

DEPARTMENT CIRCULAR NO. DC 2021- _____

GUIDELINES ON COAL HANDLING, TRANSPORT, STORAGE, AND DISTRIBUTION

WHEREAS, Republic Act No. 7638, as amended, otherwise known as "*The Department of Energy (DOE) Act of 1992*", mandates the DOE to establish and administer programs for the exploration, development and production, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of energy resources of all forms, whether conventional or non-conventional;

WHEREAS, PD 972, as amended, otherwise known as "*The Coal Development Act of 1976*" declared as a policy of the state to immediately accelerate the exploration, development, exploitation, production, and utilization of the country's coal resources and vested the Energy Development Board (now the DOE) with the authority to promulgate rules and regulations implementing thereof;

WHEREAS, the DOE issued Department Circular No. DC2012-05-0006, otherwise known as "*Guidelines on the Accreditation of Coal Traders and Registration of Coal End-Users*" to establish the rules and regulations on coal trading and utilization;

WHEREAS, entities engaged in coal operations, including coal trading and utilization, and undertaking coal handling, transport, storage and distribution activities are mandated to ensure that current best practices in health, safety and environmental management are implemented to mitigate its impacts thereby effectively and efficiently protecting the environment;

NOW, THEREFORE, the foregoing premises considered, and pursuant to its statutory mandate, the DOE hereby promulgates the following guidelines in coal handling, transport, storage and distribution:

Section 1. Scope and Application. This Circular shall apply to all Coal Traders, Coal Logistics Service Providers, Coal End-Users, holders of Coal Operating Contracts (COCs) and Small-Scale Coal Mining Permits (SSCMPs) and all other persons engaged in coal operations, as defined under Section 2 hereof.

Section 2. Definition of Terms. As used in this Circular, the following terms shall be defined as follows:

1. **Coal** – means a black or brownish-black solid combustible rock containing less than 40% non-combustible inorganic components formed by the accumulation, decomposition and compaction of plant material under long-acting geological processes;
2. **Coal Operating Contract (COC)** – refers to the Coal Operating Contract issued by the DOE under PD 972, as amended;
3. **Coal End-User** – refers to any person or business entity requiring the supply and delivery of coal for its own use or utilization such as, but not limited to, power generation, cement, steel, chemical, canning, paper, rubber, garments, food and beverage, and other manufacturing industries;

4. **Coal Logistics Service Provider** – refers to any person, partnership, cooperative or corporation engaged by a Coal Trader or Coal End-User for their coal trading operations such as, but not limited to, loading, unloading, temporary stockpiling and/or transporting of coal;
5. **Coal Trader** – refers to any person, partnership, cooperative or corporation engaged in the business of buying, selling, importing, exporting, marketing, transporting, distributing, retailing, handling, stockpiling and storage of coal, and all other related activities;
6. **Small-Scale Coal Mining Permit (SSCMP)** – refers to the permit issued by the DOE for small-scale coal mining operations;
7. **Coal Operations** – shall refer to activities that involve any type of coal handling, transportation, storage, distribution, including coal exploration, development and production by Coal Traders, Coal End-Users, holders of Coal Operating Contracts (COCs) and Small-Scale Coal Mining Permits (SSCMPs) and all other persons engaged in similar activities such as transporting/hauling/delivery using vessels and other contracting services.

Section 3. General Guidelines. All Coal Traders, Coal Logistics Service Providers, Coal End-Users, holders of COCs and SSCMPs and all other persons engaged in Coal Operations shall strictly comply with the following general guidelines:

1. All workers shall undergo the required health, safety, and environment trainings and/or orientation prior to performing their assigned tasks.
2. All workers shall be provided with appropriate Personal Protective Equipment (PPE).
3. Proper housekeeping shall be maintained at all times.
4. Emergency preparedness and response plan shall be established and implemented to address any untoward incident/s. Such plan shall be disseminated to all employees and drills shall be regularly conducted.
5. Appropriate mitigating measures shall be implemented to prevent spontaneous combustion in all stages of coal handling, transportation, storage, and distribution.
6. Dust control system such as, but not limited to, water spray, sprinkler, misting machine, dust arrester or cover to prevent emission of fugitive coal dust shall be provided and installed.
7. Appropriate measures shall be implemented to prevent emission of foul odor from coal stockpile.
8. Coal stockpile shall be properly maintained. Any hazardous condition in or around such area shall be immediately reported, and appropriate corrective and control measures shall be implemented.

9. Wind breakers such as, but not limited to, suitable trees and vegetation and/or appropriate fence which shall always be higher than the stockpile height shall be maintained along the perimeter of the stockpile area.
10. Prevent generation of dust and other operational spoils within the working area and other applicable areas of operation by sprinkling or water-spraying of roads.

Section 4. Different Stages of Coal Handling, Transportation, Storage, and Distribution. In addition to the guidelines provided in the preceding section, all Coal Traders, Coal Logistics Service Providers, Coal End-Users, holders of COCs and SSCMPs shall comply with the foregoing specific guidelines applicable for the different stages of Coal Operations.

A. Coal Handling and/or Transport Within COC or SSCMP Area

1. Equipment operators shall be protected from heat, dust and coal particles coming from stockpile.
2. Spotters shall be assigned during loading and unloading of coal.
3. Coal shall be safely loaded into trucks, mine cars, loading bins via conveyor system, and roll-on-roll-off using trucks directly into barges or landing craft transport (LCT), including other means of conveyances.
4. Trucks, vessels and other coal conveyances shall be provided with appropriate fire-fighting equipment.
5. Trucks, vessels and other coal conveyances shall not be overloaded and shall be driven or operated within specified speed limit.
6. Settling pond/s with appropriate drainage system shall be constructed and maintained to capture run-off coal and other operational spoils.

B. Coal Handling and/or Transport of Coal from Mine Stockpile to Staging Area or Loading Port

1. Coal shall be safely loaded into trucks, mine cars, loading bins via conveyor system, and roll-on-roll-off using trucks directly into barges or landing craft transport (LCT), including other means of conveyances.
2. The truck's cargo box shall be properly secured to prevent escape of fugitive coal dust and/or coal spillages along the road.
3. Truck tires shall be cleaned to prevent dust/mud from being carried and scattered along access roads and other areas of operations.

4. Cleaning and sweeping of roads shall be conducted to prevent accumulation of dust and other operational spoils within the working area and other applicable areas of the operation.
5. Tarpaulin shield shall be installed in between the vessel and pier apron to capture coal spillages from trucks.
6. Congestion at the mine stockpile area, staging area, and loading port shall be avoided for the safe and smooth movement of trucks and other vehicles.
7. Trucks, vessels and other coal conveyances shall be provided with appropriate fire-fighting equipment.
8. Trucks, vessels and other coal conveyances shall not be overloaded and shall be driven or operated within specified speed limit.
9. Spotters shall be designated during loading and unloading of coal.

C. Coal Handling and/or Transport of Coal by Land or Sea from Staging Area or Loading Port to Unloading Port or Area

I. Transportation by Land

1. Trucks shall be equipped with brakes, lighting, audible backing horn, and early warning devices.
2. The truck's cargo box shall be properly secured to prevent fugitive coal dust and/or coal spillages along the road.
3. Truck mufflers shall be provided with silencer or any device to prevent generation of excessive noise.
4. Unauthorized persons and/or extraneous materials shall not be allowed to ride or be transported by trucks during coal transport.
5. Truck tires shall be cleaned to remove dirt and mud before leaving the staging area.
6. Coal spillages in barangay, municipal, or national road used by the conveyance shall be cleaned.
7. Trucks and other coal conveyances shall be provided with appropriate fire-fighting equipment.
8. Trucks and other coal conveyances shall not be overloaded and shall be driven or operated within specified speed limit.

II. Transportation by Sea

1. The tugboat and barge, or seagoing vessel shall have adequate lighting devices.
2. Coal cargo shall be trimmed as leveled as possible and the barge or seagoing vessel shall be properly secured with appropriate cover to prevent coal spillages at sea.
3. Unauthorized person and/or extraneous materials shall not be allowed to ride or be transported in the barge or seagoing vessel during coal transport.

D. Coal Handling or Discharging in Unloading Port or Area

1. Only authorized personnel shall be allowed to perform coal unloading in the port/unloading area.
2. Adequate lighting devices shall be provided during nighttime unloading operations.
3. The movement of equipment and personnel designated for unloading operation shall be closely supervised.
4. Coal spillages shall be prevented during the unloading of coal in the unloading port or area.
5. Temporary storage of coal on the pier apron shall be prohibited to prevent coal run-off.
6. All handling equipment shall be maintained in good working condition and be readily available within the area to immediately address stockpile management requirements.

E. Coal Handling and/or Transport from Unloading Port or Area to Coal End-User's/Coal Trader's Storage Facility

1. The truck's cargo box shall be properly secured to prevent fugitive coal dust/particles and/or coal spillages along the road.
2. Truck tires shall be cleaned to remove dirt and mud before leaving the unloading port or area.
3. Cleaning and sweeping of roads shall be conducted to prevent accumulation of dust and other operational spoils within the working area and other applicable areas of the operation.
4. Coal shall be unloaded only on its designated location in the storage facility.
5. Spotters shall be assigned during loading and unloading of coal.

6. Trucks and other coal conveyances shall be provided with appropriate fire-fighting equipment.
7. Trucks and other coal conveyances shall not be overloaded and shall be driven or operated within specified speed limit.

Section 5. Coal Handling and Storage. All Coal Traders, Coal Logistics Service Providers, Coal End-Users, holders of COCs and SSCMPs and all other persons engaged in Coal Operations shall have the following additional responsibilities in coal handling and storage:

1. Appropriate cover of the storage facility shall be provided to prevent emission of fugitive coal dust and foul odor.
2. Coal shall be stored in a distinct area that has controls to prevent washout and contamination.
3. The stockpile shall be designed, managed and maintained such that coal can be safely stored and handled.
4. Settling pond/s with appropriate drainage system shall be constructed and maintained to capture run-off coal and other operational spoils.
5. Perimeter fence shall be installed to prevent emission of fugitive dust and other operational spoils.

Section 6. Findings of Non-Compliance. In case of findings of non-compliance to any of the provisions of this Circular as a result of on-site validation of the submitted sworn certification referred to in Section 8 hereof and/or complaints received against the person or entity as per Section 1 hereof, the following procedures shall be implemented:

1. The DOE shall issue a Notice of Non-Compliance Findings and direct the party to submit a verified answer within seven (7) working days from receipt thereof. The DOE may issue a Cease-and-Desist Order as a Provisional Remedy, if necessary, to prevent evident harm.
2. If a verified answer is received, the DOE may issue a Clearance Letter or Notice of Conference within seven (7) working days from receipt thereof.
3. In case of a Notice of Conference, the concerned DOE Field Office (FO) Director or the Energy Resource Development Bureau (ERDB) Director shall preside the conference to clarify the issues and require submission of additional information, if necessary.
4. Depending on the result of the conference, the DOE shall issue a Clearance Letter or a Notice of Violation and Order of Payment.
5. If no verified answer is received within the specified time or non-appearance to the scheduled conference without justifiable reasons, the DOE shall issue a Notice of Violation and Order of Payment. Likewise, a Cease-and-Desist

Order shall be issued until payment of the penalty imposed and implementation of corrective measures on the findings of non-compliance.

6. Failure to pay the penalty imposed and implement corrective measures within the specified time and/or failure or refusal to adhere to the Cease-and-Desist Order shall be ground for cancellation or revocation of Coal Trader Accreditation, Coal End-User Registration, Coal Operating Contract, or Small-Scale Coal Mining Permit, as may be applicable.

The DOE may further recommend to the concerned Local Government Unit (LGU) the suspension or revocation of the Business Permit and/or closure of business establishment.

Section 7. Administrative Fines and Penalties. For every finding of non-compliance to any provision of the Circular, the following penalties shall be imposed:

- First Offense: Fifty thousand pesos (Php 50,000.00)
- Second Offense: One hundred thousand pesos (Php 100,000.00)
- Third Offense: Two hundred thousand pesos (Php 200,000.00) and suspension or cancellation of Coal Trader Accreditation or Coal End-User Registration, Coal Operating Contract, Small-Scale Coal Mining Permit, as may be applicable.

Violation of any provision of this Circular resulting in environmental incidents, as defined under Section 10 hereof, and/or serious injury resulting in the loss of life or limb, a fine of Php 200,000.00 shall be imposed, in addition to the suspension or cancellation of Coal Trader Accreditation, Coal End-User Registration, Coal Operating Contract, or Small-Scale Coal Mining Permit, as may be applicable.

Imposition of fines and penalties for violation of the provisions of this Circular is vested with the Supervising Undersecretary of the ERDB.

Section 8. Compliance. All existing Coal Traders, Coal Logistics Service Providers, Coal End-Users, holders of COCs and SSCMPs and all other persons engaged in Coal Operations shall comply with this Circular within a period of six (6) months from the effectivity hereof by submitting to DOE, through the Energy Resource Development Bureau (ERDB) or the respective DOE Field Offices (FO) where their business is located, a sworn certification by authorized representative of the company stating that it has complied with the requirements under this Circular and shall attach a Checklist (Annex "A") of its compliance and supporting documents.

Thereafter, all existing Coal Traders, Coal Logistics Service Providers, Coal End-Users, holders of COCs and SSCMPs shall submit the sworn certification and Checklist before June 30 of every year of operation.

Failure to submit the sworn certification and Checklist within the period prescribed herein shall be ground for suspension, cancellation or revocation of Coal Trader Accreditation, Coal End-User Registration, Coal Operating Contract, or Small-Scale Coal Mining Permit, as may be applicable.

The DOE may further recommend to the concerned Local Government Unit (LGU) the suspension or revocation of the Business Permit and/or closure of business establishment.

Compliance with the provisions of the Circular, including payment of fine, shall not cause any resulting increase in the price of coal. In no case shall any cost incurred be charged to or passed on by a licensee/permittee to its customers.

Section 9. Visitorial and Enforcement Power of the DOE. The DOE, through the ERDB or the concerned DOE Field Office, shall conduct on site validation of the submitted sworn certification and Checklist. On site validation can also be conducted in case of complaints received against any Coal Trader, Coal Logistics Service Provider, Coal End-User, holder of COCs and SSCMPs and all other persons engaged in Coal Operations.

Refusal to allow inspection/on-site validation shall be ground for suspension, cancellation or revocation of Coal Trader Accreditation, Coal End-User Registration, Coal Operating Contract, or Small-Scale Coal Mining Permit, as may be applicable.

The DOE may further recommend to the concerned Local Government Unit (LGU) the suspension or revocation of the Business Permit and/or closure of business establishment.

Section 10. Other Regulations. All existing Coal Traders, Coal Logistics Service Providers, Coal End-Users, holders of COCs and SSCMPs and other persons engaged in coal operations shall strictly comply with other applicable rules, regulations and issuances by other government agencies and entities, both local and national.

In case of any environmental incident such as, but not limited to, coal spillages, contamination, fire, spontaneous combustion, coal run-off into seas, rivers, and other water bodies the concerned Coal Trader, Coal Logistics Service Providers, Coal End-User, holder of COC and SSCMP and all other persons engaged in coal operations shall be held responsible and liable thereto. Immediate emergency response shall be undertaken to address the occurrence of any of these incidents.

The ERDB Director or the concerned DOE Field Office Director shall be notified within twenty-four (24) hours using the fastest available means of communication in case of any of these incidents. Failure to make such notification shall be ground for suspension, cancellation or revocation of Coal Trader Accreditation, Coal End-User Registration, Coal Operating Contract, or Small-Scale Coal Mining Permit, as may be applicable.

Section 11. Separability Clause. If for any reason, any provision of this Circular is declared unconstitutional or invalid, such part not affected shall remain in full force and effect.

Section 12. Repealing Clause. Any circulars, orders, letters of instructions or issuances contrary to or inconsistent with this Circular are hereby repealed, amended or modified accordingly.

Section 13. Effectivity. This Circular shall take into effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked. A copy of this Circular shall be filed with the University of the Philippines Law Center – Office of the National Administrative Register (UPLC–ONAR).

Issued this ____ day of _____ 2021 at Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, Metro Manila.

ALFONSO G. CUSI
Secretary