

[DE, May 31, 1996]

RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 8180, "AN ACT DEREGULATING THE DOWNSTREAM OIL INDUSTRY AND FOR OTHER PURPOSES"

Pursuant to Chapter IV, Section 19 of Republic Act No. 8180 (RA), *An Act Deregulating the Downstream Oil Industry*, the Department of Energy, in coordination with the Energy Regulatory Board, Department of Environment and Natural Resources, Department of Labor and Employment, Department of Health, Department of Finance, Department of Trade and Industry and the National Economic Development Authority, hereby issues, adopts and promulgates the following rules and regulations to govern the activities in the downstream oil industry.

Rule I

General Provisions

SECTION 1. Title - These rules shall be known and cited as the "Implementing Rules and Regulations (IRR) of the Downstream Oil Industry Deregulation Act of 1996."

SECTION 2. Coverage - These rules shall apply to all persons or entities engaged in any or all activities of the domestic downstream oil industry, which shall include the activity of the domestic downstream oil industry, which shall include the activity of blending, recycling, processing and/ or re-processing of petroleum and other crude oil products as well as persons or companies directly importing refined petroleum products for their own use or requirement.

SECTION 3. Definition of Terms - The terms used in this IRR shall have the following respective meanings:

- a. Act refers to Republic Act 8180.
- b. *Automatic Oil Price Mechanism* refers to the process adopted by the Energy Regulatory Board first after full public hearings and subsequently without need of such hearings to automatically adjust the wholesale posted price of petroleum products based on Singapore Posting and other factors and costs resulting in the formula to be adopted by the Board.
- c. *Basel Convention* refers to the international accord which governs the trade or movement of hazardous and toxic waste across borders.
- d. *Board* refers to the Energy Regulatory Board.
- e. *BPS* refers to the Bureau of Product Standards.

f. *Bureau* refers to the Energy Industry Administration Bureau of the Department of Energy.

g. *Crude Oil* refers to the oil in its natural state before the same has been refined or otherwise treated, but excluding water, bottom sediments and foreign substances.

h. *Dealer* refers to any person that is engaged or intends to engage in the retail of petroleum products.

i. *DENR* refers to the Department of Environment and Natural Resources.

j. *DOE* refers to the Department of Energy.

k. *Downstream Oil Industry* refers to the business of importing, exporting, re-exporting, shipping, transporting, processing, refining, storing, distributing, marketing, and/ or selling crude oil, gasoline, diesel, liquefied petroleum gas (LPG), kerosene, and other petroleum and crude oil products.

I. *EMB* refers to the Environmental Management Bureau of the DENR.

m. Unless the context otherwise indicates, *Importer*, refers to any person engaged in the importation of petroleum products, whether for marketing or own use.

n. *IRR* refers to these rules and regulations implementing RA8180.

o. *Liquefied Petroleum Gas (LPG)* means commercial propane gas or commercial butane gas or a mixture of the two gases, with properties conforming to the specifications set by the BPS.

p. *LPG cylinder* refers to any portable pressure-vessel or container for LPG, conforming to the specifications set by the BPS.

q. *Marketer* refers to any person engaged in the sale of petroleum products, whether in bulk or retail.

r. *Minimum Inventory* refers to the lowest level of inventory of crude oil and petroleum products that shall be maintained by refiners and importers at any given time, as prescribed under this IRR.

s. *OPSF* refers to the Oil Price Stabilization Fund established under Presidential Decree No. 1956, as amended.

t. *Person* refers to any person, whether natural or juridical, that is engaged or intends to engage in the downstream oil industry.

u. *Petroleum* refers to a naturally occurring mixture of compounds of hydrogen and carbon with a small proportion of impurities and shall include any mineral oil, petroleum gas, hydrogen gas, bitumen, asphalt, mineral wax, and all other similar or naturally associated substances; with the exception of coal, peat, bituminous shale, and/or stratified mineral fuel deposits.

v. *Petroleum Products* refers to products formed in the course of refining crude petroleum through distillation, cracking, solvent refining and chemical treatment coming out as primary stocks from the refinery such as but not limited to, liquefied petroleum gas (LPG) , naphtha, gasolines, solvent, kerosenes, aviation fuels, diesel oils, fuel oils, waxes and petrolatums, asphalts, bitumens, coke and refinery sludges, or such refinery petroleum fractions which have not undergone any process or treatment as to produce separate chemically defined compounds in a pure or commercially pure state; and to which various substances may have been added to render them suitable for particular uses: Provided, that the resultant product contains not less than 50% by weight of such petroleum products.

w. *Qualified serviceman* refers to an individual who has been trained, qualified and certified by the Philippine Liquefied Petroleum Gas Association (PLPGA) or to an individual who has successfully completed an approved training course for LPG servicemen in a training school duly recognized and accredited by the Philippine government.

y. *Refilling Plant* refers to installation that have LPG bulk storage and filling/refilling facilities for bottling LPG.

z. *Refiller* refers to an LPG marketer who buys LPG in bulk from bulk suppliers, refills LPG into cylinders under his own brand name or that of other LPG marketers, and sells the same, whether in bulk or retail to his customers.

aa. *Refiner* refers to any person which locally refines through distillation, conversion and treatment of crude oil and other naturally occurring petroleum hydrocarbons.

bb. *Singapore Import Partttty (SIP)* refers to the deemed landed cost of a petroleum product imported from Singapore at a free-on-board price equal to the average Singapore Posting for that product at the time of loading.

cc. *Singapore Posting* shall refer to the price of petroleum products periodically posted by oil refineries in Singapore and reported by independent international publications.

dd. *Wholesale Posted Price (WPP)* shall refer to the ceiling price of petroleum products set by the Board based on a formula using the Singapore Posting.

SECTION 4. Phases of Deregulation - Pursuant to Section 11 of RA 8180, the deregulation shall be done in two phases: Phase I (Transition Phase) and Phase II (Full Deregulation Phase).

Rule II

Liberalization of Downstream Oil Industry and Tariff Treatment

SECTION 5. Liberalization of Downstream Oil Industry - Any person or entity may import or purchase any quantity of crude oil and petroleum products from foreign or domestic source, lease or own and operate refineries and other downstream oil facilities and market such crude and petroleum products either in generic name or its own trade name, or use the same for his own requirement.

SECTION 6. Notice Prior to Engagement in any Activity or Business in the Downstream Oil Industry - Any person who intends to engage in the business of importing, exporting, refining, processing, manufacturing, shipping, transporting, transshipping, and marketing of crude oil, gasoline, diesel, liquefied petroleum gas (LPG), kerosene, and other petroleum and crude oil products, and in any similar activities, shall file a notice with the Bureau *prior* to initial engagement in the proposed activity or business. The notice shall be accompanied by the project or business plan and list of facilities to support the activity and business permits such as Mayor's permit, building permit if applicable, locational/zoning Clearance and other local government permits/clearances.

Persons or entities already legally engaged in any activity in the downstream oil industry upon the effectivity of this IRR are deemed to have complied with this notice requirement. All notice requirements prescribed herein shall be made by the owner/operator.

Procedure - All notices shall be made in writing, addressed to the Bureau, containing such information as business name and address, the scope of operation/activity and proof of the availability of facilities to support the proposed business. Such person or entity shall be subject to the reportorial requirements provided in Section 8 of this IRR.

SECTION 7. Notice Prior to Every Importation - For effective monitoring, and to ensure conformance to the Basel Convention, any person who shall import crude oil and/or petroleum products from foreign countries, freeports and economic zones, whether for trade or for his own use or requirement shall file a notice with the Bureau *prior* to actual loading of every importation, indicating therein the type and quantity of cargo to be imported, the estimated date of loading and arrival and the port of discharge.

In the case of importations of slop/used/waste oils, sludges and similar petroleum products/by-products, such notice shall be accompanied by a clearance from the EMB-DENR pursuant to RA 6969, otherwise known as "*Toxic Substances, Hazardous and Nuclear Wastes Control Act of 1990*," in accordance with the Basel Convention.

SECTION 8. Reportorial Requirements - Any person who is engaged or intends to engage in any activity or business in the downstream oil industry shall submit the following reportorial requirements to the Bureau:

a. *Prior to Operation in Proposed Business or Activity* - Any person intending to engage in any business/activity in the downstream oil industry shall submit authenticated copies of the following documents and permits to the Bureau:

1. Fire Safety Inspection Certificate of the facilities;
2. Permits on the suitability of facilities for the proposed operation (Certificate of conformance of facilities to national or accepted international standards on health, safety and environment);
3. Product Liability Insurance Certificate or Product Certificate of Quality;

4. Environment Compliance Certificate issued by EMB, whenever applicable.

b. *Importations* - To ensure proper representation of the importation and to ascertain the quality of imported crude oil, petroleum products and petroleum-based products, the importer shall submit to the Bureau the following documents:

1. ***Not later than one (1) working day prior to loading of every importation*** : crude/ product shipment details, guaranteed specifications, cost and vessel particulars.

2. ***Not later than ten (10) working days after unloading of every importation*** : Import Entry Declaration/Manifest and Release Certificate issued by the Bureau of Customs (BOC) and Certificate of Quality issued by the supplier for the actual shipment.

c. *Exportations* - Any person or entity who shall engage in exportation of crude oil and petroleum products shall submit the following to the Bureau, ***not later than five (5) working days after the exportation***: name and address of exporter and consignee; crude/ product shipment details, guaranteed specifications, cost and vessel particulars. A copy of the Export Manifest and Release Certificate shall likewise be submitted.

d. *Bunkering From Freeports and Special Economic Zones* - Any person or entity who shall engage in bunkering of international vessels in Philippine waters, bunkering of aircraft for domestic service and liftings from Custom Bonded Warehouses located outside the source freeports/ special economic zones, but which shall be eventually used for international bunkering shall report the following to the Bureau, ***not later than five (5) working days after bunkering*** : the details of such bunkering activity and copy of bunkering permit from Bureau of Customs (BOC) for specific vessels.

e. *Chartering of Foreign Vessel* - Any person who shall use, charter or utilize a foreign-owned petroleum product tanker/ vessel from an international source for domestic use in the Philippines as approved by the Maritime Industry Authority (MARINA), shall report the following to the Bureau ***not later than five (5) working days after the actual date of commissioning/utilization of the tanker/vessel*** : name and capacity of vessel, number of compartments, cargo segregation, draft and year built.

f. *Inventory* - AH refiners and importers, except those importing for their own use or requirement, shall submit to the Bureau monthly reports of their actual and projected importations, local purchases, actual and projected sales (local, international and exports) and/or consumption on a per crude and/or product basis, in the format to be prescribed for this purpose. Submissions are due on the fifteenth (15th) day of the following month.

SECTION 9. Tariff - Pursuant to Section 5(b) of RA 8180, tariff duty shall be imposed and collected on imported crude oil at the rate of three percent (3%) and imported refined petroleum products at the rate of seven percent (7%), except fuel oil and LPG, the rate for which shall be at the same as that for imported crude oil: *Provided*, That beginning on January 1, 2004 the tariff rate on imported crude oil