COALITION PROVISIONAL AUTHORITY ORDER NUMBER 36

REGULATION OF OIL DISTRIBUTION

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 (2003),

Recognizing that the theft and smuggling of the natural resources of Iraq are crimes that affect the wellbeing and future of all Iraqis;

Noting the complexity of the past regime's laws, regulatory provisions and instructions in the field of oil distribution, and the inconsistency and irregularity of their enforcement;

Determined to act decisively to tackle the theft and smuggling of natural resources pending the outcome of a full review of current Iraqi laws, provisions and instructions;

Resolved to provide the Coalition Forces with an easily accessible and ascertainable regulatory code with which to support the Iraqi authorities in the lawful distribution of oil into, out of and throughout Iraq;

hereby promulgate the following:

Section 1
Definitions

1) *Authorization* means any written approval, authority, certificate, license, contract or other order issued by the Ministry of Oil, the Oil Products Distribution Company, the State Oil Marketing Organization, and the recognized representative regional organizations or companies of those bodies, the Coalition Provisional Authority, the Commander Coalition Forces, and in relation to fishing vessels the Iraqi Port Authority. *Authorize* and *authority* and all cognate and derivative words shall be construed accordingly.

2) *Benzene* is also known as petrol and gasoline.

3) *Cargo Fuel* means fuel transported by any vehicle or vessel which is not being used or is not intended for use as fuel by that vehicle or vessel.

4) *Confiscation Order* means CPA Order Number 25, Confiscation of Property Used in or Resulting from Certain Crimes.

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5) *Criminal Proceedings Law* means Law of Criminal Proceedings Number 23 of 1971, as modified by CPA Orders and Memoranda.

6) *Customs Law* means Customs Law Number 23 of 1984, as amended.

7) *Diesel* see gasoil.

8) *Fuel* means crude oil, residue crude, oil products including for example diesel, kerosene, liquid petroleum gas, benzene.

9) *Gasoil* is also known as diesel.

10) *Gasoline* see benzene.

11) *Interdiction* means the stopping, search, arrest and the initial questioning of a suspect.

12) *Penal Code* means the Iraqi Penal Code Law Number 1 of 1969, as amended by CPA Orders and Memoranda.

13) *Petrol* see benzene.

14) *Port of Entry* means a designated land, sea or air point of entry or exit manned by Border Enforcement staff.

15) *Regulatory Offense* means a contravention of a Regulation under this Order.

16) *Territorial Jurisdiction* includes the territorial sea and all internal waters.

Section 2
Regulatory Code

1) There is hereby created the Regulatory Code for Oil Distribution. The Code is set out at the Annex.

2) The Regulatory Code may be amended from time to time by the Administrator of the Coalition Provisional Authority or his delegate.

3) It shall be a punishable offense to contravene a regulation in the Regulatory Code created under this Order.

4) The Regulatory Code is applicable to all vessels, vehicles and persons within the territorial jurisdiction of Iraq.

Section 3
Interdiction and Investigation

1) Interdiction of suspects may be carried out by Iraqi Police, Border Police, Customs Police, Customs officials, New Iraqi Army elements when duly authorized, Iraqi Civil Defense Corps and Coalition Forces.

2) The Iraqi Police, Border Police, Customs Police and Coalition Forces are competent authorities to investigate regulatory offenses and to refer cases to the customs courts or criminal courts for prosecution. Customs officials shall pass suspects to Police authorities for investigation.

Section 4
Jurisdiction

1) For a contravention of a regulation the offender may be tried either in the customs courts or in the criminal courts.

2) Where practicable an offender, in the first instance, should be brought before an Investigative Judge in the customs court.

3) Notwithstanding the primacy of jurisdiction accorded to customs courts at paragraph 2 above, an Investigative Judge in the criminal court may investigate a regulatory offense.

4) Where the description of the offense could lead to a charge either as:

   a) A regulatory offense under this Order, triable in a criminal or customs court; or
   b) A criminal offense under the Iraqi Penal Code, triable in a criminal court; or
   c) A customs offense under the Customs Law, triable in a customs court,

   then it shall be open to an Investigative Judge to formulate the charge under the most appropriate Code or Law and to transfer the case to the appropriate court.

Section 5
Penalties

A person convicted of an offence under this Order is punishable with a term of detention not exceeding six months or a fine. The level of the fine shall not exceed five times the value of the cargo fuel. The penalties may be doubled for a second or subsequent offense. Following a conviction the court shall order the confiscation of

any property used in the commission of the offense or obtained as a result of the offense, unless the rights of others who have acted in good faith, including a purchaser for value, would thereby be prejudiced. Confiscated property shall be dealt with in accordance with CPA Order Number 25. Fines shall be remitted to the Ministry of Finance.

Section 6
Application of Existing Law

) The Regulatory Code introduced under this Order supplements the Penal Code and the Customs Law.

2) No description of, or penalty for, a regulatory offense described in this Order shall alter the offenses described in the Penal Code or Customs Law, or vary the sentencing guidelines in those laws for the offenses described therein.

3) This Order operates in conjunction with and does not supersede CPA Order Number 25. A confiscation hearing shall be convened in relation to property used or intended for use in the contravention of any regulation under this Order, and to property acquired through or as a result of the contravention of any regulation under this Order. For the purposes of applying the Confiscation Order to regulatory offenses, the words "criminal offense" in that Order shall be deemed to include a regulatory offense in this Order.

4) For any proceedings in relation to a regulatory offense, the customs and criminal courts shall use the rules of evidence and procedure set out in the Criminal Proceedings Law and the criminal provisions set out in the Iraqi Penal Code as they would for any proceedings before them.

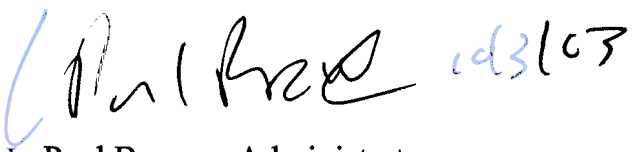
5) This Order operates in conjunction with and does not supersede CPA Order No. 17.

Section 7
Expiration of Order

This Order will cease operation nine months from the date of entry into force unless otherwise extended by the Administrator.

Section 8
Entry into Force

This Order shall enter into force on the date of signature.



L. Paul Bremer, Administrator
Coalition Provisional Authority

ANNEX A

REGULATORY CODE for OIL DISTRIBUTION

Regulations for Road Tankers

1 It shall be prohibited for a road tanker driver to transport cargo fuel without a valid voucher or export/import manifest issued by a proper authority or the lawful owner of the cargo fuel.

2. It shall be prohibited for the road tanker to be loaded with cargo fuel at any place other than that listed in the valid voucher or manifest.

3. It shall be prohibited for the road tanker to be unloaded of its cargo fuel at any place other than an authorized delivery point. An authorized delivery point is the destination listed in the valid voucher or manifest, or an authorized depot or delivery point to which a road tanker may be diverted by the proper authorities.

4. It shall be prohibited for a person to distribute or download cargo fuel from a road tanker other than to the owner, operator or agent of the facility listed on the valid voucher or manifest.

5. It shall be the duty of the driver of a road tanker importing cargo fuel into Iraq to enter the country only at a designated Class A Port of Entry.

6. It shall be the duty of the driver of a road tanker exporting cargo fuel from Iraq to leave the country only at a designated Class A Port of Entry. .

7. It shall be prohibited for a road tanker driver, without reasonable excuse, to deliver cargo fuel outside the following time limits :

   a) The same day if loading and delivery points are within the same governorate;
   b) 24 hours if the loading and delivery points are in adjacent governorates;
   c) 48 hours for all other deliveries within Iraq.

Regulations for All Vehicle Drivers

8. It shall be prohibited for the driver of any vehicle to cross the border from Iraq to a neighboring country with fuel for that vehicle's own consumption in excess of quantities prescribed by the Oil Products Distribution Company from time to time and published in local branches.

Regulations for Fishing Vessels

9. It shall be prohibited for a fishing vessel to receive fuel except for consumption by that vessel.

10. It shall be prohibited for a fishing vessel to receive fuel without authorization.

11. It shall be prohibited for a fishing vessel to receive fuel in excess of its authorized periodic allocation.

12. It shall be prohibited for a fishing vessel to sell, trade or in any way distribute or offload fuel from that vessel other than for reasons of safety or *force majeure*.

Regulations for Vessels

13. It shall be prohibited for the master or owner of any vessel, or any other person on board the vessel, to load or unload fuel other than at jetties or fuelling points designated by the proper authorities.

14. It shall be prohibited for the master or owner of any vessel, or the person having conduct of the vessel's navigation, to transport cargo fuel without authorization.

Regulations for Service Station Owners and Managers

15. It shall be the duty of a service station owner or manager to transfer the cargo fuel specified in the valid voucher or manifest from a road tanker into that service station's fuel storage tanks.

16. It shall be the duty of a service station owner or manager to keep an up-to-date, true and accurate record of each cargo fuel delivery, to sign for the delivery on the voucher or manifest, and to make periodic reports prescribed by the Oil Products Distribution Company.

17. It shall be prohibited for a service station owner or manager without specific authorization to transfer or cause to be transferred, under a sale transaction or otherwise, benzene or gasoil into any jerry can, container, canister, drum, barrel, bowser or any other receptacle.

Fuel Sales

18. It shall be prohibited for any person to sell any fuel within the territorial jurisdiction of Iraq without authorization.

Fuel Limits for Private Consumption

19. It shall be prohibited for a member of the public without reasonable excuse or authorization to transport, carry, hold, possess or control fuel for private consumption in excess of the following quantities:

- benzene	150 liters
- kerosene	1000 liters
- gasoil	1000 liters