

**[DOE DEPARTMENT CIRCULAR NO. 95-06-005,
June 06, 1995]**

**GUIDELINES TO IMPLEMENT ERB RESOLUTION NO. 93-22 DATED
14 OCTOBER 1993 AND DOF CIRCULAR NO. 3-94 DATED 27
SEPTEMBER 1994**

WHEREAS, the Energy Regulatory Board (ERB) in Resolution No. 93-22 dated 14 October 1993 allowed crude oil/petroleum products importers other than the three major domestic oil companies to contribute to and withdraw from the Oil Price Stabilization Fund (OPSF) for the purpose, among others, of augmenting the resources of the OPSF;

WHEREAS, the Department of Finance in Circular No. 3-94 dated 27 September 1994 issued the rules and regulations prescribing the coverage and procedure to effectively enforce said ERB Resolution;

WHEREAS, the Supreme Court *en banc* decided in *Caltex Philippines, Inc. v. Commission on Audit (COA)*, 208 SCRA 726 (1992), that offsetting of contributions to and claims from the OPSF was bereft of legal basis;

WHEREAS, the Chairman of the COA in his 1st Indorsement to the Department of Energy (Department) dated 18 April 1995 clarified the issues affecting the expanded coverage of the OPSF;

NOW, THEREFORE, the Department, as administrator of the OPSF, hereby promulgates the following guidelines:

1. No offsetting of contributions to and claim from the OPSF shall be allowed.
2. The outstanding allowable claims of traders and marketers against the OPSF shall be subject to fifteen percent (15%) retention pending substantive audit of their transactions by the DOE and COA.
3. The limit of allowable claims against the contributions of traders and marketers shall be computed on a per shipment or transaction basis.

This Circular shall take effect immediately a day after its complete publication in a newspaper of general circulation.

Adopted: 06 June 1995

(SGD.) FRANCISCO L. VIRAY
Secretary
