

Name:	 <b>UPES</b> <small>UNIVERSITY WITH A PURPOSE</small>
Enrolment No:	

**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, May, 2019**

**Program: LL.M in ENERGY Laws**  
**Subject (Course): Energy Law & Policy (Downstream)**  
**Course Code : CLEL7005**  
**Instructions:**

**Semester: II**  
**Max. Marks: 100**  
**Duration: 3 hours**

**SECTION A**

**Attempt all the questions**

**1x10=10**

S. No.	<i>Objective Type Questions/Definitions</i>	Marks	CO
Q 1	Exemption of heavy oils (its flash-point not below ninety-three degrees centigrade) is given under Section _____ of the Petroleum Act 1934	1	CO1
Q 2	Define 'container' ( Petroleum Rules 2002)	1	CO1
Q 3	Define LNG Terminals	1	CO1
Q 4	One of the following member is not a part of 'Search Committee' a) Secretary to the Government of India, Ministry of Petroleum and Natural Gas b) Secretary to the Government of India, Ministry of Finance c) Secretary to the Government of India, Ministry of External Affairs d) Secretary to the Government of India in charge of Commerce, Ministry of Commerce and Industry	1	CO3
Q 5	GSPAs are simple contracts that bring the gas producer and purchaser into a network monopoly relationship with clearly defined _____ and _____ arising from the significant upfront capital investment	1	CO3
Q 6	Name the authority which scrutinizes and approve the proposals of design, construction and laying of Petroleum Pipelines.	1	CO1
Q 7	The Chairperson or any other member, upon ceasing to hold office as such, shall not accept any commercial employment for a period of _____ years from the date he ceases to hold such office.	1	CO1
Q 8	The Central Government may, by notification in the Official Gazette, make rules under section _____ of the PMP Act	1	CO1
Q 9	In which case it is held that, an employee of a public sector company could be appointed as the Competent Authority	1	CO4
Q 10	As per the PMP Act, the compensation determined by the competent authority in the first instance and an appeal lies from its decision to _____.	1	CO3

**SECTION B**

**Short Answer Questions: Attempt any four**

**4x5=20**

Q 11	Elucidate the main objectives of PESO	5	CO1
Q 12	When it comes to safety and security, what are the <i>Three Paths</i> for prevention and control of pilferage attempts on a pipeline System?	5	CO3

Q 13	Discuss the punishment for expanding a common carrier or contract carrier without authorization and willful damages to common carrier or contract carrier	5	CO1
Q 14	Discuss the powers and functions of the Competent Authority under that PMP Act	5	CO3
Q 15	Classification of petroleum under the Petroleum Act 1934	5	CO1
Q 16	What are the restrictions for the owner of the land regarding the use of land under Petroleum and minerals pipeline act?	5	CO3
<b>SECTION C</b>			
<b><i>Descriptive/Analytical Questions: Attempt <u>any two</u></i></b>			<b>2x10=20</b>
Q 17	Describe the licensing procedure given under the chapter VII of the Petroleum Rules 2002.	10	CO4
Q 18	Evaluate PNGRB's role in authorization of entities and also analyse the controversies appeared in initial years with the support of case laws	10	CO4
Q 19	Explain the characteristics and relevance of Petroleum Act 1934.	10	CO2
<b>SECTION-D</b>			
<b><i>Application Based/ Case Studies; Attempt <u>both the questions</u></i></b>			<b>50 marks</b>
Q 20	<p><i>Read the following extracts from the Supreme Court order and answer questions a - e;</i></p> <p>The Court has also categorically observed that it is not a case where it can be said that legislature has kept a lacuna which the Court is trying to fill up by judicial interpretative process so as to encroach upon the domain of the legislature. In the case at hand, in the schematic context of the Act and upon reading the legislative intention and applying the principle of harmonious construction, we do not perceive inclusion of the entities which are not “common carriers” or “contract carriers” would be permissible. They have deliberately not been included under Section 11 of the Act by the legislature and the said non-inclusion does not lead to any absurdity and, therefore, there is no necessity to think of any adventure.</p> <p>The regulatory provisions, needless to say, are to be read and applied keeping in view the nature and textual context of the enactment as that is the source of power. On a scanning of the entire Act and applying various principles, we find that the Act does not confer any such power on the Board and the expression “subject to” used in Section 22 makes it a conditional one. It has to yield to other provisions of the Act. The power to fix the tariff has not been given to the Board. In view of that the Board cannot frame a Regulation which will cover the area pertaining to determination of network tariff for city or local gas distribution network and compression charge for CNG. As the entire Regulation centres around the said subject, the said Regulation deserves to be declared ultra vires, and we do so.</p> <p>a) Cite the case law and discuss the facts of the case.  b) Evaluate the main contentions of appellant.  c) What were the main contentions of respondent in this case?</p>	5 5 5	CO4 CO4 CO3

	<p>d) Define CGD network. Do you think after this judgement, allowing for declaration of CGD network as “common carrier” is not in line with the PNGRB Act?</p> <p>e) How does this judgement influence the downstream business in India (Highlights the major repercussions on PNGRB and downstream activities)?</p>	<p>5</p> <p>5</p>	<p>CO3</p> <p>CO4</p>
Q 21	<p>The national oil company, BPCL that on a routine inspection of the retails outlet which was conducted by a team consisting of Territory Manager, Senior Sales Officer and Senior Engineering Officer, Meerut in the presence of one of the signatories to the said Dealership Licence viz., Shri Alok Kumar Gupta. During the inspection, certain irregularities/ variations were found for which samples of MS/ULP, SPEED and HSD were taken and the sale for all the products was suspended and the dispensing units and tanks were sealed after taking meter readings. Thereafter, the seized samples were sent to the Quality Control Laboratory at Shakurbasti, Delhi for testing. Laboratory confirmed that the samples failed to meet the required specifications. Being aggrieved, the respondents instituted a suit before the Civil Judge (Sr. Division), Saharanpur for resumption of supply of petroleum products and for restraining the BPCL from interfering with the sales and supplies of petroleum products from their RO along with an application for temporary injunction. BPCL filed a report with regard to the samples taken from the outlet. Against the said report, the respondent-Firm moved an application raising objection that the test reports are not based on the samples taken from the outlet and prayed for redrawal of the samples in the presence of independent witnesses. BPCL issued a show cause notice to the respondents as to why action should not be taken against them including termination of the dealership. The respondents put forth their stand by way of a reply. By order, learned Civil Judge dismissed the application for issuing of temporary injunction. Later a Vide order, the Territory Manager (Retail), Meerut, terminated the dealership agreement/licence of the respondents with immediate effect. Since the dealership licence of the respondents got terminated and the possession of the outlet was handed over to another dealer. Thereafter, the respondent-Firm filed a writ petition before the High Court for quashing the termination order. The High Court allowed the petition and quashed the termination order and directed the BPCL to restore the dealership. Aggrieved by the said order, the BPCL filed a Review Petition. The High Court, by order dated dismissed the said review petition. Being aggrieved by the judgment for restoring the dealership and order dismissing the review petition, the appellant-BPCL has filed these appeals by way of special leave.</p> <p>a) What are the main contentions of appellant in this case?</p>	<p>5</p>	<p>CO4</p>

	b) Discuss the probable arguments from the respondent.	<b>5</b>	<b>CO3</b>
	c) Explain the 'right to require re-test' under the Petroleum Act 1934.	<b>5</b>	<b>CO3</b>
	d) Briefly discuss the important provisions connected to penalties and procedures laid down under the said Act?	<b>5</b>	<b>CO3</b>
	e) Evaluate the rulings of Civil Judge, High Court and Supreme Court in this case.	<b>5</b>	<b>CO2</b>

Name:	 <b>UPES</b> <small>UNIVERSITY WITH A PURPOSE</small>
Enrolment No:	

**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, May, 2019**

**Program: LL.M in ENERGY Laws** **Semester: II**  
**Subject (Course): Energy Law & Policy (Downstream)** **Max. Marks: 100**  
**Course Code : CLEL7005** **Duration: 3 hours**  
**Instructions:**

**SECTION A**

**Attempt all the questions**

**1x10=10**

S. No.	<i>Objective Type Questions/Definitions</i>	Marks	CO
Q 1	The PMP Act is a legislation to bypass the due process of law contemplated under the _____ Act	1	CO1
Q 2	The Supreme Court stated the bias or want of impartiality is a nullity and the trial <i>coram non-judice</i> in _____ case	1	CO4
Q 3	One need not obtain a licence for the transport or storage of petroleum Class B if the total quantity in his possession at any one place does not exceed _____ liter's	1	CO1
Q 4	According to Petroleum Rules 2002, the "District Authority" means;	1	CO3
Q 5	An application for the grant of a licence to transport petroleum in bulk by road in mechanically propelled vehicles shall be in Form _____	1	CO1
Q 6	The power of inspection and sampling is discussed under Section _____ Petroleum Act 1934.	1	CO1
Q 7	Every offence punishable under sections 44, 45, 46 and 47 PNGRB Act shall be _____	1	CO1
Q 8	Petroleum Rules 2002 _____ states that no person while engaged in loading or unloading or transporting shall smoke or carry matches, lighters	1	CO1
Q 9	Define the Bureau of Indian Standards	1	CO1
Q 10	An appeal shall lie against any order refusing to grant, amend or renew a licence or cancelling or suspending a licence to the _____, where the order is passed by the Chief Controller	1	CO4

**SECTION B**

**Short Answer Questions: Attempt any four**

**4x5=20**

Q 11	Discuss the procedure of drawing of samples and certification of apparatus mentions in the Petroleum Rules 2002	5	CO3
Q 12	Discuss the Public Interest & Capture Theories on business regulations	5	CO1
Q 13	Analyse the main functions of Chief Controller of Explosives	5	CO3
Q 14	Explain the provisions related to grant of compensation for the right of user in land under Petroleum and Minerals Pipeline Act?	5	CO1
Q 15	Describe the important statutory and advisory functions PESO.	5	CO1

Q 16	What is the penalty for those who willfully damages or destroys a pipeline under petroleum and Minerals Pipeline Act?	5	CO3
<b>SECTION C</b>			
<b><i>Descriptive/Analytical Questions: Attempt <u>any two</u></i></b>			<b>2x10=20</b>
Q 17	Evaluate the India's Oil and Gas downstream business scenario and elucidate the issues related to entry barrier & exclusivity.	10	CO2
Q 18	Discuss the main components of gas sale and purchase agreements (GSPA) and its key considerations	10	CO3
Q 19	The apex court opined, "It is self-evident that a person who occupies the position of Competent Authority under the PMP Act must evoke and enjoy public confidence." Comprehend and explain the reasons.	10	CO4
<b>SECTION-D</b>			
<b><i>Application Based/ Case Studies; Attempt <u>both the questions</u></i></b>			<b>50 marks</b>
Q 20	There was a massive GAIL pipeline blaze took the lives of 23 people in which 6 children were also burned alive in the sleep and 16 others got severe burns at Nagaram village of Mamidikuduru mandal of East Godavari District in the state of Andhra Pradesh occurred in the early morning hours of June 27th 2014. The leaking GAIL gas pipeline spread over 1 kilometer radius, and villagers woke up to deafening noise and huge flames after the pipeline belonging to Gas Authority of India Limited (GAIL) suddenly caught fire near an ONGC connecting station. The Gas Authority of India Limited (GAIL) the country's largest state-owned natural gas processing and distribution company did not make any efforts to replace an already corroded gas pipeline. The blast occurred in the pipeline carrying gas to Lanco power station. The villagers allege negligence on the part of officials as the pipeline developed rust and authorities failed to replace it. Around 7-8 leakage incidents have taken place in the natural gas pipeline. The major reasons for this man made hazard are, lack of surveillance, GAIL officials negligence, no proper checking and maintenance of repairing of gas pipe rusting and leaking, and hovered GAIL administration. If GAIL India had installed the safety features as promised to the Chief Controller of Explosives while seeking his approval for the project in July 2001, says the government enquiry report on the incident. The probe ordered to investigate by petroleum and natural gas and the probe team comprising Oil Industry Safety Directorate, National Disaster Management Authority among other agencies, the probe report reflects the fire flashed back to the source of leak i.e. at pipe near to the canal, resulting in the bursting and ripping away of the pipe and leading to leakage of huge quantity of hydrocarbon from the pipeline, thereby increasing the intensity of the fire. This disaster also left a trail of destruction in the area, and there was heavy damage to the flora and fauna.		

	<p>a) What are the legal remedies available in this type of official's negligence and human error?</p> <p>b) Discuss why it is considered that the pipelines are the best mode of transport petroleum products? Give an overview of evolution and development of India's pipeline network.</p> <p>c) The petroleum products are becoming a ready &amp; lucrative target for pilferers to attempt tapping of pipelines</p> <p>d) Discuss the integrity check-up system and its effectiveness and efficiency of disaster relief operations in the pipeline.</p> <p>e) Suggest some preventive measures to curb the future manmade disasters.</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p> <p>5</p>	<p>CO3</p> <p>CO3</p> <p>CO2</p> <p>CO4</p> <p>CO1</p>
Q 21	<p>The growth, trade and investment dynamics of India's downstream petroleum sector could be analysed with the help of judicial response. It is also necessary to have an outline the policy goals defined by the GoI in this sector. Similarly, the regulatory framework that is in place, both governing the sector and assisting in the achievement of these policy goals, needs to be sketched in details. In <b>Voice of India vs. Union of India</b> case, the Delhi High Court observed that, "having heard the parties, we are of the view that it is through the principle of judicial review that the rule of law and other constitutional principles have to be given practical effect." Supervisory jurisdiction of a High Court has to be used to ensure that regulatory bodies, whether public or private, while performing public functions comply with the law and achieve acceptable standards of administration. Further the Court stated that upon reading of the entire PNGRB Act, we are of the view that the legislative intent behind the PNGRB Act is to provide for establishment of a multi-member Regulatory Board to regulate the refining, processing, storage, transportation, distribution, marketing, and sale of petroleum, petroleum products and natural gas so as to protect the interests of the consumers and entities engaged in specified activities relating to the said products and to ensure their uninterrupted and adequate supply in all parts of the country and to promote competitive markets.</p> <p>On a perusal of the PNGRB Act, the Court find that it provides for collegiate decision making by a multi-member Board after following the principles of natural justice. While dealing with an application for grant of authorisation, several aspects including, legal, infrastructural, commercial, technical etc. have to be considered. Consequently, PNGRB Act mandates that the Board shall comprise persons of eminence in the fields of petroleum and natural gas industry, management, finance, law, administration or consumer affairs.</p>		
	<p>a) Discuss the main features of the PNGRB Act</p> <p>b) What are the important contentions of the petitioners, Voice of India and Indraprastha Gas Ltd.</p> <p>c) Explain the powers and functions of the Chairperson of Board and how does the powers conferred to him and other Board members became controversial?</p> <p>d) "The Board shall be guided by the objectives of promoting competition among entities, avoiding in fructuous investment, maintaining or increasing supplies</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	<p>CO1</p> <p>CO4</p> <p>CO3</p> <p>CO2</p>

	or for securing equitable distribution or ensuring adequate availability of petroleum” how far these objectives have been achieved? e) Critically evaluate the adjudicatory role of PNGRB	<b>5</b>	<b>CO2</b>
--	--	----------	------------