GUIDELINES ON THE IMPORTATION OF FRESH GARLIC AND ONION FOR CONSUMPTION

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Pursuant to Executive Order No. 292, s. of 1987, Republic Act No. 10611, Presidential Decree No. 1433, as amended, Office of the President Administrative Order (AO) No. 31, s. of 2012, DA AO No. 23, s. of 2013, DA Memorandum Order No. 1, s. of 2010, DA AO 9, s. of 2010 and relevant international agreements to which the Philippines is a signatory, the following guidelines on the importation of fresh garlic and onion for consumption are hereby issued:

ARTICLE I
GENERAL PROVISIONS

SECTION 1. OBJECTIVE. This Circular aims to rationalize and enhance the requirements and procedures in the importation of fresh garlic and onion for consumption.

SEC. 2. DEFINITION OF TERMS

- BPI SPS Import Clearance (SPSIC) - document issued prior to importation by the Bureau of Plant Industry (BPI) to ensure that the products being imported meet standards to protect human, animal or plant life or health, ensuring that the products are safe for consumers and to prevent the spread of pests or diseases among animals or plants. 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 purposes.

- Commodity - A type of plant, plant product or other article being moved for trade or other purpose.

- Importation - act of bringing into the country by sea, land or air foreign products intended for planting, consumption, manufacturing, trading, distribution, domestication, formulation, repacking or by any other purposes;

- Importer - shall refer to any person, individual or juridical entity, as well as any farmers' cooperatives/organization/association, or proprietor or authorized representatives or broker, partner, in case of partnership, who transacts with the BPI purposes of registration and issuance of SPSIC in connection with importation of garlic or onion;

- Inspection - Official visual examination of plants, plant products or other regulated articles to determine if pests are present or to determine compliance with phytosanitary regulations.

- Interception (of a consignment) - The refusal or controlled entry of an imported consignment due to failure to comply with phytosanitary regulations.

- Interception (of a pest) - The detection of a pest during inspection and testing of an imported consignment

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- International SPS Certificate - a written guarantee issued by a competent authority from the country of origin, certifying that the products have handled, processed and packed in a hygienic manner and do not contain microorganisms, harmful substances that may pose food safety hazard and endanger human, animal or plant life or health and includes international health certificate, international phytosanitary certificate;

- 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 date of issuance of the SPSIC. The must ship out by date for onion and garlic is twenty (20) days (DA AO No. 9, s. of 2010)

- Official - Established, authorized or performed by national plant protection organization

- Pest - Any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products.

- Registered Importer - refers to a person registered by the DA and/or its bureaus and attached agencies as eligible to import agriculture and fisheries commodities and products for its own use, propagation, processing, wholesale and/ or retail distribution

SEC. 3. SCOPE. This Circular shall cover all importations of fresh garlic and onion for consumption into the Philippines. Provided, that for government importations, whenever necessary to address serious economic concerns, BPI SPS Import Clearance must be secured in accordance with this Circular.

ARTICLE II
REGISTRATION OF IMPORTERS

SEC. 4. REGISTRATION. Prior to the importation of fresh garlic or onion for consumption, all importers are required to register with the BPI.

SEC. 5. REQUIREMENTS FOR REGISTRATION AS IMPORTER. The following documentary requirements must be submitted to the BPI. For documents requiring Certified True Copy, the importer may bring the original copy and the scanned or photocopy shall be stamped Verified from the Original upon its presentation.

- Letter of Intent to the Chief of BPI - Plant Quarantine Service

- Notarized Accomplished Application Form accomplished by the importer or president/company authorized representative, together with attached latest 2x2 colored picture (white background) of the applicant or duly authorized representative;

- Board Resolution of the Corporation/Cooperative or Special Power of Attorney issued by the importer authorizing the legal representative of the importer For Single Proprietorship and Partnerships, only the owner or partner shall represent the entity as representative;

- Current Mayor's Permit (Certified True Copy);

- BOC Accreditation - Accounts Management Office (AMO) Certification (CTC);

- For Single Proprietorship – a. DTI Registration (CTC); b. Original Copy of a Certification of Cash Balance from a reputable Bank

- For Corporation/Partnership/Cooperative/Joint Venture –

- Proof of SEC Registration (CTC) / Cooperative Development Authority (CDA) Certificate of Registration (CTC);

- Certificate of Good Standing from the Securities and Exchange Commission (SEC) for the current year (original

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copy);

- Latest General Information Sheet and certified list of incumbent executive officers of good standing from the Securities and Exchange Commission (SEC) CDA or other applicable registering agencies, whichever is applicable (CTC), and;

- Original Copy of a Certification of Cash Balance from a reputable Bank e. Additional Requirements for Farmer's Cooperative

1) Area where the garlic and/or onion are planted
2) Size of the area in hectares
3) List of farmers, their addresses and photocopies of voter's ID
4) Board resolution authorizing the importation of garlic or onion
5) Certification from the Office of the Municipal Agriculturist that the farmers' cooperative has been planting onion or garlic for the past three (3) years and present;

- Tax Identification Number;

- Audited Annual Financial Statement for the previous years (CTC), except for the following businesses:

- Newly established business which is less than one year in its operation;

- Those granted tax incentive by the Bureau of Investment (BOI); or,

- Other entities or bodies which are explicitly exempted under the law, agreement or other similar legal instruments.

- Notarized Affidavit of "Deed of Undertaking" for registration (original copy);

- Declaration of warehouse/storage facility (location, capacity);

- Notarized contract of lease or proof of ownership of warehouse/cold storage/farm land (CTC);

- Fees to be Collected

- PHP 1,000.00 Application Fee (AF).

-

PHP 2,600.00 (DA Cold Storage Facility Inspection Fee)

SEC. 6. DOCUMENTARY REQUIREMENTS FOR RENEWAL OF REGISTRATION. The applicant shall submit the following documents at least two months prior to the expiry date of registration:

- Letter of Intent to the Chief of BPI - Plant Quarantine Service

- Notarized Accomplished Application for Renewal Form with attached latest 2x2 colored picture (white background) of the applicant and duly authorized representative;

- Current or updated documents of the following:

- Mayor's Permit or Business Permit

- BOC AMO Certificate(CTC);

- For Single Proprietorship: DTI Registration (CTC); Certification of Cash Balance from a reputable Bank (original copy).

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- For Corporation/Partnership/Cooperative:

1) Proof of SEC Registration (CTC) / CDA Certificate of Registration;
2) Certificate of Good Standing for the current year (original copy);
3) Latest General Information Sheet and certified list of incumbent executive officers of good standing from the Securities and Exchange Commission (SEC) or CDA or other applicable registering agencies, whichever is applicable (CTC);
4. Articles of Incorporation with provisions on the corporation's capital of at least the minimum capitalization set by the Bureau (CTC);
5. Treasurer's Affidavit certifying the receipt of payment for the subscriptions of the incorporators (original copy);
6. Current Audited Annual Financial Statement for the previous two (2) years (CTC)
7. Current or updated Annual Income Tax Return received by the Bureau of Internal Revenue (BIR)
8. Additional Requirements for Farmer's Cooperative

a) Area where the garlic and onion are planted
b) Size of the area in hectares
c) List of farmers, their addresses and photocopies of voter's ID
d) Board resolution authorizing the importation of garlic or onion

- Notarized "Deed of Undertaking" for renewal of registration (original copy);

- Summary report of importations and utilization;

- Summary report of duties and taxes paid;

- Year-end inventory report; and,

- Fees to be Collected

a. PHP 1,000.00 AF for renewal
b. PHP 2,600.00 (DA Cold Storage Facility Inspection Fee)

SEC. 7. REGISTRATION PROCEDURE. The following steps or procedure shall be complied with in the registration of importers:

1. Application for Registration of Importer:

- The applicant for registration shall submit to the BPI a Letter of Intent (LOl) and the documentary requirements specified in this Circular.

- Upon submission, the designated staff at the BPI-PQS shall immediately check the submitted application as to the completeness of the required documents. Application for registration with incomplete requirements shall be returned to the applicant stating the reason for non-acceptance.

- Only applicant who has submitted the complete documents needed for COR shall pay the application fee.

2. Evaluation and Endorsement of the Application:

- BPI - PQS shall designate/create a unit, team or committee which shall be designated and tasked to evaluate and endorse applications for registration.

- The designated evaluating unit, team or committee shall receive and evaluate the submitted accomplished application form together with the required supporting documents for registration.

3. Schedule for Orientation. After evaluation of complete documentary requirements, importer shall be advised for the schedule of orientation. The topics to be discussed during the orientation are as follows:

- Plant Quarantine Law, its Implementing Rules and Regulations (IRR) and other orders, rules and regulations

- Allowable plants, plant products and planting materials

- Online/Manual Import Permit application process

- Duties and Responsibilities of Importers

- Grounds for Suspension and Revocation of Registration to Import Garlic/Onion

- Reasons for Approval or Disapproval of Application for Registration as an Importer of Garlic/Onion

4. Preliminary Interview with a Senior Staff of PQS

- The preliminary interview shall take into account the criteria for approval enumerated in Section 10 hereof.

- After the interview with the applicant, the senior staff shall recommend inspection of the business enterprise to validate 'the veracity, validity and accuracy of submitted documents.

5. The members of the BPI-PQS Registration Team and/or staff of the nearest PQS office shall conduct inspection of the business enterprise (head office and branches, facilities, production/growing areas, etc.).

- During inspection, the inspectors shall inform the applicant of any noncompliance with the requirement and shall recommend corrective measures to be undertaken.

- Otherwise, the applicant shall be informed that Inspection Report shall be submitted to the BPI-PQS.

- The applicant will be informed of the schedule of interview with the Chief of the PQS.

6. Interview with the Chief of the PQS. The applicant will be signing a “Deed of Undertaking” indicating the conditions for registration as mentioned in Sec. 11 of this Circular.

7. The PQS Chief shall endorse the approval/disapproval of the COR to the BPI Director.

8. Upon approval/disapproval of the registration, the BPI-PQS team shall send a written notice to the applicant. Reasons for disapproval of the registration should be indicated in the written notice.

9. Issuance of the Certificate of Registration. The copy of the notarized “Deed of Undertaking” shall be attached to the COR.

10. Payment of Certificate of Registration Fee/DA Cold Storage Inspection Fee

11. Release of COR to the Applicant.

- The COR shall be sent by mail to the importer’s declared office and mailing address. If to be personally received from the office, only the accredited importer or authorized representative shall be allowed to receive the COR.

- Scanned copy of the COR may be sent by e-mail to the concerned regional office of the PQS upon request.

SEC. 8. CERTIFICATE OF REGISTRATION. The Certificate of Registration shall contain, among others, the following information:

- Unique Registration Code Number issued by the BPI;

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- Name of Importer and/or authorized representative as well as the name of the company, cooperative, partnership, as the case maybe that they represent;

- Address of the head office, branches and other establishment, as well as the address of the Importer and/or authorized representative;

- Date of issuance and expiration of the COR;

- The undertakings or conditions for registration.

SEC 9. PROCEDURE FOR RENEWAL OF REGISTRATION. The procedure outlined in Section 7 hereof shall be observed in processing application for renewal of registration. Moreover, the following measures shall be complied with:

1. The Office of the Director shall issue a Certificate of Renewal of Registration (CRR) to distinguish the regular importers from the new applicants;

2. For importers who failed to renew the registration two (2) months before the expiry date, the following procedures shall apply:

- After the expiry date, the name of the importer and establishment shall be delisted from the List of Registered Importers uploaded in the BPI website and the DA website.

- In case the importer applies for re-registration after the expiry date or after being delisted from the roll, the importer shall be considered as a new applicant.

- The previously assigned Code/Registration Number of the importer shall be used in the Certificate of New Registration.

3. At any time, the Director may authorize the conduct of on-site monitoring and validation of the registered importer's office, establishment, and key officers.

SEC. 10. CRITERIA FOR EVALUATION OF APPLICATION. The application for registration shall be evaluated based, among others, on the following criteria:

- Legitimacy of the business operations of the applicant;

- Completeness of the documents required to be submitted;

- Absence of a variance or misrepresentation of material facts on the part of the applicant vis-à-vis the documents submitted;

- Proven track record relative to the commodity/product being imported;

- Financial capability of the applicant to comply with this Circular and DA rules and regulations on importation of agricultural commodities and products; and,

- Other risk factors affecting the application.

SEC. 11. GENERAL CONDITIONS FOR REGISTRATION. The applicant shall submit a notarized “Deed of Undertaking” (refer to attached “Q” Registration Form No. 1) which shall contain the following conditions for registration:

- The importer shall not apply for an SPS Import Clearance (SPSIC) without a valid importer’s Certificate of Registration from BPI or when the registration has expired;

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- The importer shall notify BPI prior to the arrival of the imported shipment at the port of entry for proper coordination and dispatching to the designated cold storage or warehouse;

- Upon release and clearance from the seaport or airport of entry, the importer shall transfer the imported goods to the DA accredited warehouse/ cold storage;

- The importer shall submit to the proper office the imported garlic or onion for inspection, evaluation and verification, testing and treatment, and destruction, when necessary, and shall allow unhampered access to the authorized personnel of the BPI where the products are stored during reasonable hours of the working day;

- The importer shall at no time break the BPI seal and BOC seal (if present). The BPI seal and BOC seal (if present) shall only be broken by the duly assigned officer at the warehouse, in the presence of the importer, BOC Inspector (when present), warehouse owner/operator/representative and Duty Free Authority representative (where applicable);

- The importer shall unload the shipment at the accredited warehouse indicated in the registration certificate in the presence of the BPI Plant Quarantine Officer/Inspector (PQO/PQI). The policy on “NO OFFICER, NO UNLOADING” shall be strictly implemented;

- The importer shall provide utility workers to assist the concerned BPI PQO/PQI in the opening and closing of the boxes during the conduct of physical inspection in order to expedite the unloading and inspection processes, which must be completed the soonest possible time to prevent adulteration;

- The importer shall renew the registration at least two (2) months before the expiry date. Application for renewal of registration after the expiry date shall be considered as new application;

- The importer shall inform immediately the BPI should there be any change/s in the information given in the application for registration;

- Only the representative authorized to represent the importer as indicated in its application for registration shall be allowed to transact with the BPI except under special circumstances approved by the BPI and only upon presentation of a Special Power of Attorney properly executed, authenticated and notarized. Provided, further, that unless authorized by the BPI, no person can represent more than one applicant;

- The importer shall abide by the other pertinent Philippine laws and rules and regulations of the Department of Agriculture;

- The importer’s registration shall be revoked/cancelled for failure to comply with any of the foregoing undertaking.

SEC. 12. VALIDITY OF THE CERTIFICATE OF REGISTRATION. The Certificate of Registration/Certificate of Renewal of Registration shall be valid only for two (2) years reckoned from the date of approval/issuance.

ARTICLE III
ISSUANCE OF SPS IMPORT CLEARANCE (SPSIC)

SEC. 13. GENERAL REQUIREMENTS FOR ISSUANCE OF SPS IMPORT SPSIC.

- Any BPI-registered importer who intends to import fresh garlic and onion for consumption into the country shall secure an SPSIC from the BPI.

- Only BPI registered importers with updated required documents and accredited by BOC will be allowed to apply for SPSIC.

- BPI shall not entertain or transact business with companies/ importers/ brokers that has standing alert orders / smuggling case with the BOC and/or from any PQS office/stations. BPI will resume transacting business if and only if there they have been cleared of their cases with BOC and PQS.

SEC. 14. DOCUMENTARY REQUIREMENTS FOR ISSUANCE OF SPSIC. The following documentary requirements must be submitted to BPI for the issuance of SPSIC:

- Letter of Intent (LOI) detailing the applicant's volume of fresh garlic or onion to be imported and quality specifications, source country and the specific port of discharge. The LOI shall also indicate the complete address, contact details (telephone, mobile fax numbers, and the like) and e-mail address of the applicant;

- Latest Certificate of Registration issued by the BPI in accordance with this Circular;

- Supplier's Import Pro forma Invoice with complete contact details including the name of the person-in-charge, telephone number fax number, e-mail address;

- Identification of appropriate registered Cold Storage Warehouse where the fresh garlic and onion will be discharged;

- Official Receipt as proof of payment of application fee/Certificate of New Registration/Certificate of Renewal of Registration/DA Cold Storage Inspection Fee;

- Commercial invoice, and;

- Brokers latest 2x2 picture (white background), Brokers Clearance Certificate (BCC) and Special Power of Attorney (SPA)

SEC. 15. PROCEDURES FOR ISSUANCE OF SPSIC. The procedure for the application and issuance of an SPSIC shall be done in accordance with Memorandum Order No. 1, s. 2010 and shall comply with existing orders and circulars of the DA.

SEC. 16. GENERAL CONDITIONS FOR ISSUANCE OF SPSIC. The applicant shall submit a notarized "Deed of Commitment" (refer to attached "Q" Registration Form No. 2) prior to the issuance of the SPSlC which shall contain the following conditions:

- Any and all SPS ICs issued that were used and which has expired will no longer be extended, amended, or revalidated;

- No request by the importer shall be allowed for any amendment/s including extension of the must ship out by date as well as change of supplier from the same country or from another country;

- No change of Port of Entry shall be allowed. However, for circumstances beyond the control of the importer, an official letter of explanation shall be submitted to the BPI two (2) days before the intended date of approval, subject for validation and approval;

- All issued SPSIC are non-transferable;

- The actual product / consignment must be shipped out from the country of origin within 20 days from the date of issuance of the SPSIC and must arrived as follows: For China consignments, the shipment must arrive not later than two (2) months while for India / Netherlands consignments, the shipment must arrive not later than three (3) months.

- Any legal issues related to any contract between the importer and its supplier will not be a reason for consideration for amendment or revalidation of the import clearance issued to them;

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- Only the broker authorized to represent the importer as indicated in its application for issuance of SPS Import Clearance shall be allowed to transact with the BPI except under special circumstances approved by the BPI and only upon presentation of a SPA properly executed, authenticated and notarized. Provided, further, that unless authorized by the BPI, no broker can represent more than one applicant;

- BPI Policy of not entertaining or transacting business with companies/ importers/ brokers that has alert order/smuggling case with the BOC. This includes report from the field of Plant Quarantine Service offices/stations.

- Any illegal acts committed by the designated broker in relation to and as provided by this Circular shall be deemed also the act of the Importer.

- That failure to comply with any of the above-mentioned conditions would mean revocation of their BPI Certificate of Registration as an importer.

ARTICLE IV
FEES AND CHARGES

SEC. 17. Pursuant to the provisions of Sec. 54 (1), Chapter 12, Book IV of EO 292 which provides heads of bureaus, offices or agencies upon approval of the concerned department head, have the continuing authority to revise their rates of fees and charges; Administrative Order No. 31, Series of 2012 issued by the Office of the President directing all heads of Departments, Bureaus, Commissions, Agencies, Offices and Instrumentalities of the National Government, including government owned and/or controlled corporations (GOCCs), to rationalize the rates of their fees and charges, increase their existing rates and impose new fees and charges in addition to the provisions of Section 14 of PD 1433 and DA Administrative Order No. 23, series of 2013, the following fees shall be collected.

Certificate of Registration

-

P5,000.00
(inclusive of Application Fee of 1,000.00)

Certificate of Renewal of Registration

-

P2,500.00
(incl. of Application Fee of P1,000.00)

SPS Import Clearance

-

P100.00

DA Cold Storage Facility Accreditation

-

P2,600.00

NPAL Laboratory Analysis for Pesticide Residue (Per One kg sample)

-

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P5,250.00

ARTICLE V
MONITORING OF ARRIVALS OF GARLIC/ONION

SEC 18. PROCEDURE FOR THE MONITORING OF ARRIVALS OF GARLIC/ONION

- The Chief of the BPI - PQS shall form the O/GMT of the Import Permit Section which will be responsible for monitoring of all import permit applications, approvals and arrivals.

- The O/GMT of the Import Permit Section upon approval of the Import Clearance for Garlic or Onion will send thru email to the Port of Entries the details of all SPSICs that are expected to arrive in their area.

- The importer will be required to send (thru email) the details of their importation, copy furnished O/GMT, not more than a day after its arrival.

- The assigned personnel of the Port of Entry will submit daily report (thru email) of the details of incoming shipments to the O/GMT upon arrival in their area.

- Any arrivals without prior notice from O/GMT must be verified first by the Plant Quarantine Officer with the O/GMT prior processing.

- The O/GMT will submit a detailed report (weekly basis) of all garlic or onion arrivals including other concerns related to it to the Chief of the PQS.

- The concerned PQS station shall surrender all used SPSIC which will be manually marked as used to the BPI PQS Central Office for recording purposes. Photocopies of said clearances shall be submitted to the DA Office of the Secretary, the Committees on Agriculture in the House of Representatives and the Senate.

ARTICLE VI
INSPECTION AT THE PORT OF ENTRY

SEC. 19. PROCEDURES FOR INSPECTION AT THE PORT OF ENTRY. The commodity shall be subject to the existing procedures for inspection at the port of entry.

- Application for Inspection. The importer shall file with the Plant Quarantine a duly accomplished Application for Inspection (BPI Q Form No. 4) at least twenty-four (24) hours upon arrival of the shipment. The following documents shall be submitted:

- Valid Phytosanitary Certificate (original FAO/IPPC Model) issued by the Plant Quarantine of the country of origin with the compliance of conditions (if any) stated in the SPSIC;

- Valid SPSIC issued by the BPI-PQS;

- Bill of Lading/Airway Bill;

- Bureau of Custom’s Entry Permit

- Packing List/Commercial Invoice.

- In the absence of the importer, photocopy of the Brokers BCC/SPA

General Inspection Procedure

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- In the initial inspection conducted at the BOC Designated Examination Area (DEA), the BPI-PQS shall be allowed to check on the quality and quantity of the shipment based on the submitted documents of the importation. The print out copy of the SPSIC must be presented to BOC as document for release of shipment. Photocopies of the clearance are not allowed to be used in the release of shipment.

- Likewise, upon arrival of the imported garlic/onions, BPI-PQS shall conduct thorough check and inspection. If the shipment contains commodities/ varieties other than that stated in the accompanying SPSIC, the excess shipment of other similar variety will be segregated, held and unreleased subject for condemnation, disposal or other action as recommended by BPI to BOC, the cost of which shall be for the importer's account.

- The importer is not allowed importation of garlic/onion for more than 50 metric tons as stated on the approved SPSIC. This means that for two (2) vans, each van must contain only 25 metric tons each.

- If during the checking by the PQS inspectors, they found that the volume / quantity has exceeded the allotted 50 metric tons, the excess shipment shall not be released and shall be subjected to further holding/confiscation by BOC as recommended by BPI, the cost of which shall be for the importer's account.

- The PQO / PQI at the port of entry shall undertake the following procedures:

- Collection of representative samples necessary for laboratory analysis and examination of submitted samples to determine the presence of insects, diseases, nematodes and other pests, and;

- Authorized delivery under guard by PQO and follow-up inspection/ examination at the importer's cold storage/premises.

- Based on the results of inspection and examination, any of the following may be applied:

- Applicable PQ treatment (if necessary);

- Return to the country of origin;

- Re-export to other accepting countries; or,

- Destruction.

- Laboratory analysis for pesticide residue level, the result of which should be within the tolerable limit.

- In all cases, all expenses shall be borne by the importer.

ARTICLE VII
SEIZURE AND DISPOSAL

SEC. 20. GROUNDS FOR REFUSED ENTRY AND/OR SEIZURE. The subject commodity shall be refused entry to the warehouses/cold storages, if from the initial examination conducted at the BOC designated examination area (DEA), they have found to have at least one of the following violations:

- If the subject product/commodity arrived without the required SPSIC and International SPS Certificate; or

- If the subject product/commodity arrived with a fake SPSIC.

- If there are visible signs and symptoms of pests observed during the initial inspection; or if the product contains pesticide residue which is above MRL; heavy metals, toxin produced by microorganisms and other entities which will affect the food safety of the product;

- If the product/commodity is forbidden or restricted from sale in the country in which it was produced or from

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which it was exported, and;

- Other analogous circumstances that warrants refusal of entry and/or seizure of the subject product / commodity imported

SEC. 21. PROCEDURE FOR SEIZURE OR REFUSAL OF ENTRY.

- The BPI PQO/PQI shall inform the BOC Examiner whether the subject product/commodity is for seizure or for refusal of entry. In case of seizure, the product/commodity shall be seized right away, after the PQO/PQI has informed the BOC Examiner of such action. This procedure shall also be followed in case of products/commodities in transit.

- If the commodity arrived at a port of entry other than Metro Manila, the collection of its samples for inspection shall be the responsibility of the regional office having jurisdiction over the port of entry.

- The subject commodity shall be exempt from refusal of entry or seizure if such commodity is exported under regulations prescribed by the Bureau of Customs within ninety (90) days of the date of notice of such refusal or within such time as may be permitted pursuant to such regulations.

- In case of the final border inspection, the DA Border Inspector shall be the one to take appropriate action after his findings and decision to seize the consignment.

- In all of these cases, the impounding and disposition shall be at the expense of the importer.

- A Letter Request for Seizure shall state the reason/s for the seizure. Three (3) copies of the same shall be issued as follows: one (1) copy shall be given to the BOC district collector; one (1) copy to the importer and one (1) copy shall be retained by the DA Border Inspector. Further, the notice shall indicate the date of condemnation and disposal of the product or commodities.

- Fresh Garlic/Onion imported or brought unlawfully into the Philippines shall be disposed of in any of the following manners:
a. Seized and destroyed
b. Returned to the country of origin
c. Shipped to a third country

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

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

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

SEC. 22. SANCTIONS AND PENALTY

1. Suspension of Registration. The following acts are grounds for suspension of the registration:

- When the company/importer/authorized representative has submitted documents for registration and for renewal of registration which are spurious e.g.: companies bearing the same name of incorporators, address or other

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information

- When the office, warehouse and/or other facilities submitted in the registration process are non-existent;

- When any importer has been reported by PQ officers at the port of entry or by any other government agency (or even in any circular /order) to be involved in any attempt to smuggle garlic, onion or any plant, plant products or by-products or any commodities not within the BPI mandate. The BPI-PQS shall be sending a show cause letter requiring the importer to explain in writing on the reported incident and to submit the written reply after three (3) working days upon receipt of the demand letter. The suspension shall be lifted when proof of non-involvement has been satisfactorily explained subject to verification by the Chief of the BPIPQS.

- When there is a service agreement between the company and the broker of a suspended company. However, any company with service agreement with the broker of the suspended company, could submit an affidavit of non-involvement. The Chief of PQS can issue clearance upon submission of a new service agreement with another licensed broker.

- Any company under the Financier of the suspended company will be automatically suspended.

2. Revocation of Registration. The importer's Certificate of Registration shall be revoked/cancelled on the following grounds:

- Proven misrepresentation, false statements, dishonesty and fraud in the application for registration or renewal of registration.

- Willful or tolerated use by other non-registered importer or misuse/abuse of the importer's registration including the use of the name of the DA or BPI for extortion, illegal activities and other unlawful activities.

- Failure to reply after three (3) working days on the demand letter sent by PQS. If a written reply has been submitted, failure to satisfactorily explain non-involvement of the company/importer/broker to the alert order/ standing smuggling case from BOC and/ or to the incident report of the PQS office/stations.

- Any act or importation contrary to applicable laws, this Circular or issuances of the DA.

- Diversion of shipment, alteration of the export/import documents, and other deviant acts or omissions leading to loss of trust and confidence.

- Violation of one or more of the conditions for registration or Deed of Undertaking and Deed of Commitment

3. Effects of Revocation of Registration as Importer of Garlic/Onion

- Any importer whose registration has been revoked shall be deemed blacklisted and included in the list of blacklisted or delinquent importers;

- All incorporators of the blacklisted company shall be also blacklisted.

- Importers/Incorporators who are declared blacklisted shall not be qualified to apply for COR;

- Any service agreement with the broker previously connected with any blacklisted company will not be recognized by the Bureau of Plant Industry.

4. A watch list or target list of blacklisted or delinquent importers/brokers and expired registration shall be published and uploaded at the DA and bureau/agency website.

The sanctions provided herein shall be without prejudice to the fines and penalties imposed under applicable laws and administrative issuances.

SEC. 23. Penalties - The existing laws and rules and regulations of the BPI prescribing the violations and corresponding penalties shall be applied and imposed.

ARTICLE VIII
TRANSITORY PROVISION

SEC. 24. Transitory Provision - Within sixty (60) days from the effectivity of this Circular, all BPI accredited importers of garlic or onion shall be allowed to import in accordance with this guidelines. Thereafter, the previously accredited importers of onion or garlic must undergo the registration process as provided by this Circular. No person shall be allowed to import onion or garlic unless registered under this Circular.

ARTICLE IX
NON-EXCLUSIVITY

SEC. 25. Non-Exclusivity - All existing rules and regulations, policies, procedures and standards consistent with this Circular shall continue to be in full force and effect.

ARTICLE X REPEALING CLAUSE

SEC. 26. Repealing Clause - All existing administrative orders, rules and regulations or parts thereof, which are inconsistent with the provisions of this Circular are hereby repealed or modified accordingly.

ARTICLE XI
SEPARABILITY CLAUSE

SEC. 27. 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 XII
EFFECTlVITY

SEC. 28. Effectivity - This Circular shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation and its filing with the National Administrative Register, U.P. Law Center.

(SGD) CLARITO M. BARRON, PHD, CESO IV
Director

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