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DEPARTMENT ADMINISTRATIVE ORDER NO. 5

Series of 1996

**SUBJECT: GUIDELINES FOR THE RETURN OR DISPOSAL OF DTI-BPS TESTED
PRODUCT SAMPLES**

WHEREAS, it is the duty of the Department of Trade and Industry-Bureau of Product Standards (DTI-BPS) under R.A. 4109 as amended to require manufacturers, producers, and importers to submit to DTI-BPS product samples for inspection and testing to determine their conformity to applicable standards;

WHEREAS, it is the practice of manufacturers, producers, and importers to abandon their tested samples in the possession of DTI-BPS resulting in storage and disposal problems;

WHEREAS, in view of the present vibrant economy of the country, more and more imported and locally made products will be inspected and tested and thus it becomes imperative that the samples after undergoing testing be disposed immediately to thwart their accumulation;

WHEREAS, after testing, the samples become articles having reduced or little commercial value, junk or trash;

WHEREAS, to ensure the speedy disposal of tested samples, the disposal guidelines should be along these two (2) principles: (1) all tested samples should be returned to the owner thereof, and exceptions shall be on a case-to-case basis; and (2) all tested samples not retrieved shall be disposed as property of the owner, with DTI-BPS acting as agent of the owner;

WHEREAS, the conversion of abandoned tested samples into government property utilizing Article 713 of the Civil Code (re-acquisition of ownership over abandoned movables by way of "occupation"), and thereafter disposing said samples as government property, are twin moves that are not practical, wise, and expedient under the circumstances, as they will only result in waste of government money, storage space, efforts and time;

NOW, THEREFORE, pursuant to R.A.. 4109 as amended by Sec. 10(4), Title X, Book IV of the Administrative Code of 1987, and to E.O. 913.S. 1983, the following guidelines are hereby prescribed and promulgated for the compliance, guidance and information of all concerned:

Section 1. All tested samples shall be returned to the owner thereof (manufacturer, producer, importer) irrespective of the test they underwent (destructive or non-destructive) and without regard to whether or not they conform to applicable standards: Provided, however, That the BPS Director may on a case-to-case basis, withhold the return of samples which do not meet applicable standards, if:

- a. there is a possibility that the samples will find their way into the market; and/or
- b. DTI-BPS intends to use the samples as evidence in a prosecution or administrative action.

When the reason/s for the withholding ceases to exist, the samples shall be returned to the owner.

Sec. 2. Immediately after conducting the test, DTI-BPS shall send a letter by registered mail to the owner at his/its last known address advising him/it to retrieve the tested samples, at the place indicated in the letter, within fifteen (15) days from receipt of the letter. If the letter cannot be delivered to the owner by reason of his/its change of address or for any other reason attributed to him/it, the letter shall, in lieu of delivery, be posted in the BPS Bulletin Board for sixteen (16) days, and the actual date and time shall be written on the lower margin of the letter.

Sec. 3. In case the owner fails to retrieve the samples within fifteen (15) days from the date he/it received the letter, or within fifteen (15) from the date the letter was actually posted in the Bulletin Board, as the case may be, DTI-BPS shall pursuant to Art. 1869 of the Civil Code, sell the samples as junk or otherwise, or throw away the samples as trash, whichever is proper, for and in behalf of the owner: Provided, however, that if sold, the proceeds shall be considered as fees paid by the owner to DTI-BPS for services rendered in the disposal of the samples, and same shall be considered as income of DTI-BPS.

Sec. 4. In computing the 15-day period mentioned above, the first day shall be excluded and the last day included (per Art. 13, Civil Code).

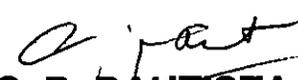
Sec. 5. The DTI-BPS shall keep records of all tested samples disposed including those thrown away as trash, and said record shall be available for inspection and copying during office hours by COA and DTI officials, and by the public in pursuance of the latter's "right to know".

Sec. 6. All tested samples now in possession of DTI-BPS shall be disposed under this order.

Sec. 7. All orders and directives or parts thereof inconsistent herewith are hereby repealed or amended accordingly.

Sec. 8. This order shall be published in two (2) newspapers of general circulation and shall take effect fifteen days after said publication.

July 11, 1996, Makati City.


C. B. BAUTISTA
Acting Secretary

Recommended by:


JESUS L. MOTOOMULL
Director, BPS



Republic of the Philippines
DEPARTMENT OF TRADE AND INDUSTRY
BUREAU OF PRODUCT STANDARDS



MEMORANDUM

For : Secretary R. S. NAVARRO

Thru : Asst. Sec. Zenaida C. Maglaya

Subject : **DAO on the disposal of tested samples**

Date : 26 June 1996

We are submitting for your signature the DAO on the disposal of tested samples by the Bureau of Standards. The proposed DAO is formulated to address the present problem on storage and disposal of tested samples abandoned by importers and/or manufacturers at the BPS Testing Center.

The proposed DAO has been reviewed by the Office of Legal Affairs.

For your approval.

JESUS L. MOTOOMULL
Director

Conforme:

VIRGILIO A. SEVANDAL
Director, OLA

Member: International Organization for Standardization • Philippine Inquiry Point for GATT Agreement on Technical Barriers to Trade

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