

**REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS**

May 9, 2006

REVENUE REGULATIONS NO. 8 – 2006

SUBJECT : Prescribing the Implementing Guidelines on the Taxation and Monitoring of the Raw Materials Used and the Bioethanol-Blended Gasoline (E-Gasoline) Produced under the Fuel Bioethanol Program of the Department of Energy (DOE)

TO : All Internal Revenue Officials and Others Concerned

SECTION 1. SCOPE. – Pursuant to the provisions of Section 244 in relation to Section 245 of the National Internal Revenue Code of 1997 (Tax Code), as amended, these Regulations are hereby promulgated, for excise tax purposes, to prescribe the implementing guidelines on the taxation and monitoring of E-gasoline and the imported or locally manufactured fuel bioethanol used as raw material or blending component in the production thereof, pursuant to the Fuel Bioethanol Program of the DOE.

SEC. 2. DEFINITION OF TERMS. – For purposes of these Regulations, the following terms and phrases shall have the following meaning:

- (a) BIOETHANOL** – shall refer to ethanol (C_2H_5OH) produced from biomass resources;
- (b) FUEL BIOETHANOL** – shall refer to the suitably denatured bioethanol, for use as blending component to unleaded gasoline to produce E-gasoline;
- (c) E-GASOLINE** – shall refer to an unleaded gasoline blended with fuel bioethanol;
- (d) OIL INDUSTRY-PARTICIPANT** - shall refer to an Oil Company duly authorized and accredited by the DOE pursuant to its Fuel Bioethanol Program;
- (e) CERTIFICATE OF PRODUCT QUALITY/ANALYSIS** – shall refer to the certification issued by the supplier, either local or foreign, or by an independent or third- party surveyor on the quality of the goods transported and consigned in favor of the Oil Industry-Participant for use in the Fuel Bioethanol Program; and

(f) DEHYDRATION – shall refer to the process of removing water to produce anhydrous or dehydrated bioethanol containing more than ninety-nine percent (99%) by volume of ethanol (C_2H_5OH).

SEC. 3. PERSONS QUALIFIED TO PRODUCE E-GASOLINE. – Any person, whether natural or juridical, who intends to engage in the business of blending unleaded gasoline with fuel bioethanol, must be a holder of an accreditation certificate as “Oil Industry-Participant” in the Fuel Bioethanol Program duly issued by the DOE. The said Oil Industry-Participant must, likewise, be a valid holder of a Permit to Operate duly issued by the appropriate office in the Bureau of Internal Revenue (BIR) where such person is required to be registered as an excise taxpayer, in accordance with the administrative provisions prescribed under these Regulations. Accordingly, only Oil Industry-Participants, duly accredited by the DOE under its Fuel Bioethanol Program and registered for excise tax purposes with the BIR, are authorized to import and/or purchase locally manufactured fuel bioethanol specifically intended for the manufacture of E-gasoline, subject to the provisions of these Regulations.

SEC. 4. MINIMUM PHYSICAL PROPERTIES OF BIOETHANOL AND IMPOSITION OF THE APPLICABLE EXCISE TAX RATE. – For purposes of the Fuel Bioethanol Program, only pure anhydrous bioethanol containing an alcoholic strength of more than ninety-nine percent (99%) bioethanol shall be used, as a blending component, in the production of E-gasoline, subject to the provisions of the immediately succeeding paragraph hereof.

For purposes of the imposition of the excise tax rate of P0.05 per liter under Section 148 (d) of the Tax Code, as amended, the bioethanol product shall have been denatured before the release thereof from the customs custody, in case of importation; or, before removal thereof from the place of production, in case of locally manufactured bioethanol, subject to the succeeding provisions of these Regulations.

In case the bioethanol/fuel bioethanol fails to satisfy the foregoing requirements, the same shall be subject to the applicable excise tax rates prescribed under Section 141 of the Tax Code.

SEC. 5. USE OF TAX-PAID UNLEADED GASOLINE. – For purposes of the said Program, only tax-paid unleaded gasoline, whether imported or locally manufactured, shall be used in the production of the E-gasoline, or when the same is used as a denaturant to produce fuel bioethanol.

SEC. 6. IMPORTATION OF BIOETHANOL. – In case of importation of bioethanol, the following rules and procedures shall be strictly observed:

- (a) Prior to each and every importation of bioethanol, an application for a Permit to Import shall be filed with the BIR Office where the applicant/Oil Industry-Participant is registered as an excise taxpayer. The application shall be accompanied by a certified true copy of Acknowledgement of Notice of

Bioethanol Importation issued by the DOE covering the entire shipment and such other documents that may be prescribed by the BIR;

- (b) Upon arrival of the shipment in the port of entry, the same shall be unloaded from the foreign vessel and transported directly to and stored in customs bonded storage tank designated for the purpose;
- (c) Samples of unleaded gasoline to be used as denaturant as well as the imported bioethanol shall be taken from the respective storage tanks. A laboratory test thereof shall be conducted in the presence of the authorized representatives of the Oil Industry-Participant, DOE, BIR and Bureau of Customs (BOC) in order to determine whether or not the same conform to the prescribed standard specifications; otherwise, the conduct of the denaturing of the imported bioethanol shall not be allowed.

In the absence of the laboratory facilities within the blending premises of the Oil Industry-Participant, a sufficient volume of samples duly sealed and identified by all concerned parties shall be sent to any government or independent testing facility for laboratory analysis before the conduct of the prescribed denaturing. The cost of the said laboratory test shall be shouldered by the Oil Industry-Participant.

In case the sample of bioethanol conforms to the prescribed standard specifications, the denaturing of the imported bioethanol may be allowed to proceed. Otherwise, the denaturing of the imported bioethanol shall not be allowed and the applicable excise tax rates imposed under Section 141 of the Tax Code, shall be assessed and collected from the Oil-Participant before removal thereof from the customs bonded storage tank;

- (d) The denaturing of the said bioethanol shall be conducted in the presence of the authorized representatives of the Oil Industry-Participant, DOE, BIR and BOC, within forty eight (48) hours immediately after completion of the unloading of the bioethanol from the foreign vessel and transfer thereof to the customs bonded storage tank: *Provided*, That a written prior notice therefor shall be transmitted by the Oil Industry-Participant to the said government offices at least three (3) working days before the actual date of the conduct of denaturing; *Provided, further*, That the bioethanol shall be denatured using only unleaded gasoline, as denaturant, in accordance with the formula prescribed under these Regulations.

A joint denaturing report duly signed by all the authorized representatives of the Oil Industry-Participant and concerned government agencies shall be issued immediately after the conduct of the denaturing of the imported bioethanol;

- (e) Before the release of the fuel bioethanol from the said customs bonded storage tank, an application for Authority to Release Imported Goods (ATRIG) shall

be filed with the appropriate BIR Office, together with copies of commercial invoice, packing list, bill of lading, material safety data sheet, certificate of product quality/analysis from the foreign supplier, certificate of material source of bioethanol (i.e. sugarcane, petrochemicals, etc.), third-party surveyor's report issued at the foreign port of loading, and such other documents that may be prescribed by the BIR.

No subsequent importation of bioethanol, the denaturing thereof and the release of the fuel bioethanol from the customs bonded storage tank for the exclusive use in the production of E-gasoline shall be allowed unless the liquidation reports required by these Regulations are fully complied with;

- (f) The fuel bioethanol shall, at all times, contain the markings/marker dye as herein prescribed; and
- (g) In case the customs bonded storage tank is located within the blending premises of the Oil Industry-Participant, an Official Delivery Invoice (ODI) or any other prescribed BIR form shall be issued by the assigned representative(s) of the BIR to cover the tax-paid removal of fuel bioethanol. However, with respect to those located outside the blending premises of the Oil Industry-Participant, the monitoring of each removal of the fuel bioethanol therefrom shall be covered by a separate guideline to be issued in coordination with the BOC.

The volume of fuel bioethanol removed from the customs bonded storage tank shall be directly transported and unloaded only to the designated BIR-approved storage tank of the blending facilities of the Oil Industry-Participant.

SEC. 7. FORMULAS FOR FUEL BIOETHANOL. - The following are the prescribed formulas for fuel bioethanol:

- (1) To every 100 liters of bioethanol: add 1.96% to 2.44% unleaded gasoline; and
- (2) For other formulas, the same shall be subject to the favorable indorsement of the DOE and subsequent approval by the BIR.

However, until the domestic production and sale of bioethanol for exclusive use in the Program shall have been available as may be determined by the DOE, the importation of fuel bioethanol using the formula:

To every 100 liters of bioethanol: add 0.4 grams of denatonium benzoate (Bitrex), or four (4) parts per million (ppm)

may be allowed, provided that the same shall still be subject to further denaturing using unleaded gasoline as denaturant, in accordance with Formula No. 1.

SEC. 8. IMPORTATION OF BIOETHANOL CONTAINING BITREX. – In case of importation of bioethanol containing Bitrex , the following rules and procedures shall be strictly observed:

- (a) Prior to each and every importation of bioethanol containing Bitrex, an application for Permit to Import shall be filed with BIR Office where the applicant/Oil Industry-Participant is registered as an excise taxpayer. The application shall be accompanied by a duly certified true copy of Acknowledgement of Notice of Bioethanol Importation issued by the DOE covering the entire shipment and such other documents that may be prescribed by the BIR. In addition to the said document, a separate importer's bond in an amount equivalent to the applicable excise tax rate under Section 141(a) of the Tax Code, applied on the average transactional volume of the bioethanol containing Bitrex imported during the year, conditioned upon faithful compliance with existing laws, rules and regulations relating to the importations thereof and for the satisfaction of all fines and penalties imposed under the Tax Code during the time such business is being conducted.

No subsequent importation of bioethanol containing Bitrex, the denaturing thereof and the release of the fuel bio ethanol for the exclusive use in the production of E-gasoline shall be allowed unless the liquidation reports required by these Regulations are fully complied with;

- (b) Before the release of the imported bioethanol containing Bitrex from the customs custody, an application for ATRIG shall be filed with the appropriate BIR Office, together with copies of commercial invoice, packing list, bill of lading, material safety data sheet, certificate of product quality/analysis from the foreign supplier, certificate of material source of bioethanol (i.e. sugarcane, petrochemicals, etc.), third-party surveyor's report issued at the foreign port of loading, and such other documents that may be prescribed by the BIR;
- (c) The total volume of shipment of imported bioethanol containing Bitrex for the denaturing thereof and exclusive use in the production of E-gasoline shall be directly transported from the carrying vessel and unloaded into the BIR-approved storage tanks of the Oil Industry-Participant upon release thereof from customs custody;
- (d) In the event that the imported bioethanol containing Bitrex fails to meet the standard specifications under the Fuel Bioethanol Program, the same shall not be released from the customs custody unless the applicable excise tax rates imposed under Section 141 of the Tax Code, as amended, have been duly paid to the BOC. However, if the same has been released from BOC without payment of the said applicable excise tax rates, the importer or possessor thereof, whether or not duly accredited by the DOE as an Oil Industry-Participant, shall be held liable thereon without the benefit of deduction of the excise tax rate of P0.05 per liter that may have been paid to the BOC,

inclusive of penalties. The said deficiency excise tax shall be paid by the said person to the BIR immediately upon discovery thereof even without any demand from the BIR. Any subsequent importation or local purchase of fuel bioethanol by the Oil Industry-Participant under the excise tax rate of P0.05 per liter shall not be allowed unless the said deficiency excise tax has been duly paid;

(e) Denaturing of imported bioethanol containing Bitrex

- (1) Prior to the conduct of the denaturing, samples of unleaded gasoline to be used as denaturant as well as the bioethanol containing Bitrex shall be taken from the respective storage tanks. A laboratory test thereof shall be conducted in the presence of the authorized representatives of the Oil Industry-Participant, DOE and BIR in order to determine whether or not the same conforms to the prescribed standard specifications; otherwise, the conduct of the denaturing of the imported bioethanol containing Bitrex shall not be allowed.

In the absence of the laboratory facilities within the blending premises of the Oil Industry-Participant, a sufficient volume of samples duly sealed and identified by all concerned parties shall be sent to any government or independent testing facility for laboratory analysis before the conduct of the prescribed denaturing. The cost of the said laboratory test shall be shouldered by the Oil Industry-Participant.

In case the samples thereof conform to the prescribed standard specifications, the denaturing of the imported bioethanol containing Bitrex may be allowed to proceed. Otherwise, the applicable excise tax rates imposed under Section 141 of the Tax Code, as amended, shall be assessed and collected on the bioethanol containing Bitrex from the Oil-Participant without the benefit of deduction of the excise tax rate of P0.05 per liter previously paid to the BOC. The said deficiency excise tax shall be paid by the Oil Industry-Participant to the BIR immediately upon discovery thereof even without any demand from the BIR;

- (2) Within forty eight (48) hours immediately after completion of unloading of the said imported bioethanol containing Bitrex from the carrying vessel to the BIR-approved storage tank of the Oil Industry-Participant, the subsequent denaturing thereof shall be conducted in the presence of the authorized representatives of the Oil Industry-Participant, DOE and BIR, *Provided*, That a written prior notice therefor shall be transmitted by the Oil Industry-Participant to the said government offices at least three (3) days before the actual date of the conduct of denaturing; *Provided, further*, That the imported bioethanol containing Bitrex shall be denatured using only unleaded gasoline, as denaturant, in accordance with the formula for fuel bioethanol prescribed under these Regulations;

- (f) The fuel bioethanol shall, at all times, contain the markings/marker dye as herein prescribed; and
- (g) For each and every removal of the fuel bioethanol from the BIR-approved storage tank, an ODI or any other prescribed BIR form shall be issued by the duly authorized representatives of the BIR assigned therat.

SEC. 9. IMPORTATION OF FUEL BIOETHANOL. – In case of importation of fuel bioethanol, the following rules and procedures shall be strictly observed:

- (a) Prior to each and every importation of fuel bioethanol, an application for Permit to Import shall be filed with BIR Office where the applicant/Oil Industry-Participant is registered as an excise taxpayer together with applicable supporting documents.

No subsequent importation of fuel bioethanol for the exclusive use in the production of E-gasoline shall be allowed unless the liquidation reports required by these Regulations are fully complied with;

- (b) Before the release of the imported fuel bioethanol from the customs custody, an application for ATRIG shall be filed with the appropriate BIR Office, together with copies of commercial invoice, packing list, bill of lading, material safety data sheet, certificate of product quality/analysis from the foreign supplier, certificate of material source of bioethanol (i.e. sugarcane, petrochemicals, etc.), third-party surveyor's report issued at the foreign port of loading, and such other documents that may be prescribed by the BIR;
- (c) The imported fuel bioethanol shall, at all times, contain the markings/marker dye as herein prescribed;
- (d) The total volume of shipment of imported fuel bioethanol for exclusive use in the production of E-gasoline shall be directly transported from the carrying vessel and unloaded into the BIR-approved storage tanks of the Oil Industry-Participant upon release thereof from customs custody;
- (e) In the event that the imported fuel bioethanol fails to meet the standard specifications under the Fuel Bioethanol Program, the same shall not be released from the customs custody unless the applicable excise tax rates imposed under Section 141 of the Tax Code, as amended, shall have been duly paid to the BOC. However, if the same has been released from BOC without payment of the said applicable excise tax rates, the importer or possessor thereof, whether or not duly accredited by the DOE as an Oil Industry-Participant, shall be held liable thereon without the benefit of deduction of the excise tax rate of P0.05 per liter that may have been paid to the BOC, inclusive of penalties. The said deficiency excise tax shall be paid by the said person to the BIR immediately upon discovery thereof even without any demand from the BIR. Any subsequent importation or local

purchase of fuel bioethanol by the Oil Industry-Participant under the excise tax rate of P0.05 per liter shall not be allowed unless the said deficiency excise tax has been duly paid. The subsequent importation or local purchase, if ever, shall, of course, be subject to the same laboratory test to verify whether or not the said fuel bioethanol, imported or locally purchased, meets the standard specification under the Fuel Bioethanol Program;

- (f) Prior to the blending of the imported fuel bioethanol with unleaded gasoline in order to produce E-gasoline, a sample thereof shall be taken from the BIR-approved storage tank. A laboratory test thereof shall be conducted within the blending premises of the Oil Industry-Participant in the presence of its authorized representatives, DOE and the BIR in order to determine whether or not the same conforms to the prescribed standard specifications: *Provided*, That a written prior notice therefor shall be transmitted by the Oil Industry-Participant to the said government offices at least three (3) days before the conduct of the laboratory test. In case the sample does not conform with the standard specifications, the blending of the imported fuel bioethanol with unleaded gasoline in order to produce E-gasoline shall not be allowed and the applicable excise tax rates imposed under Section 141 of the Tax Code, as amended, shall be assessed and collected from the Oil-Participant without the benefit of deduction of the excise tax rate of P0.05 per liter previously paid to the BOC. The said deficiency excise tax shall be paid by the Oil Industry-Participant to the BIR immediately upon discovery thereof even without any demand from the BIR.

In the absence of the laboratory facilities within the blending premises of the Oil Industry-Participant, a sufficient volume of the sample of the fuel bioethanol duly sealed and identified by all concerned parties shall be sent to any government or independent testing facility for laboratory analysis before the blending thereof with unleaded gasoline in order to produce E-gasoline may proceed. The cost of the said laboratory test shall be shouldered by the Oil Industry-Participant. In case the sample thereof does not conform to the prescribed standard specifications, the applicable excise tax rates imposed under Section 141 of the Tax Code, as amended, shall be assessed and collected from the Oil-Participant without the benefit of deduction of the excise tax rate of P0.05 per liter previously paid to the BOC. The said deficiency excise tax shall be paid by the Oil Industry-Participant to the BIR immediately upon discovery thereof even without any demand from the BIR; and

- (g) For each and every removal of the fuel bioethanol from the BIR-approved storage tank, an ODI or any other prescribed BIR form shall be issued by the duly authorized representatives of the BIR assigned therat.

SEC. 10. IMPORTATION OF BIOETHANOL/FUEL BIOETHANOL THROUGH ECONOMIC AND FREEPORT ZONES. – The importation of bioethanol/fuel bioethanol through the economic and freeport zones shall be covered by a

separate implementing regulations to be issued in consultation with the appropriate administrative offices of the said zones.

SEC. 11. SALE OF DOMESTIC FUEL BIOETHANOL. - The provisions of existing rules, procedures and regulations pertaining to denaturing of locally manufactured bioethanol, removal of fuel bioethanol, including the recording and reporting requirements, shall still govern and shall be strictly observed by the local distilleries with respect to the sale of fuel bioethanol intended for the production of E-gasoline. In addition, the local manufacturers of bioethanol and the participants in the Fuel Bioethanol Program duly accredited by the DOE shall also be subject to the following requirements:

- (a) Local distilleries who intend to supply fuel bioethanol to Oil Industry-Participants under the said Program shall be a valid holder of an Accreditation Certificate duly issued by the DOE;
- (b) The sale of domestic fuel bioethanol for purposes of the Program shall not be allowed except to DOE-accredited Oil Industry-Participants subject to the provisions of Sections 12 and 13 of these Regulations;
- (c) All locally manufactured bioethanol shall be denatured within the distillery premises using only unleaded gasoline as denaturant in accordance with the formula prescribed by these Regulations, subject to the provisions of Section 12 hereof;
- (d) The excise tax rate of P0.05 per liter of the fuel bioethanol shall be paid by the distiller-denaturer to the BIR before removal of the fuel bioethanol from the place of production of the distiller-denaturer. In the event that the bioethanol has been denatured, sold and delivered to a buyer who is not duly accredited by the DOE under the Program, the distiller-denaturer shall be liable to pay the corresponding excise tax rate under Section 141 (a) of the Tax Code, as amended, on the total volume sold, inclusive of all applicable penalties, without the benefit of deduction of the P0.05 per liter previously paid;
- (e) The fuel bioethanol shall be directly transported from the local distillery and unloaded into the BIR-approved storage tank of the Oil Industry-Participant that is dedicated for the storage of fuel bioethanol intended to be used exclusively for the Fuel Bioethanol Program;
- (f) No subsequent denaturing shall be allowed unless the liquidation reports on the previously delivered fuel bioethanol as required by these Regulations are fully complied with; and
- (g) A separate surety bond shall be posted by the local distiller in an amount equivalent to the applicable excise tax rate under Section 141 (a) of the Tax Code, as amended, applied on the average transactional volume of fuel bioethanol locally sold during the year.

SEC. 12. SALE OF DOMESTIC BIOETHANOL FOR PURPOSES OF DEHYDRATION. – In case of sale of domestic bioethanol by a local distiller to an Oil Industry-Participant that shall be subjected to dehydration before the same shall be denatured and blended with unleaded gasoline, the following rules and procedures shall be strictly observed:

- (a) The owner or operator of the dehydration plant shall be a valid holder of a Permit to Operate issued by the appropriate BIR Office where the owner or operator is required to be registered as an excise taxpayer;
- (b) A separate permit shall be secured respectively by the local distiller and the Oil Industry-Participant for the conditional removal from the distillery premises of bioethanol without the prepayment of the excise. For this purpose, the local distiller and Oil Industry-Participant shall submit a joint bond in the amount equivalent to the applicable excise tax rate under Section 141 (a) of the Tax Code, as amended, applied on the average transactional volume of bioethanol removed from the local distillery premises and delivered to the dehydration plant during the year of operation;
- (c) Each and every shipment of bioethanol shall be directly transported from the local distillery premises and unloaded on the BIR-approved storage tank of the dehydration plant;
- (d) All in-transit losses incurred including that sustained from storage, handling and dehydration of bioethanol shall be assessed and paid by the Oil Industry-Participant, applying the excise tax rate imposed under Section 141 (a) of the Tax Code, as amended.

For in-transit losses, the corresponding excise tax due thereon shall be paid immediately upon receipt of the shipment on the premises of the dehydration plant and/or the blending plant of the Oil Industry-Participant. On the other hand, the excise tax due on losses incurred during storage, handling and dehydration process shall be paid on or before the eighth (8th) day of the immediately succeeding month;

- (e) Immediately after dehydration, the resulting anhydrous bioethanol shall be transferred to the BIR-approved storage tank at the dehydration plant and the denaturing thereof shall be conducted using unleaded gasoline in accordance with the formula prescribed by these Regulations.

The said denaturing shall be conducted in the presence of the authorized representatives of the Oil Industry-Participant, DOE and BIR: *Provided*, That a written prior notice therefor shall be transmitted by the Oil Industry-Participant to the said government offices at least three (3) working days before the actual date of the conduct of denaturing;

- (f) The corresponding excise tax of P0.05 per liter shall be paid by the Oil Industry-Participant to the appropriate BIR Office immediately after completion of the denaturing of the bioethanol;
- (g) An ODI shall cover each removal of bioethanol from the local distillery premises as well as that of the fuel bioethanol from the dehydration plant; and
- (h) Each and every shipment of fuel bioethanol shall be directly transported from the dehydration plant premises and unloaded into the BIR-approved storage tank of the Oil Industry-Participant.

SEC. 13. SALE OR TRANSFER OF FUEL BIOETHANOL BY AN OIL INDUSTRY-PARTICIPANT. – The Oil Industry-Participant may, for meritorious reasons, be allowed to sell or transfer any volume of fuel bioethanol to another Oil Industry-Participant: *Provided*, That each sale or transfer of fuel bioethanol shall be covered by a prior written permit issued by the BIR and the DOE. For this purpose, the regular trading of fuel bioethanol among Oil Industry-Participants shall not be allowed.

All transfers of fuel bioethanol from one storage facility to another storage facility which are both owned and operated by the same Oil Industry-Participant shall, likewise, be covered by a prior permit from the BIR. An ODI shall be issued by the authorized BIR personnel for each and every removal thereof from the BIR-approved storage tank.

SEC. 14. BLENDING OF FUEL BIOETHANOL AND UNLEADED GASOLINE. – Subject to the provisions of Section 18 B and C (3) of these Regulations, the blending of fuel bioethanol with unleaded gasoline shall be conducted only within the BIR-approved blending tanks of the Oil Industry-Participant. The E-gasoline shall no longer be subject to the imposition of the applicable excise taxes under Section 148 (f) of the Tax Code, as amended: *Provided*, That the corresponding excise taxes on fuel bioethanol and unleaded gasoline have been duly paid. Otherwise, the Oil Industry-Participant shall be liable, upon demand, on the excise taxes that are otherwise due thereon applying the applicable excise tax rates on distilled spirits and unleaded gasoline, inclusive of all interest and penalties as well as the applicable sanctions provided under the Tax Code, as amended.

SEC. 15. NON-COMPLIANCE WITH DOE SPECIFICATIONS ON E-GASOLINE. - In case the DOE shall determine, through its monitoring functions, that the E-gasoline being sold by any Oil Industry-Participant has failed to meet the DOE-prescribed specification standards, the same shall be considered a *prima facie* evidence of underpayment of excise taxes by such Oil Industry-Participant and, therefore, liable, upon demand, on the excise taxes that are otherwise due thereon applying the applicable excise tax rates on distilled spirits and unleaded gasoline, inclusive of all interest and penalties as well as the applicable sanctions provided under the Tax Code, as amended. If the circumstances so warrant, the said violation may be a ground for the revocation of the Oil Industry-Participant's BIR-Permit to Operate and for the issuance of a written endorsement to the DOE recommending for the cancellation of the Oil Industry-Participant's Certificate of Accreditation under the Fuel Bioethanol Program.

SEC. 16. GAINS/LOSSES OF FUEL BIOETHANOL AND E-GASOLINE. –

On the importation of fuel bioethanol, in case the volume actually received by the Oil Industry-Participant is more than the volume declared in the importation documents, the excess shall be subject to the excise tax rate of P0.05 per liter. The deficiency excise tax shall be paid to the BIR where the Oil Industry-Participant is registered as an excise taxpayer on the date of the actual receipt of the said imported articles in the production premises.

The rules prescribed in the immediately preceding paragraph shall, likewise, apply on the purchase, delivery and receipt of fuel bioethanol from any authorized local distillery.

With respect to gains realized on the E-gasoline resulting from the storage and in-transit delivery thereof to the retailers/dealers, the same shall be subject to the corresponding excise tax rate of P4.35 per liter provided for under Section 148 (f) of the Tax Code, as amended. The deficiency excise tax shall be paid to the BIR where the Oil Industry-Participant is registered as an excise taxpayer, within five (5) days immediately succeeding the month of operation.

Gains derived and losses incurred from the storage, denaturing or blending of fuel bioethanol, including that of the E-gasoline, shall be accounted and separately recorded in the Official Register Books (ORB) prescribed by these Regulations.

In case of failure by the Oil Industry Participant to fully account its claimed fuel bioethanol losses that are beyond the reasonable industry levels, as well as to submit convincing evidence to justify that the losses sustained were not due to his fault or negligence, the same shall be considered as *prima facie* proof of diversion thereof, subject to the payment of the applicable excise tax rates under Section 141 of the Tax Code, as amended, inclusive of all penalties and sanctions imposed under the same Code, without the benefit of deduction of the P0.05 excise tax per liter that have been previously paid.

SEC. 17. MARKER DYE REQUIREMENTS. – For purposes of ensuring that all fuel bioethanol intended for exclusive use as blending component in the production of E-gasoline are actually utilized pursuant to the Fuel Bioethanol Program, and in order to preclude any diversion thereof to any other purpose, a marker dye shall be blended with the said product. For imported fuel bioethanol, the marker dye may be blended either in the country of the foreign supplier particularly identified or indicated in the importation documents or within the customs premises prior to its release therefrom. For locally purchased fuel bioethanol, the same shall be blended at the authorized local distillery/denaturing premises. The actual blending of the marker dye shall be conducted personally by an independent person/entity duly accredited by the BIR, in case of locally-sourced fuel bioethanol; or by an independent person/entity duly accredited in the country of origin of the shipment, in case of imported fuel bioethanol.

The description of the marker dye shall be prescribed according to the specific requirements as may be determined by the BIR. For this purpose, the BIR and the BOC

shall be provided with the necessary tool kit in order to determine the authenticity of the marker dye actually blended in the fuel bioethanol.

Absence of the marker dye or the use of fraudulent marker dye on the fuel bioethanol already used or still to be used as blending component shall be considered *prima facie* evidence that the fuel bioethanol has been imported or locally purchased without the prepayment of the excise tax prescribed by these Regulations and for purposes other than pursuant to the Fuel Bioethanol Program. The Oil Industry-Participant shall be liable for the payment of the excise tax rate on distilled spirits which is otherwise due thereon, inclusive of interest and penalties, as well as the imposition of sanctions prescribed under the provisions of the Tax Code, as amended. If the circumstances so warrant, the said violation may also be a ground for the revocation of its BIR-Permit to Operate as well as basis for recommendation to the DOE for the cancellation of the accreditation certificate issued under the Fuel Bioethanol Program.

The specific guidelines and procedures in the implementation of these marker dye requirements shall be covered by a separate revenue issuance.

SEC. 18. ADMINISTRATIVE PROVISIONS. – For the effective implementation of the provisions of these Regulations, the following administrative provisions shall be strictly observed:

A. Registration Requirements.

Any person, whether natural or juridical, who intends to engage in business as producer of E-gasoline shall file an application for a Permit to Operate with the BIR where such person is required to be registered as an excise taxpayer. The application shall be accompanied by the following documents:

- (1) Accreditation Certificate duly issued by the DOE;
- (2) Certificate of Registration from the Department of Trade and Industry (DTI), in case of individuals;
- (3) Certificate of Registration from the Securities and Exchange Commission (SEC) together with Articles of Incorporation and By-laws, in case of partnership or corporation;
- (4) Certificate of Registration duly issued by the BIR;
- (5) Plat and plan of the production/blending plant;
- (6) Location map of the production/blending plant; and
- (7) Bond prescribed under Section 160 of the Tax Code, as amended.

However, in case the applicant is already a duly-registered excise taxpayer, the following documents shall be submitted:

- (1) Accreditation Certificate duly issued by the DOE;
- (2) Amended Certificate of Registration from DTI or SEC, as the case may be, together with Articles of Incorporation and By-laws;

- (3) Amended plat and plan, in case of changes in or additional manufacturing and storage facilities shall be installed dedicated for the production of E-gasoline; and
- (4) Application for the conversion of the content of existing storage tanks, as the case may be.

B. Installation, Calibration and Maintenance of Storage Tanks.

The duly registered Oil Industry-Participant shall install or maintain at least three (3) storage tanks within the place of production, described as follows:

- (1) One tank for the storage of unleaded gasoline;
- (2) One tank for the storage of fuel bioethanol; and
- (3) One tank for the storage of E-gasoline.

Provided, however, That, with respect to on-line blending operations wherein the blending of fuel bioethanol and unleaded gasoline is being conducted at the lorry or delivery tank truck immediately before the transport of the E-gasoline to the retailer/dealer, the Oil Industry-Participant may be allowed to install and maintain one tank for the storage of unleaded gasoline and one tank for the storage of fuel bioethanol.

The said storage tanks, whether existing or newly constructed, shall be calibrated or re-calibrated, as the case may be, by the Industrial Technology and Development Institute (ITDI) of the Department of Science and Technology (DOST) or by a licensed engineer acceptable to the BIR, under the supervision of the representatives of the BIR. Each tank shall bear identification marks pertaining to its tank number, product content and volume capacity. The said tanks shall be equipped with metering devices duly calibrated by independent persons, whether individual or juridical, acceptable to the BIR. Accordingly, a certificate of calibration of the storage tanks and metering devices shall be duly issued for the purpose. Thereafter, a periodic calibration of the storage tanks and metering devices shall be conducted once every six months in the presence of the authorized BIR representatives with a certificate of calibration issued for the purpose.

C. Monitoring and Supervision of Operations.

For excise tax purposes, the premises where the fuel bioethanol/E-gasoline is being produced shall be under the joint supervision of the representatives of the BIR and Oil Industry-Participant. A revenue officer on-premise (ROOP) shall be assigned on the place of manufacture of the said products to monitor and supervise the operations of the establishment. Accordingly, the following guidelines and procedures are hereby prescribed:

- (1) All receipts of regulated raw materials (i.e., fuel bioethanol and unleaded gasoline) shall be properly supported by documents. With respect to imported fuel bioethanol and unleaded gasoline, the same shall be accompanied by Import Entry and Revenue Declarations and Official Receipts evidencing payment of excise tax issued by the BOC or any authorized accredited banks, together with other import documents such as, but not limited to, Bills of Lading, Commercial Invoices, Packing Lists, Material Safety Data Sheets and Certificates of Product Quality/Analysis, Certificate of material source of bioethanol, and third-party surveyor's report issued at the foreign port of loading. On the other hand, the locally purchased fuel bioethanol shall be accompanied by ODIs, duly attested by the ROOP assigned at the distillery-denaturing premises, while on locally purchased unleaded gasoline, the same shall be accompanied by Withdrawal Certificates (WCs), duly attested to by the revenue officers assigned at the local oil refineries/traders;
- (2) For each transfer of fuel bioethanol from the denaturing tank to the blending/storage tank for E-gasoline, an ODI shall be issued by the duly authorized representative of the blender and duly attested to by the ROOP;
- (3) With respect to an Oil Industry-Participant using the on-line blending process, the issuance of the prescribed WC on every removal of E-gasoline shall no longer be required. However, with respect to the issuance of the ODI, it shall be sufficient that a single ODI shall be issued covering all removals of fuel bioethanol from the BIR-approved storage tank during the day. For this purpose, a daily summary report shall be prepared in triplicate copies by the authorized representative of the Oil Industry-Participant duly attested to by the ROOP, with the following information:
 - (i) Date of Removal and ODI Number
 - (ii) Plate number of the lorry or delivery tank truck
 - (iii) Name and address of the operator of the lorry or delivery tank truck
 - (iv) Name and address of the consignee/retailer/dealer
 - (v) Volume of the fuel bioethanol removed from the storage tank to the lorry or delivery tank truck
 - (vi) Volume of unleaded gasoline removed from the storage tank to the lorry or delivery tank truck
 - (vii) Resulting volume of E-gasoline received by the lorry or delivery tank truck
 - (viii) Loss/Gain
 - (ix) The respective total volume of fuel bioethanol, unleaded gasoline and E-gasoline removed during the day

The daily summary report shall be submitted to the ROOP within twenty-four (24) hours after the close of the preceding day of operation and shall be distributed as follows:

Original Copy	-	Attachment to the ODI
Duplicate Copy	-	ROOP
Triplicate	-	Oil Industry-Participant

- (4) All receipts and removals of fuel bioethanol and E-gasoline shall be accounted for on a *First-In, First-Out* (FIFO) basis;
- (5) A WC shall be issued for each volume of removal of E-gasoline from the production/blending premises for purposes of delivery to the retailers/dealers, sale/transfer to other duly Oil Industry-Participant of E-gasoline, or transfer to another depots/storage facility owned and operated by the Oil Industry-Participant;
- (6) An Official Register Book (ORB) shall be installed and maintained where each movement (i.e., receipt, transfer or removal) of fuel bioethanol and E-gasoline, as well as all gains derived and/or losses incurred therefrom shall be recorded daily by the Oil Industry-Participant. In the meantime that the prescribed BIR-printed ORB and transcript form thereof are not yet available, a computer-generated copy using a suitable computer spreadsheet software program, such as the Microsoft Excel, shall be used by the Oil Industry-Participant following strictly the column headings and design formats provided in Annexes "A-1", "A-2" and "A-3" of these Regulations. The said record shall be kept at all times in the place of production premises, and shall be immediately produced and presented, upon demand, for inspection by duly authorized representatives of the BIR. For this purpose, a separate ORB shall be installed and maintained on each depot/storage facility owned and operated by the same Oil Industry-Participant where the blending operations shall be conducted; and
- (7) The BIR, through its authorized representatives, shall conduct every six months or at any time the BIR deems necessary, a physical inventory or stocktaking of all stocks on-hand in the production/blending/storage premises to check and verify the correctness of the stock balances reflected in the ORB. Any overage or shortage found upon the reconciliation of the results of stocktaking with the balances reflected in the ORB shall be debited or credited, as the case may be, on the proper column of the ORB and signed by the revenue officer who conducted the stocktaking. The corresponding assessment for the deficiency excise tax, inclusive of penalties, on any shortage or overage shall be issued by the BIR and shall be paid, upon demand, by the Oil Industry-Participant.

D. Reporting Requirements.

The Oil Industry-Participant shall submit the prescribed reports, on a regular basis, as follows:

- (1) Liquidation Statement

A monthly liquidation statement containing all the batches of fuel bioethanol, whether imported or locally purchased, handled during the month of operation by the Oil Industry-Participant within its production premises, shall be prepared, and submitted to the BIR Office where the Oil Industry-Participant is registered as an excise taxpayer within eight (8) days immediately succeeding the month of operation.

The liquidation statement shall consist of the following information for each batch:

1. Beginning inventory
2. Receipt of Denatured Bioethanol
 - (a) Date of Receipt
 - (b) Volume received
 - (c) Name and address of the supplier
 - (d) Assessment Number of the supplier, if applicable
 - (e) ODI number, if applicable
 - (f) Amount of excise tax paid
 - (g) Reference/Official Receipt Number on the proof of payment of the excise tax
3. Total available
4. Total volume sold/transferred for blending
 - (a) Date of Removal
 - (b) Volume removed
 - (c) Name of and address of the Oil Industry-Participant, if applicable
 - (d) Assessment Number of the Oil Industry-Participant, if applicable
 - (e) ODI Number
 - (f) Location of the receiving storage facility, in case of intra-company transfer
5. Ending balance
6. Volume of gain or loss

A separate liquidation statement shall, likewise, be prepared on the total volume of E-gasoline produced and subsequent removal thereof from the production/blending facility for purposes of delivery to retailers/dealers, sale/transfer to other duly Oil Industry-Participant, or transfer to other depots/storage facilities owned and operated by the same blender.

(2) Monthly Transcript of ORB

A transcript of the ORB containing all the monthly information prescribed in Annex "A-1", "A-2" and "A-3" hereof shall be submitted to the appropriate BIR Office where the Oil Industry-Participant is registered as an excise taxpayer on or before the eighth (8th) day immediately succeeding the month of operation and every month thereafter.

(3) DOE Monthly Reports

Copies of the following monthly reports submitted to the DOE shall be furnished the Chief, LTFOD, within five (5) days from the date of receipt thereof by the DOE:

- (a) Schedule II – Imports
- (b) Schedule IV C – Local Purchases Report/Receiving Reports
- (c) Schedule IV D- Sales Reports/Removal Reports
- (d) Schedule V – Inventory Summary Reports

SEC. 19. PENALTIES. – Violations of these Regulations shall be subject to the corresponding penalties under the pertinent provisions of the Tax Code and applicable regulations.

SEC. 20. SEPARABILITY CLAUSE. - If any provision of these Regulations is declared invalid by a competent court, the remainder of these Regulations or any provision not affected by such declaration of invalidity shall remain in force and effect.

SEC. 21. REPEALING CLAUSE. – All regulations, rulings or orders, or portions thereof which are inconsistent with the provisions of these Regulations are hereby revoked, repealed or amended accordingly.

SEC. 22. EFFECTIVITY. – These Regulations shall take effect after fifteen (15) days following publications in newspapers of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

(Original Signed)
JOSE MARIO C. BUÑAG
Commissioner of Internal Revenue