

[BFAR FISHERIES ADMINISTRATIVE ORDER NO. 227, S. 2008, November 20, 2008]

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 FA Os 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

Definitions 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 Organization 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 recognized 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 recognized 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 authorized 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 FAO 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).

Article 4

Hazard Analysis and 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.