a fine ranging from One Million (P1,000,000) to Five Million pesos (P5,000,000).

Section 35. Administrative Liability.

35.1 Without prejudice to incurring criminal liability, any person who commits any of the prohibited acts under Section 12 (b) to (e) of the Act, this IRR and other issuances relative to the implementation of the Act shall likewise be subject to administrative fines and penalties, in accordance with schedule of administrative fines and penalties to be issued by the DOE.

For avoidance of doubt, administrative actions initiated pursuant to this section shall be separate and independent from any criminal actions that may arise for violations of Section 12 of the Act.

35.2 In addition to imposing fines and penalties, the DOE shall be authorized to:

- a) confiscate any amount of such product that fail to comply with the requirements of Section 4 and 5 of the Act and implementing issuances of the DOE;
- b) determine the appropriate process and the manner of disposal and utilization of the confiscated products; and
- c) stop and suspend the operation of businesses for refusal to comply with any order or instruction of the DOE Secretary in the exercise of his functions under the Act.

Section 36. Administrative Procedures.

36.1 The DOE may initiate *motu proprio*, or upon the filing of any complaint for the violation of any prohibited act under Section 12 (b) to (e) of the Act, the IRR or related issuances, an administrative proceeding against any such person or entity. In the Exercise thereof, the DOE may commence such hearing or inquiry by an order to show cause, setting forth the grounds for such order.

36.2 The administrative proceeding will be conducted before the DOE to determine culpability of alleged offenders and to determine the applicable penalties. The administrative proceedings under this IRR shall be governed by the existing rules of practice and procedure before the DOE.

Rule 10. Other Provisions

Section 37. Congressional Oversight Committee.

37.1 Pursuant to Section 16 of the Act, a Congressional Oversight Committee, called the Biofuels Oversight Committee, is hereby constituted with fourteen (14) members, with the Chairpersons of the Committees on Energy of both Houses of Congress as co-chairpersons.

37.2 The Chairpersons of the Committees on Agriculture and on Trade and Industry in each chamber shall be *ex officio* members of the Biofuels Oversight Committee.

37.3 The Senate President and the Speaker of the House of Representatives shall each designate four members from their respective chambers to sit in the Biofuels Oversight Committee. In designating such four members, the minority in each chamber shall be entitled to pro-rata representation provided that at the very least, they shall have one representative in the Biofuels Oversight Committee.

Section 38. Appropriations. Funds necessary to finance the activities of concerned government agencies as provided in the Act and in this IRR shall be included in an annual General Appropriations Act.

Section 39. Special Clause. The Act and this IRR shall not be interpreted as prejudicial to clean development mechanism (CDM) projects that cause carbon dioxide (CO₂) and greenhouse gases (GHG) emission reductions by means of biofuels use.

Section 40. Village Level and/or Community-Based Facilities. The promotion and utilization of biofuels for household and community equipment for lighting, cooking, farming, post harvest processing, off-road operations, and other analogous uses shall be included as part of the National Biofuels Program in accordance with the government policy adopted under the Act.

Section 41. Separability Clause. If any provision of this IRR is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

Section 42. Effectivity. This IRR shall take effect fifteen (15) days after its publication in two newspapers of general circulation.

Signed this 17 day of May 2007 at the DOE, Energy Center, Merritt Road, Fort Bonifacio, Taguig City, Metro Manila.

RAPHAEL P.M. LOTILLA
Secretary of Energy