

RULES AND REGULATIONS IMPLEMENTING R.A. 7581 – AN ACT PROVIDING PROTECTION TO CONSUMERS BY STABILIZING THE PRICES OF BASIC NECESSITIES AND PRIME COMMODITIES AND BY PRESCRIBING M...

DTI, DA, DOH, DENR JOINT ADMINISTRATIVE ORDER NO. 1-93, February 15, 1993

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WHEREAS, it is the policy of the State to ensure the availability of basic necessities and prime commodities at reasonable prices at all times without denying legitimate business a fair return on investment.

WHEREAS, it is likewise the concern of the State to provide protection to consumers against hoarding, profiteering and cartels of said goods especially during the occurrence of a calamity, emergency and widespread illegal manipulation, and similar situations;

NOW, THEREFORE, pursuant to the provisions of Section 10 of R.A. 7851, the following rules and regulations are hereby prescribed;

RULE I

Definition of Terms

SECTION 1. Definition - as used herein, the following terms and phrases shall have the meaning herein provided:

1. Person means a natural person or a juridical person;
2. Implementing Agency means the department, agency or office of the Government which has jurisdiction over a basic necessity or prime commodity as defined in these Rules and Regulations, which shall be:
 - a. The Department of Agriculture, with reference to agricultural crops, fish and other marine products, fresh meat, fresh poultry and dairy products, fertilizers, and other farm inputs;
 - b. The Department of Health, with reference to drugs;
 - c. The Department of Environment and Natural Resources, with reference to wood and other forest products; and
 - d. The Department of Trade and Industry, with reference to all other basic necessities and prime commodities.
3. Buffer Fund means a contingent fund in the budget of the implementing agency which shall not be used in its normal or regular operations but only for purposes provided for in this Act;
4. Basic Necessities includes: rice, corn, bread, fresh, dried and canned fish and other marine products, fresh pork, beef and poultry meat, fresh eggs, fresh and processed milk, fresh vegetables, root crops, coffee, sugar, cooking oil, salt, laundry soap, detergents, firewood, charcoal, candles, and drugs classified as essential by the Department of Health.
5. Prime Commodities include fresh fruits, flour, dried, processed and canned pork, beef and poultry meat, dairy products not falling under basic necessities, noodles, onions, garlic, herbicides, poultry, swine and cattle feeds; veterinary products for poultry, swine and cattle; paper; school supplies; nipa shingles; plywood; construction

nails; batteries; electrical supplies; light bulbs; steel wire; and all drugs not classified as essential drugs by the Department of Health.

6. Price Ceiling means the maximum price at which any basic necessity or prime commodity may be sold to the general public.

7. Mandated Price Ceiling shall refer to the price imposed on any basic necessity or prime commodity by the President upon recommendation of the implementing agency or the Price Coordinating Council if any of the following conditions so warrant:

Impending existence or effects of a calamity;

Threat, existence or effects of an emergency;

Prevalence of widespread acts of illegal manipulation; and

Impendency, existence or effect of any event that cause artificial and unreasonable increases in prices of said commodities.

8. Prevailing Price means the average price at which any basic necessity has been sold in a given area within a month from the occurrence of any of the conditions enumerated under Section 6 of this Act.

9. Illegal Acts of Price Manipulation refers to acts of hoarding, profiteering, cartels committed by persons habitually engaged in production, manufacture, importation, storage, transport, distribution, sale, or other methods of disposition of basic necessity and prime commodity.

10. Panic Buying is the abnormal phenomenon where consumers buy basic necessities and prime commodities grossly in excess of their normal requirement resulting in undue shortages of such goods to the prejudice of less privileged consumers;

RULE II

Powers and Functions of Implementing Agency

SECTION 1. The implementing agencies enumerated in Rule I Sec. 1 par. (3) thereof shall have jurisdiction over commodities enumerated hereunder:

1.

Department of Agriculture

A.

Basic Necessities

rice

fresh eggs

corn

fresh milk

cooking oil

fresh vegetables

fresh, dried fish, and other marine products

root crops

fresh pork, beef, and poultry meat

sugar"

B.

Prime Commodities

fresh fruits

onions, garlic

dried pork

fertilizer (chemical and organic), pesticides, herbicides poultry, swine and cattle feeds

dried beef and poultry meat

fresh dairy products not falling under basic necessities

veterinary products for poultry, swine, and cattle

2.

Department of Health

A.

Basic Necessities

drugs classified as essential by the DOH

B.

Prime Commodities

drugs not classified as essential by the DOH

3.

Department of Environment and Natural Resources

A.

Basic Necessities

firewood

charcoal

B.

Prime Commodities

Plywood

Nipa Shingles

Plyboard

Sawali

4.

Department of Trade and Industry

A.

Basic Necessities

canned fish and other marine products

detergent

processed milk

candles

coffee

bread

laundry soap

salt

B.

Prime Commodities

flour

cement, clinker, G.I. Sheets

processed and canned pork

hollow blocks

processed and canned beef and poultry meat

construction nails

noodles

batteries, electrical supplies, light bulbs

vinegar, patis, soy sauce

steel wires

toilet soap

paper, school supplies

SECTION 2. Exclusion From the Coverage of this Act - Upon petition of the concerned parties and after public hearing, the implementing agency, with the approval of the President, may exclude from the coverage of this Act,

types or brands of the goods included in the definition of basic necessities and prime commodities, which may be deemed as non-essential goods or luxury goods: Provided, That, any type or brand so excluded may be reinstated by the implementing agency during occasions of acute shortage in the supply of the basic necessity or prime commodity to which the excluded type or brand used to belong.

SECTION 3. Each implementing agency shall adopt programs designed to:

1. promote productivity in basic necessities and prime commodities,
2. improve efficient transport and distribution system,
3. protect consumers from inadequate supply and unreasonable price increases on occasion of calamities, emergencies and like occurrences.

SECTION 4. The implementing agency may, whenever necessary, issue suggested retail prices.

SECTION 5. The implementing agency may, whenever necessary, determine, recommend, and enforce price ceilings.

SECTION 6. During instances of panic buying, the implementing agency shall, upon approval of the President, institute temporary measures to ensure the orderly and equitable distribution to consumers of basic necessities or prime commodities in the affected area.

For this purpose, the following measures may be adopted:

1. establishment of accredited retail outlets.
2. rationing or limiting the quantity of individual household purchases
3. such other similar measures that would assure consumers access to buy said commodities.

SECTION 7. Ancillary Powers of Implementing Agencies-

1. The implementing agencies shall have the power to issue subpoena and subpoena duces tecum.
2. Notwithstanding the provisions of Sections 91, 347 and 349, of the National Internal Revenue Code, it shall require the Bureau of Internal Revenue to submit any sales, income or other tax returns filed by producer, manufacturer, or retailer of essential articles or commodities whenever relevant to any public hearing or any inquiry under R.A. 7581.
3. Perform such other functions and ancillary powers as may be necessary to implement R.A. 7581.

SECTION 8. The functions of implementing agencies enumerated herein will not preclude implementing agencies to exercise their powers and functions under existing laws.

RULE III

Allocation and Utilization of Buffer Fund

Each implementing agency shall allocate a buffer fund in the annual appropriation of the department. Said amount shall be used exclusively to procure, purchase, import, or stockpile any basic necessity or prime commodity.

The commodities shall be distributed for sale to the areas where there is shortage of supply or where there is a need to effect changes in the prevailing prices after consultation with the concerned sectors. The implementing agency shall determine the volume/quantity of the commodities needed for stockpiling in the affected area. For this purpose, the implementing agency may enter into contracts, agreements with concerned supplier, distributor, or retailer.

In the distribution of the commodities for sale, the following shall be followed:

1. Preference shall be given to government agencies authorized to handle sale of the commodities.
2. Establishments of retail outlets that are duly accredited by implementing agency, e.g. accredited Bantay Bilihin Tindahan.
3. Retail outlets and cooperatives duly registered with the Cooperatives Development Authority and accredited by the implementing agency.
4. Consumer groups and similar associations duly registered with the Securities and Exchange Commission and accredited by the implementing agency. The above criteria, however, shall be without prejudice to the paramount consideration of the financial capacity of the recipient entity or organization to pay for the purchase. Further, they should sell commodities at prices within the ceiling mandated by government.

Proceeds from the sale shall revert to the buffer fund of the implementing agency. A trust fund shall be constituted for this purpose, subject to existing rules and regulations.

Warehouses and trucking facilities of the National Food Authority and the duly accredited private sector shall be made available for stockpiling and distribution of the commodities.

RULE IV

Monitoring

SECTION 1. Each implementing agency shall conduct regular monitoring of basic necessity and/or prime commodity in order to:

1. identify and investigate causes of market and price irregularities;
2. determine price trends
3. provide basis for establishing suggested retail prices and ceiling prices
4. develop data base system on prices.

SECTION 2. Each agency shall constitute its own monitoring task force and shall furnish the chairman of the National Price Coordinating Council through the Secretariat a copy of its composition as well as their operating guidelines.

SECTION 3. Data on prices may be collected through:

1. inspection of price tags;
2. interview of sales clerk, consumers, etc.
3. survey.

SECTION 4. Selection of Commodities - Commodities to be monitored shall include both basic necessities and prime commodities, pursuant to Rule II Sections 1 and 2 thereof. Monitoring of these commodities may be done by the implementing agency based on the following factors:

1. basic needs of consumers;
2. critical commodities that experience erratic movement; and
3. product brand selection shall be based on availability/regularity of supply of the brand in the market areas.

SECTION 5. Selection of Outlets - Criteria for the selection of business establishments/areas:

1. completeness of stocks; and
2. geographical accessibility of outlets

SECTION 6. Monitoring Reports - Shall contain comparative price analysis (as deemed applicable) of the following:

1. prevailing price vs. prevailing price three (3) months ago
2. prevailing price vs. prevailing price a month ago
3. prevailing price vs. prevailing price a week ago
4. prevailing price vs. suggested retail price.

SECTION 7. Each agency shall monitor at least monthly and submit quarterly monitoring report to the Price Coordinating Council. Frequency may be increased by implementing agency, as the need arises or as the PCC deem necessary.

Causes of price changes such as increase in acquisition cost, increase in demand or shortage of supply etc. must be indicated.

SECTION 8. The implementing agency may require producers, manufacturers, distributors, and retailers of these commodities to submit production and inventory reports.

SECTION 9. Role of the National Statistics Office - The National Statistics Office shall conduct independent periodic surveys and studies of the selling prices of all basic necessities and prime commodities all over the country as well as their share or effect on the family income of the different economic groups in the country for purposes of serving as data base for government efforts to stabilize prices, as well as evaluating the effectivity of the same.

RULE V

Powers and Functions of the Price Coordinating Council

SECTION 1. In addition to the powers vested in the Price Coordinating Council (PCC) under Section 12 of RA 7581, it shall coordinate, rationalize and monitor the programs of member agencies, and the Local Price Coordinating Council (LPCC) created under this rule, in order to:

1. promote productivity in basic necessities and prime commodities;
2. improve efficient transport and distribution systems; and
3. protect consumers from inadequate supply and unreasonable price increases on occasions of calamities, emergencies and like occurrences.

SECTION 2. It shall formulate the operating mechanics of the Council for the guidance of member agencies and the Local Price Coordinating Councils (LPCC) specifically, on the following:

1. coordinative mechanism;
2. reporting system;
3. emergency measures;
4. enforcement and adjudication; and

5. other measures necessary for the smooth performance of its functions defined by R.A. 7581.

SECTION 3. Secretariat -

1. The Department of Trade and Industry shall provide the Secretariat to the Council from the existing organizational structure.
2. The Secretariat shall render administrative, technical and such other support services as may be required by the Council.

RULE VI

Creation of the Local Price Coordinating Council, Its Powers and Functions

SECTION 1. There shall be created, Provincial, and City Price Coordinating Councils composed of the following:

Chairman - Provincial Governor, or City Mayor

Vice Chairman - DTI Provincial Director or his duly authorized representative

Members - One representative each from the Department of Agriculture, Health, Environment and Natural Resources, Transportation and Communication, Justice, National Economic and Development Authority, consumers, agricultural producers, trading, manufacturing and retail sectors.

In the absence of provincial offices, coordination shall be made with the respective regional offices of the above mentioned implementing agencies.

SECTION 2. The Chairman of the Local Price Coordinating Council (LPCC) shall decide who among the representatives of agencies enumerated above will sit as members of the LPCC. The Chairman shall appoint the sectoral representatives.

SECTION 3. Municipal Price Coordinating Councils may be created whenever the Municipal Mayor deems it necessary. The Municipal Mayor shall sit as the Chairman and membership thereof shall be chosen from among the local counterparts of the aforementioned agencies.

SECTION 4. The sectoral representatives of the Provincial, City or Municipal Price Coordinating Council shall be appointed by the Chairman upon nomination by their respective provincial, municipal and city chamber of commerce or similar trade organization and by consumer organization preferably one duly accredited by the DTI.

SECTION 5. Powers and Functions -

1. Coordinate and rationalize the programs to stabilize prices and supply of member agencies in the respective provinces, municipalities, and cities.
2. Recommend to the National Price Coordinating Council or to the Implementing Agencies suggested retail prices (SRP) and/or the price ceilings for certain basic necessities and/or prime commodities in their respective areas.
3. To conduct in-depth analysis on causes for price fluctuations.
4. To recommend action steps to correct unwarranted price increases and supply shortages.

RULE VII

Measures to Undertake During Emergencies

SECTION 1. In time of crisis, calamity or state of emergency, the Price Coordinating Council (National and Local) shall convene immediately after the occurrence of such crisis, calamity, or state of emergency to

coordinate the implementation of these rules by the concerned agencies, but not limited to the emergency measures enumerated hereunder:

- a. Price/supply monitoring activities of basic and prime commodities should be conducted immediately following the calamity or state of emergency.
- b. Specific items identified as basic necessities/prime commodities not part of regular monitoring may be covered.
- c. Frequency of price/supply monitoring may be increased. Only items with price change and supply problems should be reported.
- d. Reports must be submitted to the Secretariat of the NPCC for coordination.
- e. Frequency of the price/supply report may be reduced as soon as prices and supply situation have stabilized.

SECTION 2. Automatic Price Control shall refer to a situation where prices of basic necessities which, unless otherwise declared by the President, are automatically frozen at prevailing prices in areas which have been declared under any of the following conditions:

- state of disaster or calamity
- state of emergency
- state of rebellion
- state of war
- privilege of writ of habeas corpus suspended

The term disaster or calamity shall include those brought about by natural or man made causes, whether local or foreign.

SECTION 3. The Secretariat shall prepare and furnish member agencies the format and flow chart of reports.

SECTION 4. To ensure equitable supply distribution during emergencies, the implementing agencies may:

1. Activate rolling stores;
2. Stock up government warehouses and storage facilities of basic and prime commodities in sufficient quantities/volume; and
3. Mobilize available government transport facilities and other utility vehicles in coordination with DOTC.

SECTION 5. The implementing agency may deputize/enlist other government agencies, private sectors for assistance in the monitoring, transport, movement, and distribution of commodities.

SECTION 6. The implementing agency may field enforcement team to ensure compliance with price ceilings and prevent illegal acts of price manipulation.

SECTION 7. The implementing agency may adopt such other measure to ensure adequate supply of commodities and protect consumers from unreasonable price increase and other illegal acts of price manipulation during emergency situation.

RULE VIII

Determination and Recommendation of Price Ceilings

SECTION 1. In determining the reasonable price ceilings, the following factors provided for in Section 8 of R.A. 7581 may be considered:

1. The average price, in the last three (3) months immediately preceding the proclamation of the price ceiling, of

the basic necessity or prime commodity under consideration;

2. The supply available in the market;

3. The cost to the producer, manufacturer, distributor or seller including but not limited to:

a. The exchange rate of the peso to the foreign currency with which a basic necessity or prime commodity or any component, ingredient, or raw material thereof was paid for;

b. Any change in the amortization cost of machinery brought about by any change in the exchange rate of the peso to the foreign currency with which the machinery was bought through credit facilities;

c. Any change in the cost of labor brought about by a change in the minimum wage; and

d. Any increase in the cost of transporting or distributing the basic necessity or prime commodity to the area of destination.

4. Such other factors or conditions which will aid in arriving at a just and reasonable price ceiling.

For this purpose, the Head of the Local Price Coordinating Council or concerned implementing agency shall call for a public hearing or conduct dialogues with representatives of DILG, producers, manufacturers, distributors, sellers, and consumers in order to arrive at a reasonable price ceiling.

SECTION 2. The Local Price Coordinating Council shall forward to the implementing agency the proposed ceiling prices. The Secretary after review shall recommend to the National Price Coordinating Council or to the President the recommended price ceiling.

RULE IX

Determination and Issuance of Suggested Retail Prices

SECTION 1. The implementing agency may whenever necessary issue suggested retail prices (SRP) for certain basic necessities and prime commodities for the information and guidance of concerned trade, industry and consumer sectors.

RULE X

Illegal Acts of Price Manipulation

SECTION 1. The following shall constitute hoarding:

1. the undue accumulation by a person or combination of persons of any basic necessity or prime commodity beyond his/their normal inventory level, or

2. the unreasonable limitation of or refusal to dispose, sell, or distribute said commodities, or

3. the unjustifiable taking out of said commodity from the channels of production, trade, commerce, and industry.

SECTION 2. The following shall constitute prima facie evidence of hoarding:

1. when a person has stocks of any basic necessity, or prime commodity fifty percent (50%) higher than his usual inventory, and

2. unreasonably limits, refuses or fails to sell the same to the general public at the time of discovery of the stocks.

A person's usual inventory shall be reckoned from the third month immediately preceding before the discovery of the stocks in case the person has already been in business for at least three (3) months, otherwise, it shall be reckoned from the time he started his business.

SECTION 3. Profiteering is the sale or offering for sale of any basic necessity or prime commodity at a price grossly in excess of its true worth.

A price shall be deemed grossly in excess of its true worth if the price thereof has been raised by more than ten percent (10%) in the immediately preceding month.

SECTION 4. There shall be prima facie evidence of profiteering whenever a basic necessity or prime commodity being sold:

1. has no price tag, or
2. is misrepresented as to its weight or measurement, or
3. is adulterated or diluted, or
4. whenever a person raises the price of said commodity which he sells or offers for sale to the general public by more than ten percent (10%) of its price in the immediately preceding month (the prima facie provisions shall not apply in the case of agricultural crops, fresh fish, fresh marine products and other seasonal products).

SECTION 5. Cartel is any combination of or agreement between two or more persons engaged in the production, manufacturing, processing, storage, supply, distribution, marketing, sale or disposition of any basic necessity or prime commodity designed to artificially and unreasonably increase or manipulate its prices.

1. The following acts shall constitute prima facie evidence of Cartel:
 - a. when two (2) or more persons or business enterprises competing for the same market and dealing in the same basic necessity or prime commodity perform uniform or complementary acts among themselves which tend to bring about artificial and unreasonable increases in prices on their competing products thereby lessening competition among themselves.

RULE XI

Summary Proceedings for Seizure of Commodities

SECTION 1. The implementing agency may initiate summary proceeding to cause the seizure by the government of basic necessity or prime commodity subject of a violation of R.A. 7581 and its implementing rules, and pending litigation may order their sale to the general public under the following conditions:

1. when the nature of the goods so require, e.g. perishable items;
2. when the demand for such goods so require e.g. short supply; and
3. such other conditions which would warrant immediate disposition.

SECTION 2. Seizure/Confiscation - The commodities shall be seized, inventoried, and brought to the concerned implementing agency for safekeeping pending formal investigation of the case.

If there is a big volume of the commodities seized, the items shall be inventoried and stored in the firm's premises. The premises shall be padlocked in the presence of the owner or his representative and other witnesses if present and the concerned agency shall provide security to insure that the commodities seized are kept intact pending the investigation of the case.

SECTION 3. Inventory - The inventory shall be made in the presence of representatives from the Commission on Audit, the Enforcement Team of implementing agency and the owner/proprietor/manager of the business establishment or his authorized representative. In the event media representatives are present, they shall likewise be allowed to witness the proceedings. Every page of the inventory shall be signed by all the above

representatives (except the representative from media). If the items seized are packed in groups or sets, the same shall be sealed and the seal should be signed by the above representatives.

SECTION 4. Inventory Report - Within twenty-four (24) hours from completion of the inventory the team shall submit a report of the inspection together with a copy of the inventory of the seized commodities to the Regional/Provincial units of the implementing agency, copies of which will be furnished the head offices of concerned agencies.

SECTION 5. Disposition - The seized commodities shall be disposed of in outlets provided under paragraph 3 Section 6 Rule 11 hereof and subject to existing rules and regulations.

Publication and Broadcast - The Secretary or his authorized representative shall cause the broadcast in radio or television and publish in two (2) newspapers of general circulation in the area affected the fact of sale or disposition of seized goods at least three (3) days before date of sale or disposition.

SECTION 6. Proceeds of Sale - Pending litigation, proceeds of the sale shall be held in trust or escrow by the implementing agency.

1. If the owner of seized commodity shall be found not liable for the violation, proceeds of sale shall be paid to him.
2. If the owner is found liable, proceeds of sale shall accrue to the general fund of the government.

RULE XII

Actions for Violation of R.A. 7581 and Its Implementing Rules and Regulations

SECTION 1. Administrative Action - Administrative action for violations of R.A. 7581 and its implementing rules and regulations shall be in accordance with procedures provided by the concerned implementing agency.

1. Penalties

- a. Temporary closure or temporary restraining order for not more than ten (10) days;
- b. Permanent closure of establishment;
- c. Confiscation/seizure of all products and/or effects subject of the offense;
- d. Confiscation/seizure of all paraphernalia used in the commission of the crime;
- e. Suspension, revocation, or cancellation of any permit/license, authority or registration issued by the concerned agency;
- f. Cease and desist orders;
- g. Censure;
- h. Reprimand; and
- i. Administrative fine of not less than One Thousand pesos (P1,000.00) nor more than One Million Pesos (P1,000,000.00).

SECTION 2. Criminal Action -

Procedure - In the enforcement under R.A. 7581, the usual procedure for prosecution under special laws shall be observed and such prosecution shall be conducted by the appropriate provincial/city fiscal.

Penalties

Illegal Price Manipulation -

- Imprisonment of not less than five (5) years nor more than fifteen (15) years, and
- Fine of P5,000.00 to P2,000,000.00

Price Ceilings (Automatic or Mandated)

- a. Imprisonment of not less than one (1) year nor more than ten (10) years, or
- b. Fine of P5,000.00 to P1,000,000.00, or
- c. Both imprisonment and fine at the discretion of the court. The criminal penalties shall be without prejudice to administrative sanctions which the concerned agency may impose.

RULE XIII

Deputation of Other Agencies

The implementing agency may deputize and enlist the assistance of local governments, units or any government official or agency in carrying out the provision of R.A. 7581 and its implementing rules.

RULE XIV

General Provisions

SECTION 1. Separability - the provisions of this Order are hereby declared to be separable and in the event any provision or part thereof is declared unconstitutional or invalid the other provisions or parts thereof which are not affected thereby shall remain in full force and effect.

SECTION 2. Repealing Clause - The provisions of the Department Orders, rules and regulations, and other issuance of each implementing agency which are inconsistent with this Order are hereby repealed or modified accordingly.

SECTION 3. Publication Effectivity. - These rules and regulations shall be published in two (2) newspapers of general circulation and shall take effect immediately after publication.

Adopted: 15 Feb. 1993

(Sgd.) RIZALINO S. NAVARRO

(Sgd.) JUAN FLAVIER

Secretary of Trade & Industry

Secretary of Health

(Sgd.) ROBERTO S. SEBASTIAN

(Sgd.) ANGEL C. ALCALA

Secretary of Agriculture

Secretary of ENR

APPROVED:

(Sgd.) FIDEL V. RAMOS

President of the Republic of the Philippines

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