AMENDING SECTION 14 OF DEPARTMENT CIRCULAR NO. 98-03-004 ENTITLED “RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT 8479, DOWNSTREAM OIL INDUSTRY DEREGULATION ACT OF 1998”

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Pursuant to Chapter VII, Section 23 of Republic Act No. 8479 "Downstream Oil Industry Deregulation Act of 1998," Section 14 of Department Circular No. 98-03-004 is hereby amended to read as follows:

"SECTION 14. Promotion of Retail Competition. —

To achieve the social policy objective of fair prices and facilitate the attainment of a truly competitive petroleum product market in the retail level, the DOE shall promote and encourage by way of information dissemination, networking and management/skills training, the active and direct participation of the private sector and cooperatives in the retailing of petroleum products through joint venture/supply agreements with new industry participants for the establishment and operation of gasoline stations; Provided, That the training herein shall include LPG retailing.

a. Recipients of Preferential Treatment

New industry participants shall be given preference in the formulation and implementation of a two-fold program on management and skills training for the establishment, operation, management and maintenance of gasoline stations. They shall likewise be given preferential treatment in the grant of gasoline station training and loan fund provided in Section 10 of R.A. 8479 to serve as capital for the establishment and operation of gasoline stations.

New industry participants refer to new participants in a particular sub-sector of the downstream oil industry with investments made and initial business operations commenced after 1 January 1994 as provided under Section 4(k) of R.A. 8479.

The private sector and cooperatives may enter into joint venture/supply agreements with new industry participants for the establishment, management and operation of gasoline stations.

In no case shall the investment of a new industry participant in the joint venture agreement be lower that 90 % of the total investment in the joint venture.

b. Training Program for New Industry Participants

The Department of Energy (DOE) shall, in cooperation with the Technology and Livelihood Resource Center (TLRC) and Technical Education and Skills Development Authority (TESDA) and other training agencies recognized by the DOE, with expertise in conducting training for would-be gasoline station dealers, coordinate with new industry participants and existing petroleum dealer associations in the formulation and implementation of a two-fold program on management and skills training for the establishment, operation, management and maintenance of gasoline stations. The DOE shall approve the training program, obtained through competitive bidding, for which it shall have proprietary rights to the training curriculum design.

The two-fold program on management and skills training shall also cover the retail of all petroleum products including LPG retailing and shall be conducted as often as necessary at the discretion of the DOE. The DOE shall collect minimal fees to cover materials and other administrative expenses in the conduct of the training.

c. Grant of Gasoline Station Loan

The following shall be qualified to apply for a loan to serve as capital for the establishment and operation of gasoline stations:

1. Natural persons who successfully complete the two-fold program on management and skills training for the establishment, operation, management and maintenance of gasoline stations; or,

2. Corporations, partnership, cooperatives, associations, non-government organizations, joint ventures, consortia, single proprietorships and similar parties whose owners/representatives/s successfully complete the two-fold program on management and skills training for the establishment, operation, management and maintenance of gasoline stations.

Employees of the DOE and its attached agencies namely, the National Electrification Administration, Philippine National Oil Company and its subsidiaries and the National Power Corporation are disqualified to apply for the gasoline station loan during their employment in the said offices or entities and up to a period of one (1) year after the time of their resignation or separation from the service of such offices or entities. In addition, relatives up to the fourth civil degree either by consanguinity or affinity of members of the Executive Committee (EXCOM) of the DOE, Chief Executive Officers and members of the Board of Directors/Administrators of such attached agencies shall not be qualified to apply for the gasoline station loan while said officials are in the service of such offices/entities up to a period of one (1) year after their resignation or separation from the service of said offices or entities.

The DOE shall establish a separate account with a Government Financial Institution as the depository bank under a Memorandum of Agreement (MOA) to be executed for the administration and management of the loan fund to be provided by the Philippine Amusement and Gaming Corporation (PAGCOR).

Any qualified person or entity who applies for the gasoline station loan shall be entitled to an amount equivalent to fifty percent (50%) of the total project cost but not exceeding Five Million Pesos (P5,000,000.00) with an interest rate of six percent (6%) per annum payable in a period of no more than seven (7) years. There shall be no fees/penalty for fast-track payments. The loan proceeds shall be used in activities enumerated in Annex "A."

The terms and conditions of the loan including interest payments shall be provided in a Loan Agreement to be entered into among the DOE, the Government Financial Institution (GFI) and the applicant.

All applications for a gasoline station loan shall be submitted to the DOE with the following papers or documents:

i. Certificate of Completion of the two-fold training program;

ii. Application Form stating the name of the applicant, address, telephone number cellular phone number, FAX number, e-mail address, amount applied for and other pertinent information;

iii. DTI/SEC Registration and Articles of Incorporation, if applicable;

iv. Feasibility study for the gasoline station to be put up, including the location of the proposed gasoline station or proposed suppliers and other similar information;

v. Manpower complement.

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The DOE shall act upon said application within fifteen (15) working days from receipt thereof. It is understood that any application not acted upon within the said period shall be deemed automatically endorsed for processing by the GFI.

The grantee shall not assign or transfer the operation of the gasoline station without the written consent of the DOE within the period of the Loan Agreement.

d. Mechanics for the Loan Disbursement

The disbursement of loan will follow the process described in Annex "B."

e. Annexes

Annexes are integral part of this Circular.

f. Standards of Quality

The construction and operation of the gasoline station shall be in accordance with international standards of quality. Only products meeting the Philippine National Standard (PNS) shall be dispensed at the stations.

g. Reportorial Requirements and Visitation Rights

The grantee of the loan shall submit to the DOE a monthly status report on the construction and operation of the gasoline station starting from the notice of approval of the loan. Contents of the report is described in Annex "C." The DOE has the right to counter-check the report submitted by inspecting the said station.

h. Sanctions, Cancellation and Administrative Fines

The corresponding sanctions described in Annex "D" hereof shall be imposed upon violation of any provision of this Circular.

i. Repealing Clause

Any Department Order or Circular inconsistent with the provisions of this Circular is hereby repealed or modified accordingly.

j. Separability Clause

If, for any reason or reasons, any part of this Circular is declared unconstitutional or invalid, no other parts or provisions hereof shall be affected thereby.

k. Effectivity

This Department Circular No. 2002-05-001 shall take effect upon its complete publication in at least two (2) newspapers of general circulation.

Adopted: 6 May 2002

SGD. VINCENT S. PEREZ, JR.
Secretary

ANNEX A

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ELIGIBLE PROJECT EXPENDITURES

1. Payment for the purchase of equipment to be used for the operation of a gasoline station (i.e., dispensing pumps, underground tanks, lifter, compressor, etc.)

2. Payment for the purchase of equipment related to safety and environment protection such as fire extinguisher, water tank

3. Payment of actual installation costs of equipment

4. Payment of construction and concreting of pump island/s

5. Payment for the initial purchase of petroleum products but not to exceed P1M

6. Payment for the purchase of brand new LPG cylinders (not to exceed 40 cylinders)

ANNEX B

MECHANICS FOR LOAN DISBURSEMENT

Disbursement by the GFI of the approved loan shall be made upon endorsement by the DOE, based on the following:

CIVIL WORKS

1. Progressive disbursement — Loan releases will be in two (2) tranches based on the development of the civil works.

a. First Release — 20% of the approved loan for civil works upon 20% completion of the same

b. Second Release — balance of the amount approved for civil works upon 100% completion of the same
EQUIPMENT

Release for the payment of the equipment to be installed shall be made upon submission to the DOE of the purchase order.

FUEL REQUIREMENTS

Release for the payment of the initial fuel requirements shall be made upon submission to the DOE of the fuel supply purchase order.

ANNEX C

MONITORING REPORTS

1. Pre-Construction Report — report for the period covering approval of loan up to start of construction

Contents: Status of negotiations with civil works contractor, equipment provider, fuel supplier

2. Progress Report — to be submitted in accordance with the mechanics of loan disbursement (Annex B)

3. Monthly Report — from start of commercial operation onwards to be submitted fifteen (15) days after the end of the preceding month

Contents: volume of sales, records of petroleum products deliveries (by product, by supplier)

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ANNEX D

SANCTIONS

1. Non-compliance with the reportorial requirements

a. first offense — reprimand

b. two (2) weeks after notice —

b.1. cancellation of loan agreement for pre-construction period

b.2 withhold release of succeeding loan tranch

b.3. penalty provided under the Loan Agreement

2. Non-conformity with quality standards for fuel, facilities and practices.

Penalty pursuant to DOE regulations.

3. Late/Non-payment of monthly amortization.

Penalty provided under the Loan Agreement.

4. Transfer of operation of the gasoline station without consent of the DOE.

Penalty — cancellation of the Loan Agreement.

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