

GOVERNING THE ESTABLISHMENT, CONSTRUCTION, OPERATION, REMODELLING AND/OR REFURBISHING OF PETROLEUM PRODUCTS RETAIL OUTLETS

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Pursuant to the authority granted by Section 2, pars. (d) and (g); Section 7, par. (d) and Section 8, par. (c) of Republic Act No. 6173 otherwise known as the Oil Industry Commission Act, and to implement Oil Industry Commission Resolution No. 72-11, dated February 15, 1972, the following rules and regulations governing the establishment, construction, operation, remodelling and/or refurbishing of petroleum products retail outlets, registration of dealership agreements and agreements changing or substituting dealers/operators and the regulation of trade practices of oil companies, dealers and/or operators in the operation of such outlets are hereby promulgated for the information and guidance of all concerned.

Rule I

Scope and Coverage

SECTION 1. These rules and regulations shall apply to the construction and establishment or operation, 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 operator and to the trade practices of oil companies, dealers and/or operators in the conduct of business of such retail outlets.

SECTION 2. Definition of Terms - Unless the context otherwise indicates, the following terms as used in these rules and regulations shall have the following meanings:

- a. Person includes 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 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.
- b. Commission shall refer to the Oil Industry Commission.
- c. Petroleum Products Retail Outlet is any establishment or place of business like curb pumps, filling stations and service stations engaged principally in the sale, marketing or trading of any kind of automotive/marine petroleum product such as but not limited to motor gasoline, kerosene, diesel, lubricants, and any of their derivatives as well as other similar products and car care services.
- d. Remodelling and/or Refurbishing shall mean any physical change, except necessary maintenance and repairs to existing improvements and/or facilities of any petroleum products retail outlet, e.g., office space, lube bays, building facade, staff quarters, driveways, canopies and other civil works including equipment.
- e. Equipment includes, among others, approved type dispensing pumps, air compressors, hoists and under-ground storage tanks.

f. Dealer shall mean dealer of petroleum products.

g. Operator shall mean operator of petroleum products retail outlet.

SECTION 3. Petroleum Products Retail Outlet — construction, operation, remodelling and/or refurbishing, prior application necessary; exception. No person shall construct and establish or operate, remodel and/or refurbish any petroleum products retail outlet such as but not limited to curb pumps, filling stations and service stations, whether company-owned or not, unless an application is filed with and written authority granted by the Commission. In cases of application for the construction and establishment of new petroleum products retail outlet where the applicant has named and appointed a dealer and/or operator the authority granted by the Commission to construct and establish shall ipso facto carry with it the initial annual permit to operate the outlet. Otherwise, a separate application must be filed with the Commission. In cases of existing and operating petroleum products retail outlets as well as those in the process of construction before April 1, 1972, a separate application for authority to operate the outlet shall be filed with the Commission.

However, in cases of remodelling and/or refurbishing of retail outlets where the aggregate expenditure or cost thereof within a period of one year is less than P25,000.00, no prior application with, and authority from, the Commission is necessary. Only a written notice under oath to the Commission stating the amount to be expended, accompanied by a copy of the plans and specifications, shall be sufficient. Upon completion of the remodelling and/or refurbishing work, the Commission should be furnished with photographs showing the left, right and front view of the remodelled and/or refurbished retail outlet.

Necessary maintenance and repairs and change of equipment shall be considered and treated as remodelling and/or refurbishing where the expenditure or cost thereof exceeds the ceiling fixed in the preceding paragraph.

All expenses in connection therewith shall be submitted and reported in writing to the Commission within a period of fifteen (15) days from date of completion of the works.

And finally, in no case shall any remodelling and/or refurbishing, necessary maintenance and repairs or change of equipment alter, transform or convert the existing classification of the petroleum products outlet as registered with the Commission.

SECTION 4. Dealership Agreement: Change and Substitution of Dealers and/or Operators — registration necessary. — No person shall operate any petroleum products retail outlet whether company-owned or not, unless the dealership agreement duly executed by the oil company and the operator/dealer is registered with the Commission. A copy of any amendments to the original dealership agreement should also be submitted to the Commission not later than thirty (30) days from date of such amendments. Subsequent agreements changing or substituting dealers/operators shall likewise be registered with the Commission.

All oil companies shall register with the Commission all existing agreements mentioned in the preceding paragraph not later than thirty (30) days from date of the effectivity of these rules. However, agreements made after the effectivity of these rules shall be registered within thirty (30) days from date of such agreements.

Rule II

Classification of Petroleum Products

Retail Outlet

SECTION 1. For purposes of these rules and regulations petroleum products retail outlets shall be classified as follows:

a. Curb pumps

- b. Filling stations
- c. Service stations

SECTION 2. (a) Curb pumps — Definition. — It is that type of petroleum products retail outlet which generally has no separate building and driveway and offers no other services except to sell gasoline, kerosene, diesel, lubricants and any of their derivatives. Filling of customer's vehicle or a purchaser's receptacle is done at the curb side of a road.

b. Curb pumps shall have the following equipment:

1)

One (1) approved-type dispensing pump each for gasoline, kerosene and/or diesel;

2)

A minimum of one (1) 1000-gallon capacity underground storage tank for each of the product dispensed thereat;

3)

Air compressor (optional); and

4)

Fire extinguisher.

SECTION 3. (a) Filling Station — Definition. — It is that type of petroleum products retail outlet with building and driveway and pump island. Its business is generally confined to the sale of gasoline, kerosene, diesel, lubricants and any of their derivatives. It includes marine outlets, whether mobile or stationary.

b. Filling stations shall have the following equipment:

1)

Approved-type dispensing pumps for each petroleum products sold thereat;

2)

Underground storage tank(s) with a minimum capacity of 1,000 gallons for each petroleum products sold thereat;

3)

Air compressor;

4)

Bulk lubricating oil dispenser; and

5)

Fire extinguisher.

c. The land area where a filling station is to be established shall not exceed 800 square meters.

SECTION 4. (a) Service Station — Definition. — It is that type of petroleum products retail outlet with a building and driveway located on premises near or abutting a street or highway where gasoline, kerosene, diesel, lubricants and any of their derivatives including car care products may be dispensed and sold and car care services rendered to motorists and the general public.

b. Service stations shall have at least the following facilities and equipment:

1. Facilities:

a)

A building with a sales office, display room lubrication bay, rest room, equipment room, store room and attendants' quarters;

b)

Pump island(s) with approved-type dispensing pumps for each petroleum products dispensed thereat;

c)

Wash rack;

d)

Forecourt; and

e)

Boundary walls.

2. Equipment:

a) Approved-type dispensing pump(s);

b) Underground storage tank(s) with a minimum capacity of 4000 gallons;

c) Hoist

d) Air compressor

e) Fire extinguisher(s)

f) Car washer

g) Water pump

h) Lubricator(s)

i) Gear oil dispenser(s)

j) Spray guns, bulk lubricating oil dispensers and various lubricating tools

k) Tire changer

- l) Floor-type jack
- m) Wheel balancer
- n) Battery charger
- o) Battery cell tester
- p) Spark plug cleaner/tester
- q) Sundry tools for servicing

SECTION 5. Service Station — Classifications. — Service stations provided for under Section 4, Rule II hereof are further classified into Class A, B and C and shall have land areas, facilities and equipment as follows:

SECTION 6. (a) Construction Cost — Limitation. — The total construction cost for all classes of retail outlets shall not exceed the following amounts:

a. Curb Pumps —

P25,000.00

b. Filling Stations —

50,000.00

c. Service Stations:

1) Class A

P250,000.00

2) Class B

200,000.00

3) Class C

150,000.00

For purposes of determining the amount of investment, only the cost of equipment, labor and materials used in the construction shall be considered. The cost of rental of the land shall be excluded.

b. Land Area for Curb Pumps: The land area for a curb pump outlet shall be limited to the minimum space necessary for pump and tank installation.

SECTION 7. Every petroleum products retail outlet shall bear the name of the owner, dealer and/or operator indicated by a sign easily distinguishable in addition to the oil company's name of identification.

SECTION 8. The amounts specified in Section 6(a) shall be adjusted accordingly in cases of extraordinary inflation or deflation of Philippine peso in accordance with the provisions of Article 1250 of the Civil Code of the Philippines.

Rule III

Registration of Existing and Operating Petroleum Products Retail Outlet

SECTION 1. Existing and Operating Petroleum Products Retail Outlets — Classification and Registration. — All existing and operating petroleum products retail outlets shall be classified and registered with the Commission in accordance with the provisions of these rules.

Class A

Class B

Class C

Land area 1501 sq.m. or more 1001 to 1500 sq. m. 1000 sq. m. or less

Lubrication Bays 2 (minimum) 2 (maximum) 1 (maximum)

Wash Rack/ Hoist 1 (minimum) 1 1

Pump Island 3 (minimum) 2 (minimum) 1 (minimum)

Canopy Optional Optional Optional

Class A

Class B

Class C

Forecourt Reinforced concrete/ Asphalt Reinforced concrete/ Asphalt Reinforced concrete/ Asphalt

Boundary Walls Hollow concrete blocks Hollow concrete blocks Hollow concrete blocks

Sales Office/ Display Room 1 1 1

Rest Room 2 2 2

(For Customers and attendants each)

Equipment Room 1 1 1

Storeroom 1 1 1

Attendants' Quarters 1 1 1

Class A Class B Class C

Approved-type Dispensing Pumps Minimum of 5 Minimum of 4 Minimum of 3

Underground Storage Tanks Minimum Capacity of 4000 gals. Minimum Capacity of 4000 gals. Minimum Capacity of 4000 gals.

Hoist for Lubrication 2 (minimum) 2 (maximum) 1 (maximum)

Air Compressor 2 (minimum) 1 (maximum) 1 (maximum)

Car Washer 1 1 1

Fire Extinguisher 2 but not less than number required by law or local ordinance 2 but not less than number required by law or local ordinance 2 but not less than number required by law or local ordinance.

Water Pump 1 1 1

Overhead Storage Water Tank Optional

Optional

Optional

Rule IV

Applicants

SECTION 1. Who May Apply — Any person not otherwise disqualified by law and who is a party to a dealership agreement, existing or proposed, as contemplated in these rules, may apply for authority to construct and a permit to operate a petroleum products retail outlet, provided that in the latter case the applicant is not an operator/dealer of another oil company.

Rule V

Factors Determining the Allowance or Disallowance of the Application

SECTION 1. The Commission, in processing an application, shall be guided, but not limited, by the following:

- a. The operation of the proposed petroleum products retail will promote public interest in a proper and suitable manner considering the need and convenience of end-users.
- b. Reasonable expectation of a commercially viable operation.
- c. The establishment and operation thereof will not result in a monopoly, combination in restraint of trade and ruinous competition.
- d. The requirements of public safety and sanitation are properly observed.
- e. Generally, the establishment and operation thereof will help promote and achieve the purposes of Republic Act No. 6173.

Rule VI

Application

SECTION 1. Any person desiring to seek authorization or permission to construct and establish or operate, remodel and/or refurbish any petroleum products retail outlet shall file with the Commission a written application in the form prescribed for that purpose.

SECTION 2. Contents — All applications shall be verified and accompanied by affidavits and by such documents as would reasonably establish prima facie the truth of the factual allegations thereof, such as but not limited to the following:

- a. Building Plans and Specifications and Bill of Materials
- b. Certified list and price of equipment
- c. Proposed construction contract
- d. Lot, location and trading area plans indicating the existing competitive petroleum products retail outlets and the distance provided for in Section 1, Rule VIII hereof
- e. Approved Plans from the Bureau of Public Highways showing compliance with its rules and regulations applicable to the construction and establishment of retail outlets
- f. Profitability study
- g. Contract to lease

h. In case of remodelling or refurbishing, photograph of retail outlet to be remodelled or refurbished.

SECTION 3. Commission to Set Time for Hearing of Application. Notice to be Posted — When an application is filed and the Commission finds the same in order, it shall fix the time and place for hearing where all concerned may appear to contest the allowance thereof, and shall require the applicant to (1) cause notice of such time and place to be posted in the Bulletin Board of the City Hall/Municipal Building of the locality where the outlet is to be established; (2) to furnish copies of the application to all the other oil companies doing business in the Philippines at their principal offices and to all licensed dealers and/or operator with outlets existing and operating within a radius of one (1) kilometer from the place where the outlet is to be established at their places of business appearing in the records of the Commission; and (3) to display conspicuously on the lot itself, at least three (3) weeks prior to the date of hearing, a signboard of at least three (3) feet by six (6) feet in size containing said notice of hearing.

SECTION 4. Notice of Hearing. Oil Companies and Dealers to be Notified Personally or by Mail — At least thirty (30) days before the date of hearing, the Commission shall post a copy of the notice of hearing on its Bulletin Board and cause copies of said notice to be served by registered mail or by personal delivery to all oil companies doing business in the Philippines at their principal offices and to all licensed dealers and/or operators with outlets existing and operating within a radius of one (1) kilometer from the place where the outlet is to be established at their places of business appearing in the records of the Commission.

SECTION 5. Proof at Hearing. What Sufficient in the Absence of Opposition — At the hearing, compliance with the provisions of the last two preceding sections must be shown before the introduction of evidence in support of the application. All testimony shall be taken under oath and reduced to writing. If no person appears to oppose the application, the Commission may approve the application and issue the authority prayed for ex-parte.

SECTION 6. Opposition — A written opposition under oath shall be filed with the Commission by any real party in interest stating the nature and ground thereof not later than five (5) days before the date of hearing. Thereafter no opposition shall be entertained and the hearing shall proceed accordingly.

A real party in interest is one whose interests may be substantially affected by the construction and establishment or operation of the petroleum products retail outlet, such as, but not limited to, other oil companies, licensed dealer/operator with outlets operating and existing in the immediate vicinity and persons residing or doing business therein.

SECTION 7. Disposition of Opposition — Any opposition filed in accordance with these rules shall be given due course and the applicant shall be notified of the existence of such opposition.

SECTION 8. Hearings of all applications shall be conducted in accordance with the Rules of Practice and Procedure governing hearings before the Commission.

Rule VII

Authority and/or License to Operate

SECTION 1. Effectivity — Unless revoked for cause, the authority and/or license to operate any petroleum products retail outlet issued by the Commission shall be valid and effective for a period of one (1) year from date of issuance and may be renewed from year to year. All applications for renewal shall be made within fifteen (15) days after date of expiration.

SECTION 2. Revocation. — Any authority and/or license to operate any petroleum products retail outlet may be revoked on the following grounds:

- a. If the operator fails to observe the required safety and sanitation requirements of the locality and to render the service for which the license was issued.
- b. If the operator aids, abets or assists in the sale of, or causes to sell diluted petroleum products or undersells or under-delivers the required quantity as prescribed by law and regulation governing the sale thereof.
- c. If the operator violates any of the provisions of Republic Act No. 6173 and of these rules and regulations, orders or resolutions lawfully issued by the Commission.

SECTION 3. Reinstatement — The Commission may, at its sound discretion, reinstate any authority/license that has been revoked.

Rule VIII

General Provisions

SECTION 1. No petroleum products retail outlet of the same oil company shall be constructed and established or operated at a distance of less than one (1) kilometer radius from one that is existing and operating on the date of the effectivity of these rules, unless it is satisfactorily shown and established that there is need therefor.

SECTION 2. All disputes between any operator/dealer and an oil company regarding dealership agreement except those arising out of their relationship as debtor and creditor shall be under the jurisdiction of the Oil Industry Commission.

A party seeking relief from or enforcement of any provision of a dealership agreement, except those as hereinabove provided, may do so by filing with the Commission a petition defined in the Rules of Practice and Procedure governing hearings before the Commission. The hearing shall be conducted as provided in said Rules.

SECTION 3. In addition to the other requirements elsewhere provided in these Rules oil companies shall submit under oath authenticated copies of all agreements relative to the operation of any petroleum products retail outlet as a condition precedent for the issuance of the authority and/or license to operate.

SECTION 4. A Dealership Agreement may contain and provide such terms and conditions as may be agreed upon between the oil company and the dealer/operator provided such terms and conditions:

- a. Do not contravene any provision of Republic Act No. 6173.
- b. Do not violate any rule, order or regulation of the Commission.
- c. Do not impose a minimum volume or value of petroleum products to be bought by the dealer.
- d. Do not limit the term for less than five (5) years.
- e. Do not grant any benefit, advantage or privilege to any dealer which is not given to other dealer similarly situated.

SECTION 5. Re-negotiation of Contracts — Any party to a Dealership Agreement for the operation of any petroleum products retail outlet in force at the time of the promulgation of these rules may seek a renegotiation of the same by informing the other party in writing of such desire and furnishing the Commission a copy thereof. Such notice shall insofar as practicable, specify the particular provision desired to be re-negotiated.

The party so notified shall within seven (7) days from the receipt of such notice, reply in writing naming therein the representative to represent him in said negotiation and suggest the available dates for said negotiation which in no case shall be less than thirty (30) days from receipt of the notice.

The negotiation shall proceed without unnecessary delay. If the parties can not agree within thirty (30) days from the start of the negotiation the aggrieved party shall notify the Commission in writing of such failure of the negotiation.

Within seven (7) days after the receipt by the Commission of such notice it shall designate a Commissioner to preside over the negotiation and shall summon the parties for a final conference in an effort to bring the parties to arrive at a satisfactory agreement. If within fifteen (15) days after the first conference called by the Commissioner no satisfactory agreement shall have been arrived at by the parties, the Commissioner shall submit his recommendation as to what he believes the terms should be for approval to the Commission en banc; the decision of the Commission en banc shall determine the rights and obligations of the parties on the questioned provisions of the dealership agreement and shall take effect immediately.

SECTION 6. Dealership Agreement: Transferability — Dealership Agreement may be transferred from one person to another provided the transferee possesses the qualifications of a licensed dealer/operator as prescribed in these Rules. No transfer shall be effective unless with the consent of the oil company and approved by the Commission.

SECTION 7. No dealer/operator shall sell and/or offer for sale and no oil company shall supply and/or offer to supply any petroleum product unless the same is correctly and properly labeled. Dealers/operators shall have the right to sell, deal and engage in, any kind of petroleum product and shall not be discriminated against in the supply and prices of said product.

SECTION 8. No dealer/operator shall be compelled to render a twenty-four (24) hour service unless the location of the establishment demands such service, and/or the dealer/operator elects to render such service.

SECTION 9. All oil companies are hereby required to calibrate all their dispensing pumps in any given station at least once every sixty (60) days and all petroleum products retail outlet dealers/operators are hereby required to display the last date of calibration in a conspicuous place of the outlet within the view of the public.

SECTION 10. All oil companies and dealers/operators shall submit to the Commission a quarterly report showing the total amount of quarterly sales and quantity in liters in cases of gasoline, diesel, kerosene and other motor gas and the total amount of quarterly sales in cases of oil, lubricants and other petroleum products.

SECTION 11. Assistance to Dealer/Operators by Oil Companies — Dealers/Operators may request the assistance of oil companies in complying with the requirements prescribed in these rules.

SECTION 12. All dealers/operators are hereby required and enjoined to comply with the provisions of the Price Tag Law.

Rule IX

Miscellaneous Provisions

SECTION 1. Fees — The following fees shall be paid to the Commission by the oil company concerned:

a. Application Fees:

1) For the construction, establishment and operation of petroleum products retail outlet:

a) Curb pumps per pump

—

P10.00

b) Filling stations

—

50.00

c) Service station:

Class A

—

150.00

Class B

—

100.00

Class C

—

75.00

2) For remodelling/refurbishing of any petroleum products retail outlet - 1/10 of 1% of cost

3) For authority to transfer dealership agreement — 100.00

b. Registration of Dealership Agreement

— 25.00

c. License Fees:

1) Curb pumps —

P10.00

2) Filling station —

25.00

3) Service station

Class A

—

100.00

Class B —

75.00

Class C —

50.00

SECTION 2. The license fees hereinabove prescribed shall be paid as follows:

1. For petroleum products retail outlets constructed under the authority of these rules — within fifteen (15) days after the first anniversary date of the operation of the outlet.
2. For petroleum retail outlets already in existence at the time these rules take effect — within fifteen (15) days from the date of effectivity hereof.
3. The license fees for both kinds of retail outlets shall thereafter be paid upon renewal, in accordance with these rules, of the license or authority to operate.

SECTION 3. Effectivity — These rules and any amendment thereof shall take effect fifteen (15) days after publication in the official Gazette.

Adopted: 1 Sept. 1972

(SGD.) PONCIANO G. A. MATHAY
Chairman Associate

(SGD.) ARSENIO F. SOLIDUM
Commissioner

(SGD.) LUIS P. VERA
Associate Commissioner

(SGD.) JAIME S. MEJIA
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