RULES AND REGULATIONS IMPLEMENTING THE PROVISIONS OF REPUBLIC ACT NO. 10054, ENTITLED "AN ACT MANDATING ALL MOTORCYCLE RIDERS TO WEAR STANDARD PROTECTIVE MOTORCYCLE HELMETS WHIL...

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Pursuant to Section 6 of Republic Act No. 10054 (RA 10054) otherwise known as "Motorcycle Helmet Act of 2009", the following rules and regulations are hereby jointly promulgated for compliance and guidance of all concerned:

1. SCOPE

These guidelines shall apply to wearing of standard protective motorcycle helmets by all motorcycle drivers and back riders while driving in any type of road and highway. It shall exclude drivers of tricycles.

For purposes of these guidelines, the following Administrative Orders of the Department of Trade and Industry (DTI) shall applied:

1.1 DAO 2:2007 – Department Administrative Order No. 2, series of 2007 – Defining the responsibilities and liabilities of manufacturers, importers, traders, wholesalers, distributors, retailers, service providers and or their agents, with regard to products/services covered by Philippine Standard (PS) Certification Mark Schemes and prescribing penalties for violation thereof.

1.2 DAO 4:2008 – Department Administrative Order No. 8, series of 2008 – The new rules and regulations concerning the PS Quality and/or Safety Certification Mark Scheme of the Bureau of Product Standards (BPS).

1.3 DAO 5:2008 – department Administrative Order No. 5, series of 2008 – The new rules and regulations concerning the issuance of Import Commodity Clearance under the Product Certification Mark Scheme of the BPS.

1.4 DAO 1:2008 – Addenda to the Implementing Rules and Regulations of Republic Act No.7394 (RA 7394), otherwise known as the "Consumer Act of the Philippines" or Department Order No. 2, series of 1993 on the matter of Labelling and Fair Packaging.

2. DEFINITION OF TERMS

2.1 Product – refers to protective helmet or visors within the scope of these guidelines.
2.2 Test Samples – refers to a product randomly chosen from lot or batch.
2.3 Manufacturer's Identifying Mark – refers to a logo or symbol representing the manufacturer's identity as approved by the BPS.
2.4 Accredited Laboratory – refers to a testing laboratory accredited by International Laboratory Accreditation Cooperation (ILAC) or Asia Pacific Laboratory Accreditation Cooperation (APLAC) that conducts tests on representative samples or helmets and/ or visors.
2.5 Standard Protective Motorcycle Helmets – refers to helmets and visors that are appropriate types of helmets for motorcycle riders that comply with the specifications prescribed by DTI and which bear the Philippine

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Standard (PS) Mark or Import Commodity Clearance (ICC) of the BPS.
2.6 Philippine National Standards (PNS) – refers to a standard promulgated by the BPS relating to a set of conditions to be fulfilled to ensure the quality and safety of a product. It shall contain product specifications, test method, terminology, standardization procedures, and guidelines or practices.
2.7 Philippine Standard Quality (PS) Quality Certification Mark – refers to a mark of conformity to product quality standards, which appears on a product or product packaging.
2.8 Philippine Standard (PS) Safety Certification Mark – refers to a mark of conformity to product safety standards, which appears on a product or product packaging.
2.10 Import Commodity Clearance – refers to a document issued by the DTI/BPS attesting that the imported product, which is covered by a mandatory PNS, conforms to the specific Philippine National Standard.
2.11 PNS UN-ECE 22:2007 – refers to the uniform provisions concerning the approval of protective helmets and their visors for drivers and passengers of motorcycles and mopeds in the United Nations Economic Commission for Europe (UN-ECE) Protocols.

3 ACTS PUNISHABLE UNDER RA 10054 AND UNDER THESE RULES AND REGULATIONS AND CORRESPONDNG PENALTIES

3.1 Driving without wearing the standard protective motorcycle helmet and/or failing to require backrider/s to wear the standard protective motorcycle helmet.

A fine of One Thousand Five Hundred Pesos (P1,500.00) for the first offense; Three Thousand Pesos (P3,000.00) for the second offense; Five Thousand Pesos (P5,000.00) for the third offense; and Ten Thousand Pesos (10,000.00), in addition to the confiscation of the driver’s license, for the fourth and succeeding offenses, shall imposed on driver’s of motorcycles who fail to wear the standard protective motorcycle helmets or fail to require their backrider/s to wear the standard protective motorcycle helmet. The penalty for driving or riding a motorcycle without any helmets shall be the same as that imposed for driving without the standard protective motorcycle helmet or failing to require his/her backrider to wear the standard protective motorcycle helmet.

3.2 Selling and/or dealing of a new motorcycle unit without making available a new standard protective motorcycle helmet to the purchaser in violation of Section 5 of the RA 10054.

A fine o Ten Thousand (P10,000.00) Pesos for the first offense; and Twenty Thousand (P20,000.00) Pesos for the second offense shall be imposed on sellers and /or dealers who fail to make available a new standard protective motorcycle helmet to a purchaser of a new motorcycle unit in violation of Section 5 of the RA 10054.

3.3 Selling/dealing distributing of substandard motorcycle helmets or those which do not bear the PS mark or the ICC mark.

A fine of Three Thousand (P3,000.00) pesos for the first offense; and Five Thousand (P5,000.00) Pesos for the second offense shall be imposed on sellers and/or dealers who sell and distribute substandard motorcycle helmets or those which not bear the PS mark or ICC mark without prejudice to other penalties imposable under RA 7394.

3.4 Tampering, altering, forging and imitating by seller/dealer of the PS mark and the ICC mark in the helmets.

A fine of Ten Thousand (P10,000.00) Pesos for the first offense; and Twenty Thousand (P20,000.00) Pesos for the second offense shall be imposed on sellers and/or dealers who tamper, alter, forge and imitate a PS mark and ICC mark in the protective motorcycle helmets without prejudice to other penalties imposable under RA 7394.

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4. AUTHORITIES AND RESPONSIBILITIES OF DTI AND DOTC

4.1 In addition to the duties and responsibilities specified in DAO 4:2008 and DAO 5:2008, the BPS shall:

4.1.1 Inform the PS licensees/ICC Holders of any change (s) in the standard.
4.1.2 Conduct the final evaluation of all factory and product assessment reports, test reports and other relevant documents of the DTI Regional / Provincial Offices and/or recognized Inspection/Testing Bodies.
4.1.3 Issue, deny or revoke licenses/certificates based on the evaluation of factory and product assessment, product testing and compliance or non compliance with the requirements of DAO 4:2008 and DAO 5:208 and other BPS rules and regulations.
4.1.4 Coordinate with the DTI Regional or Provincial Offices and the DTI Office of Legal Affairs in identifying and implementing appropriate legal action against manufacturers, assemblers, importers, sellers and dealers violating RA 7394 and RA 10054, and pertinent rules and regulations.

4.2 The DTI shall consider the recommendations of law enforcement agencies, local government units, and non-governmental organizations to ban full-faced helmets for crime prevention and detection and other security reasons.

4.3 DTI Regional/Provincial Offices shall:

4.3.1 Facilitate the processing of PS application (i.e conduct factory/product assessment) and ICC application (i.e. evaluation, inspection, sampling, issuance/denial)
4.3.2 Conduct market monitoring and enforcement of standard
4.3.3 Take legal action against those who, after evaluation are found to have committed any of the acts described in Sections 3.3, 3.4, and 3.5 of these rules and regulations.

4.4 The Department of Transportation and Communication (DOTC) and the Land Transportation Office (LTO) enforcers shall impose the appropriate penalties for acts described in Section 3.1 of these implementing rules and regulations.

4.4.1 For purposes of enforcing Section 3.1 of these implementing rules and regulations, DOTC/LTO enforcers are authorized to stop a moving motorcycle whose driver and/or rider is not wearing any helmet or to inspect the helmet worn which is plainly not a standard protective motorcycle helmet.
4.4.2 A motorcycle driver and/or rider wearing a helmet with a PS or ICC mark shall be deemed to be prima facie compliant with RA 10054 and these rules and regulations.
4.4.3 If the motorcycle and/or rider is not wearing a helmet or if the helmet worn by the motorcycle driver and/or rider has no PS or ICC mark, the DOTC/ LTO enforcer shall issue the necessary citation ticket to the motorcycle driver imposing the appropriate penalty.

5 APPLICATION FOR PS OR ICC MARK

5.1 Manufacturers shall apply for the PS Quality and/or Safety Certification License with the BPS, or with the nearest DTI Regional or Provincial office. requirements, procedures and processing of PS application are governed by DAO 4:2008 and its implementing rules and regulations.

5.2 Importers shall apply for the ICC on a per shipment per bill of lading basis with the BPS or with the nearest DTI Regional or Provincial office. requirements, procedures and processing of ICC applications are governed by DAO 5:2008 and its implementing rules and regulations.

5.3 In the absence of testing facilities, the importers shall warrant that the helmets and visors they import into the country comply with the specific standards mentioned above by the following means:

5.3.1 That the shipment has been subjected to testing by laboratory/ies accredited by an accreditation body

signatory to the International Laboratory Accreditation Cooperation (ILAC) or Asia Pacific Laboratory Accreditation Cooperation (APLAC) Multilateral Recognition Arrangement (MRA);
5.3.2 That the testing has been conducted in accordance with the requirements of PNS UN-ECE 22:2007; and
5.3.3 That the Original Test Certificates has been evaluated by the BPS.

5.4 Those who purchased or has received helmets and visors from a foreign country shall secure clearance from the BPS or from the nearest DTI Regional or Provincial office prior to their use, provided that the helmets and visors have a mark of conformity that they comply with the PNS-UN-ECE Reg 22-2007.

6 SAMPLING

A duly authorized DTI/BPS representative or Inspection bodies shall observe the provision of clauses 3.1.1.4, 3.1.1.5, and 3.1.2.4. of PNS UN-ECE Reg 2007.

7. TESTING

7.1 Tests shall be done by BPS Testing Center or BPS accredited/recognized testing laboratory in accordance with the requirements of PNS UN-ECE Reg 22-2007 whichever is applicable. The testing required in Clause 7 of the standard shall be tested during the independent testing.
7.2 Some additional samples may be requested by the BPS Testing Center or any BPS designated/recognized testing laboratory/ies if necessary.
7.3 If manufactured, test sample(s) shall be taken at random either in the production line or warehouse. However, if imported, test sample(s) shall be taken at random directly from Customs or importer's warehouse.
7.4 Test sample(s) for independent test shall be packed/sealed and signed in the presence of a DTI/BPS representative or BPS designated inspector and shall be sent by the manufacturer or importer to the BPS Testing Center or to any BPS designated/recognized testing laboratory. The authorized DTI/BPS representative shall ensure that request for Test form is properly filled-up, signed and issued to the manufacturer or importer.
7.5 Prior to testing, there shall be no additional preparation, modification or adjustment procedure conducted in any manner on the drawn test samples.
7.6 In the absence of testing facilities, the BPS upon agreement with the local manufacturers, shall utilize available laboratories accredited by the ILAC or Asia APLAC operating within or outside the Philippines who are signatories to the Multilateral Recognition Arrangement (MRA);

8 INDEPENDENT TESTING

8.1 The official testing laboratory shall be BPS designated/recognized testing laboratory(ies) whether located within or without the Philippines.
8.2 Two separate test with two (2) failing results shall be conducted by BPS Testing Center and/or BPS designated/recognized testing laboratory before a declaration can be made that the product does not conform to the specific standard.
8.3 If in the determination of BPS the first sample failed, another set of sample from the same lot/batch shall be tested. If it passed the re-testing, the lot/batch is declared as complying with the requirements of the standard.
8.4 Likewise, if in the determination of BPS the first and the retest failed to conform to the requirements of PNS UN-ECE Reg 22-2007, the application shall be denied.
8.5 In the case of product with accompanying Test report accepted by BPS, verification of the product through testing or inspection shall be conducted.
8.6 All test results shall be held strictly confidential by the BPSTC or any BPS designated/ recognized testing laboratory concerned. Test reports furnished the manufacturers/ importers are for product certification purposes only.

9 DISPOSITION OF SAMPLES

9.1 After the unit has been tested, it shall be returned to the manufacturer/importer.
9.2 Samples which failed to comply with the requirements of PNS UN-ECE REG 22:2007 shall be stored at the concerned testing laboratory for reference purposes in the event that the manufacturer/importer contests the result of the test. If the test are not contested after two (2) months from its issuance, the test report is deemed final and the samples shall be returned to the manufacturer/importer or disposed of in a manner deemed appropriate, under existing accounting and auditing rules.
9.3 BPS and the testing laboratory shall not be liable for whatever damage sustained by the test samples during transport and testing. The manufacturer/importer, upon receipt of notice of disposal of test samples shall, within one (1) month, pick up the samples at the concerned testing laboratory. Otherwise, BPS shall dispose the samples in a manner deemed appropriate under existing accounting and auditing rules.

10 COMPLIANCE AND RESPONSIBILITIES OF THE PS LICENSEE ICC HOLDERS TRADERS & MOTORCYCLE RIDERS

10.1.1 Compliance
10.1.2 PS Safety Certification Mark License shall be issued to the manufacturer for the type(s) tested when the results of factory and/or product assessments show conformity to the requirements specified in DAO 4:2008, its implementing rules and regulations, PNS UN-ECE Reg 22-2007 its implementing guidelines and other DTI/BPS rules and regulations.
10.1.3 An ICC shall be issued to importers whose product conforms to the requirements for PNS UN-ECE Reg 22-2007, these implementing guidelines and other DTI/BPS rules and regulations.

10.2 Responsibilities of the PS Licensee
The licensee shall abide by the terms and conditions of the PS license and is governed by DAO 4:2008 and its implementing rules and regulations.

10.3 Responsibilities of the ICC Holders
The ICC Holder shall abide by the terms and conditions of the ICC and is governed by DAO 5:2008 and its implementing rules and regulations.

10.4 Responsibilities of the Traders and dealers
Traders shall ensure that only approved helmets and visors shall be made available in their establishment. All dealers of motorcycle shall likewise ensure that there are availables stocks of DTI – approved helmets and visors.

10.5 Responsibilities of the Motorcycles Riders
Motorcycle riders shall always ensure that only the DTI – approved helmets and visors shall be used when riding motorcycles.

11 REQUIRED MARKINGS

11.1 All helmets and visors shall comply with the marking requirements of PNS UN-ECE Reg 22-2007, DAO 1:2008 whichever is applicable.
11.2 In addition to the PNS UN-ECE requirements, all imported helmets and visors should bear markings and labels in accordance with RA 7394 and the DTI Administrative Order No. 1:2008.
11.3 The PS Certification Mark License shall not be used on helmets and visors in a misleading manner.
11.4 PS Certification Mark or ICC Mark with ICC number shall be permanently attached, affixed or imprinted on the product, whichever is practical, covered by the corresponding PS Certification Mark License or ICC Mark, in order to avoid its misuse.

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12 MONITORING AND MARKET SURVEILLANCE

The BPS / DTI Regional/Provincial Offices shall, at any time, monitor and inspect products in the market for conformance to the requirement of DAO 1:2008, DAO 2:2007, DAO 4:2008, DAO 5:2008 and the specific standard. If the products are found not in conformity, DTI/BPS shall make appropriate actions or impose necessary legal actions, in accordance with relevant laws, rules and regulations.

13 TRANSITORY PROVISION AND EFFECTIVITY

13.1 Information and Education Campaign. A nationwide information and education campaign shall be conducted by the LTO in coordination with the Philippine Information Agency (PIA), the Department of Education (DepEd), DTI, BPS and private agencies and organizations for a period of six (6) months from the effectivity of this Joint Administrative Order. This Joint Administrative Order shall be fully implemented after the conduct of said information dissemination campaign.

13.2 All issuances pertaining to the implementation of the rules and regulations on motorcycle helmets and visors are hereby revoked or superseded.

13.3 This Order shall effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation and copy thereof furnished the UP Law Center.

Adopted: 26 December 2011

(SGD.) GREGORY L. DOMINGO

(SGD.) MAR ROXAS

Secretary

Secretary

Department of Trade andIndustry

Department of Transportation and Communications

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