



Republic of the Philippines
DEPARTMENT OF ENERGY
(Kagawaran ng Enerhiya)

DEPARTMENT CIRCULAR NO. DC2022-11-0033 /

RULES OF PROCEDURE FOR ADMINISTRATIVE CASES IN THE DOWNSTREAM OIL INDUSTRY

Pursuant to the powers granted to the Department of Energy (DOE) under Batas Pambansa Bilang 33 (B.P. 33)¹, Republic Act No. (R.A.) 7638 or the “Department of Energy Act of 1992”², R.A. 8479 or the “Downstream Oil Deregulation Act of 1998” and Section 52 of R.A. 11592 or the “LPG Industry Regulation Act”, the following Rules of Procedure for Administrative Cases in the Downstream Oil Industry are hereby promulgated:

PART I – GENERAL PROVISIONS

SECTION 1. *Title.* – These rules shall be known as the “Rules of Procedure for Administrative Cases in the Downstream Oil Industry”.

SECTION 2. *Scope and Coverage.* – These rules shall apply to all pleadings, practice, and procedure before the DOE or any other proceeding conducted by the DOE on cognizable matters under B.P. 33³, R.A. 8479⁴, R.A. 9367⁵, R.A. 11592 and other relevant laws and regulations in the downstream oil industry.

SECTION 3. *Construction.* – These rules shall be liberally construed to attain the objectives of the DOE Act, Downstream Oil Deregulation Act, Biofuels Act, LPG Industry Regulation Act, and any other law, statute, executive order, or decree that is being, or may hereafter be implemented by the DOE, to protect and promote the public interest, and to assist the parties in obtaining just, speedy and inexpensive disposition of administrative cases in the downstream oil industry.

SECTION 4. *Nature of the Proceedings.* – Subject to the basic requirements of due process, the procedure before the DOE shall be summary in nature. The technical rules on evidence obtaining in courts of law shall not be binding upon these proceedings. In the absence of any applicable provision in these Rules and in order to effectuate the objectives of the aforementioned laws, the pertinent provisions of the

¹ As amended by P.D. 1865

² As amended by R.A. 9136

³ *Supra* note 1

⁴ *Supra* note 2

⁵ Republic Act No. 10745

Rules of Court may, in the interest of expeditious justice and only whenever practical and convenient, be applied by analogy or in a suppletory manner.

SECTION 5. *Service and Filing of Pleadings, Orders and Documents.* – Service and filing of pleadings, orders and documents may be made personally or by registered mail.

Notwithstanding the foregoing, service of notices, orders and other processes to the respondent may be made, subject to the pertinent provisions of the Electronic Commerce Act,⁶ by sending an electronic mail to the respondent or respondent counsel's electronic mail address. Respondent or its counsel may also file pleadings electronically when allowed by the DOE subject to the right to request hard copies thereof.

PART II – ADMINISTRATIVE ACTIONS AGAINST LIQUEFIED PETROLEUM GAS (LPG) INDUSTRY PARTICIPANTS

SECTION 6. *Initiation of Administrative Action by the DOE.* – An administrative action shall be initiated by the DOE through the issuance of a Show Cause Order to an LPG Industry participant, giving the latter the opportunity to explain in writing why it should not be penalized for its alleged violations within ten (10) calendar days from receipt of the order.

SECTION 7. *Show Cause Order.* – A Show Cause Order may be issued by the Director of the Oil Industry Management Bureau, Field Offices and their duly authorized inspectors, or by the Director of the Legal Services of the DOE. The Show Cause Order should clearly state the specific provision of law or regulation violated by the respondent and direct the respondent to submit a written explanation within the prescribed period.

The respondent shall maintain a responsible person in the establishment who shall be present therein when the place is open and operating. For this purpose, the establishment's manager, supervisor, team leader, shop keeper or any person acting as such shall be considered as a responsible person under whose authority the inspection shall proceed and to whom the Show Cause Order may be served on behalf of the respondent.

SECTION 8. *Written Explanation.* – Within the period prescribed in the Show Cause Order, the respondent shall file a written explanation under oath either admitting the offense/s mentioned in the Show Cause Order or denying the same citing the reason why respondent should not be penalized.

⁶ Republic Act No. 8792

SECTION 9. *Hearing.* – The DOE shall have the discretion to conduct a hearing pertaining to the violation or to impose an outright penalty based on the merits of the written explanation and other available evidence.

SECTION 10. *Conduct of Hearing.* – The DOE Legal Services or authorized representative of the Secretary in case of Field Offices may conduct in-person hearings or virtual hearings, at its discretion.

SECTION 11. *Preventive Suspension Order.* – Without prejudice to other administrative remedies, the DOE, through the Director of the Legal Services or authorized representative of the Secretary in case of the Field Offices, may, during the pendency of an administrative proceeding, issue a Preventive Suspension Order, a copy of which to be furnished to the OIMB and Field Offices, for the suspension of operations of the concerned business of an LPG Industry participant subject of the proceeding within a maximum period of forty-five (45) calendar days to prevent undue interference in the ongoing investigation and tampering of evidence. For justifiable reasons, the Preventive Suspension Order may be lifted by an Order of the Director of the Legal Services or authorized representative of the Secretary in case of the Field Offices; however, it shall be automatically lifted after forty-five (45) calendar days from receipt of the respondent without need of a subsequent Order from the DOE. The DOE may seek the assistance of local government units and law enforcement agencies to execute the Preventive Suspension Order.

SECTION 12. *Final Resolution.* – The administrative proceeding shall be deemed resolved upon issuance of an Order or Decision by the Director of the Legal Services or the authorized representative of the Secretary in case of the Field Offices. The Order or Decision should contain a brief statement of the (a) facts of the case; (b) issue(s) involved; (c) applicable law or rules; (d) conclusion and reasons therefore; and (e) the dispositive portion. Certified true copies thereof shall be served upon the respondent's counsel or in the absence of any counsel of record, on the respondent itself. When warranted, the Order or Decision may include the suspension or cessation of operation of the establishment, or the closure thereof until such time that the mandatory requirements or corrective measures have been met.

SECTION 13. *Suspension or Revocation of License to Operate.* – When the Order or Decision includes the suspension or revocation of respondent's license to operate, the Director of Legal Services or authorized representative of the Secretary in case of the Field Offices shall notify the appropriate local government unit of the final resolution for purposes of suspension or revocation of respondent's business permit or license.

SECTION 14. *Period to Resolve Cases.* – The entire administrative proceeding for violations of the LPG Industry Regulation Act shall not exceed sixty (60) calendar days from the issuance of a Show Cause Order to the Final Resolution by the DOE, without prejudice to instances of force majeure or extraneous circumstances that may arise which would prevent the DOE from resolving the case within the given period.

SECTION 15. *Impoundment and Disposition of Evidence.* – Subject to the provisions of the succeeding section, the DOE, through its duly authorized inspectors, shall be authorized to impound prohibited LPG, LPG pressure vessels, ancillary equipment, motor vehicles used in the transportation of LPG and LPG-filled pressure vessels, and other tools and paraphernalia used or intended to be used, necessary or indispensable in an LPG related activity as evidence of violation under the LPG Industry Regulation Act. The release and disposal of the impounded evidence shall be subject to the final resolution of the DOE Legal Services or the authorized representative of the Secretary in case of the Field Offices or the court having jurisdiction over the prohibited act in accordance with DC2021-10-0035 or the Revised Circular for Impounding and Disposal of Philippine Downstream Oil Industry Confiscated Items and/or its revisions and amendments.

SECTION 16. *Impoundment and Disposition of Uncertified, Generic, Substandard, Defective, Injurious, Unsafe, or Dangerous LPG Cylinder or Cartridge.* – All LPG cylinders or cartridges that are uncertified, generic, substandard, defective, injurious, unsafe, or dangerous are prohibited from public sale or distribution. However, duly requalified generic LPG cylinders already in the market at the time of the effectivity of the LPG Industry Regulation Act which were not illegally imported shall be allowed until the lapse of the transition period as may be determined by the DOE and DTI pursuant to the LPG Cylinder Improvement Program.

The DOE inspector shall serve the notice of violation, appropriate order for its immediate confiscation, recall, seizure, impoundment, or prohibition from public sale or distribution and the corresponding inventory receipt to the LPG industry participant found to be in possession of the uncertified, generic, substandard, defective, injurious, unsafe, or dangerous LPG cylinders or cartridge during inspection. The confiscated LPG Cylinders or cartridges, as the case may be, shall be deposited at the nearest impounding facility. The trademark owner shall be furnished with a copy of the notice of violation, the appropriate order, and inventory receipt and, moreover, given the right to submit a written explanation or proof of compliance within ten (10) calendar days from receipt thereof.

The Director of the Legal Services or the authorized representative of the Secretary in case of the Field Offices, shall make a final determination on whether or not the LPG cylinder or cartridge is (i) uncertified, generic, substandard, defective, injurious, unsafe, or dangerous, whichever is applicable, within thirty (30) calendar days from the issuance of the order for confiscation, recall, seizure, impoundment, or prohibition from public sale, or distribution, and (ii) subject to disposal.

LPG-filled cylinders or cartridges which are confiscated, recalled, seized, or impounded and found by the DOE to pose an imminent threat to the public or in danger of exploding shall be disposed of without serving prior notice to the owners thereof but without prejudice to the compliance of the provisions of Department Circular No.

DC2021-10-0035 or the Revised Circular for Impounding and Disposal of Philippine Downstream Oil Industry Confiscated Items. The Director of the Legal Services or the Field Offices, as the case may be, shall issue the necessary Disposal Order for this purpose. The DOE shall, however, notify the owner of such fact within five (5) calendar days after such disposition.

PART III – ADMINISTRATIVE ACTIONS AGAINST LIQUID FUELS INDUSTRY PARTICIPANTS

SECTION 17. *Initiation of Administrative Action by the DOE.* – An administrative action shall be initiated by the DOE through the issuance of a Show Cause Order to the liquid fuels industry participant, giving the latter the opportunity to explain in writing why it should not be penalized for its alleged violations within ten (10) calendar days from receipt of the order.

SECTION 18. *Applicability of Rules in Administrative Actions Against LPG Industry Participants.* – Sections 7, 8, 9, 10 and 12 in Part II of these Rules shall apply to Administrative Proceedings against liquid fuels industry participants.

SECTION 19. *Impoundment and Disposition of Confiscated Liquid Fuels.* – Duly confiscated liquid fuels shall be released or disposed in accordance with DC2021-10-0035 or the Revised Circular for Impounding and Disposal of Philippine Downstream Oil Industry Confiscated Items and/or its revisions and amendments.

PART IV – INITIATION OF ACTION VIA COMPLAINT

SECTION 20. *Who May File a Complaint.* – Any person or group of persons, whether natural or juridical, may file a complaint with the DOE for administrative violations of B.P. 33, R.A. 8479, R.A. 9367, R.A. 11592 and other administrative issuances of the Downstream Oil Industry as defined in R.A. 8479. Such person or group of persons shall hereafter be referred to as complainant.

SECTION 21. *Number of Copies.* – The complaint, together with documentary evidence and affidavits of witnesses, if any, shall be filed in such number as there are respondents, plus two (2) copies for the file.

SECTION 22. *Where to File.* – The complaint may be filed with the DOE Secretary, the Director of the OIMB or the Director of DOE Field Offices.

SECTION 23. *Parties to the Complaint.* – The complainant must include in the complaint its contact information and where the complainant or its duly authorized representative may be served with orders, issuances, or communications, including an electronic mail address when available.

The complainant must also specify the identity of the party being complained of, hereafter referred to as respondent, including the respondent's contact information, if available, and where the respondent may be served with orders, issuances, or communications from the DOE.

SECTION 24. *Form and Contents of the Complaint.* – The complaint must be in writing, verified and under oath, or contained in a sworn affidavit, with the attached supporting documents or evidence of the alleged violation. A complaint that does not comply with this requirement may only be acted at the discretion of the DOE.

SECTION 25. *Investigation.* – At the discretion of the DOE, the complaint may be investigated by a team composed of the OIMB or the Field Offices' technical and/or legal personnel to verify the circumstances surrounding the alleged violation and/or gather more information on the complaint.

SECTION 26. *Outright Dismissal.* – The Director of the Legal Services or its equivalent in the Field Offices may summarily dismiss a complaint on any of the following grounds:

- a. The complaint is not a violation of Downstream Oil Industry laws, rules, and regulations or under the jurisdiction of the DOE;
- b. The complaint on its face does not allege any offense against or violation of Downstream Oil Industry laws, rules, and regulations; or
- c. The respondent establishment being complained of cannot be identified or traced.
- d. The Complaint does not comply with the requirements in Part IV Section 24.

SECTION 27. *Show Cause Order.* – If, upon evaluation of the complaint, a violation of Downstream Oil Industry laws, rules, and regulations is found by the Director of the Oil Industry Management Bureau or its equivalent in the Field Offices or by the Director of the Legal Services, a Show Cause Order shall be issued by any of these officials, as the case may be, and served upon the respondent. The Show Cause Order shall clearly state the specific provision of law or regulation violated by the respondent and direct the respondent to submit a written explanation under oath within fifteen (15) days from receipt why no administrative penalties should be imposed upon them. The Show Cause Order shall include a copy of the Complaint and its supporting evidence.

SECTION 28. *Failure to Submit Written Explanation.* – Failure by the respondent to file its written explanation to the Order in Section 27 within the given time shall be considered a waiver by the respondent of its right to be heard. The case shall then be decided upon the merits by the Director of the Legal Services or the authorized representative of the Secretary in case of the Field Offices based on the available information and evidence.

SECTION 29. *Final Resolution.* – Upon evaluation by the Director of the Legal Services or the authorized representative of the Secretary in case of the Field Offices of the available information and evidence, an Order or Decision shall be issued determining the merits of the case which must comply with Section 12 of Part II of these Rules.

PART V – CONSOLIDATION OF CASES

Section 30. *Consolidation of Cases.* – In line with the constitutionally guaranteed right to the speedy disposition of cases, the Director of the Legal Services or the authorized representative of the Secretary in case of the Field Offices, may consolidate cases involving the same respondent with respect to the same site, plant, or outlet.

PART VI – MOTION FOR RECONSIDERATION

SECTION 31. *Motion for Reconsideration.* – Motions for reconsideration of any order or decision of the Department shall not be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within fifteen (15) calendar days from receipt of the order, resolution or decision; otherwise, it shall be considered pro forma and will produce no legal effect. The filing of a motion for reconsideration shall interrupt the running of the period for filing an appeal with the Office of the President. Only one motion for reconsideration may be filed.

PART VII – APPEAL

SECTION 32. *Appeal.* – The order, decision or resolution of a motion for reconsideration by the Director of the Legal Services or the authorized representative of the Secretary in case of the Field Offices is appealable within fifteen (15) days upon receipt of a copy thereof by filing a notice of appeal to the Office of the Secretary of the DOE. The Office of the Secretary may require the party or parties to the case to submit an appeal memorandum, position paper, or such other pleading to provide additional information. Thereafter, the appeal shall be resolved within sixty (60) days; otherwise, the appealed order, decision or resolution shall be deemed affirmed and a notice to such effect shall be furnished to the party or parties.

The order, decision or resolution of a motion for reconsideration by the Office of the Secretary is appealable within fifteen (15) days after the receipt of a copy thereof to the Office of the President in accordance with Administrative Order No. 22, series of 2011.

Interlocutory orders, however, shall not be subject of an appeal.

SECTION 33. *Execution of Order, Decision or Resolution.* – The order, decision, or resolution of the Secretary of the DOE, Director of the Legal Services or the authorized representative of the Secretary in case of the Field Offices shall become executory fifteen (15) calendar days after the expiration of the period of appeal if no appeal is taken.

PART VIII – MISCELLANEOUS PROVISIONS

SECTION 34. *Monthly Report.* – The Director of the Legal Services or the authorized representative of the Secretary in case of the Field Offices shall furnish the Directors of OIMB and Field Offices with a monthly report on the status of all cases.

SECTION 35. *Separability.* – In the event that any provision or part of this Department Circular is declared unauthorized or rendered invalid, those provisions not affected by such declaration shall remain valid and in force.

SECTION 36. *Repealing Clause.* – Administrative issuances, orders, rules or regulations inconsistent herewith are hereby repealed, amended or modified accordingly.

SECTION 37. *Effectivity.* – These rules shall take effect fifteen (15) days after publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Signed this _____ day of November 2022 at Bonifacio Global City, Taguig City, Metro Manila.


RAPHAEL P.M. LOTILLA
Secretary



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