

AMENDING DEPARTMENT CIRCULAR NO. 2011-02-0001 ENTITLED “MANDATORY USE OF BIOFUEL BLEND”

DOE Department Circular No. DC2015-06-0005, June 09, 2015

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Adopted: 09 June 2015

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WHEREAS, as of 2014, the bioethanol requirement of the local market runs to as high as 455 million liters and it is projected that this will increase in the near future to an average of about 5% annually in order to meet the ten percent (10%) bioethanol blend requirement as required under Section 5.2 of the Biofuels Act of 2006 (Biofuels Act) and Department Circular No. 2011-02-0001;

WHEREAS, on 04 July 2013, the NBB recommended allowing the exemption of gasoline products of certain grade as one of the courses of actions that will address the problem in the best interest of the country as this will reduce our imports, encourage the local producers to increase their output and improve the power of choice at lower cost of the Filipino customers;

WHEREAS, on 12 May 2015, notwithstanding this consistently increasing demand, it was determined by the National Biofuels Board (NBB), through its Bioethanol Committee, during its Special NBB Meeting and from the consultation with the local bioethanol producers called by the Sugar Regulatory Administration (SRA) on 19 May 2015, that nine (9) years after the implementation of the Biofuels Act of 2006, locally-produced bioethanol, as of end 2014 accounts for only 27% of the total domestic bioethanol requirement or only 115 million liters;

WHEREAS, to address this shortage and enable the gasoline companies to comply with the ten percent (10%) minimum biofuels blend requirement, importation of this product was allowed to continue until now notwithstanding the fact that importation of bioethanol products is allowed only within four (4) years from the effectivity of the Biofuels Act and only to the extent of the shortage as may be determined by the NBB; hence, importation of the products was supposed to be legally allowed only up to the year 2013;

WHEREAS, the massive increase in the bioethanol product from local sources, as expected with and envisioned by the passage of the Biofuels Act, did not materialize resulting in the continued deficit of the locally produced bioethanol products as compared to the demand, thus requiring the continued huge importation of this product in spite of the fact that it is no longer allowed under Section 5.2 of the Biofuels Act;

WHEREAS, while the Biofuels Act requires a minimum ten percent (10%) bioethanol blend on gasoline products, it also prohibits the importation of bioethanol after four (4) years from the effectivity thereof, thereby rendering it legally impossible to comply with both provisions of the Act;

WHEREAS, it is one of the legal principles observed in the Philippine jurisdiction that the law obliges no one to perform an impossible act; and

WHEREAS, the continued importation of bioethanol products benefits more the foreign suppliers than the interests of the affected domestic sectors; hence, it is high time that the government come up with a more innovative solution to address the problem in the best interest of the country while assuring the full utilization of

all available locally produced bioethanol products.

NOW, THEREFORE, in consideration of the foregoing, the DOE hereby issues, amends and promulgates this Department Circular amending DC No. 2011-02-0001:

Section 1. Title. This Circular shall be known as the “Amended Guidelines on E-10 Implementation.”

Section 2. Scope and Application. This Circular shall apply to all entities involved Biofuels Program.

Section 3. Amendment to Section 3.2 of DC 2011-02-0001. Section 3.2 Exempt Gasoline Grade of DC2011-02-0001 is hereby amended by adding the following sub-section to read as follows:

x x x x

Section 3.2.1. Temporary Relaxation of Gasoline Grade. In consideration of the insufficiency of locally-produced bioethanol and to reduce the level of bioethanol importation, the ethanol blend requirement per PNS/DOE QS 008:2012 may be waived for Premium Plus Grade gasoline products (minimum 97 RON) temporarily during the period of deficiency in the locally produced bioethanol products opposite the demand, provided that the following shall be strictly complied with by the oil company-participant:

3.2.1.1

The oil company intending to make available non-E10 gasoline under this provision must file a proper notice to the OIMB informing such intention. Said filing must also identify the specific location/s wherein such non-E10 products shall be sold for proper monitoring and validation by the OIMB;

3.2.1.2

The actual minimum guaranteed octane at the pump shall not be lower than 97 RON;

3.2.1.3

The dispenser unit must clearly indicate through proper labelling (see Annex 1) that the said gasoline is a non-E10 gasoline to clearly and distinctly distinguish it from other Premium Plus grade E10 products as a guide to the consuming public;

3.2.1.4

Regular monitoring of these outlets shall be conducted to ensure that only Premium Plus grade gasoline products are sold as neat/pure gasoline, as reported to the OIMB.”

x x x x

Section 4. Allocation of Locally-Produced Bioethanol. All locally-produced bioethanol shall continue to be allocated to the oil companies pursuant to the Revised Guidelines on the Utilization of Locally-Produced Bioethanol.

Section 5. LMA Computation. Notwithstanding the relaxation of the bioethanol blend requirement, the computation of the market share for LMA purpose as provided in Section 5 of this Circular shall still be based on the total gasoline sold (E10 and non-E10) by the oil company-participant so as not jeopardize the program of the local bioethanol producers and encourage increase in local capability. Only the imported bioethanol will be reduced in this scheme.

Section 6. Mandatory NBB Review. This relaxation from the bioethanol blend requirement shall be subject to a review upon recommendation by the NBB when circumstances so warrant.

Section 7. Prohibited Acts and Penalties. Failure to comply with the provisions of this Circular shall be subject to penalty under Chapter VIII, Section 1 of Joint Administrative Order (JAO) 2008-1 Series of 2008.

Section 8. Separability Clause. If for any reason, any section or provision of this circular is declared unconstitutional or invalid, such parts not affected shall continue to remain in full force and effect.

Section 9. Effectivity. This Circular shall be effective upon its publication in two (2) newspapers of general circulation and shall remain in effect until revoked.

Issued at Energy Center, Bonifacio Global City, Taguig City.

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Secretary

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