RULES AND REGULATIONS GOVERNING THE IMPORTATION OF FRESH GINGER FOR CONSUMPTION FROM PEOPLE’S REPUBLIC OF CHINA (PROC) INTO THE PHILIPPINES

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Adopted: 10 June 2015
Date Filed: 13 July 2015
WHEREAS, the National Plant Quarantine Services Division of the Bureau of Plant Industry (NPQSD- BPI), by virtue of also known as Presidential Decree No. 1433, as amended, Plant Quarantine Law of 1978 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 ginger 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, and;

WHEREAS, the completed PRA serves as the basis for the issuance of this QAC.

NOW, THEREFORE, I, PROCESO J. ALCALA, Secretary of the Department of Agriculture, by the powers vested in me by law, do hereby issue this Order providing guidelines governing the importation of Fresh Ginger for Consumption from PROC.

ARTICLE I
SCOPE AND DEFINITION OF TERMS AND ACRONYMS

Section 1. SCOPE – This Order shall govern the importation of fresh ginger for consumption from PROC.

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

A. DEFINITION:

- Additional Declaration – a statement that is required by the BPI NPQSD to be entered on a Phytosanitary Certificate (PC) which provides specific additional information pertinent to the consignment.

- Consignment – a specific quantity of fresh ginger being moved from China to the Philippines covered by a single PC.

- Maximum Residue Limit – allowable limit of pesticide level on fresh ginger set by the Codex Alimentarius

Commission.

- 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 fresh plant products such as fruits, onion and garlic, ginger etc. is twenty (20) days);

- 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]

- Sanitary and Phytosanitary Import Clearance (SPS lC) – 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.

- 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.

B. ACRONYMS:

AQSIQ – General Administration for Quality, Supervision, Inspection and Quarantine of the PROC
BPI – Bureau of Plant Industry (the NPPO of the Philippines)
CIQ – China Exit-Entry Inspection and Quarantine
MRL – Maximum Residue Limit
NPPO – National Plant Protection Organization
NPQSD– National Plant Quarantine Services Division
PC– Phytosanitary Certificate
SPSIC – Sanitary and Phytosanitary Import Clearance
PQO – Plant Quarantine Officer of the BPI
PRA – Pest Risk Analysis

ARTICLE II
IMPORTER REGISTRATION GUIDELINES AND PROCEDURES

The following guidelines and procedures shall be implemented in the registration of the Importers of Fresh Ginger for Consumption

A. Requirements for Registration as Importer . The following documentary requirements must be submitted to the BPI for purposes of registration as importer. For documents requiring Certified True Copy, the importer shall

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bring the original copy for comparison with the scanned copy or photocopy. If proven a faithful reproduction, the same shall be stamped Verified from the Original.

- Letter of Intent addressed to the BPI Director thru the Chief of BPI – NPQSD

- Notarized Accomplished Application Form accomplished by the applicant, together with attached latest 2x2 colored picture (white background) of the owner and representative/s;

- Company Profile (for first time applicants only)

- Board Resolution of the Corporation/Cooperative or Special Power of Attorney issued by the importer authorizing the legal representative/s of the importer. Current Mayor's Permit (Certified True Copy);

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

- For Single Proprietorship – DTI Registration (CTC);

- For Corporation/Partnership/Cooperative/Joint Venture/ Associations –

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

- General Information Sheet and certified list of incumbent executive officers

- Current Certificate of good standing from the Securities and Exchange Commission (SEC) or CDA or other applicable registering agencies, whichever is applicable (CTC);

- Additional Requirements for Farmers' Cooperative/Confederation

1)

List of farmers cooperators and their addresses; If a confederation, list of farmers, addresses and voters ID or barangay ID

2)

Board Resolution authorizing the importation

- BIR Registration, Importers Clearance Certificate (ICC) and Brokers Clearance Certificate (BCC)

- Tax Identification Number of the Corporation/Partnership/Sole Proprietorship/ Cooperative/ Association;

- Audited Financial Statement for the previous year (CTC) except for the following businesses:

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

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

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

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

- DA-Certificate of Accreditation for Cold Storage Warehouse (if applicable)

- Fees to be Collected

- PHP1,000.00 Application Fee (AF).

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B. Documentary Requirements for Renewal of Registration. Applicants shall submit the following documents at least six (6) months prior to the expiry date of registration:

- Letter of Intent addressed to the BPI Director thru the Chief of NPQSD

- 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);
BIR Registration; ICC and BCC

- For Single Proprietorship: DTI Registration (CTC)

- For Corporation/Partnership/Cooperative:

1)

Updated SEC Registration (CTC) / CDA Certificate of Registration;

2)

Latest General Information Sheet and Certified List of incumbent executive officers

3)

Certificate of Good Standing from the Securities and Exchange Commission (SEC) or CDA or other applicable registering agencies, whichever is applicable (CTC);

- Current Audited Financial Statement for the previous two (2) years (CTC)

- Current or updated Annual Income Tax Return received by the Bureau of Internal Revenue (BIR)

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

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

- DA-Certificate of Accreditation for Cold Storage Warehouse (if applicable)

- Summary report of importation and utilization of SPSIC for the past two (2) years

- Fees to be Collected

1)

PHP 2,500 Renewal Fee

C. Registration Procedure – The following steps or procedure shall be observed in the registration of importers:

- Application for Registration of Importer

- The Applicant for Registration shall submit to the BPI a Letter of Intent (LOI) 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.

- BPI-PQS designated staff shall evaluate the submitted accomplished application form together with the required documents for registration.

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

- 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 Service Mandate, Functions, and Activities.

- Categorization of Commodities

- Pest Risk Analysis

- Import Process Flow

- Registration Process

- SPSIC Issuance Process Flow

- Port Inspection Procedure

- Laboratory Procedure

- Grounds for Suspension/ Blacklisting of Importers

- Other relevant topics as maybe deemed necessary

- Preliminary Interview with a Senior Staff of NPQSD

- The preliminary interview shall take into account the criteria for approval enumerated in Section 14 hereof.

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

- 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, etc.).

- The PQS Chief shall endorse the approval of the COR/CRR to the BPI Director.

- Upon approval, the Importer shall be informed by any appropriate form of communication that the COR or CRR is ready for release. If disapproved, the reason for the same shall be indicated in a written notice.

- The Importer shall be given one day after notification to claim and settle the necessary regulatory fees. Failure to pay shall result in automatic rejection/revocation of their approved COR/CRR.

- Payment of Certificate of Registration Fee (PHP4,000.00)/ Certificate of Renewal of Registration (PHP1,500.00) / Certificate of Non-Coverage (PHP500.00). The registered importer shall pay the COR/CRR remaining fee of P4,000.00, P1,500, respectively. Once paid, the COR shall now be released to the registered importer.

- Release of COR /CRR to the Applicant.

- Only the registered importer or his authorized representative/s shall be allowed to receive the COR/CRR.

- Scanned copy of the COR/CRR may be sent by e-mail to the concerned regional office of the NPQSD upon

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request.

D. Procedure for Renewal of Registration. The procedure outlined in Article II.C hereof shall be observed in processing application for Renewal of Registration. Moreover, the following measures shall be complied with:

- The Office of the Director shall issue a Certificate of Renewal of Registration (CRR);

- For importers who failed to renew the registration six (6) 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.

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

E. Validity of the Certificate of Registration - The Certificate of Registration shall be valid for a period of three (3) years reckoned from the date of issuance of BOC Accreditation. Succeeding Certificate of Renewal of Registration shall be valid for the same term.

ARTICLE III
ENROLMENT TO THE DA TRADE SYSTEM

A. DA Trade System (DTS) Registration Procedure – All BPI-PQS registered importers of Category 2, 3 and 4 commodities are required to be part of the DTS for purposes of application and issuance of SPSIC online. The following steps or requirements shall be complied with in the registration of the importers with DTS:

- The importer shall submit an accomplished application form to DTS. Application form can be e-mailed or sent to DTS.

- Upon approval of DTS on the importers registration, the importer shall be asked to create a username and password which shall be used every time the importer applies for an SPSIC.

- Payment of fees to DTS and BPI.

- The importer shall submit List of Importable which is a primary requirement in the application of SPSIC to DTS. The BPI-Commodity Administrator shall approve the submitted list of importable based on the importers registration with BPI.

- Upon registration, the importer shall apply for SPSIC through the DTS website.

ARTICLE IV
APPLICATION FOR AND ISSUANCE OF SANITARY AND PHYTOSANITARY IMPORT CLEARANCE

A. Issuance of SPSIC – The application and issuance of an SPSIC shall be done in accordance with DA Memorandum Order No. 1, s. 2010 and shall comply with existing orders and circulars of the DA.

B. Registration for SPSIC Application – Prior to the application of SPSIC, all BPI registered importers are required to register with DTS in accordance with Article III hereof.

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C. General Requirements for Importation of Plants, Planting Materials and Plant Products.

- Only BPI registered importers and accredited by BOC shall be allowed to apply for SPSIC.

- SPSIC shall not be issued for the first time importation of a specific commodity except when a Pest Risk Analysis (PRA) has been undertaken relative to said commodity in accordance with BPI procedure on conducting PRA.

- BPI shall not entertain or transact business with companies/importers/ brokers that have standing alert orders/smuggling case with the BOC and/or from any PQS office/stations.

- SPSIC is required prior to the shipment of imported commodities.

- Pre-shipment requirements and post-shipments requirements as stipulated in the SPSIC shall be complied with by the exporting country and the importer.

- All issued SPSIC are non-transferable;

- The actual product / consignment must be shipped out from the country of origin within twenty (20) days for fresh products, from the issuance of the SPSIC and must arrive before the expiry date as stipulated in the Import Conditions of the SPSIC.

- Only the authorized broker as indicated in the SPSIC shall be allowed to transact business with the BPI except under special circumstances approved by the BPI and only upon presentation of a valid SPA. Provided, further, that unless authorized by the BPI, no broker can represent more than one applicant;

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

D. Documentary Requirements for Issuance of SPSIC – The following requirements must be complied by the importer for the issuance of SPSIC through the DTS:

- Application form shall be accompanied with the following documentary requirements:

- Proforma Invoice coming from the supplier;

- Location from port of entry to final destination (for plants and planting materials);

- Payment of SPSIC processing fees to DTS and BPI.

E. Procedure for Issuance of SPSIC – Issuance of SPSIC shall undergo the following steps:

- The importer shall apply online in the DTS website. Upon receipt of such, the PQS technical staff shall evaluate the online application, considering the following:

- Latest advisory of the relevant international bodies and/or China pertaining to the pest status of the source areas

- Other information pertinent to SPS concerns.

- Violation of the applicant importer during the processing period

- The PQS-Chief shall endorse the evaluated application to the BPI Director.

- Upon endorsement of the application and in accordance with the criteria set by this issuance, the BPI Director shall approve/disapprove the application.

- If approved, the importer can now print the approved SPSIC and can now proceed with their importation.

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Article V
FEES AND CHARGES
Pursuant to DA Administrative Circular No. 9, Series of 2015, relevant fees shall be imposed including registration fee which shall be collected upon release of COR in the amount of PHP5,000.00. Every three years renewal shall also be subjected to processing fee of PHP2,500.00.

Article VI
REQUIREMENTS AND CONDITIONS ON PRE-EXPORT QUARANTINE INSPECTION

A. Source Areas

Exporters, production areas and processing facilities of fresh ginger intended for export to the Philippines shall be registered with AQSIQ. An official list shall be provided to BPI-NPQSD. Only those indicated in the list shall be allowed to export to the Philippines and approved by BPI-NPQSD.

B. Sorting, Cleaning and Packing

- Fresh ginger intended for export to the Philippines shall be sorted, cleaned and stored in accredited facilities under the supervision and inspection of a CIQ Officer.

- Fresh ginger shall be packed only in new and clean plastic bags/sacks. These bags shall then be placed inside carton boxes.

C. Pre-export Quarantine Inspection

- Prior to sealing of the carton boxes, the CIQ Officer shall conduct at least 10% random inspection of the consignment at the accredited facilities.

- The CIQ Officer shall ensure that the consignment is free from quarantine pests before a PC can be issued for the shipment.

D. Sealing and Labeling of Carton Boxes

If the consignment satisfactorily passes the inspection, each carton box shall be sealed and labeled with the following information conspicuously displayed on the two sides of the box:

- “FOR THE PHILIPPINES”;

- The accreditation code issued by the CIQ; and

- Source of fresh ginger (farm and province in China)

E. Storage

Packed ginger shall be placed in a cold storage facility with temperature of 13-15[o]C. The facility should be kept clean and free from any pest.

F. Loading of Consignment and Sealing of Reefer Vans

- Packed fresh ginger shall be immediately loaded in clean reefer vans and transported as soon as possible.

- The temperature of the reefer vans shall be set and maintained at 13-15 0 C.

- The vans shall be closed and sealed under supervision of a CIQ Officer.

G. Phytosanitary Certification

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A Phytosanitary Certificate (PC) shall be issued by the CIQ for each consignment that satisfactorily passed the pre-export requirements. Integral to the PC is an additional declaration stating the following information:

- “This shipment is covered by Sanitary and Phytosanitary Import Clearance (SPS IC) no.____”

- Container van and seal number

- Name and CIQ Accreditation Number of the accredited processing and packing facility

H. Maximum Residue Level (MRL) Certificate

Each shipment shall be accompanied by a certificate of analysis for pesticide residue issued by a relevant government laboratory in China or issued by a government accredited laboratory, attesting that the pesticides used during production conform to the required Codex MRL for each pesticide.

Article VII
ENTRY AND POST-ENTRY INSPECTION

- Forty-eight (48) hours before the arrival of a consignment at the port of entry, the importer or his authorized representative shall notify the concerned PQO by submitting an electronic Request for Inspection (eRFI).

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

- Documentation Check

Hard copy of eRFl, print out copy of the SPSIC, original PC from CIQ, airway bill/bill of lading and invoice, treatment certification and MRL certificate must be presented and surrendered to the PQO at the border.

Any fresh ginger consignment with incomplete documentation shall be refused entry with options of returning the whole shipment to PROC, re- export to other countries or destruction of the consignment at the importer’s expense.

- 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 of the consignment.

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 fresh ginger.

If the fresh ginger arrives at a port of entry other than Metro Manila, the collection of such samples shall be the responsibility of the PQS station having jurisdiction over the port of entry. Fresh ginger 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. Diagnosis and pest identification shall be completed within seven (7) working days.

- Inspection shall be conducted by the PQO in the presence of the importer or his authorized representative. Thereafter the PQO shall place a stamp on the BOC entry permit to indicate whether the consignment is cleared for release, for further inspection, on hold or for confiscation.

Article VIII
PENALTIES AND SANCTIONS

Section 1. Suspension/Revocation of SPSIC:

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- The SPSIC may be suspended or revoked at any time for any of the following grounds:

- Misdeclaration, misrepresentation, false statements, dishonesty and fraud in the application for registration or renewal of registration and/ or SPSIC application;

- 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;

- Conveyance, transfer, assignment of any issued documents by BPI relative to importation in favor of another person;

- Violation of relevant SPS rules and regulations or any conditions imposed in the SPSIC

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

- 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 ginger, if allowed for its intended use will result to risks to human, animal or plant health or life and the environment.

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

- Revocation or cancellation of the SPSIC shall be without prejudice to being further subjected to penalties.

- Show Cause Order, Upon complaint or motu propio, the BPI-NPQSD shall send a show cause order requiring the importer to explain in writing why his SPSIC should not be suspended or revoked on the grounds enumerated in the preceding paragraph or other analogous cases, The suspension of revocation shall be summarily decided taking into consideration such explanation.

Section 2. Confiscation and Disposal:

- If the border inspection shows that:

-

The fresh ginger is found to be infested/infected with regulated pests

-

The fresh ginger has been packed under unsanitary conditions;

-

The consignment is contaminated, misbranded, misdeclared, or in violation of the terms and conditions embodied in the PQC; this Administrative Circular and other sanitary and/or phytosanitary regulations;

-

The consignment arrived without the required documentation; or

-

Fake documents have been presented,

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The PQS shall inform the BOC of the violations and the consignment shall be disposed of in any of the following manner:

- Confiscated and destroyed

- Returned to the country of origin

- 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.

- Notice of Confiscation shall be issued to the importer stating the reason/s for the confiscation. A copy of said Notice is hereto attached as Annex V. Three (3) copies of the same 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 NPQSD.

Further, the notice shall provide indicative date of condemnation and disposal of the product

- 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 fresh ginger and all expenses in connection with the storage, cargo or labor with respect to the fresh ginger refused admission shall be paid by the importer.

- The importer concerned shall then be blacklisted from the list of accredited importers.

- 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 Ginger Importation:

- In case of non-compliance with the requirements and conditions of this QAC, quarantine pest interceptions at the port of entry, and/or pest outbreak at the source, the BPI reserves the right to suspend the fresh ginger importation.

- An audit of the export program shall be conducted. The program shall resume only when the BPI and the CIQ have mutually agreed on and instituted the necessary corrective actions to comply with the requirements and conditions of this AO.

Section 4. Other Penalties:

Pursuant to Section 42, Chapter 5, Title IV, Book IV of the Revised Administrative Code of 1987, administrative fines ranging from Php1,000.00 to Php50,000.00, after proper hearing, shall likewise be imposed to the importer of seized commodities by the BPI Director for the violation of and non-compliance of the provisions of this Circular.

The decision of the BPI Director shall be appealable to the Secretary of Agriculture.

Section 5. Notification:

The Department of Agriculture through the BPI shall immediately notify the AQSIQ in writing, through the DFA-Philippine Embassy in China or the Embassy of China in Manila, of any detection or interception of quarantine pests in the shipment and non-compliance with the requirements and conditions of this AO.

Article IX
Repealing Clause

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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 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.

(SGD) PROCESO J. ALCALA
Secretary

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