

# Measures for the Safety Administration of Imported and Exported Food

<b>Date issued:</b>	09-13-2011
<b>Effective date:</b>	03-01-2012
<b>Issuing authority:</b>	State Administration of Quality Supervision, Inspection and Quarantine
<b>Area of law:</b>	Commodity Inspection, Animal and Plant Quarantine, Health and Sanitation

## Order of the State Administration of Quality Supervision, Inspection and Quarantine (No. 144)

Measures for the Safety Administration of Imported and Exported Food, as deliberated and adopted at the executive meeting of the State Administration of Quality Supervision, Inspection and Quarantine on July 22, 2010, are hereby issued and shall come into force on March 1, 2012.

Director: Zhi Shuping  
September 13, 2011

## Measures for the Safety Administration of Imported and Exported Food

### Chapter I General Provisions

Article 1 To guarantee the safety of imported and exported food and protect the life and health of human beings, animals and plants, these Measures are formulated in accordance with the Food Safety Law of the People's Republic of China (hereinafter referred to as the "Food Safety Law") and the implementing regulation thereof; the Law of the People's Republic of China on the Inspection of Import and Export Commodities and the implementing regulation thereof; the Law of the People's Republic of China on the Quarantine of Animals and Plants at Entry and Exit and the implementing regulation thereof; and the Special Rules of the State Council on Strengthening the Supervision and Administration of the Safety of Food and Other Products; and other laws and regulations.

Article 2 These Measures shall apply to the inspection and quarantine of imported and exported food and the supervision and administration thereof.

The safety administration of imported and exported food additives, food-related products, fruits and edible live animals shall be governed by the relevant legal provisions.

Article 3 The State Administration of Quality Supervision, Inspection and Quarantine (hereinafter referred to as the "SAQSIQ") shall be responsible for the safety supervision and administration of imported and exported food across the country.

The local entry-exit inspection and quarantine institutions of the SAQSIQ (hereinafter referred to as the "inspection and quarantine institutions") shall, in accordance with the law, effectively conduct the safety supervision and administration of imported and exported food under the sole direction of the SAQSIQ.

Article 4 The SAQSIQ shall apply a registration system to overseas enterprises producing imported food, apply a filing management system to exporters and agents exporting food into China, conduct inspections on imported food, apply a filing management system to enterprises producing exported food, apply a filing management system to the planting and breeding farms of raw materials for exported food, conduct oversight and sampling inspection of exported food, manage imported and exported food by classification, and conduct good faith management of producers and dealers of imported and exported food.

Article 5 Producers and dealers of imported and exported food shall conduct production and other business operations in accordance with the law, be responsible to the general public, guarantee food safety, act in good faith, accept public supervision, and assume social responsibilities.

Article 6 The personnel conducting safety supervision and administration of imported and exported food of an inspection and quarantine institution (hereinafter referred to as the “inspection and quarantine personnel”) shall possess the necessary professional knowledge and perform their duties diligently.

## **Chapter II Food Import**

Article 7 The SAQSIQ shall, according to the provisions of Chinese laws and regulations, appraise the food safety administration system and food safety conditions of a country or region exporting food into China, and conduct a retrospective review as required by the safety supervision and administration of imported food.

The SAQSIQ shall determine the corresponding inspection and quarantine requirements according to the provisions of Chinese laws and regulations, the requirements of national food safety standards and the risk analysis results of domestic and foreign epidemic situations, epidemic diseases and toxic and hazardous substances, as well as the results of appraisal and review as mentioned in the preceding paragraph.

Article 8 Imported food shall meet the national food safety standards of China and the relevant inspection and quarantine requirements. Before the issuance of national food safety standards, inspections shall be conducted in accordance with existing edible agricultural product quality and safety standards, food safety standards, food quality standards, and mandatory industrial standards related to food.

To import for the first time any food not covered by the national food safety standards, the importer shall submit a license certification document issued by the health administrative department of the State Council to the inspection and quarantine institution, and the inspection and quarantine institution shall conduct inspection according to the requirements of the health administrative department of the State Council.

Article 9 The SAQSIQ shall apply a registration system to the overseas food production enterprises exporting food into China, and the registration shall be conducted according to the relevant provisions of the SAQSIQ.

The exporters and agents exporting food into China shall go through the filing formalities at the SAQSIQ. An exporter or agent applying for filing shall provide the enterprise information to be filed according to the filing requirements, and be responsible for the authenticity of such information.

The enterprise registration and filing list shall be published on the website of the SAQSIQ.

Article 10 If the examination and approval formalities for quarantine of imported animals and plants are required for the import of food, the food may be imported only after the Quarantine Permit for Imported Animals and Plants of the People’s Republic of China is obtained.

Article 11 High-risk food that may cause any animal or plant epidemic situation or disease or contain any toxic or hazardous substance shall be imported at the designated port. The conditions for and a list of designated ports shall be made and issued by the SAQSIQ.

Article 12 To import food, the importer or its agent shall, according to the relevant provisions, apply to the inspection and quarantine institution at the place of customs declaration for inspection and quarantine on the basis of the following materials:

1. contracts, invoices, packing lists, bills of lading and other necessary certification documents;

2. the relevant approval documents;
3. an official quarantine (health) certificate issued by the exporting country (region) as required by any law, regulation, bilateral agreement, protocol or other provisions;
4. samples and translations of labels for imported food, if pre-packed food is imported for the first time;
5. a license certification document as prescribed in Article 8 of these Measures, if food not covered by the national food safety standards is imported for the first time; and
6. other certificates or certification documents that shall be attached to the imported food.

When applying for inspection and quarantine, the importer or its agent shall declare the name, brand, country (region) of origin, specifications, quantity/weight, total value, and date of production (batch number) of all imported food in an itemized manner and other information required by the SAQSIQ.

Article 13 The inspection and quarantine institution shall examine the application materials submitted by the importer or its agent, and accept applications meeting the relevant requirements.

Article 14 The packaging and transport vehicles of imported food shall meet safety and health requirements.

Article 15 The Chinese labels and instructions for imported pre-packed food shall meet the provisions of Chinese laws and regulations and the requirements of national food safety standards.

Article 16 An inspection and quarantine institution shall inspect whether the content of labels complies with laws and regulations and the requirements of national food safety standards and inspect the authenticity and accuracy of the content regarding quality, including format inspection and content consistency inspection of labels.

If the labels or instructions for imported food emphasize any award won, certificate obtained, production area or other content, or emphasize any special ingredient, corresponding certification materials shall be provided.

Article 17 Before a certification of inspection and quarantine is obtained, the imported food shall be stored at a supervised location designated or approved by the inspection and quarantine institution, and shall not be used for any purpose by any entity or individual without the approval of the inspection and quarantine institution.

Article 18 If the imported food passes the inspection and quarantine, the inspection and quarantine institution shall issue a certification of inspection and quarantine, allowing the sale and use thereof. The certification of inspection and quarantine shall itemize the name, brand, country (region) of origin, specifications, quantity/weight, and date of production (batch number) of all goods, and indicate "N/A" for absence of brand or specifications.

If the imported food fails the inspection and quarantine, the inspection and quarantine institution shall issue a certification of failure to pass inspection and quarantine. If the imported food fails in term of safety, health or environmental protection, the inspection and quarantine institution shall order the party concerned to destroy it, or issue an advice of return of goods, and the importer shall go through the formalities for return of goods. If the imported food fails in any other aspect, technical treatment may be made under the supervision of the inspection and quarantine institution, and the imported food may be sold or used only after passing the new inspection and quarantine.

Article 19 The inspection and quarantine institution shall apply a filing management system to food importers. An importer shall apply to the local inspection and quarantine institution for filing in advance, and submit the following materials:

1. a filing application form for importers completed accurately;
2. photocopies of the business license issued by the industrial and commercial administration, the certificate of organizational institution code, the identity certification of the legal representative, and the registration form for the filing of foreign trade operators; the originals thereof for verification purpose only;
3. enterprise quality and safety management rules;

4. internal structure, functions of departments and duties of positions related to food safety;
  5. the varieties and storage places of food that it plans to deal in;
  6. a relevant explanation (on varieties and quantities of food), if it was once engaged in the import, processing and sale of food in the past two years; and
  7. a photocopy of the certificate of filing registration of an entity applying for inspection and quarantine by itself, if it applies for inspection and quarantine by itself; the originals for verification purpose only.
- The inspection and quarantine institution shall grant filing if the information provided by the enterprise is found to be correct after verification.

Article 20 A food importer shall establish a food import and sales record system to accurately record the health certificate number, name, specifications, quantity, date of production (batch number), shelf life, name and contact methods of exporter and purchasers, and delivery date of the imported food, and other matters. The records shall be authentic and maintained for at least two years.

The inspection and quarantine institution shall inspect the import and sales records of importers within its jurisdiction.

Article 21 The SAQSIQ shall apply a risk monitoring system for the safety of imported food, and organize the preparation and implementation of an annual risk monitoring plan for the safety of imported food.

Inspection and quarantine institutions shall, according to the risk monitoring plan of the SAQSIQ for the safety of imported food, monitor risks related to imported food, and report the monitoring results to higher authorities.

Inspection and quarantine institutions shall, according to the results of risk monitoring for the safety of imported food and on the basis of risk analysis, make adjustments to the measures for the inspection, quarantine and supervision of relevant imported food.

Article 22 If the imported raw materials of food are all used for re-export after processing, the inspection and quarantine institution shall conduct inspection according to the compulsory requirements of the technical specifications of the destination country (region) of exported food or the requirements of the trade contract.

Article 23 When finding any imported food not in conformity with the statutory requirements, the inspection and quarantine institution may include the foreign production enterprise and exporter and the domestic importer, inspection declarer and agent of the imported food not in conformity with the statutory requirements in the list of enterprises with a poor record; and may include those having been subject to administrative punishment for violations of law in the list of lawbreaking enterprises and release this list to the public.

### **Chapter III Food Export**

Article 24 Producers and dealers of exported food shall guarantee that its exported food complies with the standards of the importing countries (regions) or the requirements of contracts.

If an importing country (region) has no relevant standards and there are no relevant requirements in a contract, it shall be guaranteed that the exported food complies with the national food safety standards of China.

Article 25 An enterprise producing exported food shall establish an effective quality and safety management system.

An enterprise producing exported food shall establish a purchase inspection record system for raw materials, auxiliary materials, food additives and packaging materials and vessels.

An enterprise producing exported food shall maintain production records to accurately record information on safety management in the process of food production.

An enterprise producing exported food shall establish an ex-factory inspection record system to inspect its exported food according to the requirements of these Measures, and may not apply for inspection and quarantine until the food passes

its ex-factory inspection.

The aforesaid records shall be authentic and maintained for at least two years.

Article 26 The SAQSIQ shall apply a filing system to enterprises producing exported food, and the filing shall be conducted according to the relevant provisions of the SAQSIQ.

Article 27 The inspection and quarantine institution shall be responsible for overseeing and administering the operation of the quality and safety management systems of enterprises producing exported food within its jurisdiction.

Article 28 The SAQSIQ shall apply a filing management system to the planting and breeding farms of raw materials for exported food. A planting or breeding farm of raw materials for exported food shall go through the filing formalities at the local inspection and quarantine institution.

A catalogue of raw materials subject to the filing management (hereinafter referred to as the "catalogue") and the filing conditions shall be decided by the SAQSIQ. If a raw material for exported food is listed in the catalogue, it shall come from a planting or breeding farm which has gone through the filing formalities.

The SAQSIQ shall exclusively publish a list of raw material planting and breeding farms which have gone through the filing formalities.

Article 29 The inspection and quarantine institution at the locality of a planting or breeding farm which has gone through the filing formalities shall supervise and inspect the farm, and if the farm no longer meets the filing requirements, shall notify, in a timely manner, the competent department of the local government and the inspection and quarantine institution at the locality of the enterprise producing exported food.

The inspection and quarantine institution at the locality of the production enterprise shall, in a timely manner, communicate the quality, safety and health information on the raw materials provided by the farm to the inspection and quarantine institution at the locality of the farm.

Article 30 A planting or breeding farm shall establish a raw material production record system, and the production records shall be authentic and maintained for at least two years. A planting or breeding farm which has gone through the filing formalities shall use agricultural chemicals according to the food safety standards of the importing country (region) and the relevant provisions of China, and establish an epidemic situation and epidemic disease monitoring system. A planting or breeding farm which has gone through the filing formalities shall issue a certification of raw materials supplied for exported food processing for each batch of raw materials produced.

Article 31 The SAQSIQ shall apply a risk monitoring system for the safety of exported food, and organize the preparation and implementation of an annual risk monitoring plan for the safety of exported food.

Inspection and quarantine institutions shall, according to the risk monitoring plan of the SAQSIQ for the safety of exported food, organize the monitoring of exported food within its jurisdiction, and report the monitoring results to higher authorities.

Inspection and quarantine institutions shall, according to the results of risk monitoring for the safety of exported food and on the basis of risk analysis, make adjustments to the measures for the inspection, quarantine and supervision of relevant exported food.

Article 32 A food exporter or its agent shall, according to the relevant provisions, apply to the inspection and quarantine institution at the locality of the enterprise producing exported food for inspection and quarantine, on the basis of contracts, invoices, packing lists, ex-factory inspection certifications, certifications of raw materials supplied for exported food processing and other necessary certification documents and the relevant approval documents. When applying for inspection, the food exporter or its agent shall declare the name, specifications, quantity/weight and date of production of

exported food in an itemized manner.

Article 33 Inspection and quarantine bureaus directly subordinate to the SAQSIQ shall, according to the requirements of managing exported food by classification, varieties of local exported food, previous export information, safety records, requirements of the importing country (region) and other relevant information, conduct risk analysis and prepare a sampling inspection plan for exported food within its jurisdiction.

Inspection and quarantine institutions shall conduct a sampling inspection of exported food according to the sampling inspection plan, corresponding working rules and procedures and relevant requirements.

If there is any bilateral agreement, the sampling inspection of exported food shall be conducted according to its requirements.

Article 34 If the exported food meets the export requirements, the inspection and quarantine institution shall issue a customs clearance proof according to the relevant provisions, and when necessary, issue a certificate. If the importing country (region) has any new requirement on the form or content of the certificate, the inspection and quarantine institution may modify the certificate only with the approval of the SAQSIQ.

If the exported food fails to pass the inspection and quarantine, the inspection and quarantine institution shall issue a certification of failure to pass inspection and quarantine. If technical treatment may be made according to law, technical treatment shall be made under the supervision of the inspection and quarantine institution, and export is allowed only after the exported food passes inspection and quarantine. If technical treatment cannot be made according to law or the exported food fails to pass inspection and quarantine even after technical treatment, export shall not be allowed.

Article 35 The packaging and transport vehicles of exported food shall meet safety and health requirements, and pass inspection and quarantine.

Article 36 For containers, cabins, aircrafts, vehicles and other means of transportation for perishable or frozen exported food, the carriers, loading entities or their agents shall, before shipment, apply to the inspection and quarantine institution for cargo worthiness inspection regarding cleanliness, hygiene, refrigeration, sealing and tightness; no shipment shall be allowed without the inspection or without passing the inspection.

Article 37 An enterprise producing exported food shall indicate on the transport packages the name of producer, filing number, product name, production batch number and date of production. The inspection and quarantine institution shall include the aforesaid information in the certification document issued. If the importing country (region) or the contract has any special requirement, the indications may be adjusted appropriately with the approval of the inspection and quarantine bureau directly under the SAQSIQ, as long as the products remain traceable.

Where necessary, inspection and quarantine signs shall be affixed according to the provisions of the SAQSIQ.

Article 38 If the exported food meeting the export requirements is delivered to a port after inspection and quarantine by the inspection and quarantine institution at the place of production, the inspection and quarantine institution at the place of production may conduct supervision and administration by such means as monitoring loading and affixing a seal.

Article 39 If the exported food meets the export requirements after inspection and quarantine by the inspection and quarantine institution at the place of production, the inspection and quarantine institution at the port may conduct sampling inspection, and prohibit export if the exported food fails to pass the sampling inspection at the port.

The inspection and quarantine institution at the port shall notify the inspection and quarantine institution at the place of production of the relevant information in a timely manner, and report such information to higher authorities as required.

The inspection and quarantine institution at the place of production shall take corresponding regulatory measures based on the reasons for failure to pass the sampling inspection at the port.

Article 40 When finding any exported food not in conformity with the statutory requirements, the inspection and quarantine institution may include its producer and dealer in the list of enterprises with a poor record; and may include those having been subject to administrative punishment for violations of law in the list of lawbreaking enterprises and release this list to the public.

#### **Chapter IV Risk Warning and Relevant Measures**

Article 41 The SAQSIQ shall apply a risk warning system to imported and exported food.

When any serious food safety problem or epidemic situation is found in imported or exported food, or any domestic or overseas food safety incident or epidemic situation may affect the safety of imported or exported food, the SAQSIQ and the inspection and quarantine institutions shall take risk warning and control measures in a timely manner.

Article 42 The SAQSIQ and the inspection and quarantine institutions shall establish a network for gathering information on the safety of imported and exported food, to gather and organize food safety information, which mainly includes:

1. food safety information found by the inspection and quarantine institutions during their inspection and quarantine of imported and exported food;
2. imported food safety information reported by industry associations and consumers;
3. food safety information and risk warning information released by international organizations and overseas government agencies and food safety information reported by overseas organizations such as industry associations and consumers; and
4. other food safety information.

Article 43 The inspection and quarantine institution shall, according to the prescribed requirements and procedures, report verified and organized food safety information to the SAQSIQ and communicate such information to the local government and relevant departments.

Article 44 The SAQSIQ and the inspection and quarantine bureaus directly under the SAQSIQ shall conduct risk analysis of the gathered food safety information according to the relevant provisions, and determine the risk grades of such information.

Article 45 The SAQSIQ and the inspection and quarantine bureaus directly under the SAQSIQ shall release risk warning circulars according to the risk grade of food safety information. The SAQSIQ may, as the case may be, release a risk warning announcement, and decide to take the following control measures:

1. conditionally restricting import or export, including but not limited to conducting strict monitoring, imposing stricter inspection requirements and ordering a recall;
2. prohibiting import or export, and destroying products on site or returning products; and
3. implementing the emergency response plan for the safety of imported and exported food.

Inspection and quarantine institutions shall be responsible for organizing the implementation of risk warning and control measures.

Article 46 As for uncertain risks, the SAQSIQ may, by reference to international practices, directly release risk warning circulars or risk warning announcements, and take the control measures prescribed in Article 45 of these Measures; and in the meantime, gather and supplement the relevant information and materials in a timely manner, and conduct risk analysis.

Article 47 If the risks on the safety of imported and exported food no longer exist or have reduced to an acceptable level, the risk warning circular or announcement and risk control measures shall be removed in a timely manner.

Article 48 If a safety problem with imported food has caused or may cause any damage to the health or life safety of human beings, the food importer shall actively recall the food and report to the local inspection and quarantine institution. The food importer shall release the relevant information to the public, notify sellers to stop selling such products, notify consumers to stop using such products, and maintain appropriate records on the recalled food.

The inspection and quarantine institution shall organize an examination after receiving the report, and report the relevant information to higher authorities as required according to the extent of impact of products.

If the food importer fails to actively recall the problematic food, the inspection and quarantine bureau directly under the SAQSIQ shall order a recall in a notice to it and report to the SAQSIQ. The SAQSIQ may, when necessary, order a recall. The SAQSIQ may release a risk warning circular or announcement, and take the measures prescribed in Article 45 of these Measures and other measures to avoid damage.

Article 49 If a safety problem with exported food is found to have caused or likely cause any damage to the health or life safety of human beings, the producer and dealer of exported food shall take measures to avoid or reduce damage and immediately report to the local inspection and quarantine institution.

Article 50 Inspection and quarantine institutions may take the following measures when legally performing its functions of supervising and administering the inspection and quarantine of imported and exported food:

1. entering the production and business places to conduct an on-site inspection;
2. consulting, duplicating, seizing and impounding relevant contracts, bills, account books, and other relevant materials;
3. seizing and impounding products not in conformity with statutory requirements, illegally used raw materials, auxiliary materials, additives and agricultural inputs, and tools and equipment used for illegal production; and
4. seizing production and business places with a major potential risk of endangering the health and life safety of human beings.

Article 51 Inspection and quarantine institutions shall report the control measures taken by them to the SAQSIQ according to the relevant provisions, and notify the local government and relevant departments.

The SAQSIQ shall, according to the relevant provisions, notify relevant departments of the relevant food safety information and control measures taken.

## **Chapter V Legal Liability**

Article 52 Whoever violates Article 17 of these Measures on designated location for supervision, if there is no illegal income, shall be ordered by the inspection and quarantine institution to make a correction, and be subject to a fine of not more than 10,000 yuan.

Article 53 Whoever sells or uses any imported food not in conformity with the national food safety standards as found upon inspection shall be punished by the inspection and quarantine institution according to Articles 89 and 85 of the Food Safety Law.

Article 54 An importer falling under any of the following circumstances shall be punished by the inspection and quarantine institution according to Articles 89 and 87 of the Food Safety Law:

1. It fails to establish a food import and sales record system;
2. The health certificate number, name, specifications, quantity, date of production (batch number), shelf life, name and contact method of exporter and purchasers, date of delivery or any other information on imported food is not truly recorded in its food import and sales records; or
3. Its food import and sales records are not maintained for two years or more.

Article 55 If a planting or breeding farm of raw materials for exported food falls under any of the following circumstances, the inspection and quarantine institution shall order it to make a correction, and if it has any illegal income, impose a fine of not more than three times the amount of illegal income but not more than 30,000 yuan on it; or if it has no illegal income, impose a fine of not more than 10,000 yuan on it:

1. It illegally uses any agricultural chemical during the planting or breeding of raw materials for exported food; or
2. The relevant records are false or not maintained for two years or more.

If an enterprise in producing exported food fails to use raw material from a base which has gone through the filing formalities according to the relevant provisions, it shall be punished according to the preceding paragraph.

Article 56 Whoever falls under any of the following circumstances shall be punished by the inspection and quarantine institution according to Articles 89 and 85 of the Food Safety Law:

1. It exports food without applying for inspection or without passing the supervisory or sampling inspection; or
2. It exchanges, without approval, exported food which has passed the inspection and quarantine institution's supervisory or sampling inspection and for which a certificate of inspection and quarantine has been issued.

Article 57 A producer or dealer of imported or exported food, an inspection and quarantine institution or an inspection and quarantine staff member which commits any other illegal act shall be punished according to the provisions of relevant laws and regulations.

## **Chapter VI Supplementary Provisions**

Article 58 The producers and dealers of imported and exported food include enterprises producing imported and exported food, importers, exporters and agents.

Article 59 The supervision and administration of inspection and quarantine of food entering and leaving areas under special customs supervision and food imported and exported through small-scale border trade or barter trade shall be governed by the relevant provisions of the SAQSIQ.

Article 60 The import and export of food through express delivery, post or carry-on of travelers shall comply with the relevant provisions of the SAQSIQ.

Article 61 The import and export of food as samples, presents, gifts or exhibits for non-trading purposes, the import of food for duty free business operations or for an embassy's or consulate's own use, and the export of food for an embassy's or consulate's own use or for the own use of personnel of Chinese enterprises stationed abroad shall be governed by the relevant provisions of the state.

Article 62 If the state provides otherwise for food supplied to Hong Kong and Macau Special Administrative Regions and Taiwan region, such provisions shall prevail.

Article 63 The power to interpret these Measures shall remain with the SAQSIQ.

Article 64 These Measures shall come into force on March 1, 2012.