

[MEMORANDUM CIRCULAR NO. 18-09, August 09, 2018]

SUPPLEMENTAL GUIDELINES FOR DAO 17-06:2017

*Adopted: 06 July 2018
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WHEREAS, Clause 24.6 of DAO 17-06:2017 provides that for imported cement, a Surety Bond shall be posted on a paper shipment basis equivalent to Ten percent (10%) of the declared value of or dutiable value of the imported product in the Philippine Peso, whichever is higher to guarantee that the applicant shall perform its duties and obligations stated therein;

WHEREAS, Clause 24.7 of DAO 17-06:2017, likewise, provides that any violation of the terms and conditions of the Product Certification Scheme shall, upon notice, result in the motu proprio forfeiture of the bond;

WHEREAS, the very objective of the said requirements is to secure the manufacturer's and/or importer's promise or undertaking to perform its duties as such in accordance with the terms and conditions of the Certificate of Conditional Release issued by the Bureau of Philippine Standards.

WHEREAS, pursuant to relevant laws and rules and regulations, there are non-conformities that are negligible or non-compliances that are justifiable warranting the application of mere corrective or remedial action.

WHEREAS, in the interest of equity of fairness, the amount of bond to be forfeited shall be commensurate to the degree of the non-conformity or non-compliance, for certification scheme purposes only.

WHEREFORE, this Circular is hereby issued for the information and guidance of those concerned.

Section 1. Show Cause Order – This order shall be issued against a manufacture or importer who failed to comply with legal and technical requirements or whose product/s failed to conform to such requirements. It may include a CEASE AND DESIST ORDER addressed to the owner/manager of the individual or company concerned, to refrain from supplying, distributing, selling or displaying for sale the products subject thereof until such time that the Show Cause Order is lifted. In cases where the manufacturer or importer can justify under oath that the non-conformity is correctible and/or the non-compliance is negligible, the Show Cause Order may not be issued.

Section 2. Degree of Non-Conformity or Non-Compliance – Non-Conformity or non-compliance may vary depending on the circumstances, to wit:

2.1 Minor – This level or degree can be the subject of corrective action as allowed under applicable PNS/rules hence, may not be the subject of a Show Cause Order.

2.1.1 Inconsistency in the markings/tags but notified BPS prior to issuance of the Certificate of Conditional Release, 2.1.2 Transfer of products from a declared warehouse to another declared warehouse with prior notice to DTI, 2.1.3 Delay in responding to notices/letters, 2.1.4 Justified typographical errors in documents or responses submitted, 2.1.5 Delivery of products covered by a Conditional Release from the BOC to one of the declared warehouses but in the warehouse declared in the current application with notice to BPS prior to such delivery, 2.1.6 Number of missing products is less than or equal to the required number of samples, 2.1.7 Number of products with missing labels/tags is less than or equal to the required number of samples.

2.2 Significant – This level or degree fell short if being considered minor.

2.2.1 Inconsistency in the markings/tags but notice to BPS was made after issuance of the Certificate of Conditional Release,

2.2.2 Transfer of products from a declared warehouse to another declared warehouse without prior notice to BPS,

2.2.3 Delivery of products covered by a Conditional Release from the BOC to one of the declared warehouse but not in the warehouse declared in the current application without prior to notice to BPS,

2.2.4 Number of missing products is not more than five percent (5%) of the total quantity declared,

2.2.5 Number of products with missing labels/tags is not more than twenty percent (20%) of the total quantity declared,

2.3 Major – This level or degree may still be the subject of corrective action but the quantity involved is no longer minor hence,

2.3.1 Inconsistency in the markings/tags and the quantity of products with deficiency is not more than fifty percent (50%) of the total quantity declared,

2.3.2 Transfer of products from a declared warehouse to another declared warehouse without notice at all,

2.3.3 Unjustified delay in responding to follow up notices/letters,

2.3.4 Claims of miscommunication or misrepresentation of facts, which facts are not material to the application/process,