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Department of Agriculture
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FISHERIES ADMINISTRATIVE)
ORDER NO. 259
Series of 2018)

SUBJECT: Rules and Regulations on the Importation of Frozen Fish and Fishery/Aquatic Products for Wet Markets During Closed and Off-Fishing Seasons or During the Occurrence of Calamities

WHEREAS, there is significant increase in the price of fish which can be attributed to the increasing fuel prices, presence of unnecessary market layers, adverse weather conditions, inadequate post-harvest infrastructure, high cost of logistics service providers, increasing population and seasonality of fish catch;

WHEREAS, based on recent studies and statistical data, most of the Philippine fishing grounds have been depleted, thus, measures were implemented by the DA-BFAR to control fishing capacity and to rehabilitate the fishing grounds;

WHEREAS, the fish production for the past three (3) years has significantly declined and is no longer sufficient to meet the demands of the fish-eating population;

WHEREAS, as conservation measures, DA-BFAR implemented closed fishing seasons in major fish breeding and spawning grounds, and banned the use of Danish Seine and Modified Danish Seine, which are destructive fishing gears and unsustainable fishing methods, respectively, in the country;

WHEREAS, during the implementation of closed fishing seasons, it was observed that there has been a temporary decline of fish production, and with the intention of DA-BFAR to close additional fishing grounds to spur their rehabilitation, there is an anticipated further decline of fish production during those seasons;

WHEREAS, due to the abovementioned situations, the importation of frozen fish and fishery products for wet markets is deemed necessary especially during closed and off-fishing seasons or during the occurrence of calamities;

WHEREAS, pursuant to Republic Act 10611, otherwise known as the *"Food Safety Act of 2013"*, the frozen fish and fishery products for wet markets must be compliant with the Philippine food safety standards and, towards that end, Section 12 thereof provides *"food to be imported into the country must come from countries with an equivalent food safety regulatory system and shall comply with international agreements to which the Philippines is a party"*;

WHEREFORE, in order to ensure food security taking into consideration public welfare and safety and in accordance with the provisions of Section 61 (c) and (d), 62,

67 and 105 of Republic Act 8550, as amended by Republic Act 10654, the Secretary of Agriculture hereby certifies the necessity for the importation of frozen fish and fishery/aquatic products for the wet markets during closed and off-fishing seasons or during the occurrence of calamities and thus, allow their importation under the following rules and regulations:

SECTION 1. Definition of Terms and Phrases. - For purposes of this Order, the following phrases and terms shall mean:

a) *Application form to Import* (AFI) – a document required by DA-BFAR to be filled up by the qualified importer indicating the purpose of the importation, species or kind of fish, volume to be imported, and country of origin.
b) *Chilled fish* – refers to fish and fishery/aquatic products which have been subjected to a process where the product is cooled to a temperature of melting ice, 0ºC (32ºF).
c) *Consignment* –refers to quantity of fish and fishery/aquatic products bound for a customer in the country of destination and conveyed by one means of transportation.
d) *Closed Fishing Seasons*- the period declared by DA-BFAR during which the taking of specified fishery species by a specified fishing gear is prohibited in a specified area or areas in the Philippine waters.
e) *Fish and fishery/aquatic products* – includes not only finfish but also mollusks, crustaceans, echinoderms, and all other species of aquatic flora and fauna, and all other products of aquatic living resources in frozen form.
f) *Frozen fishery/aquatic products* – fish/fishery/aquatic products which have been subjected to a freezing process sufficient to reduce the temperature to negative 18ºC (0ºF) or lower to preserve its quality and to maintain said product at this temperature.
g) *International Health Certificate* – refers to a written guarantee issued by an authorized or competent regulatory agency from the country of origin, certifying that the fish and fishery/aquatic products have been handled, processed and packed in hygienic manner and does not contain microorganisms that may pose food safety hazard.
h) *Off-fishing Season*- period with no or little or reduced fishing activity due to reasons of safety or weather and availability of resource, usually from October to February.
i) *Sanitary and Phytosanitary Import Clearance* (SPSIC)– document issued by the concerned DA bureau or agency prior to importation to ensure that the products being imported meet SPS measures to protect human, animal or plant life or health, ensuring that the agricultural and fishery products are safe for consumers, and to prevent the spread of pests or diseases among animals or plants. Such document also prescribes the pre-entry conditions to be complied by the exporting country and the post-entry conditions for the maintenance of quality and suitability of the product for the intended purposes.
j) *Wet market* – is a public or private market where most of the food commodities for sale are generally unprocessed and perishable.

SECTION 2. Designation of Government Fish Ports for the Trading of Imported Fish for Wet Markets. – To facilitate monitoring of imported fishery products, all imported fish

destined for the wet markets shall be coursed through and traded at the government fish ports of the Philippine Fisheries Development Authority (PFDA); Provided that, in areas where there is no government fish port of the PFDA, the imported fish destined for wet markets shall be traded in the market or fish trading area previously designated by the PFDA; Provided further that, prior to trading, the PFDA shall require from the importer the following documents covering the imported fish:

a) International Health Certificate from the country of origin;
b) Sanitary and Phytosanitary Import Clearance (SPSIC);
c) Certificate of Origin;
d) Bureau of Customs Entry Declaration;
e) Bill of Lading/Airway Bill; and
f) Import Packing List.

SECTION 3. Transport Clearance. All imported fish and fishery products destined for wet markets, after having been traded in the government fish ports of the PFDA or, in their absence, in the markets or fish trading areas previously designated by the PFDA, prior to transport or transfer to the final market of destination shall secure and be covered by a Transport Clearance issued by the PFDA. The transport clearance shall contain the following information:

a) Name of Importer;
b) Name of Shipper;
c) Name of Trader;
d) Address of Trader;
e) Primary and Secondary Markets of Destination; and
f) Suggested Retail Price of the Imported Fish when sold in the wet markets.

Only retailers with valid Permit to Conduct Business (PTCB) inside the fish port issued by the PFDA shall be issued with Transport Clearance.

SECTION 4. Maximum Importable Volume (MIV) - The DA Secretary, upon the recommendation of the BFAR Director in coordination with the PFDA, in consultation with the NFARMC, shall issue a monthly importable volume for the duration of the closed and off-fishing fishing seasons or during the occurrence of calamities taking into consideration the following:

a) historical volume of production for the last five (5) years;
b) level of demand/projected consumption; and
c) existing trends of market prices.

Provided that, the DA Secretary may also prescribe the species of fish that may be imported and their respective volumes and the allocation thereof for the different areas of the country.

Provided further that, for the purpose of implementing the immediately preceding section, the DA-BFAR and PFDA shall consult with the NFARMC at least two (2) months prior to close or off-fishing season every year or as the need arises.

SECTION 5. Qualified Importers for Wet Markets - the following are the qualified importers for wet markets:

a) members of an organization or association from commercial fishing sector that have been in existence for at least three (3) years prior to the effectivity of this Order; and

b) registered fisheries associations or cooperatives that have been doing fish trading business and in existence for at least three (3) years prior to the effectivity of this Order.

Provided that, at least eighty percent (80%) of the Maximum Importable Volume of frozen fish and fishery/aquatic products destined for wet markets shall be allocated to members of an organization or association from commercial fishing sector.

Provided further that, accredited importers of frozen fish and fishery/aquatic products for canning/processing or for institutional buyers shall not be qualified to import fish or fishery/aquatic products for wet markets.

SECTION 6. Registration of Importers. All importers of frozen fish and fishery/aquatic products shall register with the PFDA and comply with the following documentary requirements.

a) Letter of Intent addressed to the General Manager of the PFDA;
b) Certified True Copy of valid registration certificate from DTI (for sole proprietorship), SEC (for corporations), CDA (for cooperatives), or DOLE (for associations and organizations);
c) Certified True Copy of valid Mayor's/Business Permit;
d) Certified True Copy of valid BIR Registration and company/sole proprietorship Tax Identification Number (TIN);
e) Name and location of cold storage facility compliant with the sanitation standard operating procedure as approved by DA-BFAR; and
f) Valid Permit to Conduct Business (PCTB) issued by the PFDA.

Provided that, the PFDA registered importer shall furnish DA-BFAR a copy of the Certificate of Registration together with the copies of the abovementioned documents, prior to the filing of the Application Form to Import. The PFDA, within forty-eight (48) hours from the importer's registration, shall endorse to DA-BFAR the newly-registered importer.

All expenses in the registration shall be borne by the importer.

SECTION 7. Filing of Application to Import. – After complying with the guidelines set forth under the preceding section, an importer may file a duly accomplished Application Form to Import (AFI) for importation of frozen fish/fishery products with the Office of the BFAR Director, at least five (5) days prior to its importation, and with

a non-refundable application fee of One Hundred and Fifty (P150.00) Pesos accompanied by the following documents:

a) Pro-forma/ commercial Invoice;
b) International Health Certificate of the country of origin; and
c) Disposition report of the previous importation, duly signed and verified by the PFDA, using the BFAR prescribed format (for repeat importation).

SECTION 8. Issuance of SPS Import Clearance (SPSIC) – SPSIC may be issued by the Secretary of Agriculture or his duly authorized representative only after an application thereof has been filed in accordance with the preceding Section and the applicant has paid the SPSIC fee of One Thousand Five Hundred (P1,500.00) Pesos, and such other charges for administrative and technical services rendered in connection with the importation. The indicated amount covers the mandatory standard microbiological examination conducted on all imported fish and fishery/aquatic products. A separate charge for specialized laboratory examinations (for antibiotic residue, heavy metals traces, etc.) may be imposed when such examinations are deemed necessary.

SPSIC issued under this Order shall expire in forty-five (45) days from the date of issuance.

SECTION 9. Requirements for Importations – Frozen fish and fishery/aquatic products to be imported into the Philippines destined for wet markets shall meet the following standards and requirements:

a) *International Health Certificate from the country of origin.* The International Health Certificate shall be supported, whenever applicable, with the following laboratory test results, which shall not exceed for the indicator organisms, such as:

HEAVY METALS	ALLOWABLE LIMIT
1. Cadmium	0.5 mg/L (0.5ppm)
2. Lead	0.3mg/L (0.3ppm)
3. Mercury	1mg/L (1.0 ppm)

MICROBIAL ANALYSIS	ALLOWABLE LIMIT
1. Total viable count	500,000 cfu/g
2. *E. coli*	11 MPM/g fish and fishery
3. *Shellfish meat*	16 MPN/g
4. *Live Shellfish*	23 MPN/g
5. *Staphylococcus Aureus*	1000 MPN/g
6. *Salmonella*	absent in 25 gram sample
7. *Shigella*	absent
8. *Vibrio-cholerae*	absent
By-product of microbial metabolism	
1. Histamine	20 mg./100 gm.(200 ppm)

ANTIBIOTIC ANALYSIS	ALLOWABLE LIMIT

1. *Chloramphenicol*	Zero detection
2. *Nitrofurans*	Zero detection

b) *Packaging and labeling requirements.* Fish and fishery/aquatic products must be packed under hygienic condition to preclude contamination from lubricants, oils, fuels or any hazardous substances. Packaging materials shall not impair the sensory attributes of the fishery products and shall not transmit harmful substances. Packaging materials used for fresh fish held under ice should be provided with adequate drainage for melted water.

The following information, which shall have English translation, shall appear on the packaging and /or labelling and on the accompanying documents:

1. the country of origin;
2. species of fish/fishery products;
3. fishing ground (FAO Zone Number);
4. net weights;
5. name and address of processor or manufacturer; and
6. lot code or batch code or production code.

Provided that, during the selling of the said fish and fishery/aquatic products in the market of final destination, appropriate notice shall be made to appraise the buying public that the said fish and fishery/aquatic products are imported.

c) *Storage and transport.* Fish and fishery/aquatic products, during storage and transport, shall be stored at temperature requirement for specific products, such as:

1. Chilled fresh fish and fishery products shall be stored and maintained at 0 to 4ºC; and
2. Frozen fishery products shall be stored at -18ºC or below during transport, allowing not more than 3 degrees' upward fluctuation in temperature.

d) *Inspection Requirements.* Upon arrival at the accredited port of entry, imported frozen fish and fishery/aquatic products shall be presented to the Fisheries Quarantine Officer of DA-BFAR for inspection of the following:

1. Documentation and inspection/verification of imported fish and fishery products and accompanying documents, as follows:
   a) certified true copy of International Health Certificate;
   b) laboratory test result from duly accredited laboratory;
   c) Sanitary and Phytosanitary Import Clearance/ Certificate issued by the competent authority of the country of origin;

d) airway bill;
e) bill of lading; and
f) pro forma or commercial invoice shall be available for verification by the inspecting Fishery Quarantine Officer.

In the absence of a certified true copy by the importer of the International Health Certificate from the country of origin, the shipment shall be committed to a storage facility for a period of not exceeding ten (10) days to allow the importer to submit such documents. Failure to comply within the specified period, the shipment shall be returned to the country of origin, otherwise, forfeited in favor of the government for its proper disposition. All expenses involving storage, return to origin and disposition of the shipment shall be borne by the importer.

2. Upon arrival at the cold storage, the 2nd border inspectors will conduct thorough inspection to check the possibility on the occurrence of the following:

   i. co-mingling;
   ii. signs of thawing;
   iii. violation of the labelling requirement;
   iv. tampering of seal;
   v. presence of prohibited commodities;
   vi. misdeclaration of product and/or volume; and
   vii. technical smuggling.

Frozen fish and fishery/aquatic products that are not compliant with the Sanitary and Phytosanitary (SPS) requirements and Technical Barrier to Trade (TBT) agreements shall be returned to the country of origin or forfeited in favor of the government for its proper disposition. All expenses involving storage, return to origin and disposition of the shipment shall be borne by the importer.

3. Adequate sample of imported fishery product for laboratory examination shall be collected randomly by technical personnel of the DA-BFAR for sensory/organoleptic examination. Frozen fish and fishery/aquatic products shall meet the quality requirements based on organoleptic checks on the standards for frozen fish and fishery/aquatic products.

4. Imported fishery products shall be subject to random microbiological examination and other applicable tests including test for Trimethylamine. After laboratory examination, if imported product does not meet the required quality standard, the whole shipment shall be committed to a storage facility while further laboratory examination shall be conducted on random samples to technically determine the quality of the products. If found unfit for human consumption or does not meet the required standard, the said

container shall be returned to the country of origin. Fees and charges incidental to examination and storage of imported products shall be chargeable to the importer.

5. If upon inspection the imported fish or fishery/aquatic product does not meet the quality requirements prescribed by the DA-BFAR, or if prohibited fish and fishery/ aquatic products are included in the importation, the same shall be removed immediately, and in case of the latter, confiscated, and the importer shall be penalized in accordance with the provisions of applicable laws, rules and regulations.

SECTION 10. Creation of Interagency Task Force for Monitoring – DA-BFAR shall initiate the establishment of an inter-agency task force consisting of the Department of Agriculture (DA), Department of Trade and Industry (DTI), Department of Interior and Local Government (DILG), National Bureau of Investigation (NBI), Bureau of Customs, and the Philippine Fisheries Development Authority (PFDA) tasked with the following:

a) To monitor the importation, trading, and selling of imported fish destined for wet markets to ensure that they are compliant with all fishery laws, rules, and regulations governing such activities;
b) To monitor the handling of said fish and fishery products from port to the market of final destination to ensure that the required food safety standards are observed;
c) To monitor their prices in the wet markets to ascertain that they are being sold in accordance with the Suggested Retail Price (SRP); and
d) To monitor all fish cold storages of registered importers to ensure that all imported fish for wet markets are being timely traded and disposed and not being hoarded.

The interagency task force shall be chaired by the Secretary of Agriculture.

SECTION 11. Penalty Clause. – Any importation of fish and fishery/aquatic products destined for wet markets in violation of this Order shall be unlawful.

Failure on the part of the shipping or forwarding company from whose possession the fish and fishery/aquatic products imported are discovered or seized, to fully cooperate in the investigation conducted by concerned government authorities, shall create a presumption that there is connivance or conspiracy between the shipping company and the shipper to perpetrate the aforementioned offense.

Upon a summary finding of administrative liability, the offender shall be punished with an administrative fine of five (5) times the value of the fish and fishery/aquatic products or Three hundred thousand pesos (P300,000.00) to Five hundred thousand pesos (P500,000.00), whichever is higher, and forfeiture and/or destruction of the fish and fishery/aquatic products.

Upon conviction by a court of law, the offender shall be punished with eight (8) years of imprisonment and fine of twice the administrative fine, forfeiture and/or

destruction of the species. Provided that, offenders shall be banned from being members or stockholders of companies currently engaged in fisheries or companies to be created in the future.

The filing of charges under this Order shall be without prejudice to the filing of appropriate charges for violation of other related laws or regulations by the Inter-Agency Tasked Force or any of its member/s.

SECTION 12. Suspension of Importation for Wet Markets. - In case the circumstances warranting the necessity to import fishery/aquatic products during the effectivity of a closed and/or off-fishing fishing season has ceased to exist, the Secretary of Agriculture, upon consultation with the FARMC, may issue a Certification suspending the importation under this Order during the said closed and/or off-fishing fishing season.

SECTION 13. Repealing Clause. – All existing Administrative Orders, rules and regulations or parts thereof, which are inconsistent with the provisions of this Order, are hereby repealed or modified accordingly.

SECTION 14. Separability Clause. – If any portion or provision of this Order is declared unconstitutional or invalid, the other portion or portions thereof, which are not affected thereby, shall continue in full force and effect.

SECTION 15. Effectivity. – This Order shall take effect fifteen (15) days after its publication in the Official Gazette and/or in two (2) newspapers of general circulation and registration with the Office of the National Administrative Register (ONAR).

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Secretary
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DEPARTMENT OF AGRICULTURE
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