FOOD AND DRUGS AUTHORITY

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Guideline on Processing of Import Permit and Clearance of Fresh Fruits and Vegetables

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01/04/2019	01	Initial issue
02/01/2020	02	• Insertion of sections 3.1.3, 3.1.4, 4.2 & 4.3; • Revision of clause 3.1.9.4 Change of document number and logo
01/07/2022	03	Insertion of clauses 3.1.5, 3.1.6 and 4.2
02/08/2023	04	General FDA format review
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Executive Summary

The purpose of this guideline is to provide importers of prepackaged foods with the requirements of the Food and Drugs Authority (FDA) and also provide a comprehensive procedure for bringing their activities into compliance with Part 7, section 99 of the Public Health Act 2012, Act 851. The guideline gives information, guidance and adherence to the processing of import permit.

Detailed in this guideline are the processes and procedures involved in the application for and issuance of electronic permits as well as the inspection and release of imported fresh fruits and vegetables.

1. Introduction (background)

Effective regulation of the importation and exportation of internationally traded products is key in ensuring the protection of the health and safety of consumers around the world. Processing of import permit for products, as carried out by the Food and Drugs Authority (FDA), typically involves permit issuance and inspection, both of which are mandated by the Public Health Act, Act 851 of 2012.

This guideline outlines the processes and procedures involved in the application for and issuance of electronic permits as well as the inspection and release of imported products.

This guideline is hereby promulgated for information, guidance and strict adherence by all concerned.

1.1 Legal Basis

In the exercise of the powers conferred on the Food and Drugs Authority by Part 7, section 99 of the Public Health Act, Act 851 of 2012 and in order to ensure the safety and quality of imported fresh fruits and vegetables as required by the Code of Hygienic Practice for fresh Fruits and Vegetables (CAC/RCP 53-2003) and the Code of Practice for Packaging and Transport of Fresh Fruits and Vegetables (CAC/RCP 44-1995); these guidelines apply to all imports of fresh fruits and vegetables to be distributed or offered for sale for human or animal consumption.

1.2 Scope

The purpose of these guidelines is to provide importers of fresh fruits and vegetables guidance in meeting the legal and regulatory requirements of the Food and Drugs Authority (FDA) in order to avoid or reduce food safety risks associated with the consumption of fresh fruits and vegetables.>

2. Definition and Abbreviation

eMDA Electronic Ministries Departments and Agencies

HS Code Harmonised System Code>

"***label***" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of food;

"non-compliant/non-conforming product" means any or all of these; product is unregistered, unwholesome, banned, has too short a shelf life or does not conform to labelling rules.

"***fresh fruits and vegetables***" means fruits and vegetables supplied fresh to the consumer after preparation (in whole and/or pre-cut) and packaging, and are intended to be consumed without cooking;

"***rejected food product***" means the product was deemed unfit to be distributed, sold or used in the country for reasons which may include the physical, chemical and/or microbiological hazard it poses, or the product is banned; and

"requirements" means the criteria relating to trade in food, covering the protection of public health, the protection of consumers and conditions of fair trade.

3. REQUIREMENTS

3.1 General Requirements

3.1.1 Only businesses duly licensed by the Food and Drugs Authority as an importer in accordance with Part 7, section 122 (1) of the Public Health Act, Act 851 of 2012 shall be permitted to import products.

3.1.2 The storage facility for the supply of fresh fruits and vegetables must be licenced by the authority in accordance with Part 7, sections 103 and 131 (a) of the of the Public Health Act, Act 851 of 2012.

3.1.3 Importers shall be required to secure an electronic permit (eMDA) for all imports/consignments of fresh fruits and vegetables prior to importation. The following information must be submitted at the "item details" column on the eMDA portal;

- Full name of the product
- Name and contact number of Authorized Person

3.1.4 The following information should also be provided or selected at the appropriate column:

- Appropriate HS Code for the product
- Unit of the quantity (ml, L, kg etc)
- Full Address of Importer (including location address)

- Phone #, Fax # and E-mail addresses of both Importer and Exporter
- Type of Permit: Fresh Fruits and Vegetables

3.1.5 Application for import permit shall attract a verification fee to be determined by the Authority and shall be dependent on the declared FOB on the invoice accompanying the consignment (s). This verification fee is payable at the approved point of entry prior to permit approval.

3.1.6 Processing of a clearance permit and accompanying invoices may take up to 24 hours or one working day after payment of requisite fees

Response/Feedback

The applicant must monitor the status of the application on-line. Applicants are expected to go beyond the track status to approval history by opening the document.

3.1.7 Only approved electronic permits (eMDA) shall be used for clearance of fresh fruits and vegetables at the port of entry.

3.1.8 Permits issued for importation of a particular consignment of fresh fruits and vegetables shall be presented to Customs only once.

3.1.9 In the event that goods short-land, a new permit must be processed for importation/clearance of the short-landed goods.

3.1.10 All consignments of fresh fruits and vegetables shall be physically inspected, at the port of entry, including all post entry applications;

3.1.10.1 Consignments in compliance with the Law shall be released to the importer;

3.1.10.2 Non-conforming consignments shall be detained under modalities determined by FDA if they can be reasonably brought into conformance with the Law at the importer's expense; or

3.1.10.3 Consignments that are rejected shall either be re-exported or destroyed under FDA's supervision, at the expense of the importer.

3.1.10.4 Inspection of the consignment at the port of entry shall attract inspection fee as per FDA approved fee schedule (LI 2386, 2019).

3.1.10.5 Physical inspection of consignments of fresh fruits and vegetables may be carried out at the importer's premises if recommended by Customs or FDA or on request by the importer;

3.1.10.6 Inspection of the consignment at the importer's premises shall attract premises inspection fee as per FDA approved fee schedule.

3.2 Applying for Import/Clearance Permit

3.2.1 Registration of food by the authority as provided in Part 7 section 97 of the Public Health Act, Act 851 of 2012, shall not apply to fresh fruits and vegetables.

3.2.2 Notwithstanding clause 3.2.1, supplier address including country of supply, net weight and product batch must be indicated on each packaging of fresh fruits and vegetables.

3.2.3 Furthermore, product label should include storage temperature and instructions on handling conditions.

3.2.4 Plant health requirements demonstrated by a valid phytosanitary certificate issued by the competent authority of the exporting country must accompany all consignments of fresh fruits and vegetables.

3.2.5 For independent temperature records throughout the voyage, a self-contained single-point temperature recorder must be available in the container for check during physical inspection. Preferably, it should be fitted at the second package down at the door end near the center of the stow.

3.2.6 Alternatively, any form of temperature recorder/records may be made available during physical inspection for verification of sustained adequate temperature throughout the voyage of consignments of fresh fruits and vegetables.

3.2.7 The authority in the execution of its legal mandate as entrenched in Part 7, section 135 of the Public Health Act 2012, Act 851, may detain and subject consignments of fresh fruits and vegetables to laboratory testing for monitoring and surveillance of foodborne diseases. The importer is therefore expected to wait and cooperate with FDA to be satisfied with the laboratory results before clearance of consignment.

3.2.7.1 On account where a test is positive (e.g. *listeria monocytogenes* tested positive) by mini lab analysis and confirmed by the Laboratory Services Directorate of FDA, the whole consignment shall be disposed of at the cost of the importer following FDA approved fee schedule (LI 2386, 2019).

4. SANCTIONS AND PENALTIES

1.1. The Food and Drugs Authority may impose a fine for the breach of these guidelines in accordance with Section 110 of the Public Health Act, Act 851 of 2012.

1.2. Where an applicant is found to have altered the FOB applicable to clause 3.1.5, he or she shall be made to pay the required verification fee in addition to 100% of the defaulted amount as administrative fine for breach of clause 3.1.5.

1.3. Where a consignment arrives and the product(s) is not duly registered by the Authority, the following sanctions may apply:

1.3.1. **"Clearing under detention"** followed by registration of the product immediately the consignment leaves the port.

1.3.2. Seizure and Disposal of the product.

1.3.3. Order the re-export of the product at the cost of the importer

1.3.4. Administrative fines

1.3.5. Prosecution of the importer in accordance to the provisions of the Public Health Act.

NB: Notice of Detentions "Conditional Release of consignment" shall be issued to all non-compliant products

1.4. A person who removes, alters or interferes with a detained consignment without the authority of an authorised officer commits an offence in accordance with part 7, section 136 (2) of the Public Health Act, Act 851 of 2012.