



DEPARTMENT ADMINISTRATIVE ORDER No. 02
Series of 2007

SUBJECT: DEFINING THE RESPONSIBILITIES AND LIABILITIES OF MANUFACTURERS, IMPORTERS, TRADERS, WHOLESALERS, DISTRIBUTORS, RETAILERS, SERVICE PROVIDERS AND OR THEIR AGENTS, WITH REGARD TO PRODUCTS/SERVICES COVERED BY PHILIPPINE STANDARD CERTIFICATION MARK SCHEMES AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF

Pursuant to Section 4, R.A. 4109, Section 2 of Executive Order No. 913, Section 3(x) of Executive Order No. 133, Department Administrative Order No. 07, series of 2006 and Article 6 of R.A. 7394, empowering the Secretary of the Department of Trade and Industry (DTI) to promulgate rules and regulations to implement the provisions and intent of any trade and industry law, the following revised rules and regulations implementing Republic Act No. 4109 and the provisions of Republic Act 7394 relative to product standards are hereby prescribed and promulgated.

SECTION 1. Scope and Coverage

This Department Administrative Order prescribes the rules and regulations that cover the responsibilities and liabilities of manufacturers, importers, traders, wholesalers, distributors, retailers, service providers and or their agents of all products covered by Philippine Standard Certification Marks Schemes, the procedures for compliance and to ensure compliance, as well as corrective measures and penalties in the event of non-compliance and violations. It shall likewise apply to the mediation and/or adjudication or litigation of administrative actions initiated by the DTI or a private complainant under R.A. 7394 based on a violation of Product Standards laws, rules and regulations.

SECTION 2. Definition of Terms

As used in this Department Administrative Order (DAO), the following terms are defined to mean:

- 2.1 Adjudication Officer** refers to the Consumer Arbitration Officer (CAO) or Hearing Officer (HERO) designated to hear and decide a case as well as impose penalties as per E.O. 913 and DAO 7:2006.
- 2.2 Agent** refers to a natural or juridical person who is deemed authorized to act or transact for and in behalf of the manufacturer, importer, wholesaler, trader, retailer or distributor.

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Head, Records Section

- 2.3 **BPS** refers to the Bureau of Product Standards of the Department of Trade and Industry (DTI).
- 2.4 **Cancellation of License** refers to a permanent revocation of a PS license or an ICC, which mandates that the licensee or ICC Certificate holder immediately and permanently cease to manufacture, import, sell, offer for sale, or otherwise dispose of products covered by the cancellation order.
- 2.5 **Closure** refers to a penalty imposed by the Secretary of Trade and Industry or his assigns, whether of a temporary or permanent nature, consisting of a shutdown and cessation of a plant or business operation.
- 2.6 **Complainant** refers to any natural or juridical person, which shall include the DTI or any of its authorized officials, having a cause of action against any person, natural or juridical, for violating any of the provisions of this DAO.
- 2.7 **Complaint** is a written statement charging a natural or juridical person for committing any of the acts prohibited under this DAO, subscribed and sworn before a person authorized to administer oath.
- 2.8 **DAO 1:1997** provides for the "Revised Rules and Regulations Concerning the Philippine Standard (PS) Quality and/or Safety Certification Mark Scheme" and its future revisions or amendments thereto.
- 2.9 **DAO 5:2001** provides for the "Revised Rules and Regulations Concerning the Issuance of Import Commodity Clearance" and its future revisions or amendments thereto.
- 2.10 **DAO 7:2006** provides for "Instituting the Simplified and Uniform Rules of Procedure for Administrative Cases Filed with the Department of Trade and Industry for Violation of the Consumer Act of the Philippines and Other Trade and Industry Laws" and its future amendments or amendments thereto.
- 2.11 **Distributor** refers to any natural person or juridical entity, whether domestic or foreign, to whom a product is delivered or sold for purposes of distribution in commerce, who markets a product whether for an importer-trader or for a manufacturer, wholesaler, or retailer.
- 2.12 **DTI Provincial/Area Director** refers to the designated head of a provincial/area office of the DTI.
- 2.13 **DTI Regional Director** refers to the designated head of a regional office of the DTI.
- 2.14 **E.O. 133** provides for "Reorganizing the Department and for Other Purposes".
- 2.15 **E.O. 913** provides for "Strengthening the Rule-Making and Adjudicatory Powers of the Minister of Trade and Industry in Order to Further Protect Consumers".

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- 2.16 Enforcement Activity** refers to surveillance audit, market monitoring, inspection of plant, warehouse, retail establishment, storage facilities and other areas where the subject products are stored and inventoried including seizure of evidence to be placed under DTI custody on products covered by Philippine Standard Certification Mark Schemes.
- 2.17 Import Commodity Clearance (ICC)** refers to a document issued by the DTI /BPS attesting that the imported product, which is covered by a mandatory PNS, conforms to the specific Philippine National Standard.
- 2.18 Importer** refers to any natural person or juridical entity that brings in products from a foreign country to the Philippines.
- 2.19 Mandatory Philippine National Standards** are standards for which PS marking on products covered is compulsory. Product standards, which will affect life, safety and health of the people and its environment, are declared for mandatory product certification for which approval by the Secretary of Trade and Industry is necessary.
- 2.20 Manufacturer** refers to any natural person or juridical entity, whether domestic or foreign, producing, assembling, and/or processing a material or product except if the goods are manufactured, assembled, or processed for another person who attaches his own brand name to the final products, the latter shall be deemed the manufacturer. In case of imported products, the manufacturer's representatives or, in his absence, the importer shall be deemed the manufacturer.
- 2.21 Mediation Officer/s or Mediators** refers to an officer who facilitate communications and negotiation between the disputing parties and assist the parties in reaching a voluntary agreement regarding a dispute.
- 2.22 Mediation** refers to an alternative mode of dispute resolution wherein disputing parties make their own arrangements to settle the disputes.
- 2.23 OLA** refers to the Office of Legal Affairs of the DTI.
- 2.24 Philippine National Standard (PNS)** refers to a standard promulgated by the BPS relating to a set of conditions to be fulfilled to ensure the quality and safety of a product. It shall contain product specifications, test method, terminology, standardization procedures, and guidelines or practices.
- 2.25 Philippine Standard (PS) Quality Certification Mark** refers to a mark of conformity to product quality standards, which appears on a product or product packaging as specified under DAO 1, Series of 1997.
- 2.26 Philippine Standard (PS) Safety Certification Mark** refers to a mark of conformity to product safety standards, which appears on a product or product packaging as specified under DAO 1, Series of 1997.
- 2.27 PNS 01:1997** refers to the Philippine National Standard entitled "A Standard for Standards" and its future revisions or amendments thereto.

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- 2.28 **Premises** refers to any establishments, plants, warehouses, storage facilities including other areas where the subject products are stored.
- 2.29 **R.A. 7394** provides for the "Consumer Act of the Philippines".
- 2.30 **R.A. 4109** provides "An Act to Convert the Division of Standards Under the Bureau of Commerce Into a Bureau of Standards To Provide for the Standardization and/or Inspection of Products and Imports of the Philippines and for Other Purposes".
- 2.31 **Respondent** refers to the party called upon to answer an administrative formal charge or complaint.
- 2.32 **Retailer** refers to any natural person or juridical entity engaged in the business of selling products directly to end-users.
- 2.33 **Service Provider** refers to a person or entity engaged in the business of repair & re-qualification of LPG cylinders and installation or conversion of kits and automotive cylinders.
- 2.34 **Statement of Violation** is a statement charging a natural or juridical person, for violation of this DAO, subscribed and sworn by the Head of the Office concerned.
- 2.35 **Stockpiling** means manufacturing or importing a product between the date of promulgation of its consumer product safety rule and its effective date, at a rate which is significantly greater than the rate at which such product was produced or imported during a base period as prescribed under Art 9, R.A. 7394, ending before the promulgation of consumer product safety rule.
- 2.36 **Suspension of License** refers to a penalty in which the validity or effectivity of a PS license, or an ICC, is temporarily put on hold by the BPS, during which period the licensee shall not manufacture, import, sell, offer for sale, or otherwise dispose of their product(s) covered by the suspension order.
- 2.37 **Trader** refers to any natural person or juridical entity, whose business is buy and sell or barter. A trader may therefore be an importer-trader, manufacturer, wholesaler or retailer.
- 2.38 **Wholesaler** refers to any natural person or juridical entity that sells products in bulk or in large scale but not to the end-user.

SECTION 3. Responsibilities of a Manufacturer, Importer, Trader, Wholesaler, Distributor, Retailer, Service Providers or their agents

- 3.1 Manufacturers of any product covered by mandatory product certification are required to first secure a PS license prior to selling, offering for sale, or otherwise disposing of their product(s), the original copy of which shall be displayed in a conspicuous place at their plant or manufacturing facility.

- 3.2 Manufacturers shall ensure that their product(s) comply with the applicable mandatory product certification, and have the mandatory PS Mark clearly reflected, imprinted and/or embossed on the product or product packaging and shall form an integral part thereof without danger of being erased or detached under ordinary handling of the product, for the purpose of conveying the required information about the products.
- 3.3 Importers of any product covered by mandatory product certification are required to first secure an Import Commodity Clearance (ICC) pursuant to DAO 5, Series of 2001 and its future amendments or revisions prior to selling, offering for sale, or otherwise disposing of their product(s).
- 3.4 An importer of a product covered by mandatory product certification shall ensure that all its imported products comply with the requisite product specifications, product markings, labelings, and other requirements prescribed under the applicable Philippine National Standard.
- 3.5 Importers, distributors, wholesalers, retailers and those who offer for sale a product covered by mandatory product certification shall sell, or offer for sale only such products that complied with the requisite Philippine National Standard and with the required PS Mark, or with a valid ICC in the case of imported products.
- 3.6 Manufacturers who desire to produce/ manufacture any product covered by mandatory product certification for a special application shall notify and request BPS for the issuance of a Special Permit, which states the justification for such request, description of the product, specifications, size/weight/quantity/volume and the like, as well as the specific period to cover such activity. The request must be in writing and under oath.
- 3.7 Service providers shall re-qualify, repair LPG cylinders, automotive cylinders, install conversion kits, in accordance with the applicable mandatory standards and shall have the mandatory PS mark clearly imprinted, stamped and or embossed on the body of the cylinders or the kits as prescribed under the applicable Philippine National Standards, which shall form an integral part thereof without danger of being erased or detached under ordinary handling of the product.
- 3.8 Manufacturers, importers, traders, wholesalers, distributors, retailers, service providers and or their agents shall allow inspection authorities to conduct inspection in their premises and access to pertinent records subject however to the presentation of a written authorization issued by the head of the inspection authority. They shall not give any false or misleading data or information to authorities.
- 3.9 Manufacturers, importers, traders, wholesalers, distributors, retailers, service providers and or their agents shall comply with any duly served notice, summons, or subpoenas issued by authorities.

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SECTION 4. Requisite Licenses and/or Certificates

- 4.1 For any manufactured product covered by mandatory product certification, the applicable PS License is required before any sale is permitted, in accordance with the provisions of DAO 1, Series of 1997 and its future amendments or revisions.
- 4.2 For any imported product covered by mandatory product certification, an ICC is required of the said imported product before any sale is permitted, where the particular ICC certificate covers only the specific shipment and no other, in accordance with DAO 5, Series of 2001 and its future amendments or revisions.
- 4.3 BPS Permit allowing manufacturers to manufacture products covered by mandatory product certification for their special application.
- 4.4 For all service providers covered by mandatory product certification, the applicable PS license and or accreditation/recognition shall be required of the said product before any sale or use is permitted in accordance with the provisions of DAO 1 Series of 1997 and its future amendments or revisions.

SECTION 5. Requisite Markings

- 5.1 As a rule, all products or services conducted by service provider on particular products covered by Philippine Standard Certification Mark Schemes must carry and display on the product itself all necessary product or service identification marks required by and in the manner specified in the applicable Philippine National Standard.
- 5.2 In case a product does not allow marking to be carried by and displayed on the product itself, the product's packaging, labels, identifying tags, or container, must bear and clearly display the required product-related information and markings as specified in the applicable Philippine National Standard and its implementing guidelines.
- 5.3 All marks and markings shall be clear and legible, and must not be misleading.
- 5.4 Whichever applies, product labels, identifying tags, or product packaging must clearly bear and show the standard PS Quality and/or PS Safety Mark and ICC Mark in the manner required under DAO 1, Series of 1997 and DAO 5, Series of 2001, respectively, and their subsequent amendments or revisions, which shall form an integral part thereof without danger of being erased or detached under ordinary handling of the product.
- 5.5 In case of deformed steel bars, logos that are used shall be as registered with and as approved by the Bureau of Product Standards.
- 5.6 The importer shall indicate the ICC number on the product, container or tag whichever is applicable as determined by DTI/BPS.

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- 5.7 An imported product covered by mandatory product certification shall follow the same markings requirements set-forth above.

SECTION 6. Prohibited Acts

The following are the acts prohibited under this DAO:

6.1 License Related

- 6.1.1 Distribution, sale or offer for sale of any product covered by Philippine Standard Certification Mark Schemes which does not conform to the required and applicable PNS quality or safety standards.
- 6.1.1.1 An article/product is presumed for sale or offered for sale if it is found in the premises of the importer, distributor, dealer, wholesaler, retailer, service providers or their agents.
- 6.1.1.2 An article/product is presumed manufactured for sale if it is found in the premises of the manufacturer claiming that the same is for special application only but does not possess the necessary BPS permit for that purpose.
- 6.1.2 Providing repair, re-qualification and installation services without the required license, accreditation and or recognition.
- 6.1.3 Distribution, sale, offer for sale or manufacture of any products with PS Mark but without valid PS license or permit.
- 6.1.4 Manufacture, importation, distribution, sale, offer for sale of any product covered by mandatory product certification without the required BPS license or Permit.
- 6.1.5 Importation, distribution, sale, offer for sale of imported products covered by mandatory product certification without Import Commodity Clearance as required under DAO 5, Series of 2001 and its subsequent amendments or revisions.

6.2 Product Related

- 6.2.1 Importation, distribution, sale, offer for sale or manufacture of any product covered by mandatory product certification which does not bear the BPS required identification and product markings
- 6.2.2 Importation, distribution, sale, offer for sale or manufacture of any product covered by mandatory product certification under a fake, withdrawn, suspended or cancelled BPS license or permit.
- 6.2.3 Importation, distribution, sale, offer for sale of imported products with ICC Marks but without valid Import Commodity Clearance.

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- 6.2.4 Importation, distribution, sale, offer for sale of imported products although bearing the required BPS identification and product markings but such markings are not placed in the manner provided herein.

6.3 Implementation Related

- 6.3.1 Mandatory products released from the Bureau of Customs without the necessary conditional release or using falsified documents purportedly from the BPS or DTI Provincial or Regional Office.
- 6.3.2 Refuse access to/ or copying of pertinent records, to permit entry of or inspection in the establishment's premises or warehouse facilities conducted by authorities.
- 6.3.3 Failure to comply with any duly served notice, summons, or subpoenas issued by authorities.
- 6.3.4 Giving false or misleading data/ information, misrepresenting a material and substantial fact; or willfully concealing a material data or fact.
- 6.3.5 Failure to comply with the applicable rules and regulations regarding stockpiling, as defined in Article 9(b) of R.A. 7394.
- 6.3.6 Failure to comply with the Orders issued pursuant to Article 11 of R.A. 7394, relating to the a) notification requirements on; and b) recall, repair, replacement or refund of substandard products

SECTION 7. General Implementing Guidelines

7.1 Market Monitoring and Enforcement Activity

The DTI Regional and Provincial/Area Director shall conduct periodic provincial or regional market monitoring, enforcement, surveillance audit, in-plant spot inspection and random sampling of products covered by Philippine Standard Certification Mark Schemes, through appropriate Monitoring or Enforcement Teams organized specifically for this purpose. This is without prejudice to the authority of the BPS to conduct special market monitoring and Enforcement activities, *motu proprio* or in coordination with DTI Regional and Provincial/Area Office concerned, as it may deem necessary from time to time.

7.2 General Enforcement Guidelines

BPS shall develop general enforcement guidelines for proper implementation of this DAO. The guideline shall ensure that products uncertified or sub-standard found during the enforcement activity shall be properly inventoried and sealed or withdrawn for safekeeping by the Enforcement Team.

7.3 Proper Authorization and Identification

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In every market monitoring and enforcement activity, all members of the Monitoring and Enforcement Team shall, before entering a particular business establishment, be properly authorized in writing by the BPS Director or the DTI Regional or Provincial/Area Director, and present their written authority and proper identification papers to any responsible person within the premises.

7.4 Product Specific Monitoring Scheme

Given the wide variety of products covered by mandatory product certification to be monitored, different guidelines and procedures may be developed to enable DTI to perform market inspection and sampling operations.

SECTION 8. Mediation of Cases

In order to actively promote party autonomy in the resolution of disputes or the freedom of the party to make their own arrangements to resolve their disputes. The parties may opt to choose mediation as an alternative dispute resolution. The BPS Director or the Provincial/Area Director shall assign a Mediation Officer to handle the mediation proceeding. The BPS Director shall prepare a general mediation guideline involving cases on violation of product and service standards.

SECTION 9. Adjudication of Cases

In the adjudication of cases, the Adjudication Officer shall follow Department Administrative Order No. 7, series of 2006, known as the "Simplified and Uniform Rules of Procedure for Administrative Cases Filed with the Department of Trade and Industry (DTI) or Violations of the Consumer Act of the Philippines and Other Trade and Industry laws" and its future amendments.

SECTION 10. Penalties and Sanctions

After investigation and hearing, any of the following administrative penalties in DAO 7, series of 2006 may be imposed even if not prayed for in the Complaint:

- 10.1 The issuance of a Cease and Desist Order, which shall be embodied in the decision;
- 10.2 The acceptance by the Adjudication Officer of a voluntary assurance of compliance or discontinuance from the respondent under such terms and conditions as may be imposed by the Officer;
- 10.3 The seizure, forfeiture or condemnation of the products which are the subject of the offense, as well as the proceeds of the offense;
- 10.4 The seizure, forfeiture or of the paraphernalia and all properties, real or personal which have been used in the commission of the offense;

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- 10.5 The imposition of an administrative fine in such amount as deemed reasonable by the Adjudication Officer, which shall in no case be less than Five Hundred Pesos (P500.00) nor more than One Hundred Fifty Thousand Pesos (P150,000.00), and not more than Three Hundred Thousand Pesos (P300,000.00) for consumer complaints, plus the additional administrative fine of not more than One Thousand Pesos (P1,000.00) for each day of continuing violation;

Fines are likewise meted out on a per violation of type/size/PS license/ICC certificate basis. Provided further, that this administrative fine shall be imposed and collected for each case of apprehension, applied to each and every respondent, found guilty of the violation. The manufacturer and or importer of such volatile product shall likewise be imposed the corresponding administrative fine. The frequency of the violation shall be determined on a per region basis.

For consistency of imposing administrative fines, Annex 1 (Table of Fines) or its future amendments shall be used as the basis to be imposed to violators. The fines to be imposed are based on the nature of the offense and the frequency of violation, considering among others the attendant aggravating or mitigating circumstance, size of the industry or of the business establishment;

- 10.6 The cancellation of any permit, license, authority, or registration which may have been granted by the Department, or the suspension of the validity thereof for such period of time as the Adjudication Officer may deem reasonable which shall not however, exceed one year;
- 10.7 The withholding of any permit, license, authority, or registration which is being secured by the respondent from the Department;
- 10.8 The submission of a recommendation to the LGU concerned, through proper channel, for the cancellation/suspension of a Mayor's Business Permit;
- 10.9 The awarding of nominal and liquidated damages;
- 10.10 Censure;
- 10.11 Other penalties/sanctions analogous to the above, such as:
- 10.11.1 Closure of the business establishment for a period not exceeding one year;
 - 10.11.2 Ordering the respondent to recall, replace, repair, or refund the money value of defective products distributed in commerce; and/or
 - 10.11.3 Ordering the respondent to reimburse the complainant the expenses and the costs incurred in prosecuting the case in the Department.

SECTION 11. Circumstances/ Factors to be Considered in the Imposition of Penalty

In the imposition of penalty or penalties, the gravity of the offense shall be determined from the presence of any or one or more mitigating or aggravating circumstance(s).

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11.1 Mitigating circumstances. The following are considered mitigating circumstances:

- 11.1.1 Voluntary admission of guilt;
- 11.1.2 Willingness to enter into compromise agreement.
- 11.1.3 Willingness to furnish evidence and/or testify against supplier/manufacturer.
- 11.1.4 Willingness to execute undertaking to cease and desist from further violating any Trade and Industry Law in the future.
- 11.1.5 Compliance with any preliminary order or any preventive measure as directed.
- 11.1.6 Any analogous circumstances.

11.2 Aggravating circumstances. The following are considered aggravating circumstances:

- 11.2.1 Failure to divulge the identity of the source, manufacturer, or importer of any of the products manufactured or distributed in violation of Section 6.1 to 6.2.
- 11.2.2 Violation of two or more Trade and Industry Laws at one instance.
- 11.2.3 Violation of another Trade and Industry Law while undergoing proceedings pending investigation/ mediation for violation of a standard law, another case is filed for violation of the same or a different Trade and Industry Law.
- 11.2.4 Violation by means of deceit and/or misrepresentation. Falsification of official and/or documents as a means to hide violation.
- 11.2.5 Non-issuance and/or refusal to issue receipts when required by law.
- 11.2.6 Unjustified absence during mediation, conference or hearing.
- 11.2.7 Employment of force, violence, intimidation by respondent against complainant.
- 11.2.8 Taking advantage of an emergency situation and the like.
- 11.2.9 Concealment or attempt to conceal any piece of evidence
- 11.2.10 Engagement in trade by person whose license/ permit or authority had been previously cancelled or revoked for violation of any of Trade and Industry Laws, before the lapse of period for voluntary closure.
- 11.2.11 Offender is a public officer.
- 11.2.12 Offender is not a public officer but acted in connivance with public officer without prejudice to the latter's prosecution.
- 11.2.13 Failure/ Refusal without any valid reason to comply or execute any undertaking (e.g. to desist from further violating Trade and Industry Law).
- 11.2.14 Commencement or engagement in trade/business prior to the issuance of license/permit or authority to do business.
- 11.2.15 Failure/ non-compliance with any preliminary order on a preventive measure.
- 11.2.16 Respondent by means of false or fraudulent misrepresentation orally or in writing or by other fraudulent means, shall procure from the BPS the registration, accreditation, license, authority and/ or permit to conduct its business.
- 11.2.17 Any analogous circumstances.

SECTION 12. Execution of Decisions

12.1 When Decision Becomes Final and Executory. – All decisions shall become final and executory when all periods for the filing of Motion for Reconsideration and Appeal shall have lapsed and no Motion for Reconsideration or Appeal has been filed.

12.2 Execution.

12.2.1 As soon as a decision becomes final and executory, the Adjudication Officer shall, either on motion of the interested party or motu proprio, issue an Order of Execution with the corresponding Writ of Execution, requesting the proper Sheriff's Office to execute said decision. No deputation is necessary.

12.2.2 When there is a need to deputize and enlist the assistance of public officers and government agencies (other than the Sheriff's Office), or private individuals and entities, the Adjudication Officer may deputize any one of them, and the deputation shall take effect as soon as the said officers, agencies, individuals, and entities give their consent to their deputation.

SECTION 13. Succession of Offenses.

For purposes of determining the First, Second, Third, and Fourth Offenses, the lapse of three (3) years from the time of the commission of the previous offense, and no formal complaint or charge was filed against the alleged violator, shall be indicative of good business conduct and thus operate to give a new and clean record to the said offender.

All cases subjected to mediations, when there is an admission on the part of the respondent shall constitute an offense.

SECTION 14. Prescription

The prescription period for instituting the formal investigation of any violation of product standards covered by Philippine Standard Certification Marks Schemes shall be three (3) years from the date of the commission of the violation/offense, or if such date is unknown at that time, then within three (3) years from the date of discovery thereof.

Any complaint of a consumer for violation of consumer act shall be filed within two (2) years from the time the consumer transaction was consummated, or the deceptive or unfair or unconscionable act or practice was committed, or in case of hidden defects, from the discovery thereof.

SECTION 16. Separability Clause

In the event any provision of this DAO or the application of such provision to any person or circumstance is declared invalid, the remainder of this DAO shall not be affected by such declaration.

SECTION 17. Repealing Clause

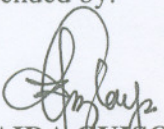
Department Administrative Order No. 2, series of 2002 and other Department Administrative Orders, Rules, Regulations, and other similar issuances inconsistent herewith are hereby repealed or amended accordingly.

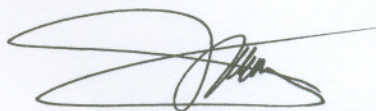
SECTION 18. Effectivity

This Department Administrative Order No. 02, series of 2007 shall take effect thirty (30) days after publication in two newspapers of general circulation/official gazette.

Makati City, Philippines, 07 June, 2007

Recommended by:


ZENAIDA CUISON MAGLAYA
Undersecretary
Consumer Welfare and Trade
Regulations Group


JESUS L. MOTOOMULL
Bureau Director
Bureau of Product Standards

Approved by:


PETER B. FAVILA
Secretary

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ANNEX A - TABLE OF FINES

E.O. 913

Nature of Offense	Frequency of Violation	Manufacturer/Importer/ Service Provider					Wholesaler/Retailer/Dealer/Agent				
		BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating	BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
A. License Related	1 st Offense	50,000	35,000	42,500	50,000	65,000	25,000	17,500	21,250	25,000	32,500
			to 42,500	to 50,000	to 65,000	to 75,000		to 21,250	to 25,000	to 32,500	to 37,500
	2 nd Offense	75,000	52,500	63,750	75,000	97,500	50,000	35,000	42,500	50,000	65,000
			to 63,750	to 75,000	to 97,500	to 112,500		to 42,500	to 50,000	to 65,000	to 75,000
	3 rd Offense	150,000					150,000				
	4 th Offense	150,000					150,000				

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		BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating	BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
B. Product Related 1. Importation, distribution, sale, offer for sale or manufacture of any product covered by mandatory product certification which does not bear the BPS required identification and product markings. (6.2.1) 2. Importation , distribution, sale, offer for sale or manufacture of any product covered by mandatory product certification under a fake, withdrawn, suspended or cancelled BPS license or permit. (6.2.2) 3. Importation, distribution, sale, offer for sale of imported products with ICC Marks but without valid Import Commodity Clearance. (6.2.3) 4. Importation , distribution , sale , offer for sale of imported products although bearing the required BPS identification and products markings but such markings are not placed in the manner provided herein. (6.2.4)	1 st Offense	50,000	35,000 to 42,500	42,500 to 50,000	50,000 to 65,000	65,000 to 75,000	25,000	17,500 to 21,250	21,250 to 25,000	25,000 to 32,500	32,500 to 37,500
	2 nd Offense	75,000	52,500 to 63,750	63,750 to 75,000	75,000 to 97,500	97,500 to 112,000	50,000	35,000 to 42,500	42,500 to 50,000	50,000 to 65,000	65,000 to 75,000
	3 rd Offense	150,000					150,000				
	4 th Offense	150,000					150,000				

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E.O. 913

Nature of Offense	Frequency of Violation	Manufacturer/Importer/ Service Provider					Wholesaler/Retailer/Dealer/Agent				
		BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating	BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
C. Implementation Related 1. Mandatory products released from the Bureau of Customs without the necessary conditional release or with a falsified documents purportedly from the BPS or DTI Provincial or Regional Office. (6.3.1) 2. Refuse access to or copying of pertinent records, to permit entry of or inspection in the establishment's premises or warehouse facilities conducted by authorities. (6.3.2)	1 st Offense	50,000	35,000 to 42,500	42,500 to 50,000	50,000 to 65,000	65,000 to 75,000	25,000	17,500 to 21,250	21,250 to 25,000	25,000 to 32,500	32,500 to 37,500
	2 nd Offense	75,000	52,500 to 63,750	63,750 to 75,000	75,000 to 97,500	97,500 to 112,500	50,000	35,000 to 42,500	42,500 to 50,000	50,000 to 65,000	65,000 to 75,000
	3 rd Offense	150,000					150,000				
	4 th Offense	150,000					150,000				

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for the record
RAQUEL M. CLEMENTE
 Head, Records Section

TABLE OF FINES

E.O. 913

Nature of Offense	Frequency of Violation	Manufacturer/Importer/ Service Provider					Wholesaler/Retailer/Dealer/Agent				
		BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating	BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
C. Implementation Related	1 st Offense	5,000	n/a	n/a	n/a	n/a	3000	n/a	n/a	n/a	n/a
3. Failure to comply with any duly served notice, summons, or subpoenas issued by authorities. (6.3.3)	2 nd Offense	10,000	n/a	n/a	n/a	n/a	6000	n/a	n/a	n/a	n/a
	3 rd Offense	25,000					10,000				
4. Giving false or misleading data/ information, misrepresenting a material and substantial fact; or willfully concealing a material data or fact. (6.3.4)	4 th Offense										
5. Failure to comply with the applicable rules and regulations regarding stockpiling, as defined in Article 9(b) of R.A. 7394. (6.3.5)											
6. Failure to comply with the Orders issued pursuant to Article 11 of R.A. 7394, relating to the a) notification requirements on; and b) recall, repair, replacement or refund of substandard products. (6.3.6)											

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TABLE OF FINES

R. A. 7394

Nature of Offense	Frequency of Violation	Manufacturer/Importer/ Service Provider					Wholesaler/Retailer/Dealer/Agent				
		BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating	BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
A. Licensed Related 1. Distribution, sale or offer for sale of any product covered by Philippine Standard Certification Mark Schemes which does not conform to the required and applicable PNS quality or safety standards. (6.1.1) 2. Providing repair, requalification and installation services without the required license, accreditation and or recognition. (6.1.2) 3. Distribution, sale, offer for sale or manufacture of any products with PS Mark but without valid PS license or permit. (6.1.3) 4. Manufacture, importation, distribution, sale, offer for sale of any product covered by mandatory product certification without the required BPS license or Permit. (6.1.4) 5. Importation, distribution, sale, and offer for sale of imported products covered by mandatory product certification without Import Commodity Clearance as required under DAO 5, Series of 2001 and its subsequent amendments or revisions. (6.1.5)	1 st Offense	100,000	70,000 to 85,000	85,000 to 100,000	100,000 to 130,000	130,000 to 150,000	50,000	35,000 to 42,500	42,500 to 50,000	50,000 to 65,000	65,000 to 75,000
	2 nd Offense	150,000	105,000 to 127,500	127,500 to 150,000	150,000 to 195,000	195,000 to 225,000	75,000	52,500 to 63,750	63,750 to 75,000	75,000 to 97,500	97,500 to 112,500
	3 rd Offense	300,000					300,000				
	4 th Offense	300,000					300,000				

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R.A. 7394

Nature of Offense	Frequency of Violation	Manufacturer/Importer/ Service Provider					Wholesaler/Retailer/Dealer/Agent				
		BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating	BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
B. Product Related 1 Importation, distribution, sale, offer for sale or manufacture of any product covered by mandatory product certification which does not bear the BPS required identification and product markings. (6.2.1) 2. Importation , distribution, sale, offer for sale or manufacture of any product covered by mandatory product certification under a fake, withdrawn, suspended or cancelled BPS license or permit (6.2.2) 3. Importation, distribution, sale, offer for sale of imported products with ICC Marks but without valid Import Commodity Clearance (6.2.3) 4. Importation , distribution , sale , offer for sale of imported products although bearing the required BPS identification and products markings but such markings are not placed in the manner provided herein. (6.2.4)	1 st Offense	100,000	70,000 to 85,000	85,000 to 100,000	100,000 to 130,000	130,000 to 150,000	50,000	35,000 to 42,500	42,500 to 50,000	50,000 to 65,000	65,000 to 75,000
	2 nd Offense	150,000	105,000 to 127,500	127,500 to 150,000	150,000 to 195,000	195,000 to 225,000	75,000	52,500 to 63,750	63,750 to 75,000	75,000 to 97,500	97,500 to 112,500
	3 rd Offense	300,000					300,000				
	4 th Offense	300,000					300,000				

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		BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating	BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
C. Implementation Related 1. Mandatory products released from the Bureau of Customs without the necessary conditional release or with a falsified documents purportedly from the BPS or DTI Provincial or Regional Office. (6.3.1) 2. Refuse access to or copying of pertinent records, to permit entry of or inspection in the establishment's premises or warehouse facilities conducted by authorities. (6.3.2)	1 st Offense	100,000	70,000	85,000	100,000	130,000	50,000	35,000	42,500	50,000	65,000
			to 85,000	to 100,000	to 130,000	to 150,000		to 42,500	to 50,000	to 65,000	to 75,000
	2 nd Offense	150,000	105,000	127,500	150,000	195,000	75,000	52,500	63,750	75,000	97,500
			to 127,500	to 150,000	to 195,000	to 225,000		to 63,750	to 75,000	to 97,500	to 112,500
	3 rd Offense	300,000					300,000				
	4 th Offense	300,000					300,000				

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		BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating	BASIC FINES	Only Mitigating	Mitigating Outnumber Aggravating	Aggravating Outnumber Mitigating	Only Aggravating
C. Implementation Related	1 st Offense	10,000	n/a	n/a	n/a	n/a	5,000	n/a	n/a	n/a	n/a
3. Failure to comply with any duly served notice, summons, or subpoenas issued by authorities. (6.3.3)	2 nd Offense	20,000	n/a	n/a	n/a	n/a	10,000	n/a	n/a	n/a	n/a
	3 rd Offense	50,000					25,000				
4. Giving false or misleading data/ information, misrepresenting a material and substantial fact; or willfully concealing a material data or fact. (6.3.4)	4 th Offense	50,000					25,000				
5. Failure to comply with the applicable rules and regulations regarding stockpiling, as defined in Article 9(b) of R.A. 7394. (6.3.5)											
6. Failure to comply with the Orders issued pursuant to Article 11 of R.A. 7394, relating to the a) notification requirements on; and b) recall, repair, replacement or refund of substandard products. (6.3.6)											

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