



Republic of the Philippines  
**DEPARTMENT OF ENERGY**

DEPARTMENT CIRCULAR NO. DC 2012-05-0006

**GUIDELINES ON THE ACCREDITATION OF COAL TRADERS AND  
REGISTRATION OF COAL END-USERS**

**WHEREAS**, Section 2, Article XII of the 1987 Constitution states that all lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State and their exploration, development and utilization shall be under its full control and supervision;

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

**WHEREAS**, Presidential Decree (P.D.) No. 972, otherwise known as "*The Coal Development Act of 1976*" as amended, authorized the Energy Development Board (now the DOE) to "carry out the provisions of this Decree and shall be vested with the authority to promulgate rules and regulations implementing thereof";

**WHEREAS**, the operation of unregulated coal trading and utilization has resulted in substantial losses in the payment of the government share from coal mining operations;

**WHEREAS**, in order to carry out the mandate under P.D. 972 to develop, achieve and implement a systematic and meaningful exploration, development, exploitation and production of local coal resources and protect the interest of the government, the existing regulations on the trading and sale of coal must be strengthened and rationalized;

**NOW, THEREFORE**, the foregoing premises considered, and pursuant to its statutory mandate, the DOE hereby promulgates the following rules and regulations:

**Section 1. Scope and Application.** This Circular shall govern the accreditation of Coal Traders and registration of Coal End-Users as defined under Section 2 herein.

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

- 2.1 **BED** - refers to the Bureau of Energy Development [now Energy Resources Development Bureau (ERDB)] as provided under P. D. No. 972, as amended;



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- 2.2 **Certificate of Compliance** - refers to the document issued by the DOE to an accredited Coal Trader and registered Coal End-User as a requirement prior to coal importation after complying with the necessary requirements of the ERDB pursuant to R.A. 7638 and this Circular;
- 2.3 **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 process;
- 2.4 **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;
- 2.5 **Coal Export Permit** - refers to the document issued by the DOE to an accredited Coal Trader authorizing the sale of coal outside the Philippines after complying with the necessary requirements of the ERDB pursuant to R.A. 7638 and this Circular;
- 2.6 **Coal Operating Contract (COC)** - refers to Coal Operating Contract awarded by DOE under P. D. No. 972, as amended;
- 2.7 **Coal Trader** - refers to any person, partnership, cooperative or corporation engaged in Coal Trading;
- 2.8 **Coal Trading** - refers to the business of buying, selling, importing, exporting, marketing, transporting, distributing, retailing, handling, stockpiling and storage of coal, and all other related activities;
- 2.9 **Coal Transport Permit (CTP)** - refers to the permit to transport coal issued by DOE upon accreditation and/or registration under this Circular;
- 2.10 **COC Development and Production (COC D/P)** - refers to Coal Operating Contracts wherein the COC Operator is already authorized to conduct coal production activities as well as the beneficiation, transportation and sale of coal to buyers;
- 2.11 **Department of Energy (DOE)** - refers to the government agency created pursuant to Republic Act No. 7638, as amended;
- 2.12 **DOE Field Offices** - refers to the DOE Field Offices for Luzon, Visayas and Mindanao;
- 2.13 **Independent SSCMP** - refers to Small Scale Coal Mining Permittee (SSCMP) who is not under the direct supervision of a COC holder; but is authorized to directly sell to Coal End-user/s and Coal Trader/s; and

- 2.14 **Special Transport Permit** - refers to the document issued by the DOE to a registered Coal End-user authorizing the transport of coal under special circumstances.

**Section 3. Prohibited Acts.** No person, partnership, cooperative or corporation shall engage in the trading or utilization of coal within the Philippines, unless duly accredited or registered, respectively, with the DOE within the periods set forth in the succeeding section.

No person shall transport, convey, deliver or otherwise move coal from one place to another without a valid CTP or STP issued by the DOE.

Any person or entity violating the abovementioned prohibited acts shall be considered to have committed illegal coal trading or utilization subject to the penalties as provided for under Section 9 hereof.

**Section 4. Compliance Period.** All existing Coal Traders are required to comply with this Circular within sixty (60) calendar days upon its effectivity. Holders of valid and existing COC for Development and Production (D/P) and Independent SSCMP are considered to be accredited under this Circular. Existing COC D/P Holders and Independent SSCMP shall be issued Certificate of Accreditation and Coal Transport Permit upon written request.

All Coal End-users shall be required to register with the DOE prior to the operation of its business/enterprise. Existing Coal End-users shall henceforth register with the DOE within ninety (90) days upon the effectivity of this Circular.

Coal-fired power plants with DOE Certificate of Endorsement required under R.A. 9136 or the Electric Power Industry Reform Act of 2001 or EPIRA, its Implementing Rules and Regulations (IRR) and other duly-issued Circulars and Guidelines shall be deemed automatically registered while operational for the purpose of this Circular.

Exempted from this Circular are persons and entities which transport, possess, and use coal for testing and laboratory analyses, as certified and approved by the DOE.

**Section 5. Requirements for Accreditation and Registration.** The following are the mandatory requirements for accreditation and registration. Any application with incomplete mandatory requirements shall not be accepted.

- 5.1 **Coal Trader Accreditation.** The application for accreditation of Coal Traders shall be filed with the ERDB or DOE Field Offices upon payment of application fee in the amount of Three Thousand Five Hundred Pesos (PhP 3,500.00) and submission of a complete set of the following mandatory requirements:

- a. Duly accomplished application form as prescribed in ERDB Form No. 2011-1 attached hereto as Annex "A";

- b. Certificate of Registration issued by proper government agencies, such as Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA);
- c. Coal supply contract and/or purchase agreement, if applicable, or Deed of Undertaking with a COC D/P Holder, Independent SSCMP Holder or foreign coal supplier for a period of at least one (1) year; and
- d. Other supporting and relevant documents that the DOE may find necessary for the proper evaluation of the application.

5.2 **Coal End-user Registration.** The application for registration of Coal End-users shall be filed with the ERDB or DOE Field Offices upon payment of application fee in the amount of Five Thousand Pesos (PhP 5,000.00) and submission of a complete set of the following mandatory requirements:

- a. Duly accomplished application form as prescribed in ERDB Form No. 2011-2 attached hereto as Annex "B";
- b. Certificate of Registration issued by proper government agencies, such as Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA);
- c. Technical specifications of coal-fired equipment and location; and
- d. Other supporting and relevant documents that the DOE may find necessary for the proper evaluation of the application.

#### **Section 6. Certificate of Accreditation and/or Registration**

6.1 **Processing of Applications.** The following procedures shall be observed in the processing of applications and issuance of the Certificate of Accreditation and Registration:

- a. The ERDB shall evaluate the application upon receipt of the complete documents specified under Section 5 hereof;
- b. The ERDB shall issue the Certificate of Accreditation and/or Registration or reject the application after proper evaluation within fifteen (15) working days from receipt thereof.
- c. Upon the issuance of a Certificate of Accreditation, the ERDB shall issue a CTP in the name of the Coal Trader.

- d. The ERDB shall issue Special Transport Permit upon written request of the party concerned.

- 6.2 **Validity.** The Certificate of Accreditation and CTP shall have a validity of one (1) year from date of issuance and may be renewed on a yearly basis unless earlier revoked or cancelled by the ERDB on reasonable and valid grounds as set forth in this Circular and other applicable regulations. The Coal Trader shall submit its application for renewal together with a current business permit within a period of sixty (60) calendar days prior to the expiration of the Certificate of Accreditation and CTP.

The Certificate of Registration issued under this Circular shall be valid for a period of ten (10) years from date of issuance and may be renewed for the same period while in operation unless earlier revoked or cancelled by the ERDB on reasonable and valid grounds as set forth in this Circular and other applicable regulations.

## **Section 7. Rights and Obligations of the Coal Traders**

- 7.1 Accredited Coal Traders shall have the following rights:
  - a. To purchase, transport, convey and trade/sell coal from COC and/or Independent SSCMP holders;
  - b. To buy, sell, market, import, export and distribute coal;
  - c. To be eligible to apply for a Certificate of Compliance for coal importation as may be required by the Bureau of Customs and Bureau of Internal Revenue; and
  - d. To be eligible to apply for a Coal Export Permit.
- 7.2 Accredited Coal Traders shall have the following obligations:
  - a. To purchase locally-produced coal only from valid COC Holders, Independent SSCMP Holders or other Accredited Coal Traders, or in case of importation, to comply with all rules and regulations pertinent to coal importation;
  - b. To sell only to accredited Coal Traders and/or registered Coal End-Users and entities exempted from accreditation and registration under this Circular;
  - c. To comply with applicable laws, rules and regulations on tax, health, safety, labor and environment;

- d. To allow DOE representatives, at all reasonable times upon prior written notice, full access to accounts, books and records relating to its rights hereunder for proper monitoring, computation of appropriate government share and other valid purpose;
- e. To withhold the three percent (3%) government share on the cost of coal purchased from COC Holders, Independent SSCMP and/or other Accredited Coal Traders per transaction and remit the said government shares to the DOE on a quarterly basis within sixty (60) days from the end of the applicable calendar quarter;
- f. To submit quarterly report on coal purchases and sales within sixty (60) days from end of the applicable calendar quarter;
- g. To remit to the DOE quarterly within sixty (60) days from the end of the applicable calendar quarter the three percent (3%) government share on the net proceeds on locally-produced coal computed, as the difference between the coal sales and allowable expenses, such as cost of coal purchase and delivery expense-hauling or freight costs incurred in transporting coal to the consumer, as approved by the DOE;
- h. In case the Coal Trader does not own the conveyance used to transport coal, or the conveyance is not registered under its name, the Coal Trader shall submit to the DOE the list of its authorized transporters. The Coal Traders' authorized transporters of coal shall be, at all times, under its direct responsibility;
- i. To install, construct, establish and/or use facilities which the DOE may deem necessary to ensure proper handling of the coal product and comply with existing laws, rules and regulations both by the local and national government; and
- j. To be responsible for any economic, social and environmental damage in relation to Coal Trading operations such as but not limited to, coal spillages during transport, air pollution, contamination, fire, spontaneous combustion, coal run-off into seas and rivers and any other liability arising from the handling of the coal product.

## **Section 8. Rights and Obligations of the Coal End-Users**

### **8.1 Registered Coal End-users shall have the following rights:**

- a. To purchase coal only from COC Holders, Independent SSCMP, and accredited Coal Traders;
- b. To import and use coal;

- c. To be entitled to a Special Transport Permit to transport upon written request; and
- d. Upon registration, Coal End-users shall be considered compliant to rules and regulations of the DOE in the use or utilization of coal.

8.2 Registered Coal End-users shall have the following obligations:

- a. To purchase locally-produced coal only from valid COC Holders, Independent SSCMP Holders or Accredited Coal Trader, or in the case of importation, to comply with all rules and regulations pertinent to coal importation;
- b. To submit quarterly report on coal purchases and utilization within thirty (30) days from end of the applicable calendar quarter; and
- c. To comply with applicable laws, rules and regulations on health, safety, labor and environment.

**Section 9. Administrative Fines and Penalties.** The following penalties or sanctions shall be imposed on any Coal Traders or Coal End-user found committing the acts prohibited under Section 3 of this Circular or engaged in illegal coal trading, to wit:

For Coal Traders:

1. First offense - a fine of **TEN THOUSAND PESOS (PhP10,000.00)**.
2. Second offense and above - a fine of **TWENTY-FIVE THOUSAND PESOS (PhP25,000.00)**.

For Coal End-users:

1. First Offense - a fine of **TWENTY-FIVE THOUSAND PESOS (PhP25,000.00)**.
2. Second Offense and above - a fine of **FIFTY THOUSAND PESOS (PhP50,000.00)**.

The DOE may further recommend the suspension or revocation of the business permit and/or closure of business establishment.

**Section 10. Penalties for violation of Sections 7.2 and 8.2 of this Circular.** The DOE may suspend, revoke or cancel any Coal Trader's Certificate of Accreditation/CTP or Certificate of Registration of Coal End-users due to, among others, failure to comply with the obligations as provided in Sections 7.2 and 8.2 hereof and the terms and conditions under which the Certificate of Accreditation/CTP or Registration was issued in accordance with the provisions of DC2002-07-004, otherwise known as the "*Rules of Practice and Procedure of the Department of Energy*".

**Section 11. Criminal Liability.** By way of restatement of BED Circular No. 82-12-11 dated 20 December 1982, the following shall be criminally liable:

*Theft of Minerals* - Any person who, without a valid coal operating contract or authority to mine, shall extract, remove and/or dispose of minerals for commercial purposes belonging to the government or from the coal contract areas held or owned by other persons without the written permission of the government official concerned shall be deemed to have stolen the ores or the products thereof from the mines or mills. He shall, upon conviction, be imprisoned from six (6) months to six (6) years or pay a fine from one hundred pesos to ten thousand pesos, or both, in the discretion of the court, besides paying compensation for the minerals extracted and disposed of, the royalty and the damage caused thereby (Section 78, PD No. 463).

*Fencing* - Any person who, with intent to gain for himself or for another, shall buy, receive, possess, keep, acquire and sell, or in any other manner deal in any article, item, object or anything of value which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery or theft (Section 2 (a) of P.D. 1612).

*Fence* - includes any person, firm, association, corporation or partnership or other organization who/which commits the act of fencing (Section 2 (b) of PD No. 1612).

Any person guilty of fencing shall be punished as indicated under Section 3 of P.D. No. 1612. If the fence is a partnership, firm, corporation or association, the president or the manager or any officer thereof who knows or should have known the commission of the offense shall be liable.

**Section 12. Filing of Criminal Cases.** Whenever there exists a commission of crime/s mentioned under Section 11 of this Circular, the Director of DOE Field Offices, Director of ERDB, and in their absence, the Assistant Director or concerned Division Chief of ERDB or concerned Division Chief of DOE Field Offices shall, with the assistance of the Legal Services or DOE Field Offices Legal Officer, file the corresponding complaint with the proper Office of the City/Provincial Prosecutor, Department of Justice (DOJ). The coal shall be confiscated and disposed of in accordance with the applicable laws, rules and regulations

The DOE may request the assistance of law enforcement agencies and local government units, whenever it is deemed necessary, for the effective implementation of this Circular.

**Section 13. Confiscation and Disposition.** Coal in possession and control of non-accredited Coal Traders and non-registered Coal End-users, produced or purchased from illegal or unauthorized sources as determined by the DOE shall be apprehended, confiscated and disposed of in accordance with applicable laws, rules and regulations.

**Section 14. 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 15. Repealing Clause.** All other circulars, rules and regulations inconsistent with this Department Circular are hereby modified, amended and repealed accordingly.

**Section 16. Effectivity.** This Circular shall be effective fifteen (15) calendar days after its publication in two (2) newspapers of general circulation.

Issued at Fort Bonifacio, Taguig City, this     <sup>MAY 22 2012</sup> day of      2012.



**JOSE RENE D. ALMENDRAS**

Secretary



Republic of the Philippines  
DEPARTMENT OF ENERGY

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