

## **Order of the People's Republic of China No.49**

The Law of the People's Republic of China on Quality and Safety of Agricultural Products, amended and adopted at the 21st Meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on April 29, 2006, is hereby promulgated and shall go into effect as of November 1, 2006.

Hu Jintao

President of the People's Republic of China

April 29, 2006

### **Law of the People's Republic of China on Quality and Safety of Agricultural Products**

(Adopted at the 21st Meeting of the Standing Committee of the Tenth National People's Congress on April 29, 2006)

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## **Chapter I**

### **General Provisions**

Article 1 This Law is enacted in order to ensure the quality and safety of agricultural products, maintain the health of the general public, and promote the development of agriculture and rural economy. Article 2 For the purposes of this Law, agricultural products means the primary products from agriculture, i.e., the plants, animals, microorganisms and their products obtained in the course of agricultural activities.

For the purposes of this Law, the quality and safety of agricultural products mean that the quality of agricultural products meet the requirements for ensuring human health and safety.

Article 3 The administrative departments for agriculture under the people's governments at or above the county level shall be responsible for supervision and control of the quality and safety of agricultural products; and the relevant departments of the people's governments at or above the county level shall, in compliance with the division of their duties, be responsible for the work related to the quality and safety of agricultural products.

Article 4 The people's governments at or above the county level shall incorporate the control of the quality and safety of agricultural products in their national economic and social development plans, and appropriate funds for the control of the quality and safety of agricultural products in order to carry out work for the quality and safety of agricultural products.

Article 5 The people's governments at or above the county level shall exercise unified leadership and coordinate work within their own administrative areas in respect of the quality and safety of agricultural products and take measures to establish and improve a service system for the quality and safety of agricultural products and raise the level of the quality and safety of agricultural products.

Article 6 The administrative department for agriculture under the State Council shall establish a commission of specialists for risk assessment of the quality and safety of agricultural products, which shall be composed of specialists in this area, in order to analyze and assess the potential risks that may impair the quality and safety of agricultural products.

The administrative department for agriculture under the State Council shall take appropriate administrative measures on the basis of the results of the risk assessment of the quality and safety of agricultural products and notify the relevant departments under the State Council of such results in a timely manner.

Article 7 The administrative department for agriculture under the State Council and the administrative departments for agriculture under the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government shall, in compliance with their duties and within the limits of their powers, publish information about the quality and safety of agricultural products.

Article 8 The State gives guidance on and promotes standardized production of agricultural products, encourages and supports the production of high-quality agricultural products, prohibits the production and marketing of agricultural products which do not meet the quality and safety standards set by the State for agricultural products.

Article 9 The State supports scientific and technological research in the quality and safety of agricultural products, introduces scientific approaches to quality and safety management and spread the use of advanced and safe production technology.

Article 10 People's governments at various levels and the departments concerned shall improve the dissemination of knowledge about the quality and safety of agricultural products, enhance people's awareness of the importance of the quality and safety of agricultural products and give guidance to agricultural producers and distributors in their efforts to improve management in respect of quality and safety and ensure the safety of the agricultural products for consumption.

## **Chapter II**

### **Quality and Safety Standards of Agricultural Products**

Article 11 The State establishes a sound system for quality and safety standards of agricultural products. The quality and safety standards of agricultural products provide the compulsory technical specifications. The quality and safety standards of agricultural products shall be formulated and published in accordance with the provisions of the relevant laws and administrative regulations.

Article 12 In formulating the quality and safety standards of agricultural products, the results of the risk assessment of the quality and safety of agricultural products shall be taken into full consideration, and the opinions of agricultural producers, distributors and consumers shall be heeded, in order to ensure safety in consumption.

Article 13 The quality and safety standards of agricultural products shall be revised in a timely manner along with the scientific and technological development and in light of the requirement for quality and safety of agricultural products.

Article 14 Application of the quality and safety standards of agricultural products shall be organized by the administrative departments for agriculture after consulting with the departments concerned.

## **Chapter III**

### **Production Place of Agricultural Products**

Article 15 Where the administrative department for agriculture under a people's government at or above the county level deems that some areas are not suited to the production of certain agricultural products in view of the requirements for ensuring quality and safety of agricultural products, the properties of the varieties, and the toxic and harmful substances in the atmosphere, soil and water body of the production areas, it shall propose prohibiting production of such varieties in the said areas and publish the fact upon approval by the people's government at the same level. The specific measures therefor shall be formulated by the administrative department for agriculture under the State Council after consulting with the administrative department for environment protection under the State Council.

The areas where production of certain agricultural products is prohibited shall be adjusted according to the procedure as prescribed in the preceding paragraph.

Article 16 People's governments at or above the county level shall take measures to strengthen the construction of agricultural production bases and improve production conditions.

The administrative departments for agriculture under the people's governments at or above the county level shall take measures to push forward the development of integrated demonstration zones and farms for standardized production, small-scale breeding areas and designed animal and plant disease free zones, in order to ensure the quality and safety of agricultural products.

Article 17 Producing, fishing for or collecting edible agricultural products, or establishing production bases of agricultural products, in areas where the amount of toxic and harmful substances exceeds the prescribed standards, is prohibited.

Article 18 Discharging waste water or exhaust gas or dumping solid wastes or other toxic or harmful substances to the production places of agricultural products in violation of the provisions of relevant laws and regulations is prohibited.

Water used for agricultural production and solid waste used as fertilizers shall be in conformity with the standards set by the State.

Article 19 Agricultural producers shall rationally use chemical products, such as chemical fertilizers, pesticides, veterinary medicine and agricultural films, in order to avoid contaminating the production places of agricultural products.

## **Chapter IV**

### **Production of Agricultural Products**

Article 20 The administrative department for agriculture under the State Council and the administrative departments for agriculture under the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government shall lay down technical requirements and operating rules for production to ensure the quality and safety of agricultural products. The administrative department for agriculture under the people's governments at or above the county level shall enhance guidance with respect to production of agricultural products.

Article 21 In accordance with the provisions of relevant laws and administrative regulations, an administrative permission system shall be applied to such pesticides, veterinary medicine, feed and feed additives, fertilizers and veterinary instruments as may impair the quality and safety of agricultural products.

The administrative department for agriculture under the State Council and the administrative departments for agriculture under the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government shall conduct regular supervision and make spotchecks of such agricultural inputs as pesticides, veterinary medicine, feed and feed additives and fertilizers, which may endanger the quality and safety of agricultural products, and shall publish the results of such spotchecks.

Article 22 The administrative departments for agriculture under the people's governments at or above the county level shall improve control and guidance in respect of the use of agricultural inputs and establish a sound system for safe use of such inputs.

Article 23 Institutions of scientific research and education in agriculture and institutions for agricultural technology popularization shall improve training among agricultural producers in the knowledge about quality and safety and the skills in this respect.

Article 24 Agricultural production enterprises and specialized cooperative economic organizations of farmers shall keep records of the production of agricultural products, in which shall be truthfully carried the following items:

- (1) the names, sources, ways of application, amounts, and the dates of application and withdrawal of agricultural inputs;
- (2) outbreaks of animal or plant diseases, attacks by insect pests or weeds, and prevention and treatment thereof; and
- (3) dates of harvesting, slaughter or fishing.

Production records of agricultural products shall be preserved for two years. Fabrication of such records is prohibited.

The State encourages other agricultural producers to keep production records of agricultural products.

Article 25 Agricultural producers shall, in accordance with the provisions of relevant laws and administrative regulations and the regulations formulated by the administrative department for agriculture under the State Council, make rational use of agricultural inputs, strictly adhere to the regulations on the intervals for application and withdrawal, in order to prevent the quality and safety of agricultural products from being impaired.

Application of any agricultural inputs in the course of agricultural production that are explicitly prohibited by the State is prohibited.

Article 26 Agricultural production enterprises and specialized cooperative economic organizations of farmers shall test the quality and safety of their products themselves or entrust the testing to a testing agency. No agricultural products that fail to pass the quality and safety test for agricultural products shall be marketed. Article 27 Specialized cooperative economic organizations of farmers and agricultural producers associations shall provide their members with timely technical services in production, establish a management system for quality and safety of agricultural products, improve the system for controlling such quality and safety and enhance management through self-discipline.

## **Chapter V**

### **Packaging and Labeling of Agricultural Products**

Article 28 Where agricultural products to be marketed by agricultural production enterprises, specialized cooperative economic organizations of farmers, and by units or individuals engaged in the purchase of agricultural products need be packed or labeled according to regulations, they shall be marketed only after they are packaged or labeled. On the packages or labels shall be indicated the name of the product, place of production, name of producer, date of production, expiry date, quality grade and other information, as required by regulations; and where additives are used, the names of the additives shall also be indicated

according to regulations. The specific measures in this regard shall be formulated by the administrative department for agriculture under the State Council.

Article 29 Antistaling agents, preservatives, additives and other materials used in the process of packaging, preservation, storage and transportation of agricultural products shall be in conformity with the relevant compulsory technical specifications set by the State.

Article 30 Agricultural products belonging to agricultural genetically modified organisms should be labeled according to the relevant regulations on safety control of such organisms.

Article 31 Animals, plants and their products that need be quarantined according to law shall be attached with the quarantine qualification labels and certification.

Article 32 Agricultural products for sale shall be in conformity with the quality and safety standards of agricultural products. Producers may apply for use of the label for harm-free agricultural products. For agricultural products the quality of which meets the standards for quality agricultural products set by the State, producers may apply for use of the appropriate quality label for such products.

Unauthorized use of the quality labels for agricultural products as specified in the preceding paragraph is prohibited.

## **Chapter VI**

### **Supervision and Inspection**

Article 33 No agricultural products may be marketed under any of the following circumstances:

- (1) containing pesticides, veterinary medicine or other chemical substances banned by the State;
- (2) the residues of chemical substances, such as pesticides and veterinary medicine, or the toxic and harmful substances contained, such as heavy metals, are not in conformity with the quality and safety standards of agricultural products;
- (3) the pathogenic parasites, microorganisms or biologic toxin contained are not in conformity with the quality and safety standards of agricultural products;
- (4) the materials used, such as antistaling agents, preservatives and additives, are not in conformity with the compulsory technical specifications set by the State; and
- (5) other circumstances where the quality and safety standards of agricultural products are not measured up to.

Article 34 The State establishes a system for monitoring the quality and safety of agricultural products. The administrative departments for agriculture under the people's governments at or above the county level shall, in compliance with the requirements for ensuring the quality and safety of agricultural products, draw up plans for monitoring the quality and safety of agricultural products and organize implementation of the plans, and conduct regular supervision and make spotchecks of the agricultural products under production or on the market. The results of such supervision and spotchecks shall be published by the administrative department for agriculture under the State Council, or by such department

under the people's government of a province, autonomous region, or municipality directly under the Central Government within the limits of its powers.

Supervision, and spotcheck and test shall be entrusted to the agencies for testing the quality and safety of agricultural products that meet the conditions prescribed in Article 35 of this Law. No fees may be charged to the entity under spotcheck and the number of selected samples shall not exceed the number fixed by the administrative department for agriculture under the State Council. No administrative department for agriculture at a lower level may repeat spotcheck of the agricultural products that are already spotchecked by the administrative department for agriculture at a higher level by way of supervision.

Article 35 For test of the quality and safety of agricultural products, the existing testing agencies that conform to the relevant conditions shall be made full use of.

Agencies engaged in testing of the quality and safety of agricultural products shall possess the appropriate conditions and abilities for conducting such test, and shall be qualified if they pass the examination conducted by the administrative departments for agriculture under the people's governments at or above the provincial level or by the authorized departments. The specific measures in this respect shall be formulated by the administrative department for agriculture under the State Council.

Agencies for testing the quality and safety of agricultural products shall be subject to metrological accreditation in accordance with law.

Article 36 Where a producer or distributor of agricultural products who disagrees on the results of a spotcheck may, within five days from the date he receives the results of the spotcheck, apply for a second test with the administrative department for agriculture that has organized the spotcheck or with the administrative department at the next higher level. Where a spotcheck of the quality and safety of agricultural products is conducted by means of rapid test which is recognized by the administrative department for agriculture under the State Council in conjunction with the departments concerned, and the spotchecked disagrees on the results of the test, he may apply for a second test within four hours from the time he receives the results of the test. Rapid test shall not be used for a second test.

Where damages are caused to the party concerned due to errors in the results of a test, the liability for compensation shall be borne in accordance with law.

Article 37 A wholesale market for agricultural products shall establish an agency for testing the quality and safety of agricultural products to spotcheck the quality and safety of the agricultural products marketed thereon, or entrust such an agency with the spotcheck. Where the agency discovers that an agricultural product is no in conformity with the quality and safety standards of agricultural products, it shall ask the seller immediately to cease selling the product and report the matter to the administrative department for agriculture concerned.

Agricultural products distribution enterprises shall establish a sound system of inspection and acceptance for their purchases. No agricultural products that fail to pass the inspection based on the quality and safety standards of agricultural products may be marketed.

Article 38 The State encourages units and individuals to oversee the quality and safety of agricultural products. All units and individuals shall have the right to report, expose, or make an accusation against, any violations of this Law. The department concerned shall, after

receiving the said report, letter of exposure, or accusation, handle the matter in a timely manner.

Article 39 When exercising supervision over and inspection of the quality and safety of agricultural products, the administrative departments for agriculture under the people's governments at or above the county level may inspect on site the agricultural products produced or marketed, investigate and get to know the conditions of the quality and safety of agricultural products and consult and duplicate the records and other data relating to the quality and safety of the agricultural products. They shall have the right to seal up or seize the agricultural products that fail to pass the inspection based on the quality and safety standards of agricultural products.

Article 40 Where an accident involving the quality and safety of agricultural products occurs, the unit and individual concerned shall take control measures and report in time to the township people's government and the administrative department for agriculture under the people's government at the county level at the place where the unit or individual is located. The government and department that receive such a report shall deal with the matter without delay and report to the people's government at the next higher level and the department concerned. In the event of a major accident involving the quality and safety of agricultural products, the administrative department for agriculture shall, in a timely manner, notify the food and drug regulatory department at the same level.

Article 41 When, in exercising supervision and control over the quality and safety of agricultural products, an administrative department for agriculture under the people's government at or above the county level finds an agricultural product in any of the circumstances prescribed in Article 33 of this Law, it shall, in compliance with the requirements of the responsibility system for the quality and safety of agricultural products, ascertain the person who is to be held responsible and handle the case according to law, or put forward suggestions on how to handle it.

Article 42 Imported agricultural products shall be subject to inspection according to the quality and safety standards of agricultural products prescribed by the State. Where the relevant quality and safety standards of agricultural products have not been established, they shall be established in a timely manner according to law and, before such standards are established, inspection shall be conducted with reference made to the appropriate foreign standards designated by the relevant department of the State.

## **Chapter VII**

### **Legal Responsibility**

Article 43 Where a person responsible for supervision and control over the quality and safety of agricultural products fails to perform his duty of supervision in accordance with law or abuses his power, he shall be given an administrative sanction in accordance with law.

Article 44 Where an agency for testing the quality and safety of agricultural products fabricates the results of a test, it shall be ordered to rectify, its illegal gains shall be confiscated and it shall also be fined not less than RMB 50,000 yuan but not more than 100,000 yuan, and the person who is directly in charge and the other persons who are directly responsible shall be fined not less than 10,000 yuan but not more than 50,000 yuan each; if the circumstances are serious, it shall be disqualified from conducting such tests; and if damages are caused, it shall be liable for compensation in accordance with law.

Where the results of a test issued by an agency for testing the quality and safety of agricultural products are untruthful and therefore damages are caused, the said agency shall be liable for compensation in accordance with law; and if major damages are caused, it shall be disqualified from conducting such tests.

Article 45 An entity that, in violation of the provisions of laws and regulations, discharges waste water or exhaust gas or dumps solid wastes or other toxic and harmful substances to agricultural production places shall be punished according to the provisions of the laws and regulations on environment protection; and if damages are caused, it shall be liable for compensation in accordance with law.

Article 46 An entity that uses agricultural inputs in violation of the provisions of laws and administrative regulations or the provisions prescribed by the administrative department for agriculture under the State Council shall be punished according to the provisions of the relevant laws and administrative regulations.

Article 47 An agricultural production enterprise or specialized cooperative economic organization of farmers that fails to establish or keep, as required by regulations, production records of agricultural products or fabricates such records shall be ordered to rectify within a time limit; if it fails to rectify at the expiration of the time limit, it may be fined not more than 2,000 yuan.

Article 48 An entity or individual that, in violation of the provisions of Article 28 of this Law, sells agricultural products without packaging or labels required by regulations shall be ordered to rectify within a time limit; and if it or he fails to rectify at the expiration of the time limit, it or he may be fined not more than 2,000 yuan.

Article 49 Where the antistaling agents, preservatives, additives and other materials used are not in conformity with the relevant compulsory technical specifications set by the State, as specified in Subparagraph (4) of Article 33 of this Law, the entity or individual shall be ordered to cease selling the contaminated agricultural products and to give such products innocent treatment; with respect to the products to which no innocent treatment can be given, they shall be destroyed under supervision; its or his illegal gains shall be confiscated, and it or he shall also be fined not less than 2,000 yuan but not more than 20,000 yuan.

Article 50 Where the agricultural products marketed by an agricultural production enterprise or specialized cooperative economic organization of farmers fall under one of the circumstances specified in Subparagraphs (1), (2) and (3) or Subparagraph (5) of Article 33, the said enterprise or organization shall be ordered to cease selling such agricultural products, to recover the ones already sold, to give innocent treatment to the ones illegally marketed, or have them destroyed under supervision; its illegal gains shall be confiscated, and it shall also be fined not less than 2,000 yuan but not more than 20,000 yuan.

Where the agricultural products marketed by an agricultural products distribution enterprise fall under one of the circumstances specified in the preceding paragraph, the products shall be disposed of and the distribution enterprise punished according to the provisions of the preceding paragraph.

Where the agricultural products marketed on a wholesale market for agricultural products fall under the circumstances specified in the first paragraph, the agricultural products illegally marketed shall be disposed of according to the provisions in the first paragraph and the seller of such products shall be punished likewise.

Where a wholesale market for agricultural products violates the provisions of the first paragraph of Article 37 of this Law, it shall be ordered to rectify and shall be fined not less than 2,000 yuan but not more than 20,000 yuan.

Article 51 An entity or individual that, in violation of the provisions of Article 32 of this Law, makes unauthorized use of quality labels for agricultural products shall be ordered to rectify, it or his illegal gains shall be confiscated and it or he shall also be fined not less than 2,000 yuan but not more than 20,000 yuan.

Article 52 Adoption of the measures for disposition and punishment prescribed in Articles 44, 47, 48 and 49, in the first and fourth paragraph of Article 50, and in Article 51 of this Law shall be decided on by the administrative departments for agriculture under the people's governments at or above the county level. Adoption of the ones prescribed in the second and third paragraph of Article 50 shall be decided on by the administrative departments for industry and commerce.

Where administrative penalties and the authorities imposing such penalties are otherwise prescribed by laws, the provisions there shall apply. However, no penalty shall be imposed a second time on one and the same offence.

Article 53 Where a violation of the provisions of this Law constitutes a crime, criminal responsibility shall be investigated in accordance with law.

Article 54 An entity or individual that produces or sells the agricultural products specified in Article 33 of this Law, thus causing damages to consumers, shall be liable for compensation according to law.

Where agricultural products sold on a wholesale market for agricultural products fall under the circumstances prescribed in the preceding paragraph, consumers may claim compensation from the said market; if the responsibility falls on the producers or sellers, the market shall have the right to recourse. Consumers may also claim compensation directly from the producers and sellers.

## **Chapter VIII**

### **Supplementary Provisions**

Article 55 Swine slaughter shall be controlled in accordance with the relevant regulations of the State.

Article 56 This Law shall go into effect as of November 1, 2006.