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RULES AND REGULATIONS GOVERNING IMPORTATION OF FRESH/CHILLED/FROZEN FISH AND FISHERY/AQUATIC PRODUCTS

BFAR ADMINISTRATIVE ORDER NO. 195, S. 1999, September 20, 1999

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In line with the government's intent of adopting a flexible policy towards the attainment of food security; in response to the emerging trends in the trade of fish and other aquatic products in domestic and international markets; in recognition of the need to ensure food safety on imported fish and fishery/aquatic products; and pursuant to Section 61 [c] and [d], Sections 62, 67, and 100 of Republic Act 8550, otherwise known as the Philippine Fisheries Code of 1998, the following rules and regulations governing the importation of fresh/chilled/frozen fish and fishery/aquatic products are hereby promulgated:

SECTION 1. Definition of Terms and Phrases. — For purposes of this Order, the following phrases and terms shall mean:

a) Accredited Importer (AI) — refers to an institutional buyer, individual or entity directly engaged in fishing and aquaculture and given the privilege by the BFAR to import fresh/chilled/frozen fish and/or fishery/aquatic products.

b) Accredited Laboratory/ies (AL) — the laboratory/ies in the Philippines, aside from BFAR Laboratory, given authority by DTI-Product Standards to analyze the adequate sample of imported fishery product collected randomly by the technical personnel of BFAR for chemical and microbiological examination and parasite identification;

c) Application Form to Import (AFI) — a document required by BFAR to be filled up by the Accredited Importer indicating the purpose of the importation, species or kind of fish, volume to be imported, and country of origin.

d) BFAR — Bureau of Fisheries and Aquatic Resources

e) Batch — refers to a quantity of fish and fishery/aquatic products obtained under practically identical conditions.

f) Chilled fish — refers to fish and fishery/aquatic products which have been subjected to a process where the product is cooled to a temperature of melting ice, 00C (320F).

g) Consignment — refers to quantity of fish and fishery/aquatic products bound for a customer in the country of destination and conveyed by one means of transportation.

h) Country of Origin's Accredited Laboratory (COAL) — the laboratory/ies of the country of origin of the imported fresh/chilled/frozen fish and fishery/aquatic products which issue Health Certificates certifying that the said fish products have been inspected, examined and certified as fit for human consumption.

i) Department — Department of Agriculture (DA)

j) DA Certification — Issued by the Secretary of the Department of Agriculture certifying the necessity of importing fish to ensure food security, fish price stability and enhance fishery resource conservation.

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k) Director — refers to the Director of the Bureau of Fisheries & Aquatic Resources.

l) Fish and fishery/aquatic products — includes not only finfish but also mollusks, crustaceans, echinoderms, marine mammals, and all other species of aquatic flora and fauna, and all other products of aquatic living resources in any form.

m) Food Safety — the assurance that the food is processed properly and when consumed will not harm the consumers.

n) Food Security — refers to any plan, policy, or strategy aimed at ensuring adequate supplies of appropriate food at affordable prices. Food security may be achieved through self-sufficiency (i.e., ensuring adequate food supplies from domestic production), through self-reliance (i.e., ensuring food supplies through a combination of domestic production and importation), or through pure importation.

o) Fresh fish — refers to freshly caught fish, which has not undergone any processing or preservation treatment.

p) Frozen fishery/aquatic products — fish/fishery/aquatic product which have been subjected to a freezing process sufficient to reduce the temperature to 180C (00F) to preserve its quality and to maintain said product at this temperature.

q) Institutional Buyers — accredited entities or corporations importing fish for final consumption or processing as food requirements for accredited hotels and restaurants which would execute an undertaking that they will not distribute the commodities to the wet markets.

r) International Health Certificate — refers to a written guarantee issued by an authorized or competent regulatory agency from the country of origin, certifying that the fish and fishery/aquatic products have been handled, processed and packed in hygienic manner and does not contain microorganisms that may pose food safety hazard.

s) Packaging — refers to the procedure of protecting fish and fishery/aquatic products by a wrapper, a container, or any other suitable device.

t) Permit to Import (PI) — a document issued by BFAR in response to the application to import of an Accredited Importer (AI).

u) Private Sector — refers to consumer groups, importers, producers, aquaculturists, fisherfolk and non-government organizations.

v) Processing — means, with respect to fish or fishery products: the handling, storing, preparing, heading, eviscerating, shucking, changing into different market forms, manufacturing, preserving, packing, labeling, dockside unloading or holding.

w) Secretary — Secretary of the Department of Agriculture.

x) SPS Certificate (Sanitary and Phytosanitary Certificate) — a document issued by a BFAR laboratory or an accredited laboratory after the mandatory standard physical, microbiological, and chemical examination for imported fishery products intended for the wet market, processing, re-export and sale to specialized restaurants, except for canning and processing purposes, to ensure that the products being imported are fit for human consumption and/or are not capable of harboring pests, viruses and diseases. Such document also prescribes the conditions to be complied with by the importer for the maintenance of quality and suitability of the product for the intended purpose.

SECTION 2. Importation of Fresh/Chilled/Frozen Fish and Fishery/Aquatic Products. — The importation of fresh/chilled/frozen fish and fishery/aquatic products shall be allowed when certified as necessary by the

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Secretary in order to achieve food security taking into consideration public welfare and safety, in consultation with the NFARMC; Provided, That the importation of fresh/chilled/frozen fish and fishery/aquatic products for canning and processing purposes including importation undertaken by institutional buyers does not require such certification; Provided, Further, That all importation satisfies the Permit to Import and Sanitary and Phytosanitary (SPS) requirements as provided under Section 67 of Republic Act No. 8550, the Hazard Analysis and Critical Control Points (HACCP) Standards, and as provided for under this Order.

The certification which shall be valid for ninety (90) days, would state the volume of fish to be imported as recommended by the Director upon prior consultation with the private sector as defined in this Order.

SECTION 3. Basis for the Issuance of Department of Agriculture Certification of the Necessity to Import. — Pursuant to Section 61 of Republic Act No. 8550, the Secretary, in consultation with the NFARMC, prior to the issuance of a certification on the necessity of the importation applied for, shall determine, among others, the following:

a) The importation is necessary for food security.

b) There is serious injury or threat to domestic industry that produces like or directly competitive products.

The Secretary and the NFARMC, as an aid in the decision-making process, may inquire from the appropriate local government unit on the supply and demand situation for fishery products as observed in their respective localities.

SECTION 4. Filing of Application. — When a certification has been duly issued by the Secretary under Section 3, an importer may file a duly accomplished Application Form to Import (AFI) for importation of fresh/chilled/frozen fish/fishery products with the Office of the Director, at least five (5) days prior to its importation, and with a non-refundable application fee of One Hundred and Fifty (P150.00) Pesos accompanied by the following documents:

a) Proforma Invoice;

b) Articles of Incorporation and By-Laws duly approved by the Securities and Exchange Commission.

SECTION 5. Issuance of a Permit to Import. — A Permit to Import may be issued by the Director or his duly authorized representative only after an application thereof has been filed in accordance with the preceding Section and the applicant has paid the Permit Fee of One Thousand Five Hundred (P1,500.00) Pesos, and such other charges for administrative and technical services rendered in connection with the importation. The indicated amount covers the mandatory standard microbiological examination conducted on all imported fish and fishery/aquatic products. A separate charge for specialized laboratory examinations (for antibiotics trace, mercury traces, etc.) may be imposed when such examinations are deemed necessary. Charges incidental to importation of fish and fishery/aquatic products shall be in accordance with FAO No. 187 series of 1993 and its amendments.

SECTION 6. Duration of a Permit to Import. — A Permit to Import issued under this Order shall expire thirty (30) days from the date of issuance. An Unused Permit to Import shall be considered automatically cancelled.

SECTION 7. Transshipment Ports. — To facilitate monitoring of imported fishery products, all imported fish destined for the wet markets shall be coursed through the government fish ports of the Philippine Fisheries Development Authority (PFDA); Provided, That the importation of fresh/chilled/frozen fish and fishery/aquatic products for canning and processing purposes, and importation by Institutional Buyers as defined in this Order, does not require transshipment through the government fish ports.

SECTION 8. Required Documents for Trading Imported Fish. — The government fish port authorities shall require

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the following documents from the accredited importer prior to the display of the imported commodities for trading:

a) Bureau of Customs Entry Declaration

d) Certificate of Origin

b) International Health Certificate

e) Bill of Lading

c) Sanitary and Phytosanitary (SPS) Certificate

SECTION 9. Transshipment. — Fish unloaded by foreign vessels at accredited transshipment ports which are no longer of exportable grade or can be considered as non-exportable may only be sold to canneries and processing plants after payment of customs duties and compliance with SPS requirements as outlined in this Order.

SECTION 10. Requirements for the Importation of Fresh/Chilled/Frozen Fish and Fishery/Aquatic Products. — Fish and fishery/aquatic products to be imported into the Philippines shall meet the following standard and requirements:

a.) International Health Certificate from the country of origin. Fish and fishery/aquatic products coming into the Philippines intended for distribution and for further processing shall be certified by authorized or competent regulatory agency from the country of origin. The International Health Certificate shall be issued on the basis that the following requirements have been met:

1) Fish and fishery/aquatic products meet the quality of fresh fish prior to freezing shall be graded accordingly to size.

2) The fishery products must be handled and processed hygienically in processing plants and/or freezer vessels.

3) Frozen fishery products must be kept and maintained at -180C or lower during transport.

4) Fish and fishery/aquatic products must be subject to visual inspection for parasite check. Fish infested with parasites, must be removed from the batch.

The International Health Certificate shall be supported with the following laboratory test results, which shall not exceed for the indicator organisms, such as:

Total viable count

10/gram

E. coli

10 to 100/gram

Salmonella

absent in 25 gram sample

Shigella

absent

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Vibrio cholerae

absent

The International Health Certificate shall accompany the consignment of fish and fishery/aquatic products and shall be presented as part of the documentation requirements upon arrival.

b) Special Health Control Requirements. — Fish and fishery/aquatic products covered by the following families: Scombridae (tuna and tuna-like species and mackerel) and Clupeidae (sardines) shall be subject to chemical analysis for histamine. Examinations shall be carried out in accordance with internationally recognized methods. The results of the test shall not exceed 20 mg./100 gm. And shall be included in the Health Certificate requirement.

c) Packing and labeling requirements. — Fish and fishery/aquatic products must be packed under hygienic condition to preclude contamination from lubricants, oils, fuels or any hazardous substances. Packaging materials shall not impair the sensory attributes of the fishery products and shall not transmit harmful substances. Packaging materials used for fresh fish held under ice should be provided with adequate drainage for melted water.

The following information shall appear on the packaging and on the accompanying documents.

— the country of origin written out in full

— species of fish/fishery products weights and content

— address of supplier

— BFAR Inspection stamp mark

Frozen fishery/aquatic products imported in bulk intended for further processing are not covered by this requirement.

d) Storage and transport. — Fish and fishery/aquatic products, during storage and transport, shall be stored at temperature requirement for specific products.

— Chilled fresh fish and fishery products shall be stored and maintained at 0 to 40C

— Frozen fishery products, with the exception of frozen fish in brine intended for canning shall be stored at -180C or below during transport, allowing not more than 3 degrees upward fluctuation in temperature.

SECTION 11. Inspection Requirements. — Upon arrival, imported fresh/chilled/frozen fish and fishery/aquatic products shall be subject to the following inspection requirements:

a.) Documentation — Inspection/verification of accompanying importation documents (original copy of Permit to Import, photocopies of International Health Certificate from duly accredited laboratory and/or Sanitary and Phytosanitary Clearance/Certificate from the competent authority of the country of origin, Airwaybill/Bill of Lading and invoice) must be presented and surrendered to the inspecting Fishery Quarantine Officer. In the absence of a certified true copy by the importer of the International Health Certificate from the country of origin, the shipment shall be committed to a storage facility for a period of not exceeding ten (10) days to allow the importer to submit such documents. Failure to comply within the specified period, the shipment shall be returned to the country of origin, otherwise, forfeited in favor of the government for its proper disposition. All expenses involving storage, return to origin and disposition of the shipment shall be borne by the importer.

b.) Physical examination — Adequate sample of imported fishery product for laboratory examination shall be collected randomly by technical personnel of the Bureau for sensory/organoleptic examination. Fresh, chilled, and

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frozen fish and fishery/aquatic products shall meet the quality requirements based on organoleptic checks on the standards for fresh/chilled/frozen fish and fishery/aquatic products. Each batch of imported fishery products shall be subject to examination at the time of landing. The local government unit shall be responsible for the examination of fish and fishery products during distribution to markets and outlets.

c.) Microbiological analysis — All imported fishery products shall be subject to microbiological examination. After laboratory examination, if imported products does not meet the required quality standard, the whole shipment shall be committed to a storage facility while further laboratory examination shall be conducted on random samples to technically determine the quality of the products. If found unfit for human consumption or does not meet the required standard, the said container shall be returned to the country of origin. Fees and charges incidental to examination and storage of imported products shall be chargeable to the importer.

d.) If upon inspection the imported fish or fishery/aquatic product does not met the quality requirements prescribed by the Bureau, or prohibited fish and fishery/aquatic products are included in the importation, the same shall be removed immediately, and in case of the latter, confiscated, and the importer shall, in addition, be penalized in accordance with the provisions of applicable laws, rules and regulations.

e.) Issuance of Fishery Sanitary and Phytosanitary (SPS) Certificate for the release of the imported fishery product.

f.) Should any portion of the imported fish and fishery/aquatic products intended for non-human consumption be sold, utilized, or distributed for local human consumption, the importer shall be permanently disqualified from applying for subsequent importation of fish and fishery/aquatic products, and shall be penalized in accordance with Section 12 of this Order; Provided, However that the imported fish or fishery/aquatic products shall be immediately confiscated and forfeited in favor of the government.

g.) Should any portion of the imported fish and fishery/aquatic product intended for canning and processing plants and any portion of the importation by institutional buyers be sold or diverted to the local wet markets, the importer shall be permanently disqualified from applying for subsequent importation of fish and fishery/aquatic products, and shall be penalized in accordance with Section 12 of this Order: Provided, However that the imported fish or fishery/aquatic products shall be immediately confiscated and forfeited in favor of the government.

SECTION 12. Penal Clause . — Violation of any provision of this Order shall subject the offender to eight (8) years of imprisonment, a fine of Eighty Thousand Pesos (P80,000.00), and forfeiture of the fishery/aquatic product in favor of the Department for its proper disposition. Further, violator of this Order shall be banned from being members or stockholders of companies currently engaged in fisheries or companies to be created in the future.

SECTION 13. 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.

SECTION 14. Separability Clause . — If any portion or provision of this Order is declared unconstitutional or invalid, the other portions or provisions thereof, which are not affected thereby, shall continue in full force and effect.

SECTION 15. Effectivity . — This Order shall take effect fifteen (15) days after its publication in the Official Gazette and/or in two (2) newspapers of general circulation.

Adopted: 20 Sept. 1999

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