



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF CUSTOMS**

**INTERNAL ADMINISTRATION GROUP**  
CENTRAL RECORDS MANAGEMENT DIVISION

August 19, 2019

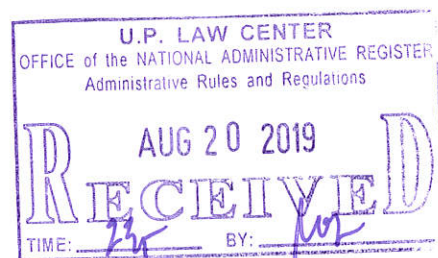
**The Director**

Office of the National Administrative Register (ONAR)  
UP Law Center Diliman, Quezon City

Sir/Ma'am:

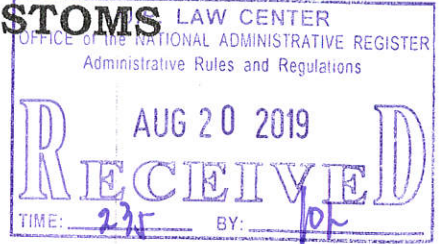
Transmitted are three certified true copies and soft copy (word format in compact disc rewritable) of the following Customs Memorandum Order and Customs Administrative Order, to wit:

**CMO 43-2019: IMPLEMENTING THE FUEL MARKING PROGRAM  
PURSUANT TO DOF-BIR- BOC JOINT CIRCULAR NO. 001.2019.  
CMO 44-2019: PREPARATION OF REGIONAL RISK MANAGEMENT  
UNITS (RMUs).**



Very truly yours,

*Gladys C. Cabugawan*  
GLADYS C. CABUGAWAN  
Chief, CRMD



CUSTOMS MEMORANDUM ORDER (CMO)  
NO. 43-2019

**SUBJECT: IMPLEMENTING THE FUEL MARKING PROGRAM PURSUANT TO  
DOF-BIR-BOC JOINT CIRCULAR NO. 001.2019**

**Introduction.** Pursuant to the provisions of Joint Circular No. 001.2019, Section 244 of the National Internal Revenue Code (NIRC) of 1997, as amended, and Section 1800 of the Customs Modernization and Tariff Act (CMTA), in relation to Sections 148-A, 151, 157, 171, 172 and 265-A of the TRAIN Law, this Order is hereby promulgated to implement the Mandatory Fuel Marking Program for Petroleum Products.

**Section 1. Scope.** This Order shall cover the mandatory marking of petroleum products that are refined, manufactured, or imported gasoline, diesel and kerosene in the Philippines, including those in Free Zones, after the taxes and duties thereon have been paid. Random field and confirmatory testing on the fuel required to be marked shall be conducted to check compliance with the mandatory marking requirement. The mandatory marking and testing of petroleum products shall be collectively referred to as the "*Fuel Marking Program*".<sup>1</sup>

**Section 2. Objectives.**

- 2.1. To eliminate smuggling/ misdeclaration and increase the revenue collection of BOC and BIR from taxable imported and locally refined petroleum products<sup>2</sup>;
- 2.2. To establish a Fuel Marking Program that will enable BOC and BIR to minimize the illegal entry, manufacturing, refining, and distribution of taxable fuel products in the country<sup>3</sup>;
- 2.3. To adopt a transparent Standard Operating Procedures for fuel marking and field testing in the country<sup>4</sup>;
- 2.4. To develop a capacity building program for BOC and BIR on fuel marking and testing with the view of independent implementation of the program<sup>5</sup>

<sup>1</sup> DOF-BIR-BOC Joint Circular No. 001.2019, Section 1

<sup>2</sup> Terms of Reference: Establishment and Operation of a Fuel Marking and Field Testing System, Section I.

<sup>3</sup> of Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid

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Admin Officer I  
CRMD-Printing Unit



**Section 3. Definition of Terms.** For purposes of this Order, the following terms are defined accordingly:

- 3.1. **Accredited Cargo Surveying Company (ACSC)** – shall refer to a surveying company possessing a duly approved accreditation issued by the Committee for Accreditation of Cargo Surveying Companies (CACSC) pursuant to CMO 18-2010 and related rules and regulations<sup>6</sup>;
- 3.2. **Admission** – shall refer to the act of bringing imported goods directly or through transit into a Free Zone;
- 3.3. **Adulterated Fuel** – shall refer to the fuel whose quality has been weakened by adding inferior petroleum products or diluted by adding illegally smuggled fuels for purposes of evading duties and taxes and circumventing the provisions of RA No. 10963 and its implementing regulations;
- 3.4. **Bulk Petroleum Product** – shall refer to petroleum products in a mass of one commodity not packaged, bundled, bottled or otherwise packed;<sup>7</sup>
- 3.5. **Confirmatory Test** – shall refer to the accurate and precise analytical test of the tested unmarked, adulterated, or diluted fuel using a device, tool or equipment, which will validate and confirm the result of the field test, that is immediately conducted in an accredited testing facility that is certified to ISO 17025;<sup>8</sup>
- 3.6. **Counterfeit Fuel Marker** – shall refer to a marker imitating the Official Fuel Marker or giving the appearance of the Official Fuel Marker for the purpose of circumventing the provisions of TRAIN Law and its regulations;
- 3.7. **Diluted Fuel** – shall refer to fuel that does not meet the required level of Official Fuel Marker. Provided that for purposes of prosecution, assessment or seizure, fuel containing less than 95% of the marker level shall be deemed diluted;<sup>9</sup>
- 3.8. **Discharge Port Survey Report (DPSR)** – shall refer to a report issued by a BOC Accredited Cargo Surveying Company (ACSC) for Bulk/Break Bulk Cargo after the conduct of a survey at the Port of Discharge pursuant to the provisions of CMO 18-2010<sup>10</sup>;
- 3.9. **Free Zones** – shall refer to special economic zones registered with the Philippine Economic Zone Authority (PEZA) under Republic Act No. 7916,

<sup>6</sup> Customs Memorandum Order No. 18-2010, Section 2.1

<sup>7</sup> of Customs Memorandum Order No. 18-2010, Section 2.3

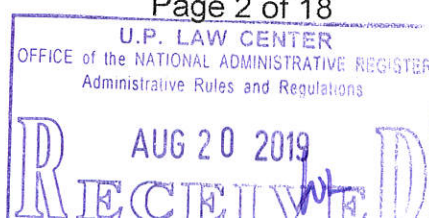
<sup>8</sup> Section 148-A, subsection (j) 2nd par. of the National Internal Revenue Code as amended by Republic Act No. 10963

<sup>9</sup> of Terms of Reference: Establishment and Operations of a Fuel Marking and Field Testing System, Task 1.3, 7<sup>th</sup> bullet

<sup>10</sup> Customs Memorandum Order No. 18-2010, Section 2.6

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as amended, duly chartered or legislated special economic zones and freeports such as Clark Freeport Zone; Poro Point Freeport Zone; John Hay Special Economic Zone and Subic Bay Freeport Zone under Republic Act No. 7227, as amended by Republic Act No. 9400; the Aurora Special Economic Zone under Republic Act No. 9490, as amended; the Cagayan Special Economic Zone and Freeport under Republic Act No. 7922; the Zamboanga City Special Economic Zone under Republic Act No. 7903; the Freeport Area of Bataan under Republic Act No. 9728; and such other freeports as established or may be created by law;<sup>11</sup>

- 3.10. Fuel Marking** – shall refer to the addition or administration of Official Fuel Marker to petroleum products that are refined, manufactured, or imported into the Philippines, such as but not limited to, unleaded premium gasoline, kerosene, and diesel, after the taxes and duties thereon have been paid;
- 3.11. Fuel Marking Fees** – shall refer to the fee to be paid by the refiner, manufacturer or importer of petroleum products for the marking services of the Fuel Marking Provider. The same shall be computed based on the agreed contract price multiplied by the actual liter of fuel marked by the Fuel Marking Provider;<sup>12</sup>
- 3.12. Fuel Marking Provider** – refers to the firm engaged by the government that is responsible for providing, monitoring and administering the Official Fuel Marker, provide equipment and devices, conduct Field and Confirmatory Tests, and perform such other acts incidental or necessary to the proper implementation of the provisions of the law and its implementing rules and regulations;<sup>13</sup>
- 3.13. Importer** – shall refer to a natural or juridical person engaged in the import of any goods into the Philippines. For the purpose of this Order, this shall also refer to the person, entity, or consignee-on-record who imports the petroleum products into the country;
- 3.14. Load Port Survey Report (LPSR)** – shall refer to a report issued by a BOC ACSC for Bulk/Break-Bulk Cargo to be imported into the Philippines. The report shall be submitted to the BOC directly from the ACSC in a secure electronic format;<sup>14</sup>
- 3.15. Lodgement** – shall refer to the registration of a goods declaration with the Bureau;<sup>15</sup>

<sup>11</sup> Republic Act (RA) No. 10863, Section 102 (w)

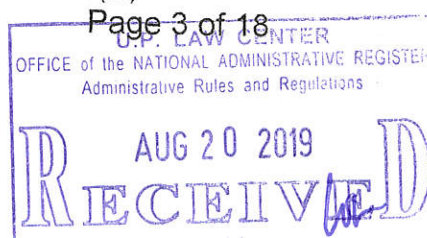
<sup>12</sup> Section 3.3., Permanent Committee Joint Circular No. 001-2018

<sup>13</sup> of Section 148-A, subsection (f) of the National Internal Revenue Code as amended by Republic Act No. 10963

<sup>14</sup> Customs Memorandum Order No. 18-2010, Section 2.5

<sup>15</sup> Republic Act No. 10863, Title I, Chapter 2, Section 102 (dd)

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- 3.16. Marked Fuel** – shall refer to fuel that meets the minimum level of the Official Fuel Marker required by law and this Joint Circular. Any fuel that does not contain the Official Fuel Marker shall be considered as Unmarked Fuel;
- 3.17. Official Fuel Marker** – shall refer to the chemicals and corresponding quantitative ratio identified by the Secretary of Finance as the Official Fuel Marker. The Official Fuel Marker must be distinct and, to the greatest degree possible, impossible to imitate or replicate; Provided, That the Official Fuel Marker must be unique to the Philippines and that its chemical composition and quantitative ratio must persist for at least three (3) years from their application or administration to the Unmarked Fuel;<sup>16</sup>
- 3.18. Oil Company** – shall refer to any Person who refines/manufactures/processes and/or imports/exports and stores, distributes and sells Petroleum Products;<sup>17</sup>
- 3.19. Port of Discharge** – shall refer to a place where a vessel, ship, aircraft or train unloads its shipments, from where they will be dispatched to their respective consignees;<sup>18</sup>
- 3.20. Port of Entry** – shall refer to a domestic port open to both domestic and international trade, including principal ports of entry and subports of entry. A principal port of entry is the chief port of entry of the Customs District wherein it is situated and is the permanent station of the District Collector of such port. Subports of entry are under the administrative jurisdiction of the District Collector of the principal port of entry of the Customs District;<sup>19</sup>
- 3.21. Random Field Test** – shall refer to periodic random inspections and tests performed to establish qualitative and quantitative result of Fuel Trafficking, which are conducted on fuels found in warehouses, storage tanks, gas stations and other retail outlets, and in such other properties or equipment, including mechanisms of transportation, of persons engaged in the sale, delivery, trading, transportation, distribution, or importation of fuel for domestic market;<sup>20</sup>
- 3.22. Transit** – shall refer to the customs procedure under which goods, in its original form, are transported under customs control from one customs office to another, or to a free zone;<sup>21</sup>

<sup>16</sup>cf Section 148-A, subsection (a) of the National Internal Revenue Code as amended by RA 10963

<sup>17</sup> DOE Department Circular No. 2003-01-001

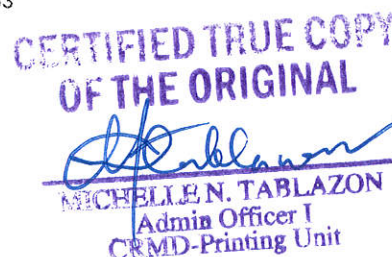
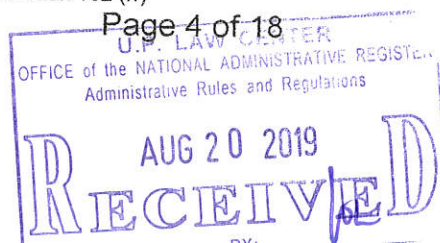
<sup>18</sup> Republic Act No. 10863, Title I, Chapter 2, Section 102 (ii)

<sup>19</sup> Republic Act No. 10863, Title I, Chapter 2, Section 102 (hh)

<sup>20</sup> Section 148-A, subsection (j) of the National Internal Revenue Code as amended by RA 10963

<sup>21</sup> Republic Act No. 10863, Title I, Chapter 2, Section 102 (rr)

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3.23. **Testing Facility** – shall refer to the testing laboratory operated by the Fuel Marking Provider that is certified to ISO 17025<sup>22</sup>. This may include the field testing unit. Confirmatory Fuel Test Certificates issued by fuel testing facilities shall be valid for any legal purpose from the date of issue, and shall constitute admissible and conclusive evidence before any court.<sup>23</sup>

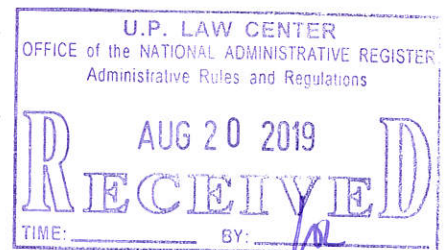
**Section 4. General Provisions.**

- 4.1. Unless otherwise provided by law, the petroleum products mandated to be marked under this Order are diesel, gasoline and kerosene.
- 4.2. Petroleum products subject of this Order imported in Bulk shall be discharged only at ports identified in the succeeding Section.
- 4.3. All Bulk Petroleum Products that are subject to fuel marking arriving at Ports of Discharge not specified herein may be discharged at the nominated Port of Discharge of the Importer upon notification to the District Collector where the fuel will be discharged. Similarly, the District Collector shall notify the PIO of all importations of petroleum products subject to marking.
- 4.4. All petroleum products subject to marking but not in Bulk may be discharged at the nominated Port of Discharge of the Importer subject to notification to the District Collector and Project Implementation Office (PIO).
- 4.5. All petroleum products not subject to fuel marking may be discharged at nominated Ports of Discharge of the Importer.
- 4.6. Petroleum products subject to fuel marking discharged at Ports of Discharge not specified herein without the proper notification shall be presumed to be imported with intention to evade payment of duties and taxes.

**Section 5. Port of Discharge for Bulk Petroleum Products subject to Fuel Marking.**

5.1 To ensure that all imported petroleum products covered by this Order are accounted for and tax paid, the following Ports of Entry, including their Sub-ports, are initially authorized as Ports of Discharge for gasoline, diesel and kerosene arriving in Bulk:

- 5.1.1 Port of Batangas
- 5.1.2 Port of Limay
- 5.1.3 Port of Subic



<sup>22</sup> of Section 148-A, subsection (f) of the National Internal Revenue Code as amended by RA 10963

<sup>23</sup> Section 171, last par. of the National Internal Revenue Code as amended by RA 10963



- 5.1.4 Port of Davao
- 5.1.5 Port of Cagayan De Oro
- 5.1.6 Port of Cebu
- 5.1.7 Port of Tacloban
- 5.1.8 Port of Iloilo

5.2 Upon the recommendation of the PIO, the Commissioner may include other ports as authorized Ports of Discharge for gasoline, diesel and kerosene fuel in Bulk.

**Section 6. Creation of FMP-PIO and FMOSS.**

6.1. **Project Implementation Office.** To effectively implement this Order, a central monitoring office herein called the Fuel Marking Program - Project Implementation Office (FMP-PIO), under the Office of the Deputy Commissioner, Enforcement Group is hereby created.

6.1.1 **Composition.** The FMP-PIO shall be composed of the following:

**Chairman:** Deputy Commissioner, Enforcement Group  
**Vice-Chairmen:** Deputy Commissioner, Intelligence Group  
 Assistant Commissioner, Post Clearance Audit Group

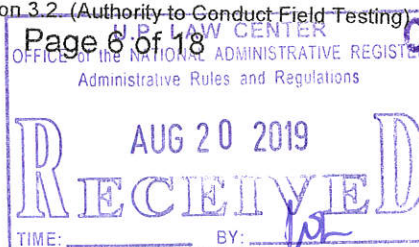
**Members:** Director, Port Operations Service  
 Director, Import Assessment Service  
 Director, Legal Service

**Secretariat:** Office of the Deputy Commissioner, EG

6.1.2 **Functions.** The FMP-PIO shall perform the following functions:

- a. Supervise the implementation of the Fuel Marking Program to ensure that the tasks are accomplished in accordance with the implementing rules and regulations, terms and conditions of the contract, objectives of the Program, including but not limited to the oversight on the engaged Fuel Marking Service Provider and conduct periodic inspections on its facilities and monitor the personnel of the Fuel Marking Service Provider;
- b. Monitor the marking of tax-paid petroleum products imported directly by Importers and Random Field Tests of vessels, depots, warehouses, tank trucks or similar fuel-transporting vehicle;<sup>24</sup>
- c. Direct the submission of reports from the Customs Districts, as basis for policy recommendations;

<sup>24</sup> of DOF-BIR-BOC Joint Circular No. 001.2019, Section 3.2. (Authority to Conduct Field Testing)



- d. Formulate and prepare rules and regulations, subject to the approval of the Commissioner and/or Secretary of Finance, necessary for the implementation of the Fuel Marking Program;
- e. Determine the personnel complement and other administrative and logistical requirements necessary for the efficient implementation of the Program;
- f. Coordinate with the DOF Fuel Marking TWG created under Department Order 69-2017, the Bureau of Internal Revenue (BIR), Procurement Service and other concerned agencies;
- g. Prepare and conduct regular updating to the Commissioner as may be necessary; and
- h. Perform such other functions as may be required.

**6.2. Fuel Marking One Stop Shop (FMOSS).** Customs Districts identified as authorized Ports of Discharge shall likewise establish a Fuel Marking One Stop Shop (FMOSS) in their ports.

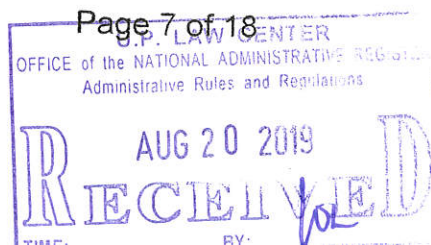
**6.2.1 Composition.** The FMOSS shall be composed of the following:

- Head:** District Collector
- Members:** Deputy Collector for Operations  
Deputy Collector for Assessment  
Chief, Piers and Inspection Division or equivalent unit  
District Commander, Enforcement Security Service  
OIC, Customs Intelligence and Investigation Service  
Fuel Marking Provider  
Representative, Department of Energy (DOE)

In case a Customs District has sub-port/s, the Sub-port Collector shall be designated as Co-Head of the FMOSS of said Customs District.

**6.2.2** The FMOSS shall have the following functions:

- a. Require from different offices and/or stakeholders the submission of documents prior to the arrival of the vessel carrying petroleum product subject of this Order;
- b. Ensure that petroleum product subject of this Order are tax-paid according to the actual volume of fuel discharged from the vessel;
- c. Coordinate with the Fuel Marking Providers and ensure that only tax-paid petroleum product is marked before it is released from customs-controlled premises, depots or similar facilities;
- d. Institute seizure proceedings against Unmarked, Diluted and/or Adulterated Fuel found during Field Testing;



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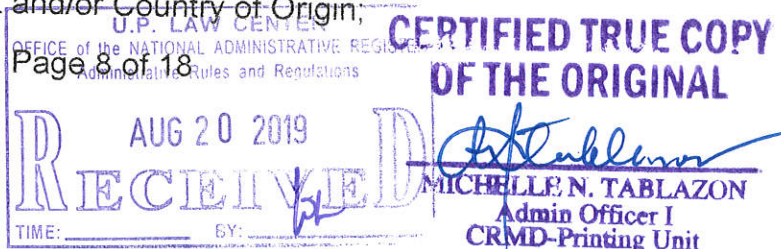


- e. Inform and submit reports to the FMP-PIO under the Enforcement Group, any and all importations of petroleum product subject of this Order; and
- f. Perform such other functions as may be required.

**Section 7. Notice of Arrival.** To facilitate the clearance of shipments and to expedite the marking of petroleum products covered by this Order, the shipping agent, Importer or their authorized representative shall submit the Notice of Arrival to FMOSS, copy furnished the FMP-PIO (*fmp.eg.ph@gmail.com*) and Fuel Marking Provider (*PH.FRM@sgs.com*) via email within 48 hours prior to arrival of carrying vessel at the Port of Discharge. The same requirement shall also be applicable for petroleum products subject to marking for Admission into Free Zones.

**Section 8. Special Permit to Discharge (SPD).**

- 8.1. For Bulk Petroleum Products, the shipping agent, Importer or their authorized representative shall apply for an SPD within 24 hours prior to arrival of the carrying vessel with the District Collector or equivalent unit at the authorized Port of Discharge, copy furnished the FMP-PIO.
- 8.2. For request to discharge at Ports of Discharge not specified herein, the request must be submitted within 48 hours prior to arrival of the carrying vessel, copy furnished the FMP-PIO.
- 8.3. The following documentary requirements shall be attached to the request for SPD:
  - 8.3.1. Notice of Arrival
  - 8.3.2. Electronic manifest
  - 8.3.3. Proforma Invoice;
  - 8.3.4. Bill of Lading;
  - 8.3.5. LPSR or DPSR, as applicable;
  - 8.3.6. Statement of Settlement of Duties and Taxes (SSDT), if already available;
  - 8.3.7. Copy of Acknowledgement Letter from DOE and/or Notice to Import to DOE
- 8.4. Upon issuance of the SPD, the District Collector shall immediately provide a copy thereof to the members of the FMOSS, FMP-PIO and Fuel Marking Provider.
- 8.5. The FMOSS shall report to the FMP-PIO any and all importations of petroleum product subject of this Order within twenty-four (24) hours from receipt of request for SPD or Notice of Arrival, as applicable. The report shall contain the following information:
  - 8.5.1. Importer;
  - 8.5.2. Exporter;
  - 8.5.3. Country of Export and/or Country of Origin;

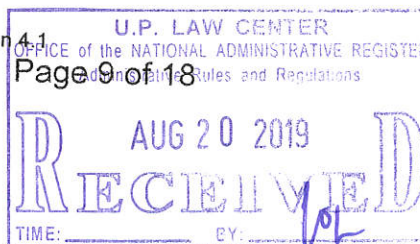


- 8.5.4. Vessel name, Registry and Voyage No.;
- 8.5.5. Estimated Date and Time of Arrival;
- 8.5.6. Bill of Lading Number;
- 8.5.7. Product Description
- 8.5.8. HS Code
- 8.5.9. Volume in liters based on surveyor's report/ship's load port measurement;
- 8.5.10. Load Port/Discharge Port Survey Report (LP/DPSR) Reference Number;
- 8.5.11. Location of Storage/Depot;
- 8.5.12. Entry Reference Number;
- 8.5.13. Statement of Settlement of Duties and Taxes, if available
- 8.5.14. Reference No. of Acknowledgement Letter from DOE

**Section 9. Clearance and Payment Process.**

- 9.1. **Lodgement and/or Admission.** Existing rules and regulations for Lodgement and Admission shall be observed. For goods discharged at the Free Zone, the Free Zone Authority shall provide a copy of the Admission permit or equivalent document to the FMOSS assigned in the Free Zone, copy furnished the FMP-PIO, within 24 hours after issuance thereof to the registered locator. The copy of the Admission Permit or equivalent document submitted via email shall be deemed equivalent to an official transmittal thereof to the Bureau of Customs.<sup>25</sup>
- 9.2. **Documentary Requirements.** The following documentary requirements shall be submitted to the Formal Entry Division or equivalent unit for the clearance of petroleum products subject to Fuel Marking:
  - 9.2.1. Printed Single Administrative Document, Admission Permit or equivalent document, as applicable;
  - 9.2.2. Supplemental Declaration on Valuation (SDV), as applicable;
  - 9.2.3. Bill of Lading;
  - 9.2.4. Proforma/Commercial Invoice;
  - 9.2.5. LPSR or DPSR;
  - 9.2.6. Application for Authority to Release Imported Goods (ATRIG). In no case however, shall petroleum products be released from customs custody without submission of the Original copy of the approved ATRIG;
  - 9.2.7. DOE Acknowledgement Letter;
  - 9.2.8. Certificate of Origin (if availing preferential tariff); and
  - 9.2.9. Shore Receipt Quantity, once available.
- 9.3. **Collection and Computation of Marking Fees.** BOC shall collect the Fuel Marking Fees simultaneous with the payment of internal revenue taxes on imported petroleum product. For this purpose, the Management

<sup>25</sup> Joint SBMA-CDC Circular Order No. 01-2009, Section 4.1



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Information System and Technology Group (MISTG) shall assign a specific account code in the E2M System for the collection of the Fuel Marking Fee.

- 9.4. Duties and taxes for petroleum products subject to Fuel Marking shall be computed pursuant to existing rules and regulations.
- 9.5. Upon receipt of the Shore Receipt Quantity from the PID or equivalent unit, the assigned Customs officer shall verify if there is variance in the volume declared *vis a vis* the actual volume discharged.
- 9.6. If there is variance between the declared and actual volume, Post Modification of SAD (PMS) shall be made wherein the assigned Customs Officer shall indicate the actual volume discharged in Box 41 of the SAD (Supplemental Units).
- 9.7. To ensure proper monitoring of duties, taxes and applicable Fuel Marking Fees, the Formal Entry Division or equivalent unit shall provide the FMOSS with a copy of the complete set of the processed entries and its attachment for petroleum products subject to marking within 24 hours from date of final assessment and/or post entry modification pursuant to Section 9.5 of this Order. The FMOSS shall then consolidate the same and submit to the PIO within three (3) calendar days from receipt thereof.

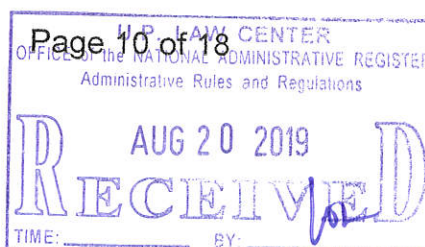
**Section 10. Discharge.** After fuel is discharged, PID or equivalent unit shall immediately secure a copy of the Shore Receipt indicating the actual quantity discharged and provide a copy to the Formal Entry Division, copy furnished the FMOSS and Fuel Marking Provider within 24 hours from receipt thereof.

**Section 11. Marking of Petroleum Products.** Only petroleum products for domestic consumption with proof of payment of taxes shall be marked.

**11.1. Request for Marking.**

11.1.1. The importer/depot representative shall make the necessary request for marking at least two (2) calendar days prior to marking. Notice shall likewise be made within the same period to BIR and/or BOC. In case of Automated Injection, the request for marking must be done at least eight (8) hours prior to the operations requirement.

11.1.2. The Bureau shall ensure that marking operations are witnessed by Bureau personnel in terminals or depots, taking into account the operations the facility requires. Unless otherwise provided by law or regulation, personnel rendering overtime services or shifting working schedules shall be compensated by the Bureau. The Oil Company or terminal requesting the services of Bureau personnel however, shall provide space and utilities for BOC personnel witnessing the marking operations.



11.1.3. The request shall be submitted to the Fuel Marking Provider via email at PH.FRM@sgs.com, copy furnished the FMOSS. The request for marking shall be in the herein prescribed format (*Annex A*) and shall contain the following information:

- a. Importer;
- b. Facility Address;
- c. Contact Person;
- d. Contact No.;
- e. Requested Date and Time of Marking;
- f. Type of Petroleum Product;
- g. Import Entry Reference Number;
- h. Actual Volume Discharged;
- i. Volume requested to be marked;
- j. Volume of Bioethanol or CME added, as applicable;
- k. Volume of other additives added;
- l. Storage Type (i.e. tank truck, shore tank or vessel);
- m. Compartment or Tank Identification;
- n. Volume remaining per compartment;
- o. Delivery location; and
- p. Other information as may be required by BOC

11.1.4. All persons or entities intending to withdraw from depots or terminals shall provide BOC and Fuel Marking Provider with the copy of its terminal booking or appointment within 24 hours prior to the requested date and time of marking.

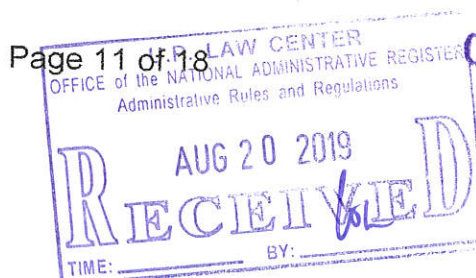
11.1.5. Upon receipt of the request for marking, the Fuel Marking Provider shall confirm and/or request for clarification within one (1) hour from receipt thereof. To avoid delay in marking operations, any changes in the details in the request for marking must be communicated immediately by the Importer or his representative to the Fuel Marking Provider and FMOSS.

11.2. **Fuel Marking Procedure.** Depending on the manner of marking and marking location identified by the Fuel Marking Provider in coordination with the Importer and/or terminal/facility owner, the following procedures shall be observed, as applicable:

11.2.1. At all times, the appropriate protocols on safety, security and health must be observed by the BOC Officer/s, with the accompanying representatives of the Fuel Marking Provider, in its entry to the premises including the presentation of necessary identification.

11.2.2. The Fuel Marking Provider shall complete the documentation for the marking including calculation of the dose volume.

11.2.3. The Fuel Marking Provider shall verify the visual compartment on the storage or fuel transportation vehicle, including the type and volume of fuel.





11.2.4. The Fuel Marking Provider shall dispense the Official Fuel Marker into each compartment of the storage or fuel transportation vehicle, whichever is identified as the most efficient marking location.

Upon completion of the marking, a Certificate of Marking shall be issued, in duplicate, by the Fuel Marking Provider to the Oil Company representative, depot representative or transporter, as applicable, and the BOC representative witnessing the marking. The Certificate of Marking shall be duly certified by the Fuel Marking Provider, Importer and BOC Officer/s on-site and shall be carried by the conveyance for inspection purposes

11.2.5. In case Fuel Marking is not made in Bulk but manually administered on tank trucks at the depots or terminals upon withdrawal, or where petroleum products are transferred ship to ship, a separate Certificate shall be issued, which must be carried by the truck. In the case of ship to ship transfer, the Certificate shall be issued after marking in the port of destination of the vessel where the fuel is marked.

11.2.6. The Fuel Marking Provider shall then seal the storage tank and/or fuel transporting vehicle for transmission to its destination, as applicable.

11.2.7. After marking of the fuel products, the importer or entity so requesting may, at his expense, request validation or sampling of the marked petroleum product from the provider.

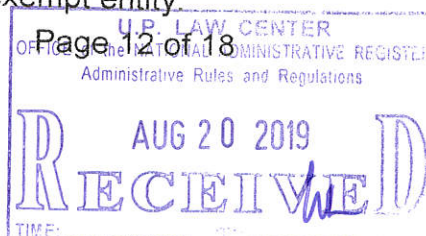
11.3. **Marking of Petroleum Products NOT in Bulk.** In case fuel is imported not in Bulk, the Fuel Marking shall be manually administered on each receptacle or container, upon payment of duties and taxes. The Head, FMOSS shall allocate a space in the port where the Fuel Marking shall be done immediately before release from Customs custody.

11.4. **Marking of Imported Petroleum Products.**

11.4.1. All petroleum products, including those entered through the Free Zones and declared as in Transit, shall be marked with the Official Fuel Marker upon payment of duties and taxes.

11.4.2. Free Zone locators and/or entities eligible for tax exemption may claim for refund for taxes paid thereon pursuant to existing rules and regulations, provided that, the petroleum products were delivered and actually used or consumed by said locator or tax exempt entity in the Free Zone. The claim for refund shall be duly supported by documents proving that the sale or transfer of petroleum products subject to marking is made to a Free Zone locator or tax-exempt entity.

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11.4.3. Refund or tax credit of duties and taxes paid shall be pursuant to existing rules and regulations. In no case shall Fuel Marking Fees be refunded.

11.5. **Marking of Petroleum Products Used for Propulsion of Vessel.** All petroleum products subject to marking used for propulsion of vessels engaged in trade with foreign countries shall be marked with the Official Fuel Marker. Provided, that if refund of the taxes paid thereon will be availed of, the Marked Fuel to be used shall be diluted with the same volume of Unmarked Fuel to prevent reintroduction of the same into the country.

11.6. **Prohibition on Commingling of Marked and Unmarked Fuel.** Notwithstanding the provisions of Sec. 157 of the NIRC of 1997, as amended, Marked Fuel products shall not be stored and commingled with Unmarked Fuel products.

Pursuant to Sec. 155 of the NIRC, as amended, the manufacturer/importer shall adopt a suitable accounting or metering system with ability to accurately determine the volume of entered and withdrawn refined, manufactured or imported petroleum products.

11.7. **Prohibition to Export Marked Petroleum Products.**

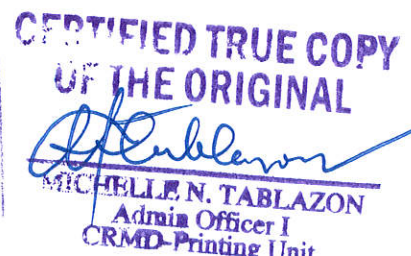
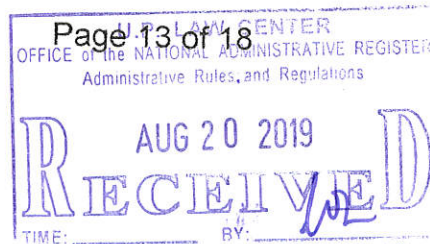
11.7.1. Locally refined or manufactured and imported petroleum products which have been fully marked with the Official Fuel Marker in accordance with the provisions of these Regulations shall be deemed for domestic distribution, use or consumption within the Philippine territory.

11.7.2. No Marked Fuel, in whole or in part shall be allowed to be removed or transferred for exportation. Provided that, exportation of Marked Fuel shall be allowed if no refund of the taxes paid thereon will be availed of. Provided further, that if refund of the taxes paid thereon will be availed of, the Marked Fuel to be exported shall be diluted with the same volume of Unmarked Fuel to prevent reintroduction of the same into the country. In either case, the entity so exporting shall inform the BOC and the fuel marking provider of the intention to export Marked Fuel.

11.7.3. For purposes of this Order, exportation shall refer to the customs procedure applicable where goods leave the Philippine territory and are intended to remain outside it.

Section 12. **Field Testing.** The Fuel Marking Provider shall develop and implement a Comprehensive Field Testing Program to ensure full risk-based coverage of the network of retail sites, fuel storage facilities, conveyances and warehouses in the country.

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**12.1 Authority to Conduct Field Testing.** In line with BIR and BOC's mandate, the Field Testing areas such as vessels, depots, warehouses, tank trucks or similar fuel-transporting vehicle shall be supervised by the BOC. When necessity or convenience requires, the BIR and BOC Officer may be authorized to conduct testing in areas other than that identified above.

A joint special task force may further be established by the BIR and BOC for purpose of the Field Testing.

At all times, the appropriate protocol must be observed by the BIR and BOC, with the accompanying representatives of the Fuel Marking Provider, in its entry to the premises including the presentation of the Mission Order and/or necessary identification. Mission Orders shall be issued by the Head, FMP-PIO and should clearly indicate the specific name carrying out the mission and the tasks to be carried out.<sup>26</sup>

**12.2 Deputation and Police Authority.** When there is probable cause or verified information received that a vessel, tank trucks or similar fuel-transporting vehicle is carrying unmarked, adulterated, or diluted petroleum products, the BOC or BIR Officer nearest the vicinity may stop and search vessel, tank trucks or similar fuel-transporting vehicle, in line with their authority to search for taxable products under Section 171 of the NIRC and Section 222 of the CMTA.

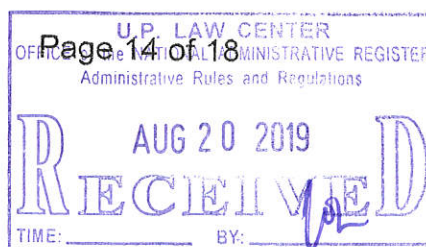
The BIR or BOC Officer nearest the vicinity of a fuel manufacturing or refining facility, gasoline stations and other retail outlets, depots, warehouses may enter and search the same where there is probable cause or verified information that unmarked, adulterated or diluted fuel are stored therein and shall effect the search and seizure of the petroleum products found to be unmarked, adulterated, or diluted.

**12.3 Assignment of BIR and BOC Officer(s) to the "Field Inspection Unit" (FIU).** Selected BIR and BOC Officer(s) shall be assigned as members of Field Inspection Units who shall witness the sampling and actual testing of fuel samples by the Fuel Marking Provider. Sampling and testing shall, at all times, be done in the presence of the authorized representative of the owner of the fuel to be tested. For purposes of implementing this Order, an employee assigned or working at the place where the field test is conducted shall be deemed an authorized representative of the owner.

**12.4 Schedule of Field Testing.** A field testing plan shall be drawn up daily and provided to authorized BIR and BOC Officer(s) and the Fuel Marking

<sup>26</sup> Republic Act. No. 10863, Section 214

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Provider Technician(s). It shall contain the selection of sites to visit, any intelligence report on the site and previous test results.

**12.5 Random Field Test Procedures.**

12.5.1. The FIU shall set up random check-points at locations to be identified in the Comprehensive Field Testing Program. Check point locations should consider general safety and security protocols.

12.5.2. No Field Test shall be conducted without the presence of an authorized BIR or the BOC Officer.

12.5.3. All activities shall be witnessed by authorized representative of the owner of the fuel to be tested throughout the Field Testing process.

12.5.4. The authorized representative of the owner of the fuel to be tested, together with the Fuel Marking Provider shall collect samples from the Field Testing location (e.g. fuel station, truck, etc.). The samples shall be properly identified, recorded and moved to the Mobile testing vehicle for testing. All compartments containing petroleum products subject to Fuel Marking shall be tested for compliance.

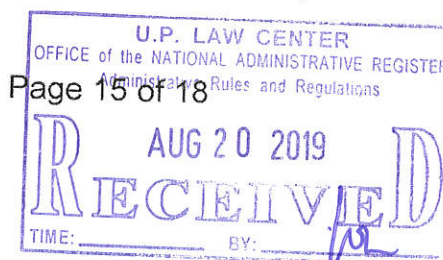
12.5.5. The Fuel Analyzer Test Results shall indicate either of the following:

- a. "Pass" - the tested fuel is compliant. This means that the marker level is within the acceptance criteria and indicates that the fuel was not Unmarked, Diluted or Adulterated.
- b. "Fail" - the tested fuel is not compliant. This means that the fuel is Unmarked, Diluted or Adulterated.

12.5.6. For "Pass" test results, the Fuel Marking Provider Technician shall print the Test report on site, sign it and hand over to the authorized representative of the owner of the fuel tested in duplicate. The authorized representative shall sign both copies and return the duplicate copy to the FIU.

12.5.7. For "Fail" test results, the sample shall be tested again in the presence of the BOC or BIR Officer and of the authorized representative. If the test result is still "Fail", samples shall be taken for Confirmatory Test.

**12.6 Confirmatory Test Procedures.** A Confirmatory Test shall immediately be undertaken by the Fuel Marking Provider in its testing laboratory on the petroleum product found to be Unmarked, diluted or adulterated. The following procedures shall be observed:





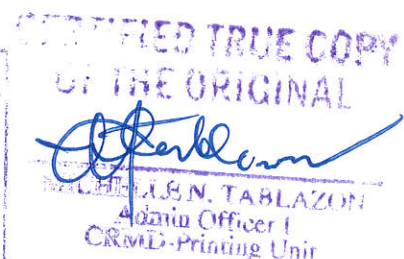
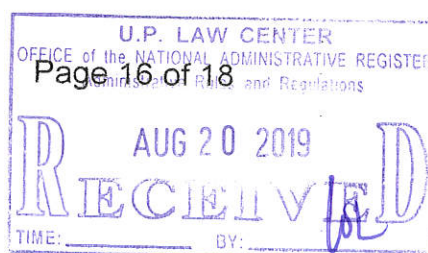
- 12.6.1. The Fuel Marking Provider shall collect four (4) samples of the non-compliant petroleum product and place it in designated containers with capacity of 100ml each and with serialized security labels.
- 12.6.2. The sample containers taken shall be declared in a Confirmatory Test form, countersigned by the site operator and BOC or BIR Officer.
- 12.6.3. The sample containers shall be submitted to the following:
- BOC or BIR;
  - Terminal, depot or truck operator;
  - Service Provider for confirmatory testing and for retention against possible legal requirements;
- 12.6.4. The containers shall be appropriately sealed to ensure integrity and authenticity of the product contained therein.
- 12.6.5. The samples shall be taken to the central/regional labs, where the samples will be kept in controlled conditions in special storage. These samples shall be used for confirmatory testing in the laboratory.
- 12.6.6. Confirmatory Test Certificates shall be provided to the Oil Company within two (2) days from the date of the Random Field Test.
- 12.6.7. Confirmatory Fuel Test Certificates shall be issued by the Fuel Marking Provider's Testing Facilities within two (2) days from date of the Random Field Test. This shall be valid for any legal purpose from the date of issue and constitute admissible and conclusive evidence before any court<sup>27</sup>.

**12.7 Absence of or Dilution of Marked Fuel; Presumptions.** In the event petroleum products which do not contain the Official Fuel Marker or below the required level of marker, are found in the domestic market or in the possession of anyone, it shall be presumed that the same were withdrawn or imported with the intention to evade the payment of the taxes and duties due thereon.

**12.8 Use of Fraudulent Marker.** The use of fraudulent marker on the petroleum products shall be considered *prima facie* evidence that the same have been withdrawn or imported without the payment of taxes and duties due thereon

<sup>27</sup> Republic Act No. 10963, Section 171

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**Section 13. Treatment of Unmarked Fuel, Diluted Marked Fuel or Containing Fraudulent Marker.**

13.1. In case petroleum product is found without the Official Fuel Marker or does not contain the required level of marker, the appropriate excise taxes shall be assessed and collected, inclusive of the appropriate penalties, without prejudice to the confiscation and forfeiture of such unmarked or diluted fuel and the filing of the appropriate criminal case.

13.2. Pending assessment and payment of the excise tax due thereon including penalty, the FIU shall impound the non-compliant fuel and the conveyance used on site in accordance with the following procedures:

13.2.1. The BOC or BIR Officer shall detain the non-compliant fuel.

13.2.2. The BOC or BIR Officer shall require the presentation of the Certificate of Marking and/or other proofs of payment of duties and taxes for said petroleum product.

13.2.3. The BOC or BIR Officer shall issue an apprehension report or equivalent document to the tank truck or Oil Company representative and escort the tank truck or similar fuel transportation vehicle to the nearest Customs District.

13.2.4. For storage facilities, the BIR or BOC shall direct the underguarding of the facility until the result of the Confirmatory Testing is obtained.

13.2.5. Upon receipt of the result of the Confirmatory Test, the following shall be conducted, accordingly:

a. If the result is "Pass", the fuel shall be released to its owner;

b. If the result is "Fail":

i. The District Collector shall issue a Warrant of Seizure and Detention (WSD).

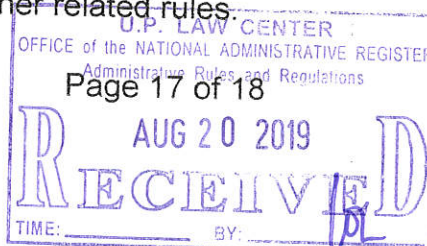
ii. Duties, taxes, Fuel Marking Fee, as applicable and corresponding fees shall be computed based on the volume

iii. Seizure proceedings shall commence and completed within an inextendible period of 30 days from issuance of WSD,

iv. The identified source of the Unmarked, Diluted Fuel shall be recommended for Post Clearance Audit, without prejudice to other legal, actions that the BOC may take.

**Section 14. Offenses Relating to Fuel Marking.** The applicable offenses and penalties imposed under Title X of the NIRC, as amended and Title XIV 'Customs Modernization and Tariff Act (CMTA) shall apply to violations of this Order and other related rules.

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**Section 15. Training and Technology Transfer to BOC and BIR.** The Fuel Marking Provider shall provide the necessary periodic training to BOC and BIR officials and personnel to allow effective transfer of technology that provide an end-to-end solution to fuel tax fraud.

**Section 16. Reporting.** The FMP-PIO shall render a report on the details and results of the conduct of activities under the Program in such format and frequency as may be required by the DOF Technical Working Group (TWG) on Fuel Marking headed by the Undersecretary for Revenue Operations of the DOF and co-headed by the Commissioners of BIR and BOC.

**Section 17. Transitory Provisions.** The following transitory provisions shall be strictly observed:

17.1. Upon the effectivity of this Order and consistent with Section 155 of the NIRC, as amended, stocktaking shall be conducted on all tax paid gasoline, diesel and kerosene stored in all depots/terminals. Thereafter, no petroleum product intended for domestic market, in whole or in part, shall be imported or removed from their place of storage without payment of tax and marked pursuant to this Order.

17.2. Six (6) months after the roll-out of the Program, all petroleum products found in the domestic market including those stored in storage tanks, depots and terminal facilities shall be tested for compliance with the Fuel Marking Program.

**Section 18. Separability Clause.** If for any reason, any provision/s of these Joint Circular is/are declared unconstitutional or invalid, such parts thereof not affected shall remain in full force and effect.

**Section 19. Repealing Clause.** All orders, circulars, memoranda, and other issuances, or parts thereof, which are inconsistent with this Joint Circular, are hereby repealed or modified accordingly.

**Section 20. Effectivity.** This Order shall take effect immediately. The Office of the National Administrative Registrar (ONAR) of the UP Law Center shall be provided three (3) copies of this Order.

REY LEONARDO B. GUERRERO  
Commissioner

AUG 09 2019



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SGS



REQUEST FOR MARKING

Date:	Time:
<b>I. Request Details</b>	
Oil Company/Importer:	
Complete Facility Address:	
Contact Person:	
Contact No.:	
Date and Time of Fuel Loading and Unloading:	
<b>II. Petroleum Product Details. Fill-in details, as applicable</b>	
Fuel type:	
Volume of fuel for marking (MT / m3):	
Volume of base fuel imported:	
Volume of Bioethanol added:	
Volume of CME added:	
Volume of other proprietary additives:	
<b>III. Storage Details</b>	
Storage Type (truck, vessel, tank):	
Compartment or Tank Identification/s:	
Volume remaining at storage:	
Id of bull tank / transportation object:	
Name of legal entity that carries out transport:	
<b>IV. Importation Details</b>	
Import Entry Reference Number	
Bill of Lading Number	
Payment Reference Number	
Volume actually discharged	
<b>V. Delivery Location:</b>	
Name and surname of person who is requesting:	
	Date:
	Time:

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