



Republic of the Philippines
Department of Agriculture
OFFICE OF THE SECRETARY
Elliptical Road, Diliman, Quezon City 1100



DA-CO-ADM-CR-DC20230222-00001

DEPARTMENT CIRCULAR

No. 05
Series of 2023

**SUBJECT : AMENDMENT TO ADMINISTRATIVE ORDER NO. 09,
SERIES OF 2010, AS AMENDED BY ADMINISTRATIVE
CIRCULAR NO. 06, SERIES OF 2022**

WHEREAS, Department of Agriculture (DA) Administrative Order (AO) No. 9, Series of 2010 as amended by DA Administrative Circular (AC) No. 06, Series of 2022 was issued to streamline, harmonize and strengthen the rules and regulations on the importation of products and commodities under the coverage of various bureaus and agencies of the Department, in order to enhance transparency and facilitate trade without compromising safety of human, animal or plant life or health or causing damage to the environment by establishing an effective and comprehensive regulatory system that ensures compliance to required sanitary and phytosanitary measures;

WHEREAS, DA AO No. 9, series of 2010, as amended by DA AC No. 06, series of 2022, declares that *"(a)ll products or commodities covered by this AC, imported or brought into the Philippines unlawfully shall only be disposed of in any of the following manners:*

1. *"seized and destroyed;*
2. *"return to country of origin; or*
3. *"shipped to a third country*

"Even milled rice should not be considered for Public Auction."

WHEREAS, Section 15 (a) of Republic Act (Rep. Act) No. 10611 or the Food Safety Act of 2013 mandates the DA to be responsible for food safety in foods locally produced or imported in primary production and post-harvest stages by ensuring that all laws, standards, policies and programs assuring the safety of primary and postharvest food, foods locally produced or imported under this category are implemented;

WHEREAS, Section 12(b) of Rep. Act No. 10611 provides that *"(i)mported food shall undergo cargo inspection and clearance procedures by the DA and the DOH at the first port of entry to determine compliance with national regulations."*, Furthermore it also provides that, *"shipments not complying with national regulations shall be disposed according to policies established by DA and DOH."*;

WHEREAS, Section 1148 of Rep. Act No. 10863 or the Customs Modernization and Tariff Act (CMTA) declares that *"(r)egulated goods shall be*

disposed of in a manner to be determined by the appropriate regulatory agency. In the event that the regulatory agency allows the disposition of the regulated goods with commercial value and capable of legitimate use, these shall be disposed of in accordance with section 1141 of this Act.”;

WHEREAS, Section 1141 of Rep. Act No. 10863 provides that “*(t)he goods subject of disposition may be donated to another government agency or declared for official use of the Bureau, after approval of the Secretary of Finance, or sold at a public auction within thirty (30) days after a ten (10)-day notice posted at a public place at the port where the goods are located and published electronically or in a newspaper of general circulation.”;*

WHEREAS, the donation of seized agricultural commodities to government institutions, including the DA, that are found to be safe under applicable laws, shall make them available to our consumers and help mitigate the effects of inflation attributable to these commodities; and,

WHEREAS, Section 9 of Rep. Act No. 7891 or the Price Act allows implementing agencies to “*procure, purchase, import, or stockpile any basic necessity or prime commodity, devise ways and means of distributing them for sale at reasonable prices in areas where there is shortage of supply or a need to effect changes in its prevailing price. For any or all of these purposes, a buffer fund shall be allocated in the annual appropriations of the implementing agencies.*” Under the said law, the DA is the implementing agency “*with reference to agricultural crops, fish and other marine products, fresh meat, fresh poultry and dairy products, fertilizers, and other farm inputs*”

NOW, THEREFORE, for and in consideration of the foregoing, Article VI of Administrative Circular No. 06, Series of 2022 is hereby amended to read as follows:

ARTICLE VI DISPOSAL OF CONSIGNMENT IN CUSTODY

Section 1. x x x

Section 2. x x x

Section 3. The concerned DA Regulatory Agency having jurisdiction over a particular agricultural and fishery commodity, which gained entry into the Philippines in violation of existing laws, rules and regulations, and under the custody of the Bureau of Customs (BOC), shall determine the mode or manner of which said product shall be disposed, which shall be limited to the following manners:

- a) Seize and destroy;
 - b) Return to country of origin; or
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c) Ship to a third country.

Public auction shall not be considered as one of the modes for the disposal of the said agricultural and fishery commodities, including rice and sugar.

In the event, however, that the seized agricultural and fishery commodities, except perishable goods, have commercial value and capable of legitimate use, the same maybe disposed by the BOC through donation to government institutions, including the DA, subject to the approval of the Secretary of the Department of Finance in accordance with Customs Administrative Order (CAO) 03-2020, Item 4.2, Nos. 4.2.2. and 4.2.7; *Provided* that, prior to donation, the concerned Food Safety Regulatory Agency (FSRA) of the DA has determined that the subject seized commodities are compliant with the applicable food safety standards and sanitary and phytosanitary measures issued pursuant to Rep. Act No. 10611, its Implementing Rules and Regulations, Rep. Act No. 9296 as amended by Rep. Act No. 10536, Act 3639, Rep. Act No. 1556, Rep. Act No. 8550, as amended, Presidential Decree No. 1433, as amended, and other pertinent laws, rules and regulations; *Provided further*, that the concerned DA FSRA shall issue the necessary guidelines on food safety standards compliance and sanitary and phytosanitary measures as well as rules and regulations to implement this provision; *Provided, finally*, that the sale of the donated commodities shall only be made in areas where there is shortage of supply or a need to effect changes in its prevailing price pursuant to Republic Act No. 7891.

For purposes of this provision, the term “perishable goods” shall refer to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense.¹

Section 4. All expenses (including travel, per diem or subsistence, overtime pay and premium pay) of officers or employees of the Philippine government in connection with the destruction or disposition of the seized product/commodity and all expenses in connection with the storage, cargo or labor with respect to any product/commodity refused admission shall be paid by the Importer.

In the event that the said seized agricultural and fishery commodities are disposed through donation pursuant to Section 3 herein, the donee shall bear the cost of storage, cargo or labor, sampling and laboratory testing and analyses and other incidental expenditures prior to actual donation.

Section 5. x x x

Section 6. Seized agricultural and fishery commodities commodities donated to the DA shall be sold through the Food Terminal Inc. (FTI) at the Kadiwa Centers at actual gate prices. Proceeds from the sale of said commodities shall be utilized to support the agriculture sector, the expansion of the Kadiwa Program of the DA, and fund the necessary laboratory testing and analyses to determine compliance

¹ CMTA, Title I, Chapter 2, Section 102 (gg)



with food safety standards and sanitary and phytosanitary measures. The DA and FTI shall execute a Memorandum of Agreement for the implementation of this provision.

**ARTICLE XI
REPEALING CLAUSE**

All other provisions in Administrative Circular No. 06, Series of 2022 shall remain the same. All existing administrative orders, rules and regulations or parts thereof, which are inconsistent with the provisions of this Department Circular are hereby repealed or modified accordingly.

**ARTICLE XII
SEPARABILITY CLAUSE**

If any portion of this Department 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 XIII
EFFECTIVITY**

This Circular shall take effect fifteen (15) days after its publication in one newspaper of general circulation and its filing with the Office of the National Administrative Register.

Done, this 23rd day of March 2023.


DOMINGO F. PANGANIBAN
Senior Undersecretary