

[FISHERIES ADMINISTRATIVE ORDER NO. 259, S. 2018, September 17, 2018]

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

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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, 00C(320F).
- 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 180C (00F) 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-formal/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).