

JOINT ADMINISTRATIVE ORDER NO. 2008-1, Series of 2008

**“GUIDELINES GOVERNING THE BIOFUEL FEEDSTOCKS PRODUCTION,
AND BIOFUELS AND BIOFUEL BLENDS PRODUCTION, DISTRIBUTION
AND SALE UNDER REPUBLIC ACT NO. 9367”**

Pursuant to Sections 7, 8, 9, 10, 11 and 17 of Republic Act (R.A.) No. 9367 otherwise known as "*The Biofuels Act of 2006*" (hereinafter referred to as the Act), and Rule 4 of its Implementing Rules & Regulations (IRR), the Department of Agriculture (DA), Department of Agrarian Reform (DAR), Department of Energy (DOE), Department of Environment and Natural Resources (DENR), Department of Finance (DOF), Department of Labor and Employment (DOLE), Department of Science and Technology (DOST), Department of Trade and Industry (DTI), Department of Transportation and Communications (DOTC), National Biofuels Board (NBB), National Commission on Indigenous Peoples (NCIP), Philippine Coconut Authority (PCA) and Sugar Regulatory Administration (SRA) hereby adopt the following guidelines that shall govern the biofuel feedstocks production, biofuels and biofuel blends production, distribution and sale for the information, guidance and compliance of all concerned.

**CHAPTER I
GENERAL PROVISIONS**

Section 1. Title.

This Joint Administrative Order shall be known as "**GUIDELINES GOVERNING THE BIOFUEL FEEDSTOCKS PRODUCTION, AND BIOFUELS AND BIOFUEL BLENDS PRODUCTION, DISTRIBUTION AND SALE**", hereinafter referred to as the "Guidelines".

Section 2. Objectives.

Pursuant to Section 2 of the Act and its IRR, the following are the objectives of this Guidelines:

- a. To develop and utilize indigenous renewable and sustainably-sourced clean energy sources to reduce dependence on imported oil;

- b. To mitigate toxic and greenhouse gas (GHG) emissions;
- c. To increase rural employment and income;
- d. To ensure the availability of alternative and renewable clean energy without any detriment to the natural ecosystem, biodiversity and food reserves of the country;
- e. To ensure that lands devoted to food crops shall not be utilized for biofuel feedstocks production except in cases provided herein;
- f. To ensure stability of the domestic supply of feedstock, biofuels and biofuel blends;
- g. To ensure the compliance of biofuels and biofuel blends producers, distributors and sellers with the Philippine National Standards (PNS) on biofuels and biofuel blends;
- h. To ensure compliance with the mandated biofuel blends under the Act;
- i. To promote the development of the biofuel industry in the country and encourage private sector participation and to institute mechanisms which will fast track investments in the biofuel industry; and
- j. To promote biofuel workers' welfare and protection.

Section 3. Biofuel Production Site as One of the Priority Development Areas for Land Conversion.

In accordance with the purpose of the Act, Section 6 of DAR Administrative Order No. 01, Series of 2002, is hereby amended to include a proposed biofuel production site as a Priority Development Area for Land Conversion and shall therefore read as follows:

x x x

6.1.7 Agricultural Areas/Lands proposed to be developed as biofuel production site as certified by DA; *Provided*, that each production facility site shall not be more than twenty five (25) hectares; *Provided, further*, that a project that has a production capacity in excess of one hundred thousand (100,000) liters per day or where more than twenty five (25) hectares is required as a production facility site, the applicant can apply for exemption for the additional hectareage as production facility site subject to the approval of DAR.

x x x

Section 4. Definition of Terms.

For purposes of this Guidelines, the following definitions shall apply:

- a. *Act* refers to Republic Act No. 9367, otherwise known as the “Biofuels Act of 2006”;
- b. *Agricultural Lands* as amended by Section 3-B of R.A. No. 7881 (Amendments to the Comprehensive Agrarian Reform Law) refer to lands devoted to or suitable for the cultivation of the soil, planting of crops, growing of trees including the harvesting of such farm products, and other farm activities and practices performed in conjunction with such farming operations by persons whether natural or juridical, and not classified by law as mineral land, forest or timber, or national park nor reclassified as residential, commercial, industrial or other non-agricultural uses before June 15, 1988;
- c. *Ancestral Domain* refers to the areas generally belonging to Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial;
- d. *Applicant* refers to any person or entity who proposes to engage in biofuel feedstock production, and biofuel production, distribution and sale;
- e. *Biodiesel* refers 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-fed engines, with quality specifications in accordance with the PNS;
- f. *Bioethanol* refers to ethanol (C₂H₅OH) produced from feedstock and other biomass that shall be technically proven and approved by the DOE for use in gasoline-fed engines, including hydrous ethanol, with quality specifications in accordance with the PNS, and for higher blends beyond the 10% blend, the DOE shall issue appropriate PNS;
- g. *Biofuel* refers 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, and added or blended to petroleum fuels to enhance or alter

- chemical or physical properties and improve performance/usage of the fuels;
- h. *Biofuel Blends* refer to gasoline or diesel that has been blended with biofuels such as, but not limited to, bioethanol and biodiesel;
 - i. *Biofuel Distributor* refers to any person or entity engaged in the distribution of PNS-compliant biofuels of an accredited Biofuel Producer in the domestic market; *Provided*, that any person or entity engaged in distribution, supply and sale of PNS-compliant biofuels shall be deemed as a Biofuel Distributor;
 - j. *Biofuel Feedstock Producer* refers to any person or entity engaged in farming and production of biofuel feedstocks and in the development, operation and management of biofuel feedstock areas ;
 - k. *Biofuel Producer* refers to any person or entity engaged in the production of PNS-compliant biofuels for the domestic market *Provided*, that any person or entity engaged in the production, distribution, and sale of PNS-compliant biofuels shall be deemed as Biofuel Producer;
 - l. *Biofuel Production Site* refers to the area for biofuel production which includes, but not limited to the processing plant, waste management facilities and other facilities directly related to biofuel production;
 - m. Certificate of Compliance refers to the Certificate issued by the NCIP attesting that the Applicant has complied for securing the affected ICCs/IPs' free and prior informed consent;
 - n. Certificate of Non-Overlap refers to the Certificate issued by the concerned Regional Director of NCIP attesting to the fact that the area affected by a particular plan, program, project or activity does not overlap with any ancestral domain;
 - o. *Certification Precondition* refers to the Certification issued by NCIP that the Applicant has complied with the requirements under Republic Act 8371 (RA 8371), otherwise known as the Indigenous Peoples Rights Act of 1997 and its IRR;
 - p. *CFAR* refers to *Certificate of Fuel Additive Registration* issued by the DOE;
 - q. *Community-based Biofuel Producer* refers to a people's organization, cooperative or group of people in a specific community who is engaged in the production of biofuel;

- r. *EUMB* refers to the Energy Utilization Management Bureau of the Department of Energy;
- s. *Feedstock* refers to organic sources such as molasses, sugarcane, cassava, coconut, jatropha, sweet sorghum, oil palm and other biomass used in the production of biofuels;
- t. Free and Prior Informed Consent (FPIC) refers to the consensus of all members of the ICCs/IPs which is determined in accordance with their respective customary laws and practices that is free from external manipulation, interference and coercion and obtained after fully disclosing the intent and scope of the plan / program / project / activity;
- u. *Fuel* refers to products used to produce heat, power or illumination by means of combustion, burning or oxidation. This includes gasoline, diesel, and biofuel;
- v. *Illegal Conversion* is the act of changing the current use of the land from agricultural to another agricultural or non-agricultural use, the effect of which is to exempt the land from CARP coverage without an order of conversion from DAR, or changing the use of the land other than that allowed under the order of conversion issued by DAR;
- w. *IRR* refers to DOE Department Circular No. DC 2007-05-0006, otherwise known as the “Implementing Rules and Regulations of Republic Act No. 9367;
- x. *Irrigable Lands* refer to lands which display marked characteristics justifying the operation of an irrigation system;
- y. *Irrigated Lands* refer to lands serviced by natural irrigation or irrigation facilities. These include lands where water is not readily available as existing irrigation facilities need rehabilitation or upgrading or where irrigation water is not available year-round;
- z. *Land Use Conversion* refers to the act or process of changing the current use of a piece of agricultural land into some other use as approved by the DAR;
- aa. *LGU* refers to the Local Government Unit;
- bb. *NIA* refers to the National Irrigation Administration;
- cc. *Oil Company* refers to any entity that distributes and sells petroleum fuel products;
- dd. *OIMB* refers to the Oil Industry Management Bureau of the Department of Energy;

- ee. *PFC* refers to the *Philippine Forest Corporation of the Department of Environment and Natural Resources*;
- ff. *PNS* refers to the *Philippine National Standards* consistent with Section 26 of R. A. No. 8749 otherwise known as the “*Philippine Clean Air Act of 1999*”;
- gg. *Private Agricultural Lands* refer to agricultural lands as defined herein and owned by natural or juridical persons or by the government in its proprietary capacity;
- hh. *Raw Materials* refer to *bio-feedstocks* may it be in its original state or otherwise, such as, but not limited to, *molasses, coconut oil, coconut, palm oil, oil palm, jatropha oil, jatropha, sugarcane, cassava, sweet sorghum and other biomass used in the production of biofuels*;
- ii. *Reclassification of Agricultural Lands* refer to the act of specifying how agricultural land shall be utilized for non-agricultural uses such as residential, industrial and commercial, as embodied in the approved land use plan, subject to the requirements and procedure for land use reclassification. It also includes the reversion of non-agricultural lands to agricultural use;
- jj. *Renewable Energy Sources* refer to the energy sources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis;
- kk. *Social Amelioration and Welfare Program* refers to the guidelines governing the mechanisms and implementation of amelioration and welfare program for the biofuel workers pursuant to Section 17 of the Act, which shall be issued by DOLE.

CHAPTER II

BIOFUEL FEEDSTOCK PRODUCERS

Section 1. Requirements for Biofuel Feedstock Producer.

An Applicant who shall engage in the production of biofuel feedstock shall secure the following, prior to the production thereof:

- a. Environmental Compliance Certificate (“ECC”) issued by the DENR, as applicable;
- b. Certification Precondition issued by the NCIP, as applicable; and
- c. Certification issued by the DA, as applicable.

The requirements above shall not be required for all existing feedstock areas, subject to DA policy guidelines. Existing coconut and sugarcane areas shall be subject to the regulations by PCA and SRA, respectively, as approved by the DA.

Section 2. Environmental Compliance Certificate.

An Applicant who shall engage in the production of biofuel feedstocks shall secure an ECC from the DENR. The issuance thereof shall be subject to the following guidelines:

- a. For new biofuel feedstock production project with a total contiguous land area of one hundred (100) hectares up to one thousand (1,000) hectares and which involves land preparation, an Initial Environmental Examination (IEE) or IEE Checklist is required prior to the issuance of ECC;
- b. For new biofuel feedstock production project with a total contiguous land area of more than one thousand (1,000) hectares and which involves land preparation, an Environmental Impact Statement (EIS) is required prior to the issuance of ECC; and
- c. For existing biofuel feedstock production areas regardless of the total land area, an ECC is no longer required.

For the above purpose, DENR Administrative Order No. 30, Series of 2003 and DENR Memorandum Circular No. 2007 - 08, whenever applicable is hereby adopted as an integral part of this Guidelines (Annex "A" and "B", respectively).

Section 3. Certification Precondition.

An Applicant shall secure a Certificate of Non-Overlap or Certificate of Compliance from the NCIP, subject to the following guidelines:

Section 3.1. If the proposed site is outside the ancestral domain/land:

If the proposed site for the project is outside the ancestral domain/land of the ICCs/IPPs, a Certificate of Non-Overlap shall be secured by the Applicant, which shall be issued by the concerned NCIP Regional Director after a field based investigation.

Section 3.2. If the proposed site is within or overlaps the ancestral domain/land:

- a. An Applicant shall secure the Free and Prior Informed Written Consent if the area to be covered by the project is located within or overlaps the ancestral domain/land of the ICCs/IPs.
- b. After securing the FPIC, an Applicant shall secure a Certificate of Compliance from the NCIP Head Office.

Section 3.3. Documentary Requirements.

For purposes of securing the Certification Precondition under Sections 3.1 and 3.2 hereof, the following documents are required to be submitted by the Applicant:

- a. Endorsement from the DENR;
- b. Project Profile of the Applicant; and
- c. Operational Plan.

For the above purpose, NCIP Administrative Order No. 1, Series of 2006, is hereby adopted as an integral part of this Guidelines (Annex "C").

Section 4. DA Certification.

An Applicant shall secure a DA certification that the feedstock or the proposed biofuel feedstock area may be utilized for the production of biofuel feedstock.

The DA Certification shall not be required if the feedstock to be used, (e.g. molasses), does not involve land utilization.

Section 4.1. Criteria for DA Certification. , The following are the criteria for the issuance of DA certification:

- a. Cereals that can be used both for food and for biofuel production such as, but not limited to, corn and wheat shall not be used for biofuel production;
- b. The land to be used shall be consistent with the natural expansion of the municipality or locality, as contained in the approved physical framework and land use plan by the concerned municipality or locality;

- c. The area that will be used is not the only remaining food production area of the community,
- d. All agricultural areas classified hereunder shall not be utilized for biofuel feedstock production:
 - 1. All areas covered by government-funded irrigation facilities, either national agency or LGU, designed to support rice and other crop production, and all irrigated lands where water is not available for rice and other crop production but are within areas programmed for irrigation facility rehabilitation by DA and NIA;
 - 2. All irrigable lands already covered by irrigation projects with firm funding commitments as certified by NIA at the time of the application for land use conversion;
 - 3. All privately irrigated alluvial plain lands utilized for rice and corn production; and
 - 4. All agricultural lands that are ecologically fragile, the utilization of which will result in serious environmental degradation.

Section 4.2. Issuance of Certification.

The Certification may be issued, except for areas identified above, under the following conditions:

- a. Compliance with the SRA and PCA policy guidelines, as approved by DA, for the utilization of sugarcane and coconut areas and DA policy guidelines for the utilization of all other existing feedstock areas;
- b. The areas are evaluated by DA to be underutilized and marginal; and
- c. The proposed project is supportive to agro-industrial development, and will generate additional and alternative livelihood opportunities for the affected community.

Section 4.3. Scope and Coverage.

As used in this section, an Independent Biofuel Feedstock Producer shall refer to a Biofuel Feedstock Producer who has no marketing or supply agreement with a Biofuel Producer.

- a. Only an Independent Biofuel Feedstock Producer with an effective area exceeding twenty five (25) hectares, either contiguous or fragmented, shall be required to obtain a DA Certification.
- b. An Independent Biofuel Feedstock Producer whose effective area is twenty five (25) hectares or less is exempted from securing the DA Certification.
- c. A Biofuel Feedstock Producer who has a marketing or supply agreement with a Biofuel Producer shall not be required to secure a DA Certification; *Provided*, that the Biofuel Producer shall secure the DA Certification as provided in Chapter III, Section 2.4 of this Guidelines.

Section 4.4. Documentary Requirements.

The following documents and information are required to be submitted by the Applicant:

- a. Feasibility Study;
- b. List of Biofuel Feedstock supplier(s); and
- c. One (1) copy each of geo-referenced map, vicinity map and lot plan showing the feedstock production areas duly certified by the LGU.

CHAPTER III

BIOFUEL PRODUCER, DISTRIBUTOR AND SELLER

Section 1. Certificate of Registration and Accreditation.

An Applicant shall secure a Certificate of Registration and Accreditation from the DOE prior to production, distribution and sale of biofuel. This shall apply to the following:

- a. Biofuel Producer that:
 - 1. Sells biofuels to Oil Companies; and
 - 2. Sells directly to the end users (for bio-diesel);
- b. Biofuel Distributor.

Community-based Biofuel Producers and/or individuals who produce biofuels for their own direct uses are exempt from securing a Certificate of Accreditation; *Provided*, however, that Community-based Biofuel Producers and/or individuals who sell their products commercially are required to secure a Certificate of Accreditation from DOE.

Section 2. Requirements for Registration of Biofuel Producers with the DOE.

The DOE shall issue a Certificate of Registration with Notice to Proceed with the construction of the facilities upon complete and satisfactory submission of the following:

- a. Duly accomplished DOE application form;
- b. Proof of payment of filing fees;
- c. Registration with the Securities and Exchange Commission (SEC), Philippine Economic Zone Authority (PEZA), Cooperative Development Authority (CDA) and/or the DTI, as applicable;
- d. Certification Precondition from NCIP for ancestral domains/lands, as applicable;
- e. Feasibility Study demonstrating the technical, economic and ecological viability of biofuel production and Construction/Work Plan;
- f. Developer's Profile;
- g. Letter of Intent to supply a volume of biofuel;
- h. DA Certification as specified in Chapter II of this Guidelines;
- i. SRA or PCA Registration, as applicable;
- j. Special Forest Land-use Agreement from DENR if the site is within untenured forest lands, as per existing rules and regulations;
- k. CARP Exemption based on HLURB certification that the land was classified prior to June 15, 1988 or DAR Land Use Conversion, as applicable;
- l. ECC from DENR; and
- m. LGU Clearance and Locational Clearance.

The Certificate of Registration with Notice to Proceed shall automatically be revoked upon failure to commence construction of the facilities within two (2) years from the issuance thereof.

Section 2.1. Certification Precondition .

An Applicant shall secure a Certificate of Non-Overlap or Certificate of Compliance from the NCIP, subject to the following guidelines:

Section 2.1.1. If the proposed site is outside the ancestral domain/land:

If the proposed site for the project is outside the ancestral domain/land of the ICCs/IPPs, a Certificate of Non-Overlap shall be secured by the Applicant, which shall be issued by the concerned NCIP Regional Director after a field based investigation.

Section 2.1.2. If the proposed site is within or overlaps the ancestral domain/land:

- a. An Applicant shall secure the Free and Prior Informed Written Consent if the area to be covered by the project is located within or overlaps the ancestral domain/land of the ICCs/IPs.
- b. After securing the FPIC, an Applicant shall secure a Certificate of Compliance from the NCIP Head Office.

Section 2.1.3. Documentary Requirements.

For purposes of securing the Certification Precondition under Sections 2.1.1 and 2.1.2 hereof, the following documents are required to be submitted by the Applicant:

- a. Endorsement from the DENR;
- b. Project Profile of the Applicant; and
- c. Operational Plan.

For the above purpose, NCIP Administrative Order No. 1, Series of 2006, is hereby adopted as an integral part of this Guidelines (Annex "C").

Section 2.2. Issuance of ECC by DENR for Biofuel Production.

An Applicant who shall engage in the production of biofuels shall secure an ECC from the DENR-EMB Regional Office. The issuance thereof shall be subject to the following guidelines:

- a. For Biofuel Processing Plants with annual production capacity of equal to or less than one hundred fifty (150) million liters (\leq 150 million liters per year), an Initial Environmental Examination (IEE) or IEE Checklist is required prior to the issuance of ECC; and
- b. For Biofuel Processing Plant with annual production capacity of more than one hundred fifty (150) million liters ($>$ 150 million liters per year), an Environmental Impact Statement (EIS) is required prior to the issuance of ECC.

For the above purpose, DENR Administrative Order No. 30, Series of 2003 and DENR Memorandum Circular No. 2007 - 08, whenever applicable is hereby adopted as an integral part of this Guidelines (Annex "A" and "B", respectively).

**Section 2.3. DAR Conversion of Agricultural Lands to Biofuel
Production Site.**

The following documents and information are required to be submitted by an Applicant to DAR for purposes of converting land from agricultural to biofuel production site:

- a. Proof of payment of filing fees and inspection costs;
- b. Posting of performance bond;
- c. Sworn application for conversion;
- d. Proof of land ownership or proof of right over the land (e.g. Transfer Certificate of Title, tax declaration, lease agreement, if applicant is Farmer Beneficiary under Comprehensive Agrarian Reform Law (CARP), a certification from LBP/PARO);
- e. DA certification as provided in Chapter II, Section 2.4 of this Guidelines;
- f. Feasibility Study containing among others, the Applicant's financial and organizational capability, and development plan;
- g. Joint venture agreements and other similar arrangements;
- h. Photographs of the property;
- i. Affidavit of Undertaking, as provided under DAR Administrative Order No.1, Series of 2002, as amended;
- j. MARO Certification as provided under DAR Administrative Order No.1, Series of 2002, as amended;
- k. Notice of LUC Application as provided under DAR Administrative Order No.1, Series of 2002, as amended;
- l. HLURB Certification or Sangguniang Panlalawigan Resolution, as the case may be;
- m. Lot Plan; and
- n. Maps:
 1. Vicinity Map;
 2. Directional Sketch Map; and
 3. Topographic Map, as applicable.

For the above purpose of converting the use of an agricultural land from agricultural to biofuel production site, DAR Administrative Order No.1, Series of 2002, as amended, in all aspect not inconsistent herewith, is hereby adopted as an integral part of this Guidelines (Annex "D").

Section 2.4. DA Certification.

All Biofuel Producers shall declare their proposed source of feedstock for evaluation of DA if the proposed biofuel feedstock production area is compliant with the prescribed criteria as specified in Chapter II, Section 4.1 of this Guidelines. The DA shall subsequently issue a certification to that effect.

A Biofuel Producer who shall have new biofuel feedstocks producer-supplier or new feedstock production areas, is required to submit to DA the list of its new feedstock producer-supplier or new feedstock production areas for evaluation based on the criteria as specified in Chapter II, Section 4.1 of this Guidelines. Moreover, every Biofuel Producer shall declare his/her biofuel feedstocks producer-supplier and the location of the feedstock production area.

A Biofuels Producer or Biofuel Blend Producer who shall have agricultural lands as biofuels and biofuel blend production site is required to apply to the DA National Technical Committee on Land Use Matters (NTECLUM) for the purpose of securing the DA Certification of Eligibility for Reclassification of Agricultural Lands as a requirement of DAR. The following information and documents are required :

- a. Notarized Sworn Declaration of Application for Land Use Reclassification;
- b. Proof of ownership of land e. g. photocopy of the OCT / TCT and/or other documents establishing ownership duly certified by the Register of Deeds not later than thirty (30) days prior to filing. If at the time of application the landholding is an untitled agricultural land, the following shall be required in lieu of the OCT / TCT:
 - i. Certification of the DENR Community Environment and Natural Resources Officer (CENRO) that the landholding has been classified as alienable and disposable;
 - ii. Certification of the DENR CENRO (for administrative confirmation of imperfect title) or the Clerk of Court of regular courts (for judicial confirmation of imperfect title)

that the titling process / proceeding has commenced, and there are no adverse claimants;

- iii. If the land title has any encumbrances or mortgages, a certification by the lending institution / mortgagee that he has no objection to the application is required.
- c. Special Power of Attorney (if the Petitioner is other than the owner of the land) or Board Resolution (with the signature of the members) if the landowner is a Corporation;
- d. Map of the Area / Parcellary Map prepared by a licensed geodetic engineer indicating the Name of Owner, Title No., and Lot Area;
- e. Location Map with sufficient reference points for proper identification of lot/s applied for;
- f. Zoning Certification from HULRB;
- g. Photographs of the area (Size: 5R) with captions duly certified by a member of the DA-Regional Land Use Technical Working Group (RLUTWG) Inspection Team;
- h. Certification from the NIA (areas of 5 hectares and above to be signed by the Regional Irrigation Manager);
- i. Certification from the SRA, as applicable;
- j. Certification from the PCA, as applicable;
- k. Certification from the Fiber Industry Development Authority, as applicable;
- l. Certification from the Bureau of Fisheries and Aquatic Resources, as applicable;
- m. Field Investigation Report by the DA-RLUTWG.

Section 3. Certificate of Accreditation from DOE.

The DOE shall issue a Certificate of Accreditation prior to commercial operations upon the submission and compliance with the following:

- a. Rated production capacity in million liters per year;
- b. Certificate of Fuel Additive Registration from the DOE for biofuels, as applicable;
- c. Completion of DOE's inspection of the facilities and on-site sample-taking of the biofuels produced;
- d. Product compliance with the PNS;
- e. Distribution networks and authorized distributors, if any; and
- f. Program of quality management system.

The Certificate of Accreditation shall be valid for a period of five (5) years, unless earlier revoked or suspended as provided in this Guidelines.

Section 3.1. Renewal of Certificate of Accreditation.

The Certificate of Accreditation may be renewed every five (5) years subject to compliance with the minimum requirements as provided by this Guidelines, pertinent laws, rules and regulations and other DOE issuances. The following documents shall be submitted for the renewal of the Accreditation:

- a. Proof of payment of renewal fee;
- b. Completion of DOE's inspection of the facilities and on-site sample-taking of the biofuels produced;
- c. Proof of compliance with PNS;
- d. BIR tax clearance for the immediately preceding year;
- e. Updated distribution networks and authorized distributors;
and
- f. Updated local government licenses and permits.

Section 3.2. Amendment of Certificate of Accreditation.

The Biofuel Producer shall send a Letter-request to DOE for the amendment of the Certificate of Accreditation, thirty (30) days prior to the intended amendment, if the any of the following is attendant:

- a. Increase or decrease of production capacity;
- b. Change in the process flow, technology or feedstock to be used for the biofuel production; and
- c. Change in the ownership of the biofuel production project.

Section 4. Reportorial Requirements and Other Submissions for Biofuel Producers.

An accredited Biofuel Producer shall be required to submit the following reports and documents to the DOE:

- a. Monthly accomplishment reports which shall include, among others, the following:
 1. Actual monthly biofuel production, sales and inventory report;
 2. Projected monthly biofuel production, sales and inventory report;
 3. Safety and accident reports, if applicable;

4. Reports on product analysis in compliance with the PNS;
 5. Feedstock production reports and technology enhancements, if any;
 6. Biofuel Supply Contract with oil company and other end users or Sworn Sales Report;
 7. Updated list of distributors; and
 8. Updated feedstock supplier.
- b. Annual local government licenses and permits; and
 - c. Any and all data, information and reports which may be required by the NBB, the DOE, or any other government regulating agencies. For this purpose, the DOE shall formulate a standard and harmonized reporting system for the purpose of consolidating and harmonizing all the reportorial requirements of the regulating agencies concerned.

Section 5. Registration of a Distributor with the DOE.

An Applicant shall register with the DOE for the distribution of the biofuels. The Certificate of Registration shall be issued by the DOE upon submission and compliance with the following:

- a. Registration with the SEC and/or the DTI;
- b. Business and Mayor's permit;
- c. Certification by an accredited Biofuel Producer as its duly authorized distributor for a particular biofuel product; and
- d. Proof of compliance with PNS.
- e. Registration certificates, certifications and other clearances as maybe required by other government entities.

The Certificate of Registration shall be renewed annually subject to compliance with the minimum requirements as provided for by this Guidelines, pertinent laws, rules and regulations and other DOE issuances.

Upon registration, the authorized Biofuel Distributor shall submit to the DOE, through the EUMB, monthly accomplishment reports that shall include among others, monthly biofuel sales and inventory of biofuels.

Section 6. Issuance of Receipts.

All transactions involving the production, distribution and sale of biofuels must be evidenced by an official receipt bearing the name and address of the Biofuel Producer, and Distributor and indicating the quantity and price of the

biofuel product sold, the date of the transactions and such other information required under existing laws and rules on national internal revenue. Duplicate copies of official receipts shall be made available for verification by DOE inspectors/personnel.

Section 7. Permit to Export Biofuels.

Prior to each exportation of the biofuels, the Biofuel Producer and/or Biofuel Distributor shall submit to the DOE a written application to export; *Provided*, that DOE shall only allow exportation in the event that there is excess of supply of biofuels for domestic consumption.

The following documents and information are required to be submitted by the Biofuel Producer:

- a. Product type and volume to be exported and cost of product shipment;
- b. Country of destination;
- c. Percentage of volume to be exported to plant's current production capacity; and
- d. Payment of appropriate application or processing fees per shipment; and
- e. Export Clearance from PCA, SRA, and other appropriate regulatory agency for coconut-based, sugarcane / sugar / molasses-based biofuels, and other biofuels, respectively.

CHAPTER IV OIL COMPANIES

Section 1. Responsibilities of Oil Companies

All Oil Companies shall undertake the blending of biodiesel and bioethanol with diesel and gasoline, respectively, using appropriate blending methodologies at their respective refineries, depots or blending facilities within the period required in Section 5 of the Act and Section 5 of the IRR, and shall ensure that the biofuel blends comply with the PNS set forth under the pertinent rules in addition to quality/property requirements provided under pertinent laws or guidelines applicable to petroleum and/or petroleum products.

An Oil Company shall source its biofuels only from Biofuel Producers accredited by the DOE or from Biofuel Distributors registered with the DOE.

Unless otherwise authorized by DOE to import in case of shortage of supply of locally-produced bioethanol as provided for under Section 5.2 of the Act, an oil company's failure to source its biofuels from accredited Biofuel Producers and/or registered Biofuel Distributors is a prohibited act under this Guidelines and shall be subjected to the sanctions provided herein.

In the event that an oil company's retail stations, carrying its name, company-operated, dealer-owned, and/or dealer owned, are found to be selling biofuel blends that do not conform with the PNS, the oil company shall be equally responsible with such retail stations for the violation of this Guidelines.

Section 2. Reportorial Requirements for Oil Companies

Every oil company shall submit to the DOE the following:

- a. Within the month of January every year, Performance Compliance Report of the prior year containing its compliance plan with the minimum biofuel blends, as well as other information that may be required by the DOE. Such report shall be duly certified and signed by an authorized responsible officer of the oil company.
- b. Periodic reports as may be required by the DOE, including the following:
 1. Local Purchases Report/Receiving Reports. On a per supplier basis, the names and addresses of the suppliers of biofuels;
 2. Sales Reports/Removal Reports. The names and addresses of customers/consignees, the volume of biofuels sold/transferred and volume thereof;
 3. Inventory Summary Reports. On a per company basis, the inventory stocks including in-transit volume of biofuels; and
 4. Imports. Names and address of foreign suppliers, dates, volume and price of actual importation of Bioethanol, as applicable (for verification against the Notices of Importation).

Section 3. Issuance of Receipts.

All transactions involving the sale of biofuel blends must be evidenced by an official receipt bearing the name and address of the Oil Company and indicating the quantity and price of the biofuel blends sold, the date of the transactions and such other information required under existing laws and rules on national internal revenue. Duplicate copies of official receipts shall be made available for verification by DOE inspectors/personnel.

Section 4. Importation of Bioethanol by Oil Companies.

In the event of supply shortage of locally-produced Bioethanol during the four –year period provided under Section 5.2 of the Act, an Oil Company may apply for the issuance of a certification to import bioethanol from the DOE-OIMB, provided that the NBB certifies the shortage of bioethanol supply in the country. For this purpose, DOE Department Circular No. DC2006-08-0011, is hereby adopted as an integral part of this Guidelines and hereby attached as Annex “E “.

Section 5. Local Purchases of Denatured Bioethanol by Oil Companies

Consistent with the reportorial requirements of DOE, an Oil Company shall report and file a Notice to the DOE-OIMB for every purchase of locally-produced denatured bioethanol for the proper monitoring of quality standards and the volume of bioethanol actually sold and distributed. Further, such purchases of denatured bioethanol shall be sourced from a DOE accredited Biofuel Producer.

CHAPTER V ONE-STOP SHOP

Section 1. Creation of One-Stop Shop.

A One-Stop Shop under the supervision of the NBB is hereby created. The One-Stop Shop shall:

- a. Accept, screen and undertake preliminary evaluation of the applications for feedstock production, biofuels and biofuel blends production and distribution;
- b. Assist in the processing of applications and forward the same to the concerned government agency(ies) in securing the necessary certificates, licenses and permits; *Provided*, that any application which involves issuances and certifications from DA, DAR, DENR, and NCIP shall be transmitted also to the DA-DAR-DENR Convergence Initiative Technical Secretariat for facilitation and monitoring. The DA, DAR and DENR are currently undertaking convergence efforts which primarily focus on development of idle lands for agricultural purposes;
- c. Coordinate and liaise with the concerned government agency on the status of the said applications; and
- d. Collect the applicable fees, including facilitation fee.

Section 2. Rules and Regulations Governing the Operations of the One-Stop Shop.

The NBB is hereby empowered to promulgate the necessary rules and regulations governing the operations of the One-Stop Shop.

Section 3. Staffing

The One-Stop Shop shall be manned by duly designated staff of the concerned government agencies for at least one year upon the effectivity of this Guidelines or until such time that the NBB Technical Secretariat has developed or gained the necessary expertise on the functions of the One-Stop Shop.

CHAPTER VI

SOCIAL AMELIORATION AND WELFARE PROGRAM

Section 1. Benefits of Biofuel Workers.

Pursuant to Section 17 of the Act, R.A. No. 6892 or the Sugar Amelioration Act of 1991 and its Implementing Rules and Regulations are hereby made as integral parts of this Guidelines and hereby attached as Annexes “F” and “G”.

Section 2. Social Amelioration and Welfare Program for Biofuel Workers.

Pursuant to Sections 11 (e) and 17 of the Act, and per authority granted by the NBB, the DOLE, shall be the implementing agency for the development and management of the Social Amelioration and Welfare Program of Biofuel Workers, and in consultation with concerned government agencies and other stakeholders, shall lead in the formulation of appropriate policies and guidelines governing the mechanisms, management and monitoring of the Social Amelioration and Welfare Program (SAWP) for biofuel workers.

Considering the peculiarities of the technological aspects, and institutional arrangements and systems in the biofuel feedstocks production, and biofuels production, distribution and sale, separate and specific SAWP guidelines shall be formulated and issued for the workers in each biofuel feedstock. All guidelines to be formulated and issued by DOLE relative to the implementation of the SAWP for biofuel workers are hereby made integral part(s) of this Guidelines.

CHAPTER VII

FUNCTIONS OF OTHER GOVERNMENT AGENCIES

In addition to the functions of the concerned government agencies as specified in the Act, its IRR, and other existing and pertinent laws, the DOST, DA and its attached agencies, DENR-PFC and the PNOC-AFC are hereby tasked to identify, develop and propagate the biofuel feedstocks to be used in the country.

In the case of *Jatropha* and other biofuel feedstocks, the primary regulatory agency shall be the DA or its designated unit under the Department.

For the development and production of non-land based biofuel feedstocks or feedstocks not derived from agricultural and agro-forestry products and residues, the DOST or its designated unit shall be the coordinating agency.

The Agribusiness Lands Investment Center, under the management of the Philippine Agricultural Development and Commercial Corporation (PADCC) of the DA, shall be a member of the DA Evaluation Team tasked with the identification and validation of biofuel feedstock production areas.

The NBB shall be the repository of data and information on the biofuels industry and the concerned government agencies are hereby tasked to forward such data and information to the NBB.

CHAPTER VIII

PROHIBITED ACTS AND SANCTIONS

Section 1. Prohibited Acts.

A fine of Two Hundred Thousand Pesos (P200,000.00) for each violation, shall be imposed by the DOE upon any person or entity that has been found to have committed any of the following acts:

- a. Diversion of biofuels, whether locally produced or imported, for purposes other than those stated in the Act, the IRR, this Guidelines, the Certificate of Accreditation, and any other legislation or administrative issuances that may be subsequently promulgated.

- b. Sale of biofuel and biofuel blends which fail to conform with the PNS. A person or entity that commits this prohibited act shall be guilty of the act of Adulteration. The possession of biofuel blend which does not conform to the PNS shall prima facie constitute Adulteration.
- c. Distribution, sale and/or 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 or the DOE;
- d. Refusal to sell biofuel and/or biofuel blends shortly before a price increase or in times of tight supply thereof, where the buyer or end-user has the ability to pay for the product; and/or undue accumulation of biofuel and/or biofuel blends in times of tight supply or shortly before a price increase. A person or entity who commits this prohibited act shall be guilty of Hoarding.

For the purpose of this Guidelines, “undue accumulation” means to keep or stock quantities of biofuel products beyond inventory levels as determined by the DOE, for a period of thirty (30) days immediately preceding the period of tight supply or price increase;

- e. Production, distribution and/or sale of biofuels without having been issued the requisite Certificate of Accreditation/Registration;
- f. Distribution, sale and/or delivery of gasoline, diesel, biofuels, and biofuel-blended gasoline and diesel with false or incorrect labels or information, or without the appropriate labels or information such as DOE CFAR, batch manufacturing date, expiry date, and such other label or information that the DOE shall subsequently require; and
- g. An Oil Company’s failure to source its biofuels from other than accredited Biofuel Producers or registered Biofuels Distributors.

The DOE shall likewise cause the cessation of the operation of such business found to have committed a prohibited act upon compliance with the administrative procedures provided under Section 36 of the Act’s IRR. The DOE may subsequently issue an order to authorize resumption of the operation of the business of the violator upon proper showing, with sufficient proof and to the satisfaction of the DOE, that necessary corrective measures have been applied and duly effected, and after full payment of the said fines. An additional fine of Ten Thousand Pesos (P10,000.00) per day shall be imposed in case such

person continues to operate after an Order or Notice of cessation of operation of business has been issued by the DOE.

Provided, that a fine of Three Hundred Thousand Pesos (P300,000.00) shall be imposed against a person or entity who is found to have committed the same prohibited act for the second time and shall be a ground for revocation of the Accreditation or Registration granted to such person.

Section 2. Other Prohibited Acts.

The following acts are likewise prohibited under this Guidelines:

- a. Exportation of biofuels and biofuel blends without the permit to export from the DOE shall be penalized with a fine of Fifty Thousand Pesos (P50,000.00);
- b. Failure to provide copies of official receipts when so required by the DOE inspectors/personnel shall be penalized with a fine of Fifty Thousand Pesos (P50,000.00);
- c. Failure to issue a Certificate of Quality accompanying the delivered biofuels and/or biofuel blends shall be penalized with a fine of Fifty Thousand Pesos (P50,000.00). All biofuels and biofuel blends deliveries must be accompanied by a Certificate of Quality to be issued by the Biofuel Producer, Distributor or Seller indicating the properties of the delivered biofuels and biofuel blends, and to the effect that the delivered products are in compliance with the PNS; and
- d. Refusal to allow inspection by the DOE or other concerned government agency shall be penalized with a fine of Fifty Thousand Pesos (P50,000.00). The DOE or other concerned government agency shall have the right to enter, within reasonable hours of the day, a plant or any distribution or retail station to conduct actual inspection and product sampling. Any person or entity that refuses to allow access or entry of authorized inspectors from the DOE after proper presentation of reasonable identification papers shall be subject to the sanctions herein provided and such refusal to allow access or entry shall furthermore constitute prima facie evidence of commission of the prohibited acts under Section 1 (a, b, c, d, and e) above, against the entity refusing such access.
- e. Violation of the criteria for utilization of land as provided under Chapter II, Section 4 of this Guidelines, after the Certificate of

Accreditation has been issued shall be penalized with a fine of Fifty Thousand Pesos (P50,000.00) and the be a cause of revocation of the Certificate of Accreditation.

Provided, that a fine of One Hundred Thousand Pesos (P100,000.00) shall be imposed against a person or entity that is found to have committed the same prohibited act for the second time. The DOE shall further order the immediate cessation of the operation of the business of such person found to have committed any of the abovementioned prohibited acts, upon compliance with the administrative procedures provided under Section 36 of the Act's IRR. The DOE may subsequently issue an order to authorize resumption of the operation of the business of the violator upon proper showing, with sufficient proof and to the satisfaction of the DOE, that necessary corrective measures have been applied and duly effected, and after full payment of the said fines. An additional fine of Ten Thousand Pesos (P10,000.00) per day shall be imposed in case such person continues to operate after an Order of cessation of operation of business has been issued by the DOE.

A fine of Two Hundred Thousand Pesos (P200,000) shall be imposed against a person who is found to have committed the same prohibited act for the third time and such violation shall be a ground for the revocation of the Accreditation or Registration granted to such person.

Section 3. Confiscation of Biofuel Products.

In addition to the sanctions provided above, the products that fail to comply with the requirements under Sections 4 and 5 of the Act, shall be confiscated as provided under Section 13 of the Act. The DOE shall determine the appropriate process and manner of disposal and utilization of the confiscated products.

Section 4. Non-compliance with Registration and Reportorial Requirements.

A penalty of Two Hundred Thousand Pesos (P200,000.00) plus Ten Thousand pesos (P10,000.00) a day shall be imposed upon any person who fails, without any justifiable reason, to submit documents required to be submitted under this Guidelines.

Section 5. Issuance of Notice and Warning.

The penalty provided in the preceding sections shall be imposed only after compliance with the administrative procedures under Section 36 of the Act's IRR.

Section 6. Criminal Liability.

The imposition of any administrative sanction is without prejudice to any criminal action that may be filed, if warranted, under Section 13 of the Act, IRR, existing laws, rules and regulations.

CHAPTER IX FINAL PROVISIONS

Section 1. Transition Period.

The validity of all accreditations and provisional registrations issued by DOE pursuant to Memorandum Circular No. 55 shall automatically expire six (6) months after the effectivity of this Guidelines. Biofuel Producers accredited or registered provisionally under the said memorandum circular shall be required to submit the following to the DOE, in addition to the requirements under Chapter III, Section 3 of this Guidelines, for the issuance of a new Certificate of Accreditation:

- a. Letter of Intent to supply a volume of biofuel or biofuel blends; and
- b. Certification from the DA on feedstock supply and land use as specified in Chapter II of this Guidelines.

Section 2. Interpretation of this Guidelines.

In the event that a conflict arises in the interpretation of this Guidelines, it shall be liberally construed by the concerned agencies in favor of the Biofuel Feedstock Producer, and Biofuel and Biofuel Blends Producer, Distributor and Seller.

Section 3. Amendments.

Amendment/s to any part of this Guidelines and to the pertinent parts of the Department orders, circulars, memoranda or other issuances which were made part as Annexes of this Guidelines shall be done through a consultation of the concerned agencies and stakeholders and concurrence of the majority of the signatories herein.

Section 4. Separability Clause.

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

Section 5. Suppletory Provisions.

The DOE, in consultation with the concerned agencies and the biofuel sector, is hereby authorized to promulgate rules, suppletory in character, for the proper implementation of this Guidelines.

Section 6. Repealing Clause.

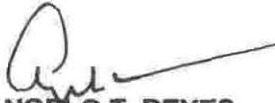
Department orders, circulars and other issuances of the concerned departments and other government agencies not consistent with this Guidelines are hereby deemed repealed or amended accordingly.

Section 7. Effectivity.

This Guidelines shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

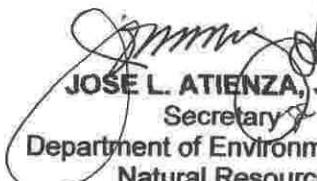
Issued in Taguig City, Metro Manila this 8th day of October, 2008.

Alcos


ANGELO T. REYES
Secretary
Department of Energy and
Concurrent Chairman
National Biofuels Board


NASSER C. PANGANDAMAN
Secretary
Department of Agrarian Reform


ARTHUR C. YAP
Secretary
Department of Agriculture


JOSE L. ATIENZA, JR.
Secretary
Department of Environment and
Natural Resources

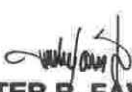

MARGARITO B. TEVES
Secretary
Department of Finance


MARIANO D. ROQUE
Secretary
Department of Labor and Employment




ESTRELLA F. ALABASTRO
Secretary
Department of Science and
Technology

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PETER B. FAVILA
Secretary
Department of Trade and Industry


Uel




LEANDRO R. MENDOZA
Secretary
Department of Transportation and
Communication



EUGENIO A. INSIGNE
Chairman
National Commission on Indigenous
Peoples



OSCAR G. GARIN
Administrator
Philippine Coconut Authority



RAFAEL L. COSCOLLUELA
Administrator
Sugar Regulatory Administration and
Vice-Chairman
National Biofuels Board