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DECLARATION OF UNREGISTERED IMPORTED FOOD PRODUCTS IN THE MARKET AND ALLOWING THESE DECLARED PRODUCTS ON CERTAIN CONDITIONS UPON PAYMENT OF ADMINISTRATIVE FINE

BUREAU CIRCULAR NO. 04, s. 1997, February 14, 1997

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I. Authority and Background

1.1 Administrative Order No. 37 s. 1979 issued to enforce R.A. 3720 requires that imported food products shall have to be registered with the Bureau of Food and Drugs (BFAD).

1.2 However, there exists a significant number of unregistered imported food products in the marker that becomes subject to confiscation by BFAD officers in accordance with Admin. Order No. 72, s. 1983.

1.3 Additionally, the release and sale or offer for sale of unregistered imported food products is a violation of an implementing rule or regulation of R.A. 3720, or the Admin. Order No. 37 s. 1979 in relation to Admin. Order No. 72 series 1983. And pursuant to Section 29-A of R.A. 3720 as amended by E.O. 175, violation of R.A. 3720's implementing rule or regulation is punishable by an administrative fine of not less than one thousand (P1,000.00) pesos and not more than five thousand (PHP 5,000.00) pesos, among others.

1.4 Several requests have been received for BFAD to allow the subject products a grace period to stay in the market.

2. Therefore, by virtue of the Admin. Order No. 118 s. 1992 in relation with Admin. Order No. 72 s. 1983, the BFAD shall allow the unregistered imported food products, except those that are specified hereafter, in the market until October 31, 1997 provided the same products are declared before March 31, 1997 and the corresponding administrative fine, as specified below, for violating Admin. Order 37 s. 1979 is paid. For the importation and distribution/offer for sale of each class per brand* of unregistered food product, the following administrative fines are imposed:

2.1 Unregistered imported food products by importers without license to operate: PHP 4,000.00

2.2 Unregistered imported food products by importers with pending application for license to operate: PHP 3,000.00

2.3 Unregistered imported food products by importer with license to operate: PHP 2,000.00

2.4 Unregistered imported food products with pending application for registration: PHP 1,000.00

3. To clarify, only the imported products already imported into the Philippines or in the market as of date can be declared and issued a certificate of listing and which should not include —

3.1 products which are covered by exclusive distributorship agreement already registered or pending registration in BFAD as of date

3.2 imported food products found to be adulterated like products beyond their expiration or "best before" dates,

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etc. as defined by R.A. 3720 as amended

3.3 imported food products found to be misbranded as defined by R.A. 3720 as amended

4. Unregistered food products declared that comply with the following requirements shall be issued a certificate of listing in the registry of declared unregistered imported food products:

4.1 name and address of the importer/distributor

4.2 copy of license to operate; or for the importers without license to operate, a copy of the application for license to operate

4.3 sales invoice from the principal or supplier of food product declared

4.4 an affidavit of undertaking to answer and be accountable for the quality, safety and truth in the labelling declaration of the product

4.5 3 copies of the label of the product

5. Any declared unregistered products shall be subject to test/laboratory examination and any finding of misbranding or adulteration shall be a ground for the recall/withdrawal of the same product in the market.

6. All the products covered by a certificate of listing shall indicate the name of the importer and address of the importer in their respective labelling beginning April 1997. Imported food products without the name and address of the importer beginning April 1997 shall be considered undeclared products and may be subject to confiscation under A.O. 72 s. 1983.

7. Procedure for declaration and issuance of certificate of listing:

7.1 The importer without a license to operate as importer shall first apply with the Regulation Division I of BFAD for a license as an importer.

7.2 The importer/distributor shall then accomplish the declaration form which shall contain the required information; he shall further accomplish the “Certificate of Listing” form for evaluation and assessment. There shall be one certificate of listing for one country of origin of the imported food product.

7.3 As soon as the evaluator has verified the declaration to be in order in form and substance, the evaluator shall order the payment of the corresponding administrative fine;

7.4 With Official Receipt of the payment indicated in the certificate of listing, the certification shall be numbered and the product listed in the Registry of Declared Unregistered Imported Food Products.

8. BFAD shall accept applications for certificate of listing beginning March 3, 1997.

8.1 To facilitate and provide for speedy action on the applications for certificate of listing, attached are the workflow chart, the form of the affidavit of undertaking, and form of the certificate of listing which will be provided by BFAD and will be accomplished by the importer/distributor applicant.

9. In the meantime, all importers who shall intend to continue importing and marketing the products after October 31, 1997 shall apply for the regular registration in the BFAD to cover their future importation of food products.

Adopted: 14 Feb. 1997

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