NATIONAL ADMINISTRATIVE REGISTER · APRIL 6, 2010

RULES AND REGULATIONS GOVERNING THE IMPORTATION OF FRESH UNSHU ORANGE FROM JEJU ISLAND, KOREA INTO THE PHILIPPINES

BPI ADMINISTRATIVE ORDER NO. 10, S. 2010, April 06, 2010

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WHEREAS, the Plant Quarantine Service of the Bureau of Plant Industry by virtue of Presidential Decree No. 1433, otherwise known as the "Plant Quarantine Law of 1978", as revised by the Administrative Code of 1987, has the primary function of preventing the entry of foreign pests into the country and the further spread of these pests already introduced to places where they are not known to exist;

WHEREAS, the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and the FAO International Plant Protection Convention (IPPC) reaffirms the sovereign right of the country to institute appropriate measures deemed necessary to protect human, plant, and animal life and health, provided that such measures do not unnecessarily restrict trade;

WHEREAS, the Pest Risk Analysis (PRA) for unshu orange (Citrus reticulata var. unshu Swingle) was conducted and completed in accordance with the IPPC International Standard for Phytosanitary Measures ISPM #11, which takes into account evaluation of the biological or other scientific and economic evidence to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it;

WHEREAS, the completed PRA served as the basis for the issuance of this AO;

NOW, THEREFORE, I BERNIE G. FONDEVILLA, Secretary of the Department of Agriculture, by the powers vested in me by law, do hereby issue this Order providing guidelines governing the importation of fresh unshu orange from Jeju Island, Korea.

ARTICLE I

SCOPE AND DEFINITION OF TERMS AND ACRONYMS

SECTION 1. Scope - This Order shall govern the importation of fresh unshu orange from Jeju Island, Korea.

SECTION 2. Definition of Terms and Acronyms - For the purpose of this Order, the following terms, words and phrases herein used shall be construed to mean as follows:

A. Definition:

a. Additional Declaration - a statement that is required by the BPI Plant Quarantine Service (PQS) to be entered on a Phytosanitary Certificate (PC) which provides specific additional information pertinent to the consignment.

b. Consignment - a specific quantity of fresh unshu orange being moved from Jeju Island, Korea to the Philippines covered by a single Phytosanitary Certificate.

c. Maximum Residue Limit - Allowable limit of pesticide level on fresh unshu orange set by the Codex

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Alimentarius Commission.

d. Pest Risk Analysis - the process of evaluating biological or other scientific and economic evidence to determine whether an organism is a pest , whether it should be regulated, and the strength of any phytosanitary measures to be taken against it [FAO 1995; revised IPPC, 1997; ISPM No. 2, 2007]

e. Phytosanitary Certificate - Certificate patterned after the model certificates of the IPPC [FAO, 1990; ISPM No. 5, 2006]

f. Phytosanitary Certification - use of phytosanitary procedure leading to the issuance of a Phytosanitary Certificate [FAO, 1990; ISPM No. 5, 2006]

g. Phytosanitary Measure – any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests. [FAO, 1990; ISPM No. 5, 2006]

h. Plant Quarantine Clearance (Import Permit) - official document issued by the BPI authorizing importation of a commodity into the Philippines in accordance with specified phytosanitary import requirements.

B. Acronyms:
BPI – Bureau of Plant Industry
MRL – Maximum Residue Limit
NPPO– National Plant Protection Organization
NPQS– Korea National Plant Quarantine Service
PC – Phytosanitary Certificate
PQC – Plant Quarantine Clearance
PQO – Plant Quarantine Officer of the BPI
PQS – Plant Quarantine Service
PRA – Pest Risk Analysis

ARTICLE II

IMPORTER ACCREDITATION GUIDELINES AND PROCEDURES

The following guidelines and procedures shall be implemented in the accreditation of the importers of fresh unshu orange (see Annex I)[*].

A. Application for Accreditation – The accomplished Application for Accreditation and Accreditation Validation Form, together with pertinent documents enumerated hereunder shall be submitted to the BPI-PQS Central Office for the initial verification and evaluation of application. Pertinent documents should consist of the following:

i. Company Profile (for the first-time applicants only);
ii. Department of Trade and Industry (DTI) Registration/Security and Exchange Commission (SEC) Registration/Cooperative Development Authority (CDA)
Certificate of Registration;
iii. Current Mayor’s Business Permit (as importer);
iv. Bureau of Customs (BOC) Certificate of Accreditation (Legal Service Department);
v. Valid Contract/Certificate of Lease of Storage Facility (Cold Storage/Warehouse). Those who own the facility, submit title of land ownership and notarized affidavit of facility ownership installed in the area;
vi. Location map of the storage facility;
vii. Notarized Special Power of Attorney (SPA) of the representative(s); and
viii. Two (2) 2 x 2 ID pictures of the owner and representative(s).

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B. Importer's Orientation - The company owner with his authorized representative(s) shall be oriented on the Plant Quarantine laws (PQ laws) and regulations, allowable plants/plant products that can be imported in the Philippines, procedures (process flow) of issuance of Plant Quarantine Clearance (PQC), possible sanctions of violations, and other concerns with regards to the importation of fresh unshu orange.

Orientation will be carried-out by the Chief of PQS or his assigned technical staff.

C. Facility Inspection – The Plant Quarantine (PQ) Officer/Inspector will conduct ocular inspection of the applicant's office and storage facility following the guidelines for facility inspection procedures set by BPI-PQS (see Annex II[*]).

D. Approval and Issuance of Accreditation - After the applicant has complied with all the requirements for accreditation, the application will be recommended for approval.

The BPI-PQS shall then issue a Certificate of Accreditation duly signed by the BPI Director upon recommendation of the PQS Chief.

ARTICLE III

APPLICATION FOR AND ISSUANCE OF PLANT QUARANTINE CLEARANCE

A. Any BPI-accredited fresh unshu orange importer who desires to import from Jeju Island, Korea must secure BPI Q Form No. 1 (Annex III[*]).

B. Duly accomplished form together with the payment of non-refundable fee must be submitted to BPI-PQS with the following documents:

1. Valid Pro-forma invoice
2. Other commodity specific requirements

C. The BPI-PQS shall determine its sufficiency in form and substance and inform the applicant accordingly. Only properly accomplished application form with complete documentary requirements shall be processed within five (5) working days.

D. Approval/disapproval may take into consideration the following:

1. Latest advisory of the relevant international bodies and/or Korea pertaining to the pest status of the source areas
2. Violation of the applicant importer during the processing period
3. Other information pertinent to SPS concerns

ARTICLE IV
DISTRIBUTION OF APPROVED PQC

Upon approval of the application, a PQC in quadruplicate shall be issued as follows:

The original shall be given to the applicant for presentation to the Plant Quarantine Officer upon arrival of the consignment. The duplicate shall be sent in advance to the shipper in the country of origin by the applicant for their guidance relative to the terms and conditions imposed in the PQC. The triplicate shall be furnished to the Collector of Customs at the Port of Entry and the fourth copy shall be filed with the application.

ARTICLE V
VALIDITY AND NON-TRANSFERABILITY OF THE PQC

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A. Validity of the PQC:

1. The validity of the PQC is three (3) months and shall be indicated in the PQC unless revoked for any of the grounds set forth in Article IX. Consignment of fresh unshu orange has to be loaded at the port in Korea after the issuance of the PQC specifically covering such consignment.

2. The date of loading at the port in Korea as specified in the Bill of Lading shall not be earlier than the date of issuance of the PQC, otherwise the consignment shall be subjected to a prescribed commodity treatment, if applicable or appropriate, or returned to the country of origin or destroyed at the Port of Entry, and all fees, charges and other expenses relative to such quarantine action shall be borne by the importer.

B. Non-Transferability of the PQC

The PQC is non-transferable and shall only be used by the person/company whose name appears in the PQC.

ARTICLE VI
FEES AND CHARGES

An accreditation fee shall be collected upon release of Certificate of Accreditation in the amount of Php 5,000.00. Yearly renewal shall also be subjected to processing fee of Php 3,000.00.

Other relevant fees shall be imposed as necessary pursuant to DA Administrative Order No. 01, series of 2001, DA Administrative Order No. 12 and 26 series of 2004.

ARTICLE VII
REQUIREMENTS AND CONDITIONS ON PRE-EXPORT QUARANTINE INSPECTION

A. Source Areas

Exporters, production areas and processing facilities of fresh unshu orange intended for export to the Philippines shall be registered with Korea NPQS. An official list shall be provided to BPI-PQS. Only those indicated in the list shall be allowed to export to the Philippines and approved by BPI-PQS.

B. Sorting, Cleaning and Packing

1. Fresh unshu orange intended for export to the Philippines shall be sorted, cleaned and stored in accredited facilities under the supervision and inspection of a Korean PQ Officer and a BPI-PQ representative to conduct pre-clearance inspection during the entire export period. All expenses related to the dispatch of BPI-PQ representative shall be borne by the exporting country.

2. Fresh unshu orange shall be packed only in new and clean plastic bags. These bags shall then be placed inside carton boxes.

C. Pre-export Quarantine Inspection

1. Prior to sealing of the carton boxes, the Korea PQ Officer and the Philippine PQ Officer shall conduct random inspection of fresh unshu orange at 600 unit sampling rate at the accredited facilities.

2. The NPQS Officer shall ensure that the consignment is free from quarantine pests before a PC can be issued for the shipment.

D. Sealing and Labeling of Carton Boxes

If the consignment satisfactorily passes the inspection, each carton box shall be sealed and labeled with the following information conspicuously displayed on the two sides of the box:

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1. “FOR THE PHILIPPINES”;
2. The accreditation code issued by the NPQS; and
3. Source of fresh unshu orange (specific farm/location in Jeju)

E. Storage

Packed fresh unshu orange shall be placed in a cold storage facility. The facility should be kept clean and free from any pest.

F. Loading of Consignment and Sealing of Reefer Vans

1. Packed fresh unshu orange shall be immediately loaded in clean (disinfested/disinfected) reefer vans and transported as soon as possible.
2. The temperature of the reefer vans shall be set and maintained at 50C.
3. The vans shall be closed and sealed under supervision of a NPQS Officer and BPI-PQS.

G. Phytosanitary Certification

An original Phytosanitary Certificate (PC) shall be issued by the NPQS for each consignment that satisfactorily passed the pre-export quarantine inspection. Integral to the PC is an additional declaration stating the following information:

1. “This shipment is covered by Plant Quarantine Clearance (PQC) No. ____”
2. Container van and seal number ____
3. Name and NPQS Accreditation Number of the accredited processing and packing facility

H. Maximum Residue Level (MRL) Certificate

Each shipment shall be accompanied by a certificate of analysis for pesticide residue issued by a relevant government laboratory in Korea or issued by a government accredited laboratory, attesting that the pesticides used during production conform to the required Codex MRL for each pesticide.

ARTICLE VIII
ENTRY AND POST-ENTRY INSPECTION

A. Forty-eight (48) hours before the arrival of a consignment at the port of entry, the importer or his authorized representative shall notify the concerned PQO by completely filling out Application for Inspection (Annex IV[*]).

B. Upon arrival, the consignment shall be subjected to the following inspection requirements:

1. Documentation Check
2. Original PQC, original PC from NPQS, airway bill/bill of lading and invoice, and MRL certificate must be presented and surrendered to the PQO at the border.

Any fresh unshu orange consignment with incomplete documentation shall be refused entry with options of returning the whole shipment to Korea, re-export to other countries or destruction of the consignment at the importer’s expense.

3. On –arrival Quarantine Inspection

Upon arrival of the shipment at the port of entry, the PQO, together with the BOC examiner at the port shall conduct routine inspection of the consignment.

A sample size of 10% of the consignment shall be inspected by the PQO for quarantine pests. The inspection shall include the packaging material of the fresh unshu orange.

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If the fresh unshu orange arrives at a port of entry other than Metro Manila, the collection of such samples shall be the responsibility of the PQS station having jurisdiction over the port of entry. Fresh unshu orange showing symptoms of pest infection/infestation or presence of pest shall be forwarded to the nearest BPI-Plant Quarantine Laboratory or BPI-recognized laboratory for diagnosis and pest identification. Diagnosis and pest identification shall be completed within seven (7) working days.

C. Inspection shall be conducted by the PQO in the presence of the importer or his authorized representative. Thereafter the PQO shall place a stamp on the BOC entry permit to indicate whether the consignment is cleared for release, for further inspection, on hold or for confiscation.

ARTICLE IX
PENALTIES AND SANCTIONS

SECTION 1. Suspension/Revocation of PQC:

A. The PQC may be suspended or revoked at any time for any of the following grounds:

1. Providing false information in the application for import inspection form or in any of the accompanying documents to the application.

2. Misdeclaration of consignment

3. Violation of relevant SPS rules and regulations or any conditions imposed in the PQC

4. Refusal to allow the inspection of the commodity, physical containment facility or intermediate destination of the product

5. Accreditation of the exporter has been suspended or revoked; or

6. New technical information becomes available to the BPI indicating that the fresh unshu orange, if allowed for its intended use will result to risks to human, animal or plant health or life and the environment.

B. Revocation or cancellation of the PQC shall be without prejudice to being further subjected to penalties.

SECTION 2. Confiscation and Disposal:

A. If the border inspection shows that:

- The fresh unshu orange is found to be infested/infected with regulated pests;
- The fresh unshu orange has been packed under unsanitary conditions;
- The consignment is contaminated, misbranded, misdeclared, or in violation of the terms and conditions embodied in the PQC; this Administrative Order; and other sanitary and/or phytosanitary regulations;
- The consignment arrived without the required documentation; or
- Fake documents have been presented.

The PQS shall inform the BOC of the violations and the consignment shall be disposed of in any of the following manner:

1. Confiscated and destroyed
2. Returned to the country of origin
3. Shipped to a third country, where possible

In no case shall a confiscated consignment be auctioned, redeemed, donated or sold by any government bureau or agency.

B. Notice of Confiscation shall be issued to the importer stating the reason/s for the confiscation. Three (3) copies

of the said Notice shall be issued as follows: one (1) copy shall be given to the BOC; one (1) copy to the importer and one (1) copy shall be retained by the PQS.

Further, the notice shall provide indicative date of condemnation and disposal of the product.

C. All expenses (including travel, per diem or subsistence, and overtime pay) of officers or employees of the Philippine government in connection with the destruction or disposition of the seized fresh unshu orange and all expenses in connection with the storage, cargo or labor with respect to the fresh unshu orange refused admission shall be paid by the importer.

D. The importer concerned shall then be blacklisted from the list of accredited importers.

E. The impounding or seizure shall not be a bar to subsequent prosecution in the court of the person/s concerned in accordance with law.

SECTION 3. Suspension of Fresh Unshu Orange Importation:

A. In case of non-compliance with the requirements and conditions of this AO, quarantine pest interceptions at the port of entry, and/or pest outbreak at the source, the BPI reserves the right to suspend the fresh unshu orange importation.

B. An audit of the export program shall be conducted. The program shall resume only when the BPI and the NPQS have mutually agreed on and instituted the necessary corrective actions to comply with the requirements and conditions of this AO.

SECTION 4. Other Penalties – The existing laws and rules and regulations of the BPI prescribing the violations and corresponding penalties shall be applied and imposed.

SECTION 5. Notification - The Department of Agriculture through the BPI shall immediately notify the NPQS in writing, through the DFA-Philippine Embassy in Korea or the Embassy of Korea in Manila, of any detection or interception of quarantine pests in the shipment and non-compliance with the requirements and conditions of this AO.

ARTICLE X
REPEALING CLAUSE

All existing administrative orders, rules and regulations or parts thereof, which are inconsistent with the provisions of this Order are hereby repealed or modified accordingly.

ARTICLE XI
SEPARABILITY CLAUSE

If any portion of this Order is declared unconstitutional or invalid, the other portions thereof which are not affected thereby shall continue to be in full force and effect.

ARTICLE XII
EFFECTIVITY

This Order shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Adopted: 06 April 2010

Recommending Approval:

(SGD.) LARRY R. LACSON, PHD

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Director, Bureau of Plant Industry

Approved:

(SGD.) ATTY. BERNIE G. FONDEVILLA
Secretary, Department of Agriculture

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[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City

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