

MEMORANDUM CIRCULAR

No. **AO-2k8-12-016**

Date : **December 16, 2008**

**TO : ALL RICE-BASED FARMERS ORGANIZATIONS
AND OTHER SECTORS (INDIVIDUALS AND ENTITIES)**

FROM : THE NFA ADMINISTRATOR

**SUBJECT : GENERAL GUIDELINES ON THE PARTICIPATION OF
FARMERS' ORGANIZATIONS AND ALL OTHER SECTORS IN
THE IMPORTATION OF THE COUNTRY SPECIFIC QUOTA OF
163,000 MT OF RICE FOR YEAR 2009**

Pursuant to the powers granted to the National Food Authority (NFA) under Presidential Decree No. 4, as amended, to establish rules and regulations governing the importation of rice and by virtue of **Council Resolution No. 440-2k8-L** dated **December 19, 2008**, this Memorandum Circular is hereby issued for the information and compliance of all concerned.

A. GENERAL GUIDELINES

1. Rice importation under this circular shall be undertaken under a regime with Quantitative Restrictions in place pursuant to Republic Act No. 8178. However, instead of the National Food Authority (NFA) issuing import permits, all rice importation other than NFA's shall be covered by Letters of Credit (LC), Documents Against Acceptance (DA) and Documents Against Payment (DP) to be opened with the Land Bank of the Philippines (LBP).

2. In line with the government's policy of providing assistance to rice farmers to become agri-entrepreneurs, Farmers' Organizations (FOs) whose membership consist of at least 50% + 1 palay farmers, shall be granted initially **100,000 METRIC TONS** of the rice import volume. All other sectors shall be allocated **63,000 METRIC TONS** of the volume to be imported.

3. FOs and other sectors intending to avail of the privilege to engage in the business of importing rice must first secure a license from the NFA as an importer and other incidental lines of business activity. They shall be subject to the usual licensing requirements which include among others, proof of its operations and active grains business activity from 2007 or earlier. Acceptance for importing license shall start on January 2, 2009. The license shall be valid for one year and shall expire on December 31, 2009.

4. All importation shall be subject to the payment of tariff/duties, taxes and other fees that may be required. NFA shall, from time to time, prescribe a benchmark price that will be the basis of the LBP to evaluate the advance duties to be deposited by the importer.

5. Each importer whether FOs or other sectors can **only avail of a maximum of 5,000 MT for the entire year.**

6. The import volume shall be available to all FOs and all other sectors nationwide. However, the volume of **100,000 MT** shall initially be exclusively allocated to qualified FOs while **63,000 MT** shall be allocated for all other sectors, excluding rice based FOs, on a first-come-first-served basis from the following countries:

SOURCE COUNTRIES	ALLOCATION (MT)
Thailand	98,000
China	25,000
India	25,000
Australia	15,000

The payment of the partial/full advance duties/tariff shall be the basis of determining the first-come-first-served rule.

All other sectors shall have **until May 31, 2009** to open/avail of LC, DA and DP with LBP.

Out of the **100,000 MT** exclusively allocated to FOs, **50,000 MT** shall be opened on a first-come-first-served basis to all qualified Fos nationwide. FOs have **until April 15, 2009** to open/avail Letters of Credit, DA and DP and deposit the required advance duties with the LBP. Any unavailed allocation shall be opened to all importers (FOs/ all other sectors).

The remaining **50,000 MT** shall be provided on a per region basis depending on the percent of rice land harvested in a given region over the national harvested hectarge. The regional allocation shall be divided equally among qualified FOs within each region. FOs have **until April 30, 2009** open/avail of LC, DA and DP and deposit the required advance duties with LBP. Any unavailed allocation shall be forfeited and be opened/made available to all FOs/all other sectors on a first-come-first-served basis.

7. Any unavailed allocation mentioned above shall be made available to both FOs/all other sectors nationwide. They have **until May 31, 2009** to open/avail of the corresponding LC, DA and DP on a first-come-first-served basis.

8. FOs using DA and DP shall be required to pay in advance with the LBP an amount corresponding to 50% of the duties/tariff while all other sectors shall pay in advance with the LBP an amount corresponding to full duties to be paid for the importation. The payment of the partial/full advance duties/tariff shall be the basis of determining the first-come-first-served rule.

9. Any volume which the FOs/all other sectors fail to import out of this allocation, shall be imported by the NFA if still necessary.

10. Interested FOs licensed as importers shall open/avail their LC, DA and DP with the LBP head office and such other LBP branches that may be designated, subject, however, to eligibility requirements that LBP may prescribe.

11. Violators of the 2003, 2004, 2005, 2006, 2007, 2008 circulars on rice importation under the FAI program are disqualified to participate in the 2009 importation **unless payment of penalties as to late arrival and non-arrival of allocation has been made.**

12. As much as possible, rice to be imported should be fortified with iron micro nutrient in compliance with the Philippine Food Fortification Law under Republic Act 8976.

B. ARRIVAL OF IMPORTATION

1. The imported rice stocks should arrive not later **August 15, 2009**. All imported rice that arrive beyond the prescribed date shall subject the importer to penalty based on the following schedule:

<u>No. of days after deadline</u>	<u>Penalty (% of landed cost)</u>
* 1 - 4 days	- 0.5%
* 5 - 6 days	- 1 %
* 7 - 8 days	- 1.5%
* 9 - 10 days	- 2%
* 11 - 12 days	- 2.5%
* 13 - 15 days	- 3%
* 16 - 60 days	- 30%
* 61 days and beyond	- forfeiture of entire cargo in favor of NFA

The aforementioned penalty may also be effected with the withholding or forfeiture of the corresponding percentage of the imported rice.

2. In case the FO/other sector availed of the allocation but failed to bring into the country the allocated volume, an amount corresponding to equivalent of 10% of the import value will be forfeited in favor of the NFA as penalty. This amount may be taken from the advance duties said importer paid the LBP/BOC. The corresponding amount shall be credited by BOC to NFA;

3. Rice cargoes must be inspected at the load port by surveyor/s to be appointed/chosen by the importer from a list provided by the NFA or that are accredited by BOC. The surveyor's services shall be for the account of supplier and/or importer.

4. Importers/designated licensed broker must submit to NFA thru Department of Marketing Operations (DMO) the certified true copy of processed Import Entry Declaration (IED), assessment notice/Automated Systems of Customs Data (ASYCUDA), BOC clearances, proof of payment/official receipt of duties and taxes, arrastre, wharfage, other related fees and disport surveyors report. **This submission of reports is a must on the part of the importer or his/her designated licensed broker.**

5. The discharge ports for the 2009 importation are the Port of Manila, the Manila International Container Port, the Port of Batangas, the Port of Cebu, the Port of Cagayan de

Oro, the Subic Port , the Port of Bacolod, the Port of Poro Point La Union and the Port of Davao.

C. SPECIFIC GUIDELINES

1. Importers must meet/submit/accomplish the following requirements subject, however, to changes, amendments or revisions as NFA, LBP and BOC may hereafter prescribed;

National Food Authority (NFA)

❖ Must be holders of NFA license as importer. To secure a license as importer, the following are required:

For entities:

- 2 x 2 pictures of the representative
- Articles of Incorporation, By-Laws and all amendments thereto
- Recent Secretary's Certificate of a Board Resolution authorizing the representative to sign for and in behalf of the entity who shall be an officer/ shareholder/ member/ employee of the cooperative/corporation/ association.
- Certificate of Registration from the Securities and Exchange Commission (SEC)/ Cooperative Development Authority (CDA)/Bureau of Labor Relations (BLR)/Bureau of Rural Workers(BRW)/National Irrigation Administration (NIA).
- Certificate of Good Standing or Certification from their respective registering agencies that said FO is currently operational/active.
- For SEC registered entities, **a copy of the current year Information Sheet duly received by SEC.**
- For Provincial Farmers Action Council (PFAC) members, certification from the PFAC Chairman or his authorized representative that the FO is a bonafide member and is rice-based.
- For non-PFAC members, **certification from local Barangay Chairman or Municipal Agricultural Officer (MAO) as to the existence of the farmer group in the locality/area and its being rice-based FO.**
- Income Tax Return for the preceding year with audited financial statements.

For individuals:

- 2 x 2 pictures of the applicant
- Income Tax Returns of the preceding year
- Financial statement showing assets and liabilities for the preceding year if applicant's capitalization in the rice business exceeds P100,000.00
- License Fees

P3,300.00 per applicant for rice based FO.

P22,000.00 per applicant for all other sectors

- Proof of payment of penalties for FOs/other sectors found to have violated year 2003, 2004, 2005, 2006, 2007 and 2008 circulars, **whose violations refer to late/ non-arrivals of imported rice**

- ❖ Advanced information (at least 10 days before the cargo arrives) on the quality, quantity (complete specifications), origin, supplier, price on C & F basis, expected date of arrival, name of carrier/vessel and discharging port of the rice being imported, plus a copy of the sales contract and load port surveyor's report.

Land Bank of the Philippines (LBP)

As required by LBP, below is the list of documents required for importation transactions whether using LC, DA or DP:

- ❖ Duly accomplished Import Entry Declaration (IED)
- ❖ For importers using the LC as their financial instrument, advance deposit corresponding to the full duties to be paid for the importation.
- ❖ Only Manager's or Cashier's checks issued by a reputable commercial/universal bank in Metro Manila or such other areas as may be designated by LBP shall be accepted as payment for LC.
- ❖ Original copy of pro-forma invoice signed by the supplier and duly accepted by the buyer, indicating the specification of rice to be imported, term and mode of payment, among others, of the importation.
- ❖ Original and photocopy of the NFA license as importer.
- ❖ Duly accomplished LC application form.

- ❖ Accomplished Treasury Operations Department (TOD) signature card of the authorized signatory and/or authorized representative (for importation purposes) duly authenticated by the LBP. (Form Provided)
- ❖ Certification that the authorized signatory of the FO/entity or the individual as the case maybe, has read and understood the program guidelines and that he/she voluntarily binds himself/herself to abide by all the rules and regulations regarding the importation particularly the penalty provisions. (Form Provided)
- ❖ Sworn attestation, as required by LBP. (Form Provided)
- ❖ Execution of Forward Exchange Contract, for peso payment.
- ❖ Notarized Application to Purchase Dollars, for US dollars payment.
- ❖ Presentation of the original and submission of certified true copy of the Certificate of Registration with the CDA or SEC.
- ❖ Presentation of the original and submission of certified true copy of the Articles of Cooperation and By-Laws.
- ❖ Original copy of the Board Resolution or notarized Secretary's Certificate stating therein the authorized signatory in the opening of LC and use of other financial instruments (DA, DP).
- ❖ Processing fee (non-refundable) of P1,000.00 per application.
- ❖ Authority to forfeit in favor of NFA the 10% of the landed cost in case the importer fails to bring into the country the allocated volume to be imported or the prescribed penalty if rice cargo arrives after prescribed dates. (Form Provided)
- ❖ Registration as importer with CIIS as required by BOC
- ❖ Audited Financial Statements(when necessary)

Additional Requirements for Using Letter of Credit:

- ❖ Duly accomplished Letter of Credit Application Form.
- ❖ Manager's Check (and its photo copy) for LC cover, buffer, full duties and other charges.
- ❖ Execution of Forward Exchange Contract, for Peso payment.

Additional Requirements for Using Documents Against Acceptance or Documents Against Payment

- ❖ Manager's Check (and its photo copy) for the full duties and bank charges.
- ❖ Letter of Intent that the farmers' organization will be importing via DA or DP. (Form Provided)
- ❖ Filled-up form of record of goods imported. (Form Provided by LBP)

Bureau of Customs (BOC)

For unloading and release of rice cargo, the following are required:

- ❖ Registration as importer with CIIS
- ❖ Advanced information (at least 10 days before the cargo arrives on the quality, quantity (complete specifications), origin, supplier, price on C & F basis, expected date of arrival, name of carrier/vessel and discharging port of the rice being imported, plus a copy of the sales contract and load port surveyor's report.
- ❖ For importers that use DA or DP, an NFA clearance that they have provided the needed advance information on their importation.
- ❖ NFA License as importer
- ❖ VAT or non-Vat certificate of applicant
- ❖ TIN Card of the company
- ❖ For cooperatives, registration documents with the Cooperative Development Authority (CDA)
- ❖ 2 x 2 pictures (4 copies) with official signature of the applicant
- ❖ Audited Financial Statements for the past three years, if applicable
- ❖ Summary of Importation for the past three years, if applicable
- ❖ BOI Certificate of Registration, if applicable
- ❖ Income Tax Return of the company, partners, proprietor/owner for the past three years, if applicable
- ❖ Affidavit of Assets - Statement of Assets and Liabilities filed with BIR

❖ Name of retained-in-house broker, if applicable

2. The PFAC shall be provided by the NFA with a list of non-PFAC member applicants. The PFAC shall be given five (5) calendar days to report to the NFA and present proof that the non-PFAC member is disqualified or not eligible to participate in the rice importation.

3. Failure to either submit an accomplished IED to LBP or deposit in advance an amount corresponding to the duties to be paid will result in the loss of privilege to import rice.

4. Aside from the penalties mentioned above, the offender shall also be subject to administrative proceedings where the penalty of suspension and/or cancellation of its NFA license shall be imposed.

5. The Business Regulation Department (BRD) **in coordination with the Extension Department (EXD)** shall undertake information dissemination of this program. It shall publish Memo/Letter Circular/s, Notice/s and/or Rules and Regulations that NFA may issue relative to this importation in a newspaper of general circulation and register the same with the Office of the National Administrative Register of the UP Law Center.

6. The Marketing Operations Department (DMO) shall prepare a consolidated report on the arrival of stocks and LCs/other instruments opened with or coursed through the LBP on a regular basis or as the need arises.

D. REPEALING CLAUSE

All rules and regulations, circulars, directives and/or orders or parts thereof, inconsistent with any of the provisions of these guidelines are hereby repealed, modified and/or amended accordingly.

E. EFFECTIVITY

The guidelines shall take on January 02, 2009.

APPROVED :

JESSUP P. NAVARRO
Administrator