



**MEMORANDUM CIRCULAR NO. 18-09**  
Series of 2018

**FOR** : All Cement Importers, Manufacturers and Others concerned  
**SUBJECT** : **Supplemental Guidelines for DAO 17-06:2017**

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**WHEREAS**, Clause 24.6 of DAO 17-06:2017 provides that for imported cement, a Surety Bond shall be posted on a per shipment basis equivalent to Ten percent (10%) of the declared value or dutiable value of the imported product in the Philippine Peso, whichever is higher to guarantee that the applicant shall perform its duties and obligations stated therein;

**WHEREAS**, Clause 24.7 of DAO 17-06:2017, likewise, provides that any violation of the terms and conditions of the Product Certification Scheme shall, upon notice, result in the *motu proprio* forfeiture of the bond;

**WHEREAS**, the very objective of the said requirement is to secure the manufacturer's and/or importer's promise or undertaking to perform its duties as such in accordance with the terms and conditions of the Certificate of Conditional Release issued by the Bureau of Philippine Standards.

**WHEREAS**, pursuant to relevant laws and rules and regulations, there are non-conformities that are negligible or non-compliances that are justifiable warranting the application of mere corrective or remedial action.

**WHEREAS**, in the interest of equity or fairness, the amount of bond to be forfeited shall be commensurate to the degree of the non-conformity or non-compliance, for certification scheme purposes only.

**WHEREFORE**, this Circular is hereby issued for the information and guidance of those concerned.

**Section 1. Show Cause Order** – This order shall be issued against a manufacturer or importer who failed to comply with legal and technical requirements or whose product/s failed to conform to such requirements. It may include a CEASE AND DESIST ORDER addressed to the owner/manager of the individual or company concerned, to refrain from supplying, distributing, selling or displaying for sale the products subject thereof until such time that the Show Cause Order is lifted. In cases where the manufacturer or importer can justify under oath that the non-conformity is correctible and/or the non-compliance is negligible, the Show Cause Order may not be issued.

**Section 2. Degree of Non-Conformity or Non-Compliance** – Non-conformity or non-compliance may vary depending on the circumstances, to wit:

Supplemental Guidelines for DAO 17-06:2017

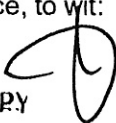
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Head, Records Section  
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Page 1 of 4

- 2.1 **Minor** – This level or degree can be the subject of corrective action as allowed under applicable PNS/rules hence, may not be the subject of a Show Cause Order.
- 2.1.1 Inconsistency in the markings/tags but notified BPS prior to issuance of the Certificate of Conditional Release,
- 2.1.2 Transfer of products from a declared warehouse to another declared warehouse with prior notice to DTI,
- 2.1.3 Delay in responding to notices/letters,
- 2.1.4 Justified typographical errors in documents or responses submitted,
- 2.1.5 Delivery of products covered by a Conditional Release from the BOC to one of the declared warehouses but not in the warehouse declared in the current application with notice to BPS prior to such delivery,
- 2.1.6 Number of missing products is less than or equal to the required number of samples,
- 2.1.7 Number of products with missing labels/tags is less than or equal to the required number of samples.
- 2.2 **Significant**– This level or degree fell short of being considered minor.
- 2.2.1 Inconsistency in the markings/tags but notice to BPS was made after issuance of the Certificate of Conditional Release,
- 2.2.2 Transfer of products from a declared warehouse to another declared warehouse without prior notice to BPS,
- 2.2.3 Delivery of products covered by a Conditional Release from the BOC to one of the declared warehouses but not in the warehouse declared in the current application without prior notice to BPS,
- 2.2.4 Number of missing products is not more than five percent (5%) of the total quantity declared,
- 2.2.5 Number of products with missing labels/tags is not more than twenty percent (20%) of the total quantity declared.
- 2.3 **Major** - This level or degree may still be the subject of corrective action but the quantity involved is no longer minor hence, shall be the subject of a Show Cause Order.
- 2.3.1 Inconsistency in the markings/tags and the quantity of products with deficiency is not more than fifty percent (50%) of the total quantity declared,
- 2.3.2 Transfer of products from a declared warehouse to another declared warehouse without notice at all,
- 2.3.3 Unjustified delay in responding to follow up notices/letters,

- 2.3.4 Claims of miscommunication or misrepresentation of facts, which facts are not material to the application/process,
- 2.3.5 Delivery of products with Certificate of Conditional Release from the BOC to a non-declared warehouse,
- 2.3.6 Delivery or transfer of products to a declared but unsecured/uncovered warehouse,
- 2.3.7 Release of products covered by a Conditional release whose quality/safety passed the test from the declared warehouse for commercial distribution but was made prior to the resolution of SCO,
- 2.3.8 Inconsistency in the markings and the quantity involved is less than five percent (5%) of the total quantity but the same has been committed more than once,
- 2.3.9 Missing quantity is more than five percent (5%) up to twenty percent (20%) of the total quantity declared,
- 2.3.10 Number of missing labels/tags is above twenty percent (20%) but not more than fifty percent (50%).
- 2.4 **Critical** – Corrective actions or remedial measures shall no longer be accepted for this level or degree of infraction.
  - 2.4.1 Inconsistency in the markings/tags and the quantity of products with deficiency is more than fifty percent (50%) of the total quantity declared,
  - 2.4.2 Transfer of products from a declared warehouse to a non-declared warehouse, with or without notice to DTI,
  - 2.4.3 Total failure to respond to notices/letters,
  - 2.4.4 Misrepresentation of material facts in the application or succeeding correspondence/s,
  - 2.4.5 Delivery of products from the BOC to a declared or undeclared warehouse prior to the release of the Conditional release,
  - 2.4.6 Release of products whose quality/safety did not pass the test from the declared warehouse pending resolution of SCO or prior to the issuance the required Clearance Certificate/License,
  - 2.4.7 Inconsistency in the markings and the quantity of products with deficiency is less than fifty percent (50%) of the total quantity declared but the same has been committed more than once,
  - 2.4.8 Missing quantity is more than twenty percent (20%) of the total quantity declared,
  - 2.4.9 Number of missing labels/tags is more than fifty percent (50%).

**Section 3. Bond Forfeiture** – The amount of bond to be forfeited shall depend on the level or degree of non-conformity or non-compliance, to wit:

  
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 Head, Records Section  
 Department of Trade & Industry



- 3.1 For significant non-conformity or non-compliance, twenty-five percent (25%) of the bond shall be forfeited in favor of the government.
- 3.2 For major non-conformity or non-compliance, fifty percent (50%) of the bond shall be forfeited in favor of the government.
- 3.2 For critical non-conformity or non-compliance, one hundred percent (100%) of the bond shall be forfeited in favor of the government.


**Section 4. Effect of Show Cause Order** – Pending resolution of the Show Cause Order involving a particular shipment, such shipment or any part thereof shall not be sold, distributed, or disposed of in any manner until the Show Cause Order is lifted. Further application/s filed by the same importer covering shipments other than those subject of the Show Cause Order shall not be processed, unless a sworn undertaking to abide by the decision thereon is submitted. However, the Statement of Confirmation for such other application/s shall only be issued upon compliance with the terms of the sworn undertaking submitted.

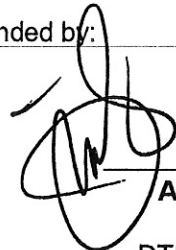
**Section 5. Other Requirements** – All importers shall submit to BPS or to DTI ROs/POs the copy of the Load Port Survey Report (LPSR) undertaken and prepared by the BOC accredited inspection bodies for reference purposes. The LPSR shall form part the documentary requirements for the filing of Statement of Confirmation.

**Section 6. Effectivity** – This Circular shall take effect immediately upon issuance hereof.

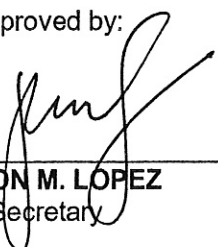
Issued this 6<sup>th</sup> day of July 2018 in Makati, Philippines.

Recommended by:

  
 ENGR. JAMES E. EMPEÑO  
 Director-in-Charge  
 DTI-Bureau of Philippine Standards

  
 ATTY. RUTH B. CASTELO  
 Undersecretary  
 DTI-Consumer Protection Group

Approved by:

  
 RAMON M. LOPEZ  
 Secretary



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