

DEPARTMENT ORDER NO. 100-10  
(Series of 2010)

DEPARTMENT OF LABOR AND EMPLOYMENT	
Administrative Service Central Records Section-840	
DATE :	11 FEB 2010
TIME :	3:14
RECEIVED BY :	DAISY

**IMPLEMENTING RULES AND REGULATIONS OF THE SOCIAL  
AMELIORATION AND WELFARE PROGRAM IN THE BIOFUEL INDUSTRY  
UTILIZING SUGARCANE AS FEEDSTOCK**

Pursuant to the Sections 11 (e) and 17 of Republic Act No. 9367, otherwise known as the Biofuels Act of 2006, and per authority granted by the National Biofuels Board (NBB) to the Department of Labor and Employment (DOLE), the DOLE shall establish a mechanism similar to that provided under Republic Act 6982, otherwise known as the Sugar Amelioration Act of 1991 for the benefit of the biofuel workers. Section 17 further provides that the Act shall not in any way result in the forfeiture or diminution of the existing benefits enjoyed by the sugar workers as prescribed under R.A. 6982 in case sugarcane shall be used as feedstock. In compliance thereto, the following guidelines on the implementation of the Social Amelioration and Welfare Program (SAWP) in the biofuel industry utilizing sugarcane as feedstock, are hereby issued for the guidance of all concerned:

**RULE I  
General Provisions**

**Section 1. Title.**

This Department Order shall be known as the Implementing Rules and Regulations on the Social Amelioration And Welfare Program (SAWP) in the Biofuel Industry Utilizing Sugarcane as Feedstock hereinafter referred to as the "Implementing Rules and Regulations" or IRR.

**Section 2. Objectives.**

The SAWP under the Act as provided in these IRR shall aim to improve the socio-economic well-being of workers and their families thru augmentation of their income and access to productive resources, social protection coverage and provision of livelihood and employment opportunities.

**Section 3. Scope.**

- a) The IRR shall include the sectoral coverage, consultative mechanism, implementing agencies/bodies, programs and projects, administration, management of lien, program monitoring and penal provisions.
- b) It defines the roles of stakeholders and duty holders.

**Section 5. Definition of Terms.**

For purposes of this IRR, the following definitions shall apply:

- a) *Act* --- refers to Republic Act No. 9367, otherwise known as the

Biofuels Act of 2006;

- b) *Adjunct Plant* --- refers to a bioethanol plant which is integrated to a sugar mill;
- c) *Affiliated Planter* --- refers to one who is a member of or is affiliated with a planters association or cooperative recognized by the bioethanol producing plant;
- c) *Bioethanol* --- refers to ethanol (C<sub>2</sub>H<sub>5</sub>OH) produced from sugarcane;
- d) *Bioethanol Fuel* --- refers to hydrous or anhydrous bioethanol suitably denatured for use as motor fuel, with quality specifications in accordance with the Philippine National Standards (PNS);
- e) *Bioethanol Plant* --- refers to the facility where the processing of biomass, particularly sugarcane, to produce bioethanol fuel takes place. It may be a stand alone or adjunct facility as defined under items (b) and (dd);
- f) *Bioethanol Producer* --- refers to any person or entity engaged in the production of bioethanol fuel;
- g) *Bioethanol Worker* --- refers to a bioethanol plant worker or field worker as defined under items (q) and (y) of this Section.
- h) *Biofuel* --- refers to bioethanol and biodiesel and other fuels made from biomass and primarily used for motive, thermal and power generation with quality specifications in accordance with the PNS;
- i) *Bureau* --- refers to the Bureau of Workers with Special Concerns (BWSC) created under the DOLE Rationalization Program in compliance to Executive Order No. 366 (series of 2004) providing for the Program on Rationalizing and Improving Public Service Delivery, which is a consolidation of the Bureau of Rural Workers and Bureau of Women and Young Workers;
- j) *Cash Bonus Fund or CBF* --- refers to the eighty percent (80%) share of the lien given as social amelioration bonus to the covered bioethanol workers, including any and all incomes or interests derived therefrom;
- k) *Crop Year* --- refers to the 12-month operating period declared by the bioethanol producer.;
- l) *Delivery Receipt* --- refers to the document that evidences the quantity of sugarcane delivered to the bioethanol plant as feedstock in the production of bioethanol fuel;
- m) *Distribution* --- refers to the actual delivery to and receipt of the cash bonus by the covered bioethanol workers as evidenced by a cash bonus special payroll;

- n) *DOE* --- refers to the Department of Energy;
- o) *DOLE* --- refers to the Department of Labor and Employment;
- p) *Feedstock* --- refers to organic source or biomass, particularly sugarcane used in the production of bioethanol fuel;
- q) *Field Worker* --- refers to one who is employed in a sugarcane plantation or farm wherein the sugarcane produced is utilized for bioethanol fuel production. He is also called *plantation* or *farm worker*;
- r) *Forfeited Amount* --- refers to the portion of the unclaimed/undistributed cash bonuses of covered bioethanol workers which, having been unclaimed during the three-year prescriptive period, is forfeited in favor of the socio-economic projects and programs for the bioethanol workers;
- s) *Lien* --- refers to the levy collected from the production of bioethanol fuel utilizing sugarcane as feedstock, to support the Social Amelioration and Welfare Program for bioethanol workers;
- t) *Liter Ethanol or LE* --- refers to the volume of bioethanol fuel produced from sugarcane;
- u) *Lkg* --- refers to a unit of measurement which is equivalent to 50 kilograms;
- v) *Managerial Employee* --- refers to one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees, pursuant to Rule 1, Book V of the Implementing Rules and Regulations of the Labor Code, as amended;
- w) *Planter* --- refers to a sugarcane plantation/farm owner, lessee or operator who produces sugarcane for bioethanol fuel production;
- x) *Planters' Association/Cooperative* --- refers to the organization of sugarcane planters;
- y) *Plant Worker* --- refers to one who is employed by a bioethanol producer and who is involved in the production of sugarcane for bioethanol fuel;
- z) *PNS* --- refers to Philippine National Standards consistent with Section 26 of R.A. No. 8749 otherwise known as the "Philippine Clean Air Act of 1999";
- aa) *Regional Office* --- refers to the Regional Office of the DOLE including its Field, Provincial and other extension offices;
- bb) *Socio-Economic Program-Related Funds* --- refers to the twenty percent (20%) share of the lien allocated for socio-economic programs, including any and all incomes or interests derived therefrom;

- cc) *SRA* --- refers to the Sugar Regulatory Administration;
- dd) *Stand-alone Bioethanol Plant* --- refers to a bioethanol plant which is not integrated to a sugar mill;
- ee) *Ton Cane or TC* --- refers to the weight of sugarcane equivalent to a metric ton;
- ff) *Trust Receipt Agreement or TRA* --- refers to the instrument executed by and between the DOLE and the bioethanol producer and the planters' association, by and between the bioethanol producer and unaffiliated planters, as well as by and between the planters' association and the planter-members to evidence transfer and acceptance of cash bonus collection for distribution to workers who are entitled thereto;
- gg) *Unaffiliated Planter* --- refers to one who is not a member of or affiliated with a planters' association or cooperative which is recognized by a bioethanol plant. He is also called an "independent planter" or "non affiliated planter".

## **RULE II Coverage**

### **Section 1. Employers Covered.**

- a) All bioethanol producers who own or operate bioethanol plant that utilizes sugarcane as feedstock, and
- b) All planters, affiliated or not, who deliver sugarcane directly or through a sugarcane supplier, trader or consolidator for bioethanol fuel production.

### **Section 2. Workers or Employees Covered.**

- a) All plant workers involved in the production of bioethanol fuel, and
- b) All field workers, migratory workers or sacadas employed by the covered planters.

Excluded are managerial employees, and workers/employees who are working in the bioethanol plant and sugarcane farms under an agency or contractor with a legitimate job contracting or sub-contracting service agreement with the plant or farm.

## **RULE III Consultative Mechanism**

### **Section 1. Creation of a Consultative Council.**

The Secretary of Labor and Employment shall create a Tripartite Consultative Council (TCC) of SAWP for biofuel industry utilizing sugarcane as

feedstock which shall serve as the advisory body of the DOLE in policy-making, program implementation and monitoring the SAWP implementation.

## **Section 2. Composition.**

The TCC shall have eleven (11) members composed of the following:

a) Government Sector

Secretary of DOLE or his duly authorized representative as ex-officio Chairperson;  
One (1) representative from SRA (ex-officio); and  
One (1) representative from DOE (ex-officio).

b) Labor Sector

Two (2) representatives from the Plant Workers' Sector; and  
Two (2) representatives from Field Workers' Sector.

c) Management

Two (2) Representatives from the Producers' Sector; and  
Two (2) Representatives from the Planters' Sector.

The representatives from the Labor and Management Sectors shall be appointed by the Secretary from among the nominees of the sectoral organizations duly recognized by concerned government agencies. The Secretary may increase or decrease the composition of the Council as necessary.

In case where there is no nomination from the sector or no duly recognized organization exists, the DOLE Secretary may appoint a representative to the TCC as she/he may deem fit to represent the sector.

## **Section 3. Power and Functions.**

The Council shall:

- a) Serve as the advisory body to the Department relative to the effective implementation of SAWP for biofuel industry utilizing sugarcane as feedstock;
- b) Evaluate and recommend to the Secretary any necessary adjustment in the amount of lien and in the formula used in determining the amount of lien for the implementation of the SAWP;
- c) Recommend to the Secretary policies and programs that will ensure the effective and efficient utilization of the twenty percent (20%) share of the lien allocated for socio-economic programs and any and all its incomes or interests;

- d) Recommend to the Secretary the manner of utilization of the forfeited amount, including the interest earnings, for the development of projects or programs in favor of the sugar workers;
- e) Recommend to the Secretary, whenever necessary, the creation of a local TCC to ensure participation of bioethanol producers, planters and workers in policy development, and program formulation and implementation at the local level;
- f) Adopt rules of its own proceedings; and
- g) Perform such other functions necessary to attain the objectives of the SAWP for bioethanol workers and this IRR.

#### **Section 4. Meetings of the Council.**

The TCC shall hold regular meetings every three (3) months on a date and at a place fixed by the Council. It may conduct special meetings as called upon by the Chairman.

#### **Section 5. Remuneration.**

The TCC shall determine the appropriate compensation/remuneration of its members in accordance with existing laws, rules and regulations. The remuneration of the TCC shall be charged to the SAWP's Administrative Expense Fund (AEF) and shall be included in the SAWP's annual budget, subject to the approval by the Secretary.

#### **Section 6. Technical Secretariat.**

The TCC shall be assisted by a Technical Secretariat from the BWSC of the DOLE, and shall directly report to the Secretary or designated Undersecretary of the Department. The number of BWSC's regular staff assigned to the Technical Secretariat, as well as the creation of corresponding positions to augment the existing regular staff of BWSC, shall be determined by the Secretary or designated Undersecretary. Allocation of funds necessary for the Technical Secretariat to effectively perform its duties and functions shall be incorporated in the AEF budget, subject to TCC review and approval by the Secretary.

### **RULE IV Bureau of Workers with Special Concerns**

#### **Section 1. Duties and Functions of the Bureau.**

Pursuant to Sections 11 (e) and 17 of the Act, the Bureau shall have the following duties and functions:

- a) Formulate, recommend, implement and advocate policies and programs

that are intended to carry out and improve the SAWP for biofuel industry utilizing sugarcane as feedstock as provided in the Act and its IRR;

- b) Oversee and coordinate the implementation of the social and economic programs, projects and activities for the covered bioethanol workers, including those for the equitable distribution of lien and such benefits as provided in the IRR;
- c) Undertake the efficient, effective and economical management of the SAWP lien;
- d) Render technical assistance and provide advisory services to the DOLE Regional Offices and program partners to further strengthen the implementation of the SAWP;
- e) Monitor activities of the DOLE Regional Offices and Program Partners to ensure compliance with existing policies, rules, regulations, guidelines and procedures;
- f) Develop and maintain a comprehensive data and information base system on SAWP to ensure the efficient evaluation, analysis, and dissemination of data and information;
- g) Perform other functions that may be necessary for the effective implementation of Sections 11(e) and 17 of the Act and its IRR such as (1) evaluation of proposed socio-economic projects for bioethanol workers; (2) conduct of researches and studies; and (3) development of information, education and communication materials related to SAWP implementation.

## **Section 2. Role of the DOLE Regional Office.**

The DOLE Regional Office shall assist and support the Bureau in the effective implementation of Sections 11 (e) and 17 of the Act, and these implementing rules and regulations, including the necessary policies, guidelines and procedures issued pursuant thereto.

## **RULE V Management of the Lien**

### **Section 1. Nature and Purpose.**

A lien shall be imposed and collected for the implementation of the SAWP for workers engaged in the production of bioethanol fuel and its feedstock, specifically sugarcane. It shall be primarily utilized to augment the income and improve the socio-economic well being of the bioethanol workers.

### **Section 2. Lien Allocation.**

Pursuant to Section 17 of R.A. 9367, the lien intended to benefit the field

workers shall therefore be allocated and utilized as follows:

- a) Eighty percent (80%) of the lien, including any and all incomes or interests derived therefrom, as Cash Bonus Fund, for distribution to bioethanol workers; and
- b) Twenty percent (20%) of the lien, including any and all incomes or interests derived therefrom, as Socio-Economic Program-Related Funds, distributed as follows:
  1. Five percent (5%) as Death Benefit Fund;
  2. Nine percent (9%) including penalties for non-remittance of the lien, as Socio-Economic Project Fund;
  3. Three percent (3%) as Maternity Benefit Fund; and
  4. Three percent (3%) as Administrative Expense Fund for the implementation of the SAWP by the BWSC and the consultative body/bodies that maybe created.

In the case of plant workers and their dependents, the same allocation as provided under RA 6982 may be followed, unless other allocation scheme is agreed upon by the concerned parties.

### **Section 3. Amount of Lien.**

The SAWP lien shall be equal or equivalent to the lien being imposed on raw sugar produced as provided under Republic Act 6982 or the Sugar Amelioration Act of 1991. To ensure non-diminution of existing workers' benefits, conversion of the amount of SAWP lien collected per 50 kilogram (Lkg) of raw sugar produced shall be computed on a per ton cane (TC) for sugarcane feedstock. The following conversion shall be followed:

A lien of **P13.43 per ton cane (TC)** shall be collected. The amount herein imposed shall be borne by the planters and the bioethanol producers.

#### Formula in determining SAWP lien per TC:

$$\begin{aligned} \text{Lien/TC} &= \text{RA6982 lien per 50-kilo-bag (Lkg.)} \times \text{quantity of raw sugar produced (in Lkg.) per TC} \\ &= \text{P7.90} \times \text{1.7} \\ &= \text{P13.43} \end{aligned}$$

### **Section 4. Adjustment in the SAWP Lien.**

Corresponding adjustment in the amount of SAWP lien shall be made whenever an adjustment or increase in the lien under RA 6982 is imposed or mandated.



Similarly, adjustment in the quantity of raw sugar produced per TC which is used as basis in determining the SAWP lien may be made as deemed necessary.

**Section 5. Collection and Remittance of the SAWP Lien.**

a) Collection

1. The bioethanol producer shall immediately collect the SAWP lien upon purchase of sugarcane from planters as evidenced by delivery receipt (DR). The percentage share of the planter and the bioethanol producer on the amount of lien due shall be based on the prevailing production sharing agreement in the sugar milling district or nearest sugar milling district where the plant is located.

The parties may however enter into a sharing agreement, but in no case shall the planter's share be lower than that provided under the prevailing production sharing in the area or in the milling district.

2. In case the bioethanol producing plant is located in an area where there is no existing or nearby sugar mill that is operational, the percentage share of the planter and bioethanol producer on the amount of lien shall depend on the agreement of the parties, as approved by the TCC.
3. The DR shall indicate the name of the sugarcane planter, the quantity of sugar cane (in TC) delivered, the origin or farm and address of the farm where the sugarcane was harvested, and the equivalent amount of SAWP lien paid by the sugarcane planter and bioethanol producer.

Sample Computation of Lien Due:

*Prevailing production sharing = 65-35 (65% planter's share and agreement 35% mill's share)*

*Quantity of sugarcane delivered to the plant = 1,000 TC*

Computation:

$$\begin{aligned}
 \text{a. Total lien due} &= \text{lien/TC} \times \text{no. of TCs delivered} \\
 &= P13.43 \times 1,000 \\
 &= \underline{\underline{P13,430.00}}
 \end{aligned}$$

$$\begin{aligned}
 \text{b. Lien due from bioethanol producer} &= \text{Total lien payable} \times \text{lien share of bioethanol producer} \\
 &= P13,430.00 \times 0.35 \\
 &= \underline{\underline{P4,700.50}}
 \end{aligned}$$

$$\begin{aligned}
\text{c. Lien due from planter} &= \text{Total lien payable} \times \text{lien share of planter} \\
&= P13,430 \times 0.65 \\
&= \underline{\underline{P8,729.50}}
\end{aligned}$$

b) Opening of Bank Account for the Cash Bonus Fund (CBF) Portion of the SAWP Lien ---

1. The bioethanol producer and PA/Coop shall open and maintain separate interest-bearing accounts with an authorized government depository bank in its name in trust for their worker-beneficiaries.

1a) Share of Bioethanol Plant Workers and Field Workers of Unaffiliated Planters to be Opened by the Bioethanol Producer:

"CBF FOR THE BIOETHANOL PLANT WORKERS AND  
FIELD WORKERS (UNAFFILIATED) IN TRUST TO  
BIOETHANOL PRODUCER "X"

1b) Share of Field Workers of Affiliated Planters to be Opened by the PA/Coop:

"CBF FOR THE FIELD WORKERS IN TRUST  
TO PLANTERS' ASSOCIATION/COOPERATIVE "X"

2. In exceptional cases, where there are no accessible authorized government depository banks within the area where the bioethanol plant is located, the bioethanol producer or planters' association/cooperative (PA/Coop) shall open and maintain CBF bank accounts in a reputable private bank located nearest to the bioethanol plant, subject to approval of the DOLE-Regional Office.

c) Deposit with Authorized Government Depository Bank.

1. *80% SAWP Lien or Cash Bonus Fund (CBF)* - Within one (1) month from date of collection, the bioethanol producer shall remit the 80% or CBF portion of the lien by depositing the CBF in the appropriate bank accounts opened by the covered PAs/Coops and bioethanol producer for the purpose.

Every remittance deposited by a bioethanol producer to the CBF bank account for field workers shall be covered by a letter to the concerned PA/Coop in whose name the CBF bank account is opened informing the latter of the amount deposited to the specific bank account. A copy of such letter shall be furnished to the appropriate DOLE Regional Office.

2. *20% Lien or Socio-Economic Program Related Funds (SEPRF)* -

Within one (1) month from date of collection, the bioethanol producer shall directly remit and deposit on-line the 20% or SEPRF portion of the SAWP lien to the DOLE thru the BWSC in the name of DOLE-SEPRF Bioethanol Collection Account deposited and maintained at Land Bank of the Philippines, Intramuros Branch. This portion of the lien shall be utilized for the implementation of programs and projects for bioethanol workers

#### **Section 6. Penalty on Non-Remittance of SAWP Lien Collection.**

A penalty of ten percent (10%) per month on the unremitted SAWP lien collection shall be imposed upon the violator. Such penalties for non-remittance of lien collected shall accrue to the social and economic programs for the bioethanol workers

#### **Section 7. Authority of the DOLE as Trustor of the SAWP Funds.**

The bioethanol producer and PA/Coop, by opening and maintaining the CBF bank accounts, agree that the DOLE, as trustor, shall have the authority to inquire into such accounts, to have access to, and to have certified copies of, all records and supporting documents for all transactions relating to or affecting such accounts, including deposits to and withdrawals from such accounts. Further, with respect to such accounts, the bioethanol producer and PA/Coop waive their rights as provided under the Bank Secrecy Law in favor of the DOLE.

#### **Section 8. Execution of Trust Agreement.**

Each bioethanol producer or PA/Coop shall execute a trust agreement with the DOLE, in accordance with the DOLE prescribed form and substance, which shall take effect from the date of its execution and shall continue until terminated by the DOLE. Every remittance deposited to the CBF bank account of such bioethanol producer or PA/Coop as trustee of the account, shall be covered by the trust agreement. The trust agreement shall stipulate, among others, that every such deposit to the CBF bank account is received by the bioethanol producer or PA/Coop in trust for the worker-beneficiaries, and that the bioethanol producer or PA/Coop shall release the CBF to the workers-beneficiaries in accordance with the applicable provisions of this IRR.

#### **Section 9. Required Report.**

For purposes of monitoring, the bioethanol producer shall prepare and submit to the DOLE Regional Office a Monthly Report of Sugarcane Purchased/Processed, Lien Collection and Remittance within ten (10) working days from the end of the reference month.

Submission of the above reports shall be supported/accompanied by copies of the deposit slips or bank statements duly validated by the depository bank.

## **Section 10. Applicability of the Provisions of R.A. No. 6982.**

Unless otherwise amended, superseded or repealed, all the other provisions of R.A. No. 6982 or the Sugar Amelioration Act of 1991, its rules and regulations as amended and other related issuances, particularly on the implementation of the cash bonus program, maternity and death benefit programs and socio-economic program/project shall be applied/effective in the implementation of SAWP for bioethanol workers. The responsibility or role of the mill under RA 6982 shall be assumed by the bioethanol producer under these IRR. The DOLE thru the BWSC shall issue the guidelines to clarify specific provisions as may be necessary.

## **Section 11. Program Monitoring and Supervision.**

- a) Complementation Scheme on Monitoring SAWP Lien Collection.

The DOLE shall establish with the Sugar Regulatory Administration (SRA) a complementation scheme for the proper monitoring of sugarcane purchased and processed for ethanol production, and for the effective and timely collection of the SAWP lien.

- b) Manual of Operation.


The DOLE thru the BWSC shall formulate the SAWP Operation Manual (for biofuel industry utilizing sugarcane as feedstock), including the Accounting and Management Reporting Systems of the SAWP-Related Funds, pursuant to Section 17 of RA 9367. Consultation with the stakeholders maybe conducted, as necessary.

## **Section 12. Effectivity.**

This Order shall take effect fifteen (15) days after its complete publication in Official Gazette or in at least two (2) national newspapers of general circulation which ever comes earlier.



**MARIANITO D. ROQUE**  
Secretary

 Dept. of Labor & Employment  
Office of the Secretary



100059