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Rules of Bad Records Administration on Imported Food

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Policy and Program Announcements

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Report Highlights:
On April 14, 2014, the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) released the final version of the Implementation Rules regarding Bad Record Administration of Imported Food, which will come into enforcement on July 1, 2014. An earlier draft was notified to the WTO as G SPS N CHN 631 (GAIN report CH 14003).
This report provides an unofficial translation of the final measure.

General Information:

Translation Begin

AQSIQ Public Notice concerning Publishing the Implementation Rules of Bad Records Administration on Import Food

AQSIQ Public Notice [2014] No.43

These rules were formulated to safeguard the safety of imported foods, ensure the onus of responsibility on imported food enterprises, and promote self-discipline in the (food import) industry. These rules were developed pursuant to provisions of the Food Safety Law of the People's Republic of China and its implementing rules, the Administrative Measures for the Safety of Imported and Exported Foods (AQSIQ Decree No. 144), and the Administrative Measures for the Inspection, Quarantine, and Supervision of Imported and Exported Cosmetics (AQSIQ Decree 143). These rules will be enforced as of July 1, 2014.

April 14, 2014

AQSIQ

Rules of Bad Records Administration on Imported Food

I. General Provisions

1. These rules were formulated to safeguard the safety of imported foods, ensure the onus of responsibility on imported food enterprises, and promote self-discipline in the (food import) industry. These rules were developed pursuant to the *Food Safety Law of the People's Republic of China* and its implementing rules, the *Law on Import and Export Commodity Inspection* and its implementing rules, and the *Administrative Measures for Safety of Imported and Exported Foods* (AQSIQ Decree No. 144).

2. These rules are applicable to the administration of bad records of foreign manufacturing establishments and exporters, domestic importers, and agents of imported foods (hereinafter referred to as “imported food enterprises”).

3. The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (hereinafter referred to as AQSIQ) is responsible for the administration of the bad records of imported food; it determines and releases the control measures to be taken.

4. The regional entry-exit inspection and quarantine branches of AQSIQ (hereinafter refer to as CIQ) are responsible for collating, verifying, and reporting food safety information related to

imported food; they shall establish the bad records of imported foods, and take control measures towards imported food enterprises and countries/regions that have bad records.

II. Generation of the bad records

AQSIQ and CIQ at all levels shall include the following information into the bad records of the imported food enterprises after study and assessment:

1. Food safety problems detected in imported food inspection, quarantine and supervision.

2. Food safety problems reported by other Chinese government agencies, or Chinese domestic industry associations, companies and consumers.

3. Food safety problems reported by international organisations, foreign governments, foreign industry associations, companies and consumers.

4. Other information related to imported food safety.

III. Early warning of risks and control measures

1. AQSIQ shall formulate control measures to be taken towards products and enterprises that have bad records of different degrees (appendix 1 and 2); AQSIQ shall assemble and release the bad records (it receives).

2. CIQs (that are directly administered by the AQSIQ) shall collect and report the bad records that occur in their region to AQSIQ; following severe bad records, the CIQs shall immediately conduct an assessment, and take appropriate control measures while submitting the information to AQSIQ.

3. AQSIQ shall assess the bad records it receives, and issue notices of risk warnings pursuant to the assessment conclusions; it shall also announce the control measures of different degrees to be taken towards imported food enterprises.

Per imported food enterprises that are subject to the "Implementation Catalogue for Registration of Overseas Manufacturers of Imported Food", and have registered (with the Certification and Accreditation Administration of China, CNCA), CNCA would, pursuant to the AQSIQ Decree 145, instruct the enterprise to take control measures, including rectification measures within limited time, suspend the enterprise's registration, or cancel its registration. CNCA would at the same time report the situation to AQSIQ.

IV. Removing the risk warning

1. Upon meeting the requirements for removal of the bad record (see annex 1), a domestic import food enterprise with a bad record may apply for removal of the risk warning to the CIQ in the region where it is registered or has a history of food trade in the past 12 months. The CIQ and AQSIQ shall conduct an assessment; with the conclusion that the risk no longer exists or has been reduced to an acceptable level, AQSIQ shall remove the risk warning and the control measures.

2. Upon meeting the requirements for removal of the bad records (see annex 1), an overseas imported food enterprise may apply for removal of the risk warning to the food safety authority of the country/region. The food safety authority in the country/region shall conduct an investigation

into the company, and notify the AQSIQ of the causes of the problem and the rectification measures. With this information, AQSIQ shall conduct a risk assessment; if the assessment finds the risk no longer exists or has been reduced to an acceptable level, AQSIQ shall remove the risk warning and the control measures (imposed on the country/region).

3. Should a country or a region meet requirements for removal of the bad records (see annex 2), its food safety authority shall notify the AQSIQ of the causes of the problem and the rectification measures taken. With which, AQSIQ shall conduct a risk assessment; if the assessment finds the risk no longer exists or has been reduced to an acceptable level, AQSIQ shall remove the risk warning and the control measures (imposed on the country/region).

V. Supplementary provisions

1. Should these rules be inconsistent with other food safety control measures released by AQSIQ or other inspection and quarantine authorities, the stricter measures shall be adopted.

2. The test reports submitted by the food import enterprise shall meet the following requirements:

1) The test report shall be issued by a qualified foreign testing institute, or a domestic testing institute that has obtained food testing accreditation; if necessary, AQSIQ will release a list of qualified testing institutes, and update the list from time to time.

2) The production date or batch number in the test report must match the date/batch number of the imported foods.

3) (If a product or a company is) added to the bad record due to detection of an illegal substance, the test report should provide the test result of the substance.

3. Bad record administration of imported cosmetics is also subject to these rules.

4. AQSIQ is responsible for interpretation of these rules.

5. These rules will be effective as of July 1, 2014.

Annex 1

The Administrative and Control Measures for Enterprises with Bad Records

<table>
<tr><td colspan="4">Suggested Criteria of Risk Warning</td><td rowspan="2">Suggested Control Measures</td><td colspan="3">Suggested Criteria for Removing Risk Warnings</td></tr>
<tr><td>Type of noncompliance</td><td>No. of product types</td><td>No. of noncompliant items</td><td>No. of noncompliant batches</td><td>Criteria applicable to all types of noncompliance</td><td>Time frame</td><td>Required batches</td></tr>
<tr><td rowspan="3">Hygiene and safety items</td><td>1</td><td>1</td><td>≥2</td><td>Provide test result of the noncompliant items of the kind of food products that have bad records.</td><td rowspan="4">1. No occurrence of quality and/or safety problem after the control measures;
2. Control measures implemented for longer than the required time frame;
3. Imported food of each category equal to or exceed the required batches after the control measures.</td><td>6 Months</td><td>5</td></tr>
<tr><td>1</td><td>≥2</td><td>≥4</td><td>Provide test results of items in the relevant national food safety standards of the kind of food product that have a bad record (including standards referred to in these standards).</td><td>12 Months</td><td>10</td></tr>
<tr><td>≥2</td><td>≥2</td><td>≥8</td><td>Provide test results of items in the relevant national food safety standards of all food products the company produces (including standards referred to in these standards).</td><td>12 Months</td><td>10</td></tr>
<tr><td>Non-hygiene or safety items</td><td>1</td><td>1</td><td>≥3</td><td>Provide test result of the noncompliant items of the kind of food products that have bad records, or other evidence.</td><td>6 Months</td><td>5</td></tr>
</table>

	1	≥2	≥6	Provide test results of **items in the relevant national food safety standard**s of the kind of food product that have a bad record (including standards referred to in these standards), or relevant evidence.		12 Months	10
	≥2	≥2	≥12	Provide test results of **items in the relevant national food safety standards of all food products the company produces** (including standards referred to in these standards) or relevant evidence.		12 Months	10
Other quality and safety risks				The company is required to provide test report of the **specific items of the designated products,** or relevant evidence.		12 Months	10

Note: 1. Hygiene and safety items include: non-edible substances added, forbidden or restricted substances, biological toxic contamination, excessive food additives, microbial contamination, contaminants, genetically modified ingredients, pesticide/veterinary drug residues, irradiated ingredients.

2. Non hygiene and food items include: noncompliant packaging, noncompliant label, quality, the presence of harmful organisms, noncompliant certificates, and other noncompliant items.

Annex 2

The Administrative and Control Measures for Bad Records Involving the Entire Country/Region

<table>
<tr><td></td><td colspan="4">Risk warning reference details</td><td rowspan="2">Suggested Control Measures</td><td colspan="3">Suggested Criteria for Removing Risk Warnings</td></tr>
<tr><td>Type of noncompliance</td><td>No. of company</td><td>No. of product types</td><td>No. of noncompliant items</td><td>No. of noncompliant batches</td><td>Criteria applicable to all types of noncompliance</td><td>Time frame</td><td>Required batches</td></tr>
<tr><td rowspan="2">Health and safety issue</td><td>≥2</td><td>1</td><td>1</td><td>≥16</td><td>All types of products that have bad records from the country or region are required to provide test results of the noncompliant items of the kind of food products that have bad records.</td><td rowspan="3">1. No occurrence of quality and/or safety problem after the control measures;
2. Control measures implemented for longer than the required time frame;
3. Imported food of each category equal to or exceed the required batches after the control measures.</td><td>6 Months</td><td>100</td></tr>
<tr><td>≥2</td><td>1</td><td>≥2</td><td>≥32</td><td>All types of products that have bad records from the country or region are required to provide test results of the items in the relevant national food safety standards of the kind of food product that have a bad record (including standards referred to in these standards).</td><td>12 Months</td><td>200</td></tr>
<tr><td>Non-hygiene and safety issue</td><td>≥2</td><td>1</td><td>1</td><td>≥24</td><td>All types of products that have bad records from the country or region are required to provide test results of the noncompliant items of the kind of food products that have bad records, or relevant evidence.</td><td>6 Months</td><td>100</td></tr>
</table>

	≥2	1	≥2	≥48	All types of products that have bad records from the country or region are required to provide test results of the **items in the relevant national food safety standard**s of the kind of food product that have a bad record (including standards referred to in these standards), or relevant evidence.		12 Months	200
Other quality and safety risks					Provide test report of the **specific items of the designated products,** or relevant evidence.		12 Months	200