

DEPARTMENT OF TRADE AND INDUSTRY

NO. 1120

20 OCTOBER 2017

**NATIONAL REGULATOR FOR COMPULSORY SPECIFICATIONS ACT
(Act No. 5 of 2008), AS AMENDED THROUGH LEGAL METROLOGY ACT
(Act No. 9 of 2014)**

**THE ADMINISTRATIVE REGULATORY REQUIREMENTS FOR IMPORTED
FISH AND FISHERY PRODUCTS AND CANNED MEAT PRODUCTS
REGULATED UNDER THE NATIONAL REGULATOR FOR COMPULSORY
SPECIFICATIONS ACT, 2008 (ACT NO. 5 OF 2008), AS AMENDED.**

It is hereby made known under section 36 (1) of the National Regulator for Compulsory Specifications Act, (Act 5 of 2008) as amended, that I, Dr Rob Davies, Minister of Trade and Industry, on the recommendation of the NRCS, intends to make regulations regarding incidental administrative requirements outlined in the proposed import conditions for fish and fishery products and canned meat products regulated under the National Regulator for Compulsory Specifications Act, 2008 (ACT No 5 of 2008) as set out in the attached Schedule.

Any person, who wishes to comment on the intention to introduce the proposed regulation concerned, shall submit their comments, in writing, to the Chief Executive Officer, National Regulator for Compulsory Specifications, Private Bag X 25, Brooklyn, 0075, on or before the date two (2) months after the publication of this notice.



Dr Rob Davies, MP
Minister of Trade and Industry

SCHEDULE

Regulation No....

THE ADMINISTRATIVE REGULATORY REQUIREMENTS FOR IMPORTED FISH AND FISHERY PRODUCTS AND CANNED MEAT PRODUCTS REGULATED UNDER THE NATIONAL REGULATOR FOR COMPULSORY SPECIFICATIONS ACT, 2008 (ACT NO. 5 OF 2008), AS AMENDED.

1. Scope

This regulation outlines the administrative regulatory requirements of fish and fishery products and canned meat products regulated under the National Regulator for Compulsory Specifications Act, 2008 (Act No 5 of 2008) as amended through the Legal Metrology Act (Act No. 9 of 2014), which are imported into the Republic of South Africa (RSA).

2. Definitions

- 2.1. In these regulations, any word or expression mentioned to which a meaning has been assigned in the National Regulator for Compulsory Specifications Act (Act No. 5 of 2008), as amended through Legal Metrology Act (Act No. 9 of 2014), shall have that meaning unless the context otherwise indicates. In addition, the following definitions shall apply:
- 2.1.1. **Applicant:** a handler, processor, packer, transporter, importer established within the Republic of South Africa applying for approval of a factory /establishment/ facility and/or product which is to be imported into South Africa.
- 2.1.2. **Captain's declaration:** declaration by owner of the vessel or the master of the vessel to prove that the fishing vessel has been granted a fishing license or a license for activities related to fisheries issued by a flag State or a coastal State and at test that good hygiene and manufacturing practices have been followed during the handling & transportation of fish on board the vessel.
- 2.1.3. **Competent Authority:** the regulatory body responsible for conducting official inspections and issuing of health certificates for products, appointed by government in the exporting country and recognised by the NRCS as having sufficient controls to ensure compliance with RSA regulations.
- 2.1.4. **DAFF:** the Department of Agriculture, Forestry and Fisheries.
- 2.1.5. **Factory /Establishment/ Facility:** A premises or fishing vessel based in the exporting country, on or in which fish and fishery products and canned meat products are handled, prepared, stored, treated and packed for commercial purposes.

- 2.1.6. **Foreign vessels:** means any fishing vessel other than a local fishing vessel registered with the NRCS.
- 2.1.7. **High risk species:** any fish/meat species prone to substances that can pose a threat to human health such as histamine, heavy metals, biotoxins and any other substances in amount which may present a hazard to health in accordance with the national legislation.
- 2.1.8. **Import:** means to bring goods or cause them to be brought, from outside the Republic into the Republic for the purpose of trade within the borders of South Africa.
- 2.1.9. **Importer:** means an importer as defined in section 1(1) of the Customs and Excise Act, 1964 (Act No. 91 of 1964).
- 2.1.10. **Inspection:** the examination of food or systems for control of food, raw materials, processing and distribution including in-process and finished product testing in order to verify that they conform to requirements prescribed by the NRCS as stipulated in the relevant Compulsory Specifications.
- 2.1.11. **ITAC:** International Trade Administration Commission of South Africa.
- 2.1.12. **NRCS:** the National Regulator for Compulsory Specifications as established by the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008) as amended through the Legal Metrology Act (Act No. 9 of 2014).
- 2.1.13. **Official certification:** is the procedure by which officially recognized bodies or competent authorities provide written or equivalent assurance that food or food control systems conform to the requirements prescribed by the NRCS as stipulated in the relevant Compulsory Specification and the requirements of this regulation.
- 2.1.14. **OIE:** World Organization for Animal Health.
- 2.1.15. **Relevant national legislation:** regulations under the following Acts; Foodstuffs, Cosmetics and Disinfectant Act, 1972 (Act No 54 of 1972); NRCS Act 2008 (Act No.5 of 2008); Legal Metrology Act 2014 (Act No. 9 of 2014); Marine Living Resources Act 1998 (Act No 18 of 1998).

3. General requirements

- 3.1 All imported fish and fishery products and canned meat products regulated under the NRCS Compulsory Specifications to be offered for sale in the Republic of South Africa shall comply with the requirements of this Regulation. This requirement does not apply to trade samples brought in for purposes of technical evaluation, provided the sample size is less than 100kg per commodity and/or the food is not offered for sale in the Republic of South Africa.
- 3.2 There shall be a Competent Authority/ies (CA) in the exporting country that can carry out credible inspection and official certification activities throughout the production chain in approved processing facilities.
- 3.3 For fish imported from foreign vessels where the Competent Authority is not in a position to issue a health guarantee, a Captains Declaration as per Annexure C may be acceptable, on condition that the vessel is listed with the Competent Authority in the exporting country. The Competent Authority in the exporting country shall issue a Captain's declaration template, with serial numbers and stamped by that authority, to all vessel operators registered with the authority and exporting fish into the Republic of South Africa.
- 3.4 The Competent Authority in the exporting country shall issue a health certificate/guarantee for each consignment exported to the Republic of South Africa as per Annexure B.
- 3.5 The Competent Authority in the exporting country shall control and verify compliance of establishments intending to export to the Republic of South Africa as per the requirements of the respective Compulsory Specifications and this Regulation.
- 3.6 The Competent Authority shall notify the NRCS of the approved establishments list and any amendments to such list.
- 3.7 The NRCS may conduct periodic audits on the Competent Authority/ies of the exporting countries in line with a risk based schedule by notifying the relevant Competent Authority/ies and planning the inspection plan to assess food safety control system and food safety conditions of establishments exporting foodstuffs to South Africa.

4. Handling of specific consignments

- 4.1 Application for official approval of the product(s) shall be made to the NRCS for every consignment of fish and fishery products and canned meat products regulated under the NRCS which are imported into the Republic South Africa, in accordance with the requirements of Annex A and Annex B.
- 4.2 In the case of the Captain's declaration as per Annex C, the importer shall accept accountability of the testing of high risk species.

5. Handling of non-compliances

5.1 Where there is an indication of non-compliance from products coming from certain factories/establishments/facilities of certain countries, the NRCS may institute the following measures:

5.1.1 Imported non-complying products shall be handled in accordance with the NRCS Act, 2008 (Act No 5 of 2008), as amended, read together with respective Compulsory Specifications.

5.1.2 Notify the Competent Authority in the exporting country and request the Competent Authority to investigate the reason for the non-compliance and provide the necessary corrective corrective and preventative measures.

ANNEX A

A.1 APPLICATION FOR APPROVAL OF THE PRODUCT

A.1.1 The applicant shall apply to the nearest NRCS regional office for approval/release of the product(s). The applicant shall notify the NRCS at least 10 working days after Customs declaration/prior to the date on which approval is required. Applicants shall supply details of the fish and fishery products and canned meat products per consignment for which approval is sought, by providing the following information:

- a) The applicable permits as required by DAFF (including OIE Directives) and ITAC permits;
- b) Applicants shall supply a health guarantee/certificate (Annexure B) containing evidence that imported fish and fishery products and canned meat products originate from a facility approved for export in the country of origin per consignment for which approval is sought, as well as evidence that the product complies with the relevant Compulsory Specification;
- c) Details of the importer, product, bill of entry number (SARS release), quantity, number of product and batch code(s), code list, establishment number/factory code where product is manufactured/processed;
- d) The date and place where it will be available for sampling/inspection;
- e) Name and contact details of a contact person;
- f) The number(s) of the bill(s) of entry and the date authorized by Customs officials; and
- g) The voyage number of the cargo carrier (vessel, aircraft or registration number of road vehicle).

ANNEX B**B.1 HEALTH GUARANTEES FOR IMPORTED FISH AND FISHERY PRODUCTS AND CANNED MEAT PRODUCTS REGULATED UNDER THE NRCS****(ON AUTHORITY'S OFFICIAL LETTERHEAD)****Reference no.**

Country of dispatch:

Competent Authority:

Inspection Authority:

I. Identification of products

True description of product:

Scientific name:

Presentation of product and type of treatment:

Batch Identification Marks /Code/s Type and Manner of Packaging:

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Number of Packages/Units

Net weight Gross weight

Temperature: - Chilled..... Frozen.....Ambient

II. Origin of Products

Name and address of approved factories/establishments/facility:

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Approval number:

Place of loading/ dispatch:.....

III. Destination of products:

County of destination:

Port of entry

Transport details:.....Sea Freight / Air freight /Other

Container number / Flight details:

Seal number/ Waybill number:

Consignor name and address:

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Consignee name and address:.....

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IV. Health attestation**The official inspector hereby certifies that:**

1. The fish and fishery products and canned meat products specified above, have been farmed (where applicable), processed, packed and stored in a facility/ies approved by the Competent Authority.
2. The fish and fishery products and canned meat products comply/ies with the particular CODEX Standard for the specific product/s or where there is no such Standard, with the Compulsory Specifications/Technical Regulations legislated by the Republic of South Africa in terms of The National Regulator for Compulsory Specifications Act (Act No.5 of 2008) and contained and referenced in the Compulsory Specification.
3. The processing plant and where applicable, aquaculture farms specified above, is/are subject to regular inspection/audit by the Competent Authority in that country to ensure that production, processing practices and food safety systems are in compliance with requirements of the most updated versions of the general CODEX Principles for Food Hygiene and HACCP (CAC/RCP-1969) as well as with CODEX Code of Practice for Fishery Products (CAC/RCP 52-2003) and any animal health requirements to be controlled in terms of OIE Directives.
4. All products imported into the Republic of South Africa in terms of this Regulation shall comply with marking requirements as prescribed by the relevant national legislations.
5. The products above:
 - 5.1. are free from microorganisms or substances originating from microorganisms in amounts as prescribed by relevant national legislation;
 - 5.2. shall not contain any other substances in amounts that may present a hazard to human health in accordance with relevant national legislation.

Signed at: **Name and qualifications of official Inspector:**

.....**Signature of official Inspector:**

Official Stamp with date:

ANNEX C**C.1 CAPTAIN'S DECLARATION****SERIAL NO.**

Name of the Applicant :

Name of the Fishing Vessel :

Approval Number :

Name of the Base Port :

Base Port Registration Number :

Name of the Flag :

Product description

Name :

Type :

Size :

Gross Mass :

Declaration of the Captain/Master of the fishing vessel:

I, the undersigned (Full name)

Captain/Master of the vessel (Name of Vessel)

1. Declare that the products mentioned on this declaration were caught by my vessel, are free from non-characteristic odours.
2. A Quality Management System based on Good Manufacturing Practices is implemented on board.

Signature:

Date:

**STAMP FROM THE COMPETENT
AUTHORITY**