



Republic of the Philippines
OFFICE OF THE SECRETARY
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1100 Quezon City

DEPARTMENT CIRCULAR

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SUBJECT: RULES AND REGULATIONS GOVERNING THE IMPORTATION AND EXPORTATION OF PLANT FOOD

Pursuant to Republic Act (RA) No. 10611 also known as Food Safety Act of 2013, Joint Department of Agriculture-Department of Health Administrative Order No. 2015-0007 (JDA-DOH AO 2015-0007), RA, 11203, Executive Order (EO) No. 292, s. 1987, EO 366, s. 2004, Presidential Decree 1433, as amended, and its implementing rules and regulations, other relevant international agreements to which the Philippines is signatory, the following rules and regulations are hereby issued.

ARTICLE I INTRODUCTORY PROVISIONS

Section 1. *Objective.* This Circular aims to rationalize and put in place an effective food control system for the importation and exportation of plant food to protect health of consumers and ensure fair practices in trade of plant food.

Section 2. *Definition of Terms.* The terms as defined in the *Definition of Terms* of JDA-DOH AO 2015-0007 are hereby adopted, unless otherwise defined hereunder.

1. *Audit* refers to a systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which criteria are fulfilled;
2. *BPI Sanitary and Phytosanitary Import Clearance (BPI-SPSIC)* refers to the document issued by the Bureau of Plant Industry (BPI) to the importer prior to importation to ensure that the products being imported meet the standards for the protection of human, plant life or health, guarantee that the products are safe for consumers, and prevent the spread of pests or diseases among plants. Such document also prescribes the pre-entry and the post-entry conditions to be complied with by the exporting country and the importer to control hazards that could lead to food-borne illnesses and to ensure fitness for human consumption of a food of plant origin taking into account its intended use;

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3. *Certificates* refer to those paper or electronic documents, which describe and attest to attributes of consignments of plant food destined for international trade; *Official certificates* are certificates issued by, or under the control of the exporting country's competent authority (CA), including by a certifying body recognized by the CA to issue such certificates;
4. *Competent Authority (CA)* refers to the official authority in charge of the control of plant food safety and the management of official systems of inspection and certification of the country;
5. *DA Trade System* refers to the back-office application of the DA that was developed, deployed and being maintained for the processing of DA trade transactions, such as SPSICs issued by the Bureau of Animal Industry, the Bureau of Fisheries and Aquatic Resources and the BPI;
6. *Establishment* refers to farm, buildings, and other facilities of a food business used for production of primary and postharvest plant foods, postharvest handling, preparation, treatment, packaging, transport and/or storage, but excluding those sites, buildings and structures, such as laboratories, administrative offices, and other areas where plant food is not handled and where people handling the plant food do not enter;
7. *Exporter* refers to any person, individual or juridical entity, or an authorized representative who transacts with the BPI for purposes of registration and/or licensing, and issuance of official certificates used to trade products with another country and who is in possession of or in any way entitled to the custody or control of any plant food exported from the Philippines;
8. *Equivalence Agreement* refers to an arrangement entered into by/between the BPI and the CA of the exporting country concerning plant food import and inspection systems, or a specific sanitary measure or measures related to a certain product or categories of products;
 - a. *Equivalence on a system-wide basis* refers to the capability of different inspection and certification systems to meet the same objectives;
 - b. *Equivalence of sanitary measures* is the state wherein sanitary measures applied in an exporting country, though different from the measures applied in the Philippines, achieve, as demonstrated by the exporting country, the level of sanitary protection determined by the BPI to be appropriate for the Philippines;
9. *Food Business Operator (FBO)* refers to a natural or juridical person responsible for operating business at any step in the food chain. The FBO includes growers, producers, importers, exporters, traders, and distributors of plant food;

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10. *Food Safety Compliance Officer (FSCO)* refers to persons designated by the FBO who shall oversee the implementation of the plant food safety programs and activities of the food business consistent with the provisions of the Food Safety Act, its IRR and this Circular;
11. *Food Safety Officer (FSO)* refers to professionally qualified and properly trained officers appointed by the BPI Director as his representative in implementing and enforcing the provisions of the Food Safety Act, its IRR and this Circular;
12. *Importer* refers to any person, individual or juridical entity, or owner or an authorized representative who transacts with the BPI for the purpose of registration and/or licensing, and who is entitled to the custody or control of any food imported into the Philippines;
13. *Licensing* refers to the process by which BPI approves an application of a person, corporation, cooperative, agricultural establishment, or other juridical persons, for authority to operate an establishment in the Philippines or to engage in any activity in the primary production and postharvest stages of the food supply chain to produce safe primary and postharvest plant food and inputs. The approval will require proving capability to operate a facility or establishment or to engage in activities in the primary production and postharvest stages of the food supply chain and covered by the license;
14. *Misbranding* refers to the deliberate labelling of plant food that is misleading, where the labelling claims certain food properties that are not supported by a certifying body or by scientific evidence;
15. *National Single Window (NSW)* refers to the computerized internet-based system that allows parties involved in trade to lodge information and documents with a single entry point to fulfil all import, export, and transit-related regulatory requirements;
16. *NPQSD* refers to the National Plant Quarantine Services Division of the BPI responsible for the implementation and enforcement of plant quarantine law, rules and regulations for plants, plant product and planting materials;
17. *Official Accreditation* refers to the procedures done and embodied into a document issued by the BPI formally recognizing the competence of an inspection, certification, laboratory testing, or training body to provide the said service on behalf of BPI;
18. *Organoleptic Assessment* refers to the being, affecting, or relating to qualities (as taste, color, odor and feel) of a food that stimulate the sense organs;

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19. *Plant Food* refers to fresh and/or natural or minimally processed form of food of plant origin such as, but shall not be limited to, fruits, vegetables, rice and other grains, nuts, spices, herbs, including raw materials, under Annex A;
- a. *Minimally Processed Form of Plant Food* refers to the product that was processed in a manner that does not fundamentally alter the product chemically. Examples may include, but not limited to, slicing, chilling and freezing for fruits and dicing, grinding of spices, shredding, peeling and slicing for vegetables or milling of rice;
 - b. *Natural Form of Plant Food* refers to plant food which does not contain artificial ingredients and additives and, if had undergone processing, must only be minimally processed;
20. *Post-harvest Stages* refers to processes/operations in the food supply chain involving the minimal transformation of plant foods after primary production, such as, but not limited to, sorting, cleaning, grading, cutting, dicing, freezing and milling, as well as storage and transport;
21. *PPSSD* refers to Plant Product Safety Services Division of the BPI responsible for the implementation and enforcement of provisions of the *Food Safety Act*, its IRR this Circular, and protocols and standards arising from this Circular;
22. *Primary Production* refers to the production, rearing, growing, or harvesting of plants, planting materials, or plant products for food use, such as, but not limited to, fruits, vegetables, rice, corn, other grains and herbs; as well as handling of primary products at the farm and their further transport to an establishment;
23. *Recall Program* refers to an operation to remove from further sale or use, or to correct a marketed produce (i.e., that has been sold or distributed) that established to have an adverse impact on human health and safety;
24. *Recognized Companies or Exporters* refer to list of companies or exporters authorized by the CA of the exporting country provided to the BPI for the purpose of exportation of plant food;
25. *Risk* refers to the likelihood of an adverse health effects and the severity of this effect following exposure to a hazard;
26. *Risk Analysis* refers to a process consisting of three (3) interrelated components: risk assessment, risk management and risk communication;
27. *Risk Assessment* refers to the scientifically-based process consisting of the following steps: (a) hazard identification, (b) hazard characterization, (c) exposure assessment, and (d) risk characterization;

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28. *Risk Categorization* refers to the classification of food businesses, food operations, and/or food products as high risk, medium risk, or low risk based on inherent and potential food safety risks in the production/processing system and/or on the possibility of the presence of microbiological, chemical hazards, or other contaminants in the food produced; and history of compliance by the establishment with its quality and safety management systems and pertinent regulations;
29. *Risk Communication* refers to the interactive exchange of information and opinions while in the course of risk analysis on the hazards and risks among risk assessors, risk managers, consumers, food and feed business operators, academia, and other stakeholders;
30. *Risk Management* refers to the process, distinct from risk assessment, of weighing policy alternatives, in consultation with all interested parties, considering risk assessment and other factors relevant for the health protection of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options;
31. *Sanitary and Phytosanitary Measure* refers to any measure applied to (a) protect animal or plant life or health within the territory of the Philippines from risks arising from the entry, establishment, or spread of pests, diseases, disease-carrying organisms or disease-causing organisms; (b) protect human or animal life or health from risks arising from additives, contaminants, toxins, or disease-causing organisms in foods, beverages or feedstuffs; (c) protecting human life or health from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or (d) preventing or limiting other damage within the territory of the Philippines from the entry, establishment or spread of pests; and,
32. *Traceability* refers to the ability to follow the movement of a plant food item through specified stages of production, processing, and distribution.

Section 3. *Scope*. This Circular shall cover official controls over plant food for import and export, except sugar, coconut, and processed and pre-packaged products pursuant to RA 10611, as amended by RA 11203.

ARTICLE II

IMPORT OF PLANT FOOD: PRE-BORDER MEASURES

Section 4. *Rules on Importation of Plant Food*. Importation of plant food shall only be allowed on the following conditions:

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4.1 The importation of plant food has undergone risk analysis, taking into account potential food safety risks associated with the plant food and considering the measures implemented by the exporting country's CA.

4.2 The food safety regulatory system, especially the inspection and certification system, of the country of origin has undergone evaluation and determined to have an equivalent system as that of the BPI.

4.3 Plant food for importation complies with the Philippine National Standards (PNS) or the international standards developed by the Codex Alimentarius Commission (Codex) on pathogenic microorganism, mycotoxin, biotoxin, pesticide residues, heavy metals, banned pesticide, other physical or chemical contaminants, post-harvest handling, packing, storage, transport of plant food, codes of practices, among others, adopted as technical regulation by the BPI. Regulatory standards used by other countries for import, ASEAN standards, and Department of Health-Food and Drug Administration standards may be used in the absence of Codex standards; provided that, such standards are evaluated by competent authorities.

4.4 Plant food is imported (a) from recognized companies or exporters in the exporting country and (b) by importers duly licensed by BPI.

4.5 FBOs shall have the primary responsibility of ensuring that food satisfies the requirements of this rules and regulations, and that control systems are in place to prevent, eliminate, or reduce risks to consumers.

Section 5. *Import Risk Analysis.* The food safety risk analysis for the importation of plant food shall be done by PPSSD based on the PNS and Codex standards /guidelines as stipulated in *Section 4.3*. This shall be conducted as part of the import risk analysis wherein the NPQSD, on the other hand, conducts analysis on the phytosanitary risks which may be posed by the importation of plant food.

5.1. Specific administrative protocol and procedure for the joint conduct of import risk analysis shall be developed by NPQSD and PPSSD within sixty (60) days upon effectivity of this Circular.

5.2. The import risk analysis shall be the basis for the following:

- a. identification of risks to human health and safety which may be posed by the importation of plant food;
- b. identification and eventual implementation of appropriate measures to manage the risks; and,
- c. communication with stakeholders about the risks and the measures necessary to safeguard human health and safety.

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Section 6. *Risk Profiling*. The PPSSD shall establish risk profiles of plant food for importation, food safety regulatory system of the exporting country, and exporting companies or exporters to guide risk categorization, taking into account type of food, source, intended purpose, time of importation, mode of transport, condition of shipment, evidence of plant food control in the exporting country, roles, responsibilities, and oversight functions of the competent authorities of the exporting country, among others. Upon commencement of trade, the risk profiles shall be updated to establish history of compliance with import requirements by exporting companies or exporters. The basis for risk profiling shall be the *FAO-UN (2016) - Risk-based Imported Food Control Manual* and other national or international standards.

Section 7. *Risk Categorization*. The BPI shall categorize the risks identified as low, medium, or high risk, accordingly. Specifically, risks shall be categorized on the basis of the likeliness of the plant food containing pathogenic microorganism, mycotoxin, biotoxin, pesticide residues, heavy metals, banned pesticide, or other contaminants; the significant plant food controls implemented and practiced in the areas of production, post-harvest handling, packing, storage, transport of plant food; type of establishment; and compliance with the national food safety requirements on risk. The basis for the conduct of risk categorization shall be the *FAO-UN, (2016)-Risk-based Imported Food Control Manual* and other national or international standards.

7.1 PPSSD shall develop a protocol for the risk categorization of imported plant food and the licensed importer including the food safety regulatory system of the exporting country based on Codex standards, recommendations and guidelines.

7.2 The risk categorization shall be the basis for determining specific sanitary measures or import requirements, priority establishments for inspection as part of foreign system audit missions, and, upon commencement of trade, frequency of border inspections.

Section 8. *Equivalence of Sanitary Measure*. The BPI may accept a specific measure or measures related to a certain product or categories of products as equivalent if the CA of the exporting country objectively demonstrates that its measures can meet the objectives of the sanitary measures or import requirements of the BPI. The assessment of the process of equivalence determination shall commence upon request by the exporting country.

8.1 The PPSSD shall develop an official procedure for the determination of equivalence of sanitary measure based on CAC/GL 53-2003 (*Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems*).

Section 9. *Assessment of Equivalence of Food Safety Regulatory System.* Determination whether the exporting country has an equivalent food safety regulatory system and inspection and certification system shall be based on CAC/GL 82-2003 (*Principles and Guidelines for National Food Control Systems*) and CAC/GL 26-1997 (*Guidelines for the Design, Operation, Assessment, and Accreditation of Food Import and Export Inspection and Certification Systems*).

9.1 The PPSSD shall develop an official procedure for the assessment of equivalence based on CAC/GL 34-1999 (*Guidelines for the Development of Equivalence Agreements regarding Food Import and Export Inspection and Certification System*), CAC/GL 53-2003, and CAC/GL 26-1997.

Section 10. *BPI Foreign System Audit Mission (FSAM).* The BPI, as part of the assessment of equivalence of regulatory system, especially inspection and certification system, and risk analysis, shall constitute a BPI FSAM to conduct inspection of establishments, facilities, and/or production areas in the country of origin proportionate to the risk categorization conducted on a cost-sharing scheme. The on-site inspection is, likewise, for the purpose of verifying the effectiveness of the food safety controls of the exporting country. For resource efficiency purposes, the BPI FSAM shall be done jointly with the NPQSD for the purpose of phytosanitary controls inspection and verification. The FSAM team shall be composed of technical personnel from the NPQSD and the PPSSD.

Section 11. *Listing of Foreign Companies or Exporters.* The BPI shall maintain a list of foreign companies or exporters provided by the Competent Authority of the exporting country. Upon determination of equivalence of food safety regulatory system, especially the inspection and certification system, such list shall be recognized by BPI and importation of plant food shall be limited to the foreign companies or exporters on the list.

Section 12. *Certificates and Assurances.* All importation of plant food shall be accompanied by a certificate, an official certificate, or any equivalent type of assurance from the country of origin, taking into consideration CAC/GL 38-2001 (*Guidelines for Generic Official Certificate Formats and the Production of Certificates*). Such certificate or equivalent type of assurance shall be identified during the process of determining equivalence of food safety regulatory system, especially inspection and certification system.

Section 13. *Licensing of Importers.* Prior to importation, all plant food importers are required to secure a License to Operate (LTO) from the BPI in accordance with DA Department Circular No. 4, series of 2016 *Guidelines on the Importation of Plants, Planting Materials and Plant Products* (hereinafter referred to as DA DC 4, s. 2016), this Circular, and other applicable guidelines. Licensing of importers shall be done jointly by the NPQSD and PPSSD. Licensing procedure shall include inspection of plant food establishments, which shall be guided by risk profiling and risk categorization based on establishment type and plant food profile.

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Section 14. *Registration to the DA Trade System.* All licensed importers shall register with the DA Trade System and, eventually, with the system that will be established by the DA in connection to the NSW.

Section 15. *SPSIC Requirement.* Food safety considerations shall be taken into account in the issuance of SPSICs. Importers of plant food shall secure an SPSIC with the BPI prior to importation in accordance with DA DC 4, s. 2016 and this Circular.

15.1 NPQSD and PPSSD shall establish necessary protocol and administrative procedure to jointly facilitate processing and issuance of SPSICs.

Section 16. *Responsibility of Importers.* The importers are responsible for ensuring that imported plant food meets the standards and requirements under existing laws, rules and regulations on food safety, as well as for taking corrective actions to prevent marketing of plant food that are not compliant with such standards and requirements.

Section 17. *Indirect Transit Cargo.* Cargoes of plant food, including the accompanying animal feedstuffs, which are discharged from the carrier and which may be unpacked or repacked in the port and/or transferred to another carrier for reshipment to the country of destination or re-consigned elsewhere shall be considered as an importation into the Philippines and thus shall be subject to food safety inspection and/or final disposition as prescribed in this Circular.

ARTICLE III EMERGENCY MEASURES

SECTION 18. *Food Safety Emergency Situations in the Country of Origin.* In case of food safety emergency situation in the country of origin, the importation of plant food from such country may be prohibited through a Circular issued by the Secretary of Agriculture, upon the recommendation of the BPI Director.

18.1 On request by the CA of the exporting country, import prohibition may be lifted, through a Circular issued by the Secretary of Agriculture, upon the recommendation of the BPI Director, upon objective demonstration that the emergency situation has been addressed and that such food safety concern no longer exists.

Section 19. *Implementation of Control Measures with No Risk Categorization/Risk Analysis.* The BPI may provisionally adopt control measures, even in the absence of risk categorization or risk analysis, as precaution under the following circumstances:

- a. In cases of local emergency situations declared by national and/or international authorities, unforeseen events, or other situations posing an imminent danger to public health due to food-borne hazards;

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- b. Food safety hazard has not been identified but relevant scientific information suggests a link between consumption of a food and the appearance of serious health effects,
- c. Donation of plant food by foreign or international organizations during calamities; and,
- d. Other similar circumstances.

ARTICLE IV

IMPORT OF PLANT FOOD: BORDER CLEARANCE PROCEDURES

Section 20. *Documentary Requirement for Border Inspection.* In addition to the documentary requirements for inspection under DA DC 4, s. 2016, specific certificates, official certificates, or other type of assurances, as provided for in *Section 12*, shall be submitted prior to inspection at the port of entry.

Section 21. *Border Inspection.* No commodity of plant food shall be allowed entry into the country unless it is accompanied by the prescribed documents; submitted for inspection; and, based on risk categorization, sampling by BPI designated officers at the port of entry.

21.1. For medium and high risk imported plant food, inspection and sealing shall be done at the storage facilities and shall not be released unless inspection by the BPI is completed. The seal shall be broken only in the presence of BPI personnel at the facility.

Section 22. *Refusal of Entry or Seizure of Imported Commodities.* Non-compliant imported plant food shall be subject to refusal of entry or seizure pursuant to the provisions of *Section 28* of DA DC 4, s. 2016.

Section 23. *Sampling and Laboratory Testing.* Sampling of imported plant food shall be done randomly, unless high food safety risk is involved. Sampling shall be done by BPI designated officers at the port of entry and the samples shall be submitted to BPI laboratories or BPI officially-accredited laboratories for testing which may include but not be limited to heavy metals, pesticide residues, microbiological, mycotoxin and filth, as appropriate depending upon the identified risk during the IRA. The importer or his authorized representative shall have the liberty to choose from among the laboratories or BPI officially-accredited laboratories.

Section 24. *Monitoring of Compliance.* The NPQSD and PPSSD shall maintain and ensure updating of the database on the risk profiles and category of foreign exporting companies or exporters, importers, and imported plant food based on compliance with sanitary measures or import requirements to guide frequency of border inspections as well as conduct of audit of the food safety regulatory system, especially inspection and certification system, of the exporting country every four years.

ARTICLE V EXPORT OF PLANT FOOD

Section 25. *Rules on the Export of Plant Food.* Any export of plant food shall conform to the following:

25.1 The plant food for export conforms to the requirements of the importing country and this Circular;

25.2 The plant food for export complies with the PNS or the international standards developed by the Codex on pathogenic microorganism, mycotoxin, biotoxin, pesticide residues, heavy metals, banned pesticide, other physical or chemical contaminants, post-harvest handling, packing, storage, transport of plant food, codes of practices, among others, adopted as technical regulation by the BPI. Regulatory standards used by other countries for export, ASEAN standards, and Department of Health-Food and Drug Administration standards may be used in the absence of Codex standards; provided that, such standards are evaluated by competent authorities; and,

25.3 The plant food for export is from exporters duly licensed by BPI.

Section 26. *Responsibility of Exporters.* Exporters are responsible for ensuring that exported plant food meets the food safety requirements of the importing country, this Circular, and other existing domestic laws, rules and regulations on food safety; communicating the requirements to plant food producers and suppliers; and taking corrective actions to prevent marketing of non-compliant plant food.

Section 27. *Licensing of Exporters.* Prior to exportation, all plant food exporters and establishments are required to secure an LTO with the BPI in accordance with procedures formulated pursuant to this Circular and other applicable laws, rules and regulations. Licensing of exporters shall be done jointly by the NPQSD and PPSSD. Licensing procedure shall include inspection of plant food establishments, which shall be guided by risk profiling and risk categorization based on establishment type and plant food profile.

Section 28. *Monitoring of Food Safety Compliance.* The BPI shall monitor licensed exporters and establishments for compliance to *Good Agricultural Practices, Good Hygienic/Handling Practices, Good Manufacturing Practices, Good Storage Practices, and Good Transport Practices* in accordance with PNS or Codex standards, recommendations and guidelines.

Section 29. *Official Certificates.* When required by the CA of the importing country, the BPI shall issue an official certificate, upon objective demonstration by the exporter that the plant food for export satisfies all conditions and import requirements of the importing country, including attestation that the plant food:

- a. has been inspected;

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- b. has been tested using appropriate procedures; and,
- c. substantially complies with the food safety requirements of the importing country.

29.1 The BPI may engage the CA of the importing country in equivalence agreement for a sanitary measure or a group of measures involving a product or a category of products; or for certificates or other types of assurances.

Section 30. *Monitoring of Compliance.* The NPQSD and PPSSD shall maintain and ensure updating of the database on the risk profiles and category of exporters and exported plant food based on compliance with sanitary measures or import requirements of the importing country to guide frequency of inspections.

ARTICLE VI SANCTIONS AND PENALTIES

Section 31. *Grounds for Confiscation / Refusal of Entry.* In addition to the grounds provided in Section 28 of DA DC 4, s. 2016, the imported plant food shall be refused entry / confiscated at the port of entry, if, from the initial examination conducted at the BOC designated examination area (DEA), the commodity has been found to have at least one of the following violations:

- a. If the commodity fails the organoleptic assessment during inspection at the port of entry. In such case, the BPI designated officer shall collect samples for immediate confirmatory laboratory testing and recommend to the BOC appropriate action concerning the commodity proportionate to its risk; and/or,
- b. When the entry of plant food is prohibited pursuant to existing regulations.

Section 32. *Notification of Non-compliance from the CA of the Importing Country.* For any notification from the CA of the importing country, the BPI shall send a Show Cause Order (SCO) to the concerned exporter, requiring the exporter to explain in writing the reported allegations or illegal act within forty-eight (48) hours upon receipt of the SCO.

32.1 The BPI shall conduct investigation/verification of the response to the SCO submitted within the prescribed time. This shall be the basis for the validation/audit of the implementation of the corrective measures proposed by the exporters.

32.2 If there is a failure to respond favorably to the SCO, this shall merit suspension of the LTO of the Exporter and the BPI shall conduct an investigation and/or audit. Such suspension shall remain until the corrective measure/s has been implemented subject to validation of the BPI.

32.3 Based on the investigation conducted by the BPI showing that the cause of non-compliance was the farm where the commodity has been sourced, the BPI shall not allow

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the farm to supply the said commodity for export to the country that issued the notification until the corrective measure/s has been implemented subject to validation of the BPI.

32.4 Upon acceptance of the corrective measures by the BPI, the exporter shall be required to undergo the five (5) clean shipment mandatory testing for the said commodity in the Philippines and in the importing country. The cost of the laboratory analysis shall be borne by the exporter.

32.5 Should there be detection during the five (5) clean shipment mandatory testing of the said commodity, BPI shall send a SCO to the exporter, conduct re-investigation and double the mandatory residue analysis.

32.6 Moreover, any exporter who receives three (3) successive notifications of non-compliance from the CA of any importing country within one (1) year reckoned from the date of BPI receipt of first notice of non-compliance shall have its LTO revoked.

32.7 If exporters, growers and/or packing facility fail to comply with the audit requirements based on 32.1, the following sanctions shall be imposed:

- a. First offense – warning with the obligation to undertake corrective measures within the period prescribed by BPI. Failure to undertake corrective measures within the prescribed period shall be a ground for suspension of LTO/certificate of registration (COR).
- b. Second offense – suspension of license/registration until the corrective measures have been implemented within the prescribed period by BPI. Failure to undertake corrective measures within the prescribed period shall be a ground for revocation of LTO/COR.
- c. Third offense – revocation of LTO/COR with BPI and blacklisting.

Section 33. *Suspension of License.* The BPI shall order the suspension of the LTO of the importer or exporter based on any non-compliance as referred to in *Section 31* or any of the following acts is committed or unjustified:

- a. Adulteration;
- b. Misbranding;
- c. Falsification of the import or export documents;
- d. BPI traceability codes or company's internal codes in the boxes is not visible upon inspection at the port of entry;
- e. Fraudulent practice/fraud; and,
- f. Improper labels/mislabeling.

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33.1 The suspension shall remain in order until corrective and other necessary measures are undertaken by the concerned importer or exporter.

Section 34. Revocation of LTO of Importers and Exporters. The following are grounds for automatic revocation of LTO of importers and exporters:

- a. Refusal to implement recall program and withdrawal procedures;
- b. Committing repeated violations or non-compliances resulting in three consecutive suspensions;
- c. The imported or exported commodity is found, based on thorough investigation, to have caused illness or death;
- d. Refusal to allow the inspection of the storage and transport facilities or any documents related to importation or exportation of plant food;
- e. Refusal to submit the plant food for inspection, testing, or sampling; and,
- f. Other analogous circumstances.

Section 35. Notification to the CA of the Exporting Country and Issuance of SCO to BPI Licensed Importer. The BPI shall immediately notify the CA of the exporting country and issue an SCO to the BPI Licensed Importer or its representative in accordance to *Section 32* of any non-compliance or violations committed as enumerated in *Section 31*, *Section 33*, and *Section 34*.

35.1 Failure to comply with the SCO, the BPI shall order the revocation of the LTO of the importer.

35.2 Following the first detection of confirmed non-compliance or violation, the BPI shall issue a warning notification to the CA of the exporting country.

35.3 Following the second detection of confirmed non-compliance or violations enumerated under *Section 31*, all consignments coming from the foreign exporting company or exporter shall be subject to 50% mandatory inspection. Additional certificates, an official certificate, or other type of assurance may be required for every succeeding consignment until corrective and other necessary measures are undertaken by the concerned foreign exporting company or exporter.

35.3 Detection of repeated non-compliance shall result in the suspension of the foreign company or exporter from exporting to the Philippines. The suspension shall remain in order until corrective and other necessary measures are undertaken by the company or exporter.

35.4 Any foreign company or exporter shall be suspended from exporting plant food to the Philippines if such company or exporter committed any of the acts enumerated under *Section 33*. The suspension shall remain until corrective and other necessary measures are undertaken by the concerned company or exporter.

Section 36. *Removal from the List of Foreign Companies or Exporters.* Any foreign exporting company or exporter shall be removed from the list of recognized companies or exporters to export plant food to the Philippines if such company or exporter found to have committed any non-compliance or violation enumerated under *Section 34*.

Section 37. *Suspension and Revocation of System-wide Equivalence Agreement.* The DA, upon recommendation by the BPI, shall suspend the recognition of equivalence of the food safety regulatory system, especially the inspection and certification system, of the exporting country, if found that, based on facts and evidence collected and presented, 50% of its endorsed exporting companies or exporters have repeatedly committed violations enumerated under *Section 31* or any of the violations stipulated under *Section 33*. The suspension shall remain until corrective and other necessary measures are undertaken by the CA of the exporting country.

37.1 The DA, upon recommendation by the BPI, shall revoke the recognition of equivalence of the food safety regulatory system, especially the inspection and certification system, of the exporting country, if found that, based on facts and evidence collected and presented, 50% of its endorsed exporting companies or exporters have committed any of the violations enumerated under *Section 34*.

37.2 In either cases, the BPI shall immediately notify the CA of the exporting country of the suspension or revocation.

Section 38. *Sanctions imposed without prejudice to prohibitions, penalties and sanctions provided in RA 10611, applicable laws and other administrative issuances.* Sanctions imposed pursuant to this Circular shall be without prejudice to the prohibitions, penalties and sanctions in *Sections 37 and 38* of RA 10611, applicable laws, and other administrative issuances.

Section 39. *Effects of Revocation of Registration/License.*

- a. Any FBO/establishment whose LTO/COR has been revoked shall be deemed blacklisted and included in the list of blacklisted or delinquent licensed exporter, importer, grower, company, food safety compliance officer, trader, broker, or establishment;
- b. Exporters, importers, grower, designated food safety compliance officer or broker, including licensed company or establishments, who are blacklisted shall not be qualified to re-apply for licensing/registration;
- c. The list of all blacklisted or delinquent exporters, importers, brokers, grower, food safety compliance officer, companies, and establishments, including those with expired LTO/COR shall be published and uploaded at the DA and bureau/agency website.

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Section 40. *Right to Appeal.* Any FBO/establishment aggrieved by an action or decision of the BPI Director under this Circular may appeal to the Secretary within the fifteen (15) days from receipt of the decision.

ARTICLE VII MISCELLANEOUS PROVISIONS

Section 41. *Collection of Fees.* The BPI shall formulate schedule of fees for inspection, certification, clearances, testing, and others, on imported and exported plant food subject to public consultation. *Provided,* that importations and exportations of all government agencies; government owned or controlled corporations; donations to and for the account of any duly registered relief-organizations; or any charitable institution certified by the Department of Social Welfare and Development; embassies of foreign governments; and those that maybe declared by the President, upon the recommendation of the National Economic and Development Authority, in the interest of economic development, are exempt from payment of such fees excluding, however, the expense incurred in commodity treatment.

Until such time that schedule of fees in accordance with this Section has been issued, the relevant provisions of DA Administrative Circular No. 9, series of 2015, as amended, shall apply.

Section 42. *Appointment and Designation of FSO.* The BPI Director shall appoint or designate, through a Memorandum Order, an FSO who shall act as his representative in implementing and enforcing the provisions of this Circular.

Section 43. *Authority to Promulgate Manual of Operations, Standard Operating Procedures and Protocols.* The BPI Director shall promulgate manual of operations, standard operating procedures and protocols consistent with this Circular, and other applicable guidelines for the implementation and enforcement of this Circular.

43.1 The BPI Director may promulgate circulars that shall include but not be limited to the following:

- a. Official declaration of non-compliant plant food;
- b. The official control of the cultivation, production, manufacturing for minimal processing, storage, transport, packing, labelling and sale of all types of plant food;
- c. Construction, inspection and maintenance of plant food businesses and establishments;
- d. The places at which, and the conditions, under which, crops are produced for plant food;
- e. The importation and exportation of plant food; including any documentation and inspection required;


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- f. The procedures applicable for the issuance of suspension and cancellation/revocation of licenses to operate a plant food business;
- g. The acceptable level of contaminants in plant food in accordance with *Section 4.3* and *Section 25.2*;
- h. The procedures to be followed by FSOs, FSCOs, Official Analyst, Official Laboratories and Officially-accredited Inspection, Certification and Training Services Providers in the exercise of their functions under the Food Safety Act;
- i. The final disposition or destruction of non-compliant plant food;
- j. The forms to be used for the purposes of the Act, including applications, licenses, permits, improvement notices and receipts for articles sampled or seized.

43.2 This Circular shall be in conjunction with DA DC 4, s. 2016 concerning plants and plant products that are imported as plant food.

Section 44. Continuous Communication and Education of Importers and Exporters. The BPI shall implement, in partnership with relevant agencies or offices under the DA or BPI officially accredited training service providers, a Continuous Communication and Education Program for importers and exporters about the requirements on Philippine food safety law, rules and regulations including any problems of food safety concern.

Section 45. Inspection and Audit of Plant Food Control System. The BPI shall create an oversight program for the inspection and auditing of imported plant food control system including, but not limited to, importers' compliance with this Circular and other food safety requirements.

Section 46. Upgrading of Regulatory Laboratories and Official Accreditation of Public and Private Testing Laboratories. The BPI shall upgrade its relevant regulatory laboratories in accordance with the DA harmonization of regulatory laboratories to meet required standards for accreditation for crop protection, plant quarantine, and food safety. The BPI may officially accredit testing laboratories to conduct testing and certification services on its behalf.

Section 47. Official Accreditation of Training Service Providers for Training of FSCOs and FBOs. The BPI shall officially accredit training service providers to conduct on its behalf trainings for FSCOs/FBOs on food safety laws, rules and regulations, national and international standards, protocols and other relevant issuances.

ARTICLE VIII FINAL PROVISIONS

Section 48. Transitory Provisions. For importers and exporters who are accredited/registered with BPI prior to the effectivity of this Circular, their accreditation/registration shall be duly recognized. The provisions on licensing under this Circular shall be applied upon renewal of licenses.

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48.1 For exporting countries which have been exporting certain plant food to the Philippines and plant food which has been allowed entry into the country prior to the effectivity of this Circular, the BPI-PPSSD shall conduct risk analysis and determination of equivalence of food safety regulatory system, especially inspection and certification system, within six (6) years after the effectivity of this Circular.

Section 49. *Repealing Clause.* Articles II, III, IV, VI, VIII and IX of DA DC 4, s. 2016 are amended or modified accordingly. All other department orders, memorandum circulars, rules and regulations and protocols inconsistent with the provision of these rules and regulations are, hereby, likewise, repealed, amended, or modified accordingly.

Section 50. *Separability Clause.* If any provision of this Circular is declared invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

Section 51. *Effectivity.* This Circular shall take effect fifteen (15) days after its complete publication in two (2) newspapers of general circulation and submission of copies to the National Administrative Register, UP Law Center.

Done this 20th of March 2020.


WILLIAM D. DAR, Ph.D.
Secretary

DEPARTMENT OF AGRICULTURE

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ANNEX A***SOURCE: ASEAN HARMONIZED TARIFF NOMENCLATURE (AHTN 2017)****Section II: Vegetable Products, Chapter 6 to 14**

Chapter 6: Live trees and other plants; bulbs, roots and the like; cutflowers and ornamental foliage	
AHTN Code	Description
06.01	Bulbs, tubers, tuberous roots, corms, crowns and rhizomes, dormant, in growth or in flower; chicory plants and roots other roots of heading 12.12
06.02	Other live plants (including their roots), cuttings and slips; mushroom spawn
06.03	Cutflowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried except dyed, bleached, impregnated or otherwise prepared
06.04	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried, except dyed bleached, impregnated or otherwise prepared
Chapter 7: Edible vegetables and certain roots and tubers	
AHTN Code	Description
07.01	Potatoes, fresh or chilled
07.02	Tomatoes, fresh or chilled
07.03	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
07.04	Cabbages, cauliflowers, kohlrabi, kale and similar brassicas, fresh or chilled
07.05	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium</i> spp.), fresh or chilled
07.06	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled
07.07	Cucumber and gherkins, fresh or chilled
07.08	Leguminous vegetables, shelled or unshelled, fresh or chilled
07.09	Other vegetables, fresh or chilled
07.10	Uncooked and frozen vegetables
07.12	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared
07.13	Dried leguminous vegetables, shelled whether or not skinned or split
07.14	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced in the form of pellets; sago pith
Chapter 8: Edible fruit and nuts; peel of citrus or melons	

AHTN Code	Description
08.01	Brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled except coconut
08.02	Other nuts, fresh or dried, whether or not shelled or peeled
08.03	Bananas, including plantains, fresh or dried
08.04	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteen, fresh or dried
08.05	Citrus fruit, fresh or dried
08.06	Grapes, fresh or dried
08.07	Melons (including watermelons) and papaws (papayas), fresh
08.08	Apples, pears, quinces, fresh
08.09	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
08.10	Other fruits, fresh
08.11	Uncooked fruit and nuts, frozen fruits and nuts not containing added sugar or other sweetening matter
08.13	Fruit, dried, other than that of headings 08.01 to 08.06; mixtures of nuts or dried fruits of this Chapter
08.14	Peel of citrus or melons (including watermelons), fresh, frozen, dried

Chapter 9: Coffee, tea, mate and spices

AHTN Code	Description
09.01	Coffee, not roasted or decaffeinated; coffee husks and skins;
09.02	Tea,
09.03	Mate
09.04	Pepper of the genus <i>Piper</i> , dried or crushed or ground fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i>
09.05	Vanilla
09.06	Cinnamon and cinnamon tree flowers
09.07	Cloves (whole fruit, cloves and stems)
09.08	Nutmeg, mace and cardamoms
09.09	Seeds of anise, badian, fennel, coriander, cumin, or caraway; juniper berries
09.10	Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices

Chapter 10: Cereals

AHTN Code	Description
10.01	Wheat and meishlin
10.02	Rye
10.03	Barley
10.04	Oats
10.05	Maize (corn)
10.06	Rice
10.07	Grain sorghum
10.08	Buckwheat, millet and canary seeds; other cereals

Chapter 11: Products of the milling industry: malt; starches; inulin; wheat gluten	
AHTN Code	Description
11.01	Wheat or meishlin flour
11.02	Cereal flours other than of wheat or meishlin
11.03	Cereal groats, meal and pellets
11.04	Cereal grains or otherwise worked (for example hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 10.06; germ of cereals, whole, rolled, flaked or ground
11.05	Flour, meal, powder, flakes, granules and pellets of potatoes
11.06	Flour, meal and powder of the dried leguminous vegetables of headings 07.13 of sago or of roots of tubers of heading 07.14 or of the products of Chapter 8
11.07	Malt, whether or not roasted
11.08	Starches, inulin
11.09	Wheat gluten, whether or not dried
Chapter 12: Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruits; industrial or medicinal plant; straw and fodder	
AHTN Code	Description
12.01	Soya beans, whether or not broken
12.02	Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken
12.03	Copra
12.04	Linseed, whether or not broken
12.05	Rape or colza seeds, whether or not broken
12.06	Sunflower seeds, whether or not broken
12.07	Other oil seeds and oleaginous fruits, whether or not broken
12.08	Flours and meals of oil seeds or oleaginous fruits, other than those of mustard
12.09	Seeds, fruits and spores, of a kind used for sowing
12.10	Hop cones, fresh or dried, whether or not ground, powdered or in the form of pellets; lupulin
12.12	Locust beans, seaweeds and other algae, sugar beet and sugarcane, fresh, chilled, frozen or dried, whether or not ground; fruit stones and kernels and other vegetables products (including unroasted chicory roots of the variety <i>Cichorium intybus sativum</i>) of a kind used primarily for human consumption, not elsewhere specified or included
12.13	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets
12.14	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets

*Subject to review by the BPI every two years to meet the needs of the present time.