

RULES AND REGULATIONS GOVERNING THE IMPORTATION OF FRESH “TABLE STOCK” POTATO (SOLANUM TUBEROSUM L) FOR CONSUMPTION AND PROCESSING FROM THE UNITED STATES OF AMERICA (USA) INTO T...

BPI DA ADMINISTRATIVE CIRCULAR NO. 02, S. 2013, May 08, 2013

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WHEREAS, the Plant Quarantine Service (PQS) of the Bureau of Plant Industry (BPI) 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 fresh potato (*Solanum tuberosum* L.) was conducted and completed in accordance with the IPPC International Standard for Phytosanitary Measures ISPM No. 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 AC, wherein a combination of systems approach and quarantine treatments shall be applied;

NOW, THEREFORE, I, PROCESO J. ALCALA, Secretary of-the Department of Agriculture, by the powers vested in me by law, do hereby issue this Circular providing guidelines governing the importation of fresh “table stock” potato (*Solanum tuberosum* L.) from the United States of America (USA) into the Philippines.

ARTICLE I

SCOPE AND DEFINITION OF TERMS AND ACRONYMS

Section 1. SCOPE - This Circular shall govern the importation of fresh “table stock” potato (*Solanum tuberosum* L.) from the USA for consumption and processing.

Section 2. DEFINITION OF TERMS - For the purpose of this Circular, the following terms, words and phrases herein used shall be construed to mean as follows:

- Additional Declaration - a statement required by the BPI-PQS to be entered on a Phytosanitary Certificate (PC) which provides specific additional information pertinent to the consignment
- Certified seeds - potato tubers officially accepted and classified as propagative material through a seed potato certification program recognized by the Potato Association of America (PAA)
- Consignment - a specific quantity of fresh potato (*Solanum tuberosum* L) from the USA to the Philippines

covered by a single PC

- Disease tolerance - certification rules which make provisions to allow the presence of certain diseases at levels sufficiently low to preclude significant effect on the value of the product
- Must ship out by date - the prescribed time (period) within which the actual product/consignment must have left the country of origin, the reckoning of which is based on the issuance of the SPS Import Clearance
- 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]
- Phytosanitary Certificate - Certificate patterned after the model certificates of the IPPC [FAO, 1990; ISPM No. 5, 2006]
- Phytosanitary Certification - use of phytosanitary procedure leading to the issuance of a Phytosanitary Certificate [FAO, 1990; ISPM No. 5, 2006]
- 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]
- 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
- Seed certification - a formal process in which a state agency sanctioned by the federal government certifies that participating US growers followed certification requirements
- SPS Import Clearance - document issued by a concerned bureau or agency prior to importation to ensure that the products being imported meet standards to protect human, animal or plant life or health, ensuring that the agricultural and fishery products are safe for consumers and to prevent the spread of pests or diseases among animals or plants. Such documents also prescribe the conditions to be complied with by the importer for the maintenance of quality and suitability of the product for the intended purpose.

Section 3. ACRONYMS used in this Circular shall refer to:

AMV

- Alfalfa Mosaic Virus

APHIS

- Animal Plant Health Inspection Service

BCTV

- Beet Curly Top Virus

BOC

- Bureau of Customs

BPI

- Bureau of Plant Industry (the NPPO of the Philippines)

BRR

- Bacterial Ring Rot

CABI

- CAB International (Crop Protection Compendium)

CAS

- Customs Accreditation Secretariat

CDA

- Cooperative Development Authority

CDFA

- California Department of Food and Agriculture

DA

- Department of Agriculture

DTI

- Department of Trade and Industry

FAO

- Food and Agriculture Organization

IPPC

- International Plant Protection Convention

ISPM

- International Standards for Phytosanitary Measures

NPPO

- National Plant Protection Organization

PAA

- Potato Association of America

PC

- Phytosanitary Certificate

PCN

- Potato Cyst Nematode

PMTV

- Potato Mop Top Virus

PPQ

- Plant Protection and Quarantine

PQ

- Plant Quarantine

PQC

- Plant Quarantine Clearance

PQO

- Plant Quarantine Officer of the BPI

PQS

- Plant Quarantine Service

PRA

- Pest Risk Analysis

PSA

- Potato Association of America

PSTVd

- Potato Spindle Tuber Viroid

PVA

- Potato Virus A

PVM

- Potato Virus M

PYDV

- Potato Yellow Dwarf Virus

PYVV

- Potato Yellow Vein Virus

SEC

- Security and Exchange

SPA

- Special Power of Attorney

SPS

- Sanitary and Phytosanitary Measures

TRV

- Tobacco Rattle Virus

TSWV

- Tomato Spotted Wilt Virus

USA

- United States of America

USDA

- United States Department of Agriculture

USDA/ARS

- USDA/Agricultural Research Services

WTO

- World Trade Organization

ARTICLE II

IMPORTER ACCREDITATION GUIDELINES AND PROCEDURES

The following guidelines and procedures shall be implemented in the accreditation of the Importers of fresh table stock potato (see Annex I);

- 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 the following:

- Importers' Profile (for first-time applicants only);
- Department of Trade and Industry (DTI) Registration/Security and Exchange Commission (SEC) Registration/Cooperative Development Authority (CDA) Certificate of Registration;
- Current Mayor's Business Permit (as importer);
- Bureau of Customs - Customs Accreditation Secretariat (BOC-CAS) - Certificate of Accreditation;
- Valid Contract/Certificate of Lease of Storage Facility (Cold Storage/Warehouse). Those who owned the facility, submit title of land ownership and notarized affidavit of facility ownership installed in the area;
- Location map of the storage facility;
- Notarized Special Power of Attorney (SPA) of the representative(s); and
- Two (2) 2X2 ID pictures of the owner and representative(s).

- Importer's Orientation - The importer with his authorized representative(s) shall be oriented on the Plant Quarantine laws and regulations, allowable plants/plant products that can be imported in the Philippines, procedures/process flow/duration of issuance of Plant Quarantine Clearance (PQC), possible sanctions for violations, and other concerns with regards to the importation of fresh table stock potato. The one (1) day orientation will be carried-out by the Chief of PQS or his assigned technical staff.

- Facility Inspection - The Plant Quarantine (PQ) Officer/Inspector will conduct a one (1) day ocular inspection of the applicant's office and storage facility following the guidelines for facility inspection procedures set by

BPI-PQS (see Annex II).

- 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 SPS IMPORT CLEARANCE (PLANT QUARANTINE CLEARANCE)

- Any BPI-accredited table stock potato importer who desires to import table stock potato from the United States of America must secure an SPS Import Clearance from the BPI (Annex III).

- The application form can be secured from and submitted electronically to BPI-PQS with the following attached documents:

- Pro-forma invoice;

- Certification of GM content;

- Other commodity specific requirements, including permits/clearances from other agencies.

- The application shall undergo automated validation for compliance to the submission of mandatory data, and manual review for compliance to the requirements and attached documents. It shall be placed “under review” status. If it is sufficient in form and substance, the reviewer shall endorse to the PQS Chief. If the application is incomplete or not in the right format, the application shall be rejected and the applicant shall be informed accordingly of the additional requirement.

- If the PQS Chief found the application sufficient in form and substance it shall be forwarded to the BPI Director.

- The BPI Director approves the application and the applicant can view and print the approved SPS Import Clearance. The application shall only be approved and issued a SPS Import Clearance by BPI-PQS upon determination of the following:

- Latest advisory of the relevant international bodies and/or the United States of America (USA) pertaining to the pest status of the source areas;

- The applicant importer is accredited by BPI-PQS;

- The applicable risk management protocols that are to be prescribed including certifications of exporting governments.

ARTICLE IV

VALIDITY AND NON-TRANSFERABILITY OF THE PQC

A. Validity of the PQC:

- The SPS Clearance shall be valid based on the must ship out date from the origin.

- The date of loading at the port in the USA 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 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 (pursuant to Section 14 of PD 1433).

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 V

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 VI

REQUIREMENTS AND CONDITIONS ON PRE-EXPORT QUARANTINE INSPECTION

All shipments of table stock potatoes from the US should be covered by Plant Quarantine SPS Import Clearance which should be secured prior to importation.

A. Source Areas, Production and Certification

- Table stock potatoes from the USA must be certified in accordance with the requirements of the US Potato Export Program.
- The fresh potatoes for export to the Philippines must be grown using certified seed potatoes, and must be treated with a sprout inhibitor. Initial importations shall be sourced from Kern County (Bakersfield). Additional sources of table stock potato shall be communicated with the BPI.

B. Requirements

B.1 Soil

Potato tubers should be practically free of soil and debris

B.2 Nematodes

- Only table stock potatoes produced in fields free of potato cyst nematode should be imported to the Philippines. It is prohibited to source table stock potato from Idaho and other areas which as result of an official test has been found to be infected by a potato cyst nematode (PCN) (*Globodera pallida*).
- In addition to potato cyst nematodes, table stock potatoes shall be inspected and found free of *Ditylenchus destructor*, *Meloidogyne chitwoodi* and *Nacobbus aberrans* (potato pathotype) based on official surveillance.

B.3 Fungi

- Tubers should meet the quality standard at shipping point and disease level should be within tolerance level allowable for diseases in accordance with the scoring criteria for fungi on US table stock potatoes.
- Table stock potatoes shall originate from fields that are inspected by Pest Control Advisors during the growing season for fungal pathogens/diseases of concern to the Philippines, according to requirements specified in the potato export standards of the producing province.

B.4 Bacteria

- Table stock potatoes for export to the Philippines shall be free from *Clavibacter michiganensis* subsp. *sepedonicus* through seed certification and visual inspection.

- Tubers should meet the quality standard at shipping point and disease level should be within tolerance level allowable for diseases in accordance with the scoring criteria for bacteria on US table stock potatoes.
- Table stock potatoes shall originate from fields that are inspected by Pest Control Advisors during the growing season for bacterial pathogens/ diseases of concern to the Philippines, according to requirements specified in the potato export standards of the producing province.

B.5 Viruses and Viroid

- Table stock potatoes shall originate from fields that are inspected by Pest Control Advisors during the growing season for virus and/or viroid diseases according to requirements specified in the potato export standards of the producing province. Potato diseases caused by viruses and/or viroid of quarantine significance should be within the acceptable tolerance limit for potato virus and/or viroid diseases.

B.6 Packing and Labeling

- Table stock potatoes shall be packed in new sacks/totes/bags/boxes, crates and other wood packaging materials (treated in accordance with ISPM 15) or clean bulk carriers and should be closed after packing.
- Each bag/sacks/totes/boxes shall be affixed with information label which include: shipper/ grower.

C. Export inspection

- Final grade inspection shall be the responsibility of the inspector reviewing the shipment prior to export. One percent (1%) of the shipment will be randomly sampled at the packing house and inspected for external and internal (cut tubers) symptoms of quarantine pests of concern to the Philippines. Sampled potatoes must show no signs of sprouting.
- Table stock potatoes should pass final grade inspection and loaded in clean conveyances prior to shipment. Following inspection, the container or conveyance shall be closed and sealed under the supervision of the responsible inspector.
- A Phytosanitary Certificate shall be issued only for the consignments that meet all phytosanitary regulatory requirements of the US Potato Export Program.
- The commodity shall be transported under appropriate cold storage temperature.

D. Phytosanitary certification

- An original Phytosanitary Certificate (PC) shall be issued by the USDAAPHIS for each consignment that satisfactorily passed the pre-export quarantine inspection. Integral to the PC is an additional declaration stating the following information:
- "This shipment is covered by Plant Quarantine SPS Import Clearance No. ____";
- Container/conveyance and seal number ____;
- The Phytosanitary Certificate shall bear the following additional declaration:

"The potatoes in this consignment were produced in the United States of America in accordance with the conditions governing entry of potatoes for consumption and processing into the Philippines and inspected and found to be free of pest of quarantine concern in the Philippines."

ARTICLE VII

ENTRY AND POST-ENTRY INSPECTION

A. Forty-eight (48) hours prior to 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.

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

1. Documentation Check

Original PQC, original PC issued by USDA-APHIS, bill of lading and invoice must be presented and surrendered to the PQO at the port of entry.

Any table stock potato consignment with incomplete documentation shall be refused entry with options of re-export of the whole shipment to the United States or destruction of the consignment at the importer's expense.

2. 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 and examination of the consignment at the BOC designated examination area.

- 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 table stock potato.

- If the table stock potato arrived in any port of entry in Metro Manila, the collection of such samples shall be the responsibility of the PQS station having jurisdiction over the port of entry. Table stock potato 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.

- If the Philippine quarantine pests of concern are found or exceed the acceptable tolerance levels during import inspection, the infested consignment shall be either treated, if an effective treatment is available, re-exported or destroyed at the importer's expense. The BPI-PQS will notify USDA-APHIS of the noncompliance and, depending on the circumstances, may temporarily suspend importation from that lot, farm, or province.

- The USDA-APHIS shall immediately investigate the cause of such incidence and propose corrective actions. Suspension of imports will be lifted when the cause of non-compliance has been clarified and corrective actions have been implemented to the satisfaction of BPIPQS.

- Repeated interception of quarantine pest shall cause for a review or suspension of the Import program refer to Section 3 of Article VIII. Audit of the export program shall be conducted at the expense of the exporting country.

ARTICLE VIII

PENALTIES AND SANCTIONS

Section 1. SUSPENSION/REVOCATION OF PQ SPS IMPORT CLEARANCE:

A. The PQ SPS Import Clearance may be suspended or revoked at any time for any of the following grounds:

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

- Misdeclaration of consignment;

- Violation of relevant SPS rules and regulations or any conditions imposed in the PQ SPS Import Clearance;

- Refusal to allow the inspection of the commodity, physical containment facility or intermediate destination of the product;

- Accreditation of the exporter has been suspended or revoked; or
- New technical information becomes available to the BPI indicating that the fresh table stock potato 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 PQ SPS Import Clearance shall be without prejudice to being further subjected to penalties (under Section 4 of this Article).

Section 2. CONFISCATION AND DISPOSAL:

A. If the border inspection shows that:

- The table stock potatoes are found to be infested/infected with quarantine pests;
- The consignment is contaminated, misbranded, misdeclared, or in violation of the terms and conditions embodied in the PQ SPS Import Clearance; this Administrative Circular; 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 potato and all expenses in connection with the storage, cargo or labor with respect to the fresh table stock potato 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 TABLE STOCK POTATO IMPORTATION:

A. In case of non-compliance with the requirements and conditions of this AC, quarantine pest interceptions at the port of entry, and/or pest outbreak at the source, the BPI reserves the right to suspend the table stock potato importation.

B. In the event of suspension of import, BPI-PQS may audit export certification procedures in the United States prior to a decision being taken on resumption of import. Where BPI-PQS has determined that such audits are necessary, the costs of these audits must be borne by the exporting country. The program shall resume only when the BPI and USDA-APHIS have mutually agreed on and instituted the necessary corrective actions to comply with the requirements and conditions of this AC.

Section 4. OTHER PENALTIES: All persons, corporation or firm found guilty of directly or indirectly violating any provision of this Circular shall be penalized under PD 1433 and any other existing relevant laws which shall have suppletory application of this Order.

Section 5. NOTIFICATION: The Department of Agriculture through the BPI shall immediately notify the USDA-APHIS in writing, through the US Embassy in Manila, of any detection or interception of quarantine pests in the shipment and non-compliance with the requirements and conditions of this AC.

ARTICLE IX

REPEALING CLAUSE

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

ARTICLE X

SEPARABILITY CLAUSE

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

ARTICLE XI

EFFECTIVITY

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

Recommending Approval:

(SGD.) CLARITO M. BARRON, PhD, CESO IV
Director, Bureau of Plant Industry

Approved:

(SGD.) PROCESO J. ALCALA
Secretary, Department of Agriculture

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