

Republic of the Philippines
DEPARTMENT OF AGRICULTURE
Office of the Secretary
Elliptical Road, Diliman, Quezon City

FISHERIES ADMINISTRATIVE

ORDER NO. 227:

Series of 2008

SUBJECT: RULES AND REGULATIONS GOVERNING THE EXPORT OF FISH AND AQUATIC PRODUCTS TO EUROPEAN UNION MEMBER COUNTRIES

WHEREAS, the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures requires members to base their national SPS measures on international standards, guidelines and other recommendations adopted by the Codex Alimentarius Commission where these exist;

WHEREAS, international trade, investment and market access for fishery products require an increase compliance with SPS requirements;

WHEREAS, RP must respect Codex recommendations that the application of good hygiene and manufacturing practices and HACCP principles by business operators at all stages of production will contribute significantly to ensuring food safety;

WHEREAS, a WTO member country may however apply stricter measures if they can be scientifically justified or if the level of protection afforded by the Codex standards is inconsistent with the level of protection generally applied and deemed appropriate by the country concerned;

WHEREAS, certain fishery and aquatic products may present specific microbiological and chemical hazards, the EU therefore imposes additional and specific hygiene rules for the production and handling of such products, including shellfish;

WHEREAS, RP fish and aquatic business operators and their products exported to the EU must meet at least the same or equivalent hygiene and safety standards as those produced in the EU, including aspects such as veterinary residues, additives, labelling, traceability and materials in contact with food;

WHEREAS, EU requirements are frequently amended as new scientific information becomes available, it is therefore necessary for RP rules also to be easily and quickly adapted;

WHEREAS, rules governing export to the EU should not apply to primary production for private domestic use nor to the domestic preparation, handling or storage of food for private domestic consumption;

WHEREAS, Section 62 and Section 65(I) of Republic Act 8550, the Philippine Fisheries Code of 1998, respectively, mandate the Department of Agriculture - Bureau of Fisheries and Aquatic Resources (DA - BFAR) to set quality grades/standards for all fishery products for export and import, and to implement an inspection system for import and export of fishery/aquatic products and fish processing establishments consistent with international standards to ensure product quality and safety;

WHEREAS, a specific Administrative Order for the production of fishery and aquatic products intended for export to the EU is necessary to enable EU legal requirements to be met;

WHEREAS, classification of shellfish harvesting areas in accordance with EU requirements has not yet been carried out, it is necessary to introduce an extended implementation period for these specific rules;

WHEREAS, EU Commission Decision 95/190/EC recognizes the DA-BFAR as the Competent Authority in the Philippines, mandated to effectively verify the application / enforcement of relevant EU laws and regulations on safety of fishery and aquaculture products;

NOW THEREFORE, the following rules and regulations governing the production of fish and aquatic products exclusively for export to the EU are hereby promulgated:

Chapter I

General Provisions

Article 1

Scope

1. This Order lays down specific rules on the hygiene of processed and unprocessed FA products for business operators intending to export their products to the EU for human consumption.
2. Unless specifically stated to the contrary, this Order does not apply to processed foods containing both products of plant origin and processed FA products. However, any processed FA products used to prepare such foods must be obtained and handled in accordance with the requirements of this Order.
3. This Order must apply without prejudice to the general requirements of Republic Act No 8550, Philippine Fisheries Code of 1998, and the following FAOs as applied to the harvesting, production, preparation and processing of FA products for domestic or non-EU markets:
 - a. No 117: Series of 1975, as amended: Governing the operation of processing plants for FA products and prescribing/requiring standards, quality control and inspection of processed fish and fishery/aquatic products,
 - b. No. 135: Series of 1981: Governing Importation of Fish and FA Products,
 - c. No. 192: Series of 1997: Establishing the Fisheries Quarantine Service (FQS) in DA-BFAR,
 - d. No 209, Series of 2001: Guideline on the Production, Harvesting, Handling and Transportation of Shellfish for Implementation of the Local Government,
 - e. No 210, Series of 2001: Exportation of Fresh, Chilled and Frozen Fish and Fishery / Aquatic Products,
 - f. No 211, Series 2001: Pre-processing and Processing Plants, the SSOP thereof and the Processing and Quality Requirements for Shellfish,
 - g. No 212, Series 2001: Guideline on the Implementation of HACCP System,
 - h. No 214, Series 2001: Code of Practice for Aquaculture; or
 - i. Fisheries Office Order No. 247, 2006: Powers and Functions of Regulatory Officers for the Safety and Quality Assurance of FA Products Intended for Human Consumption.
4. However, where the provisions of this Order are more stringent as a direct consequence of the requirements of EU legislation, the latter must prevail.

Article 2

Definitons and Acronyms

1. For the purpose of this Order, the terms, phrases and acronyms defined in Section 4 of the Introduction to the Implementing Code of Practice accompanying this Order ("The Code of Good Manufacturing Practice for Business Operators Exporting Fish and Aquatic Products from the Philippines to the EU, 2008") must apply and have legal effect as if they were an integral part of this Order.
2. The general terms defined in Section 4 of the Introduction to the Implementing Code of Practice for FAO No. 228, Series 2008, "The Code of Good Practice for the Organisation and Implementation of Official Controls for the Export of Fish and Aquatic Products from the Philippines to the EU, 2008" must also apply.
3. The definitions specific to the harvesting and treatment of bivalve molluscs in Chapter IV of these Implementing Codes of Practice must also apply, as appropriate.

Chapter II

Fishery and Aquaculture Business Operator Responsibilities

Article 3

General Obligations

1. FABO must comply with the requirements of the relevant provisions of the PD 856 - Code of Sanitation of the Philippines - and such additional provisions of this Order that are required by EU legislation from time to time in force.
2. FABO must comply with the relevant provisions in Chapters I to V of the Implementing Code of Practice for this Order ("The Code of GMP for Business Operators Exporting FA Products from the Philippines to the EU, 2008") and take all steps necessary to meet the food safety objectives set by this Order.
3. In addition, FABO must ensure that all processed FA products exported to the EU comply with all relevant EU food safety legislation, in particular that relating to
 - (i) specified maximum levels for certain contaminants such as histamine, heavy metals, dioxins and PCB-like materials, and polycyclic aromatic hydrocarbons, set out in Chapter III, Section II, Part VII of the Code of Practice referred to in paragraph 2;
 - (ii) microbiological criteria;
 - (iii) permitted veterinary drugs and maximum residues arising from their use;
 - (iv) food contact materials; and
 - (v) permitted food additives and their conditions of use.

Where no numerical limits are specified in EU legislation, those applicable in recognised international standards, such as Codex Alimentarius, must be applied.

Where EU legislation does not specify the sampling or analysis methods, FABO may use other methods providing they give results equivalent to the EU reference method, and have been scientifically validated in accordance with internationally recognised protocols

4. FABO must not use any substance other than potable water or, when appropriate clean water or clean seawater, in contact with FA products, unless DA-BFAR has specifically authorised such use, and any necessary conditions of use, in accordance with EU requirements

5. FABO must at all times cooperate with DA-BFAR during Official Controls carried out in accordance with F AO No 228, Series 2008 (laying down specific rules for the organization of Official Controls on FA products intended for export to the EU for human consumption).

provide this information to DA-BFAR on demand.

Article 4

Hazard Analysis Critical Control Point Systems

1. FABO must establish and operate permanent procedures based on the HACCP principles in order to:

- (a) identify any hazards that must be prevented, eliminated or reduced to acceptable levels;
- (b) identify the CCPs at the step or steps at which control is essential to prevent or eliminate a hazard or to reduce it to acceptable levels;
- (c) establish critical limits at CCPs which separate acceptability from unacceptability for the prevention, elimination or reduction of identified hazards;
- (d) establish and implementing effective monitoring procedures at CCPs;
- (e) establish corrective actions when monitoring indicates that a CCP is not under control;
- (f) establish procedures, which must be carried out regularly, to verify that the measures outlined in subparagraphs (a) to (e) are working effectively; and
- (g) establish documents and records commensurate with the nature and size of the food business to demonstrate effective application of the measures outlined in subparagraphs (a) - (f).

2. Where FABO can satisfy DA-BFAR that it would be disproportionate to operate a full HACCP system, they must have a food control programme, based on a simplified HACCP system and the correct implementation of appropriate GAqP, GHP and GMP, in order to:

- (a) identify relevant hazards and steps in their operations which are critical to the safety of their FA product;
- (b) implement effective control procedures at those steps;
- (c) monitor control procedures to ensure their continuing effectiveness;
- (d) review control procedures at an appropriate frequency.

3. When any modification is made to the product or process, FABO must review their control procedures and make any changes necessary to ensure FA product safety.

4. FABO must ensure that documents describing procedures developed in accordance with this Article:

- (a) provide DA-BFAR with evidence of compliance with paragraph 1, in the manner that DA-BFAR requires;
- (b) are up-to-date at all times;
- (c) are retained for an appropriate period based on the shelf-life of the product, or other period that DA-BFAR may specify;
- (d) are made available to DA-BFAR on demand.

These documents must include, as necessary, records of monitoring and control activities in accordance with the HACCP plan, such as sanitation checks, temperature, pest control, instrument calibration, medical and training certificates, and product traceability.

Article 5

Registration and Approval of Establishments

1. FABO must process and export FA products only if they have been obtained from, prepared and handled exclusively in establishments that:

(a) meet the applicable requirements of the Implementing Code of Practice to this Order ("The Code of GMP for FABO Exporting FA Products from the Philippines to the EU, 2008") and other relevant requirements of EU and RP food law; and

(b) DA-BFAR has inspected, approved and registered, in accordance with F AO No 228, Series 2008, laying down rules for the organization and implementation of official controls on fishery and aquaculture products intended for export to the EU for human consumption.

2. FABO must comply with the administrative requirements on the registration and approval of the establishments, as set out in FAO No 228, series 2008 ("Rules for the organization of Official Controls on FA products intended for export to the EU for human consumption") and FAO No 210, 2001 ("Export of Fresh, Chilled and Frozen Fish and FA products").

3. FABO must at all times cooperate with DA-BFAR during the registration and approval process, in particular by:

(a) notifying DA-BFAR of each establishment under his control that carries out any of the stages of production, processing and export of FA products; and

(b) ensuring that DA-BFAR has up-to-date information on such establishments, including any significant change in activities and any closure of an existing establishment.

Article 6

Imported Products

1. In addition to relevant requirements of FAO No 135, 1981, and FAO 195, 1999, (Fish and FA Products Import Rules), FABO must ensure that any imported FA products intended for export to the EU, whether or not having been subjected to further processing, have been obtained as follows:

(a) the country of origin appears on the list of non-EU countries from which the specific FA products may be imported into the EU;

(b) the establishments from which the product was obtained, and in which it was obtained or prepared, appear on a list of establishments from which the specific FA products may be imported into the EU;

(c) in the case of live bivalve molluscs, echinoderms, tunicates and marine gastropods, the production area appears on the current EU list; and (d) the requirements of the EU and DA-BFAR concerning certificates and documents are satisfied

2. FABO importing food containing both products of plant origin and processed FA products, to be further processed and/or otherwise handled prior to export, must ensure that the processed FA products contained in such food satisfy the requirements of paragraph 1.

3. FABO must be able to demonstrate to DA-BFAR that they have complied with paragraphs 1 and 2 through appropriate national or international certification, or through other appropriate documentation.

Article 7

Identification Marking

FABO must ensure that FA products intended for export have an Identification Mark applied in accordance with the provisions of Chapter V of the Implementing Code of Practice to this Order, and the requirements of FAO No 228, Series 2008 ("Rules for the organization of Official Controls on FA products intended for export to the EU for human consumption").

FABO must only apply an Identification Mark if the product has been produced in accordance with this Order.

Article 8

Sanitary / Health Certificates

1. FABO must ensure that official sanitary/health certificates accompany consignments of exported FA products.
2. Sanitary/health certificates must be issued by BFAR in accordance with Article 11 and Chapter V of FAO No 228, Series 2008 ("Rules for the organization of Official Controls on FA products intended for export to the EU for human consumption") and its Implementing Code of Practice, respectively.
3. This Article must be without prejudice to the relevant requirements for inspection and certification in respect of fishery pests and diseases by the Fisheries Quarantine Service established under FAO No 192, 1997.

Article 9

Traceability

1. FABO must operate traceability procedures for ingredients, raw materials and FA products, at all stages of production, processing and distribution, and be able to:
 - (a) identify any person or business that has supplied them with any food or feed product or substance intended, or likely to be, incorporated into FA products
 - (b) identify businesses to which they have supplied their products; and
 - (c) provide this information to DA-BFAR on demand.
2. FA products intended for export must be adequately labelled or otherwise identified through relevant documentation and the application of an appropriate production / batch code.
3. Subject to the additional information that may be required under paragraph 4, FABO must provide:
 - (a) the scientific name of the fish species used;
 - (b) the production method, described as follows, according to whether the fish was caught, at sea or in freshwater, or farmed:

- (i) in English: '... caught ...' or '... caught in freshwater ...' or '... farmed ...' or '... cultivated ...'; or
- (ii) as specified in the Official language of the Member State of destination.

(c) an indication of the catch area, consisting of the following:

- (i) for products caught at sea, a reference to the appropriate Food and Agriculture Organisation designated catch area (zone) given in Chapter VI of the Code of Practice;
- (ii) for products caught in freshwater, a reference to the Philippines as the origin of the product;
- (iii) for farmed products, a reference to the Philippines as the country in which the product undergoes the final development stage. Where the product is obtained from farms in more than one country, this fact may also be required.

Operators may indicate a more precise catch area.

4. Where a consignment or product contains a single species from a variety of origins or a combination of species, additional information must be provided, as appropriate to the following cases:

- (a) different fish species: the scientific name for each;
- (b) the same species, but derived from a variety of production methods: the method for each batch;
- (c) the same species, but derived from a variety of catch areas or fish farming countries:
 - (i) at least the catch area of the batch which is most representative in terms of quantity; and
 - (ii) a statement that the products also come from different catch or fish farming areas.

Article 10

Amendment and Adaptation

1. This Order and the Implementing Code of Practice may be amended or supplemented with the inclusion of such other standards, practices and requirements that may be developed by DA-BFAR, acting on its own initiative, or to incorporate those of relevant government agencies or international bodies. Such changes must be adopted and promulgated by DA-BFAR through legally-binding amendments or supplementary issuances.

In particular, the requirements in the Chapters of the Code of Practice may be amended to take into account changes that may be specified by the EU as a result of scientific and technical developments.

2. FABO exporting FA products must be aware of, and comply with, the EU requirements from time to time in force and, in particular, revisions to those indicated in Article 3.3, and:

- (a) additional health standards or checks that may have been introduced by the EU;
- (b) freshness criteria and limits with regard to histamine and total volatile nitrogen;
- (c) health standards and processing requirements for live bivalve molluscs, including:
 - (i) limit values and testing methods for biotoxins;
 - (ii) virus testing procedures and virological standards; and
 - (iii) sampling plans, methods and analytical tolerances to be applied during compliance checks.
 - (iv) treatments that may be applied in a processing establishment to live bivalve molluscs from class B or C production areas that have not been submitted to purification or relaying;
 - (v) requirements of Article 10 of FAO No 228, Series 2008 ("Rules for the organization of Official Controls on FA products intended for export to the EU for human consumption") relating to live bivalve molluscs.

Article 11

Penalty and other provisions

1. Penalties - (a) The Local Government Unit (LGU) concerned shall by appropriate ordinance penalize fraudulent practices which maim the quality grades/standards for all fishery products for export and import, in violation of section 62 of RA 8550.

(b) For violation of Section 65 (I) of RA 8550- Any importation or exportation of fish and fisheries species shall be punished by eight (8) years of imprisonment, a fine of eighty thousand pesos (P 80,000.00) thousand pesos and destruction of live fishery species and forfeiture of non-live fishery species in favour of DA/BFAR for its proper disposition: Provided that violation of this provision shall be banned from being member or stockholder of companies currently enjoyed in fisheries or companies to be created in the future, the guidelines from which shall be promulgated by DA/BFAR

2. Revocation - Any provisions in previous orders, rules and regulations inconsistent with the provisions of this Order are revoked and superseded accordingly.

3. 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, must continue in full force and effect.

4. Effectivity - This order must take effect 15 days after its publication in Official Gazette and/or in two (2) newspapers of general circulation and fifteen (15) days after its registration with the office of the National Administrative Register

Except that, without prejudice to the safety of any live bivalve mollusc supplied for export to the EU, the specific provisions of any Articles of this Order and Chapter IV of the Code of Practice related to the classification of harvesting areas for live bivalve molluscs must come into effect one year after its effectivity

Issued this ____ day of ____ year 2008 at Quezon City Philippines

(SIGNED)

ARTHUR C. YAP

Secretary, Department of Agriculture

Recommended by:

(SIGNED)

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Code of Practice Governing the Export of Fish and Aquatic Products to the European Union

Fisheries Administrative Order No. 227, Series of 2008