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**Agriculture, Fisheries, Sanitary and Phytosanitary Market Access, Biotechnology**

Brussels, 25 August 2015

**LIMITED**[1]

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Council of the European Union
General Secretariat

## Trade Policy Committee

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| **date :** | **25 - 08 - 2015** |

# NOTE FOR THE ATTENTION OF THE TRADE POLICY COMMITTEE

***SUBJECT:*** ***SPS market access – China – Revision of the Food Safety Law***

***ORIGIN*:** **Commission DG Trade, Unit D3**

**DELETED**

***OBJECTIVE: For information***

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***REMARKS:*** The Commission wishes to inform Member States of an important activity planned in Beijing on 1 September 2015 on the newly revised China's Food Safety Law which also impacts on imports of Agri-food from the EU.

Implementing rules following the new amendments of the recently adopted revised FSL will be issued in the near future mainly by the China Food and Drug Administration (CFDA). The Commission and the EU Delegation continue to call the Chinese authorities to be transparent and to ensure that implementing rules of the revised FSL are in line with international standards and do not unnecessarily impact negatively on imports from the EU.

Therefore, the Commission is pleased to announce that CFDA will host an "Introduction Meeting on China's Food Safety Law" in Beijing **on 1 September 2015**. The meeting is co-organised by the EU Delegation to China and the Embassy of the United States of America in Beijing and is open to participants from foreign embassies and foreign industries. The event can accommodate 300 participants and 100 places are reserved for participants from the EU. During this one day event, more information will be provided by CFDA on the revised FSL and will comprise a Questions & Answers session. In advance of this event, the EU (based on input of EU Member States and EU industry) has submitted several questions to CFDA requesting further clarification on the new FSL, in particular on some articles which might impact on exports of Agri-food from the EU to China (see Annex).

The invitation is in annex, including agenda and registration form, which has already been circulated to the EU Member States embassies based in Beijing. Registration to participate in the event is necessary and the deadline for registration is **26 August 2015**.

Background:

On 24 April 2015, China adopted a revised version of its Food safety law (FSL) which will be implemented as of 1 October 2015. These changes strengthen Chinese food safety policy and are the first since the originally adopted Food safety Law in 2009. The new FSL has the objective to strengthen the protection of Chinese consumer's health and includes new provisions on baby formula, online shopping and imposes more strict administrative, civil and criminal penalties for offenders and their supervisors for food safety related violations.

During previous years, China had circulated several draft texts on the revision of the FSL. The EU provided several comments on the draft texts circulated and expressed concerns on some articles to ensure that trade could continue to take place under safe conditions in line with international rules. Although not all EU comments have been considered by China, the EU is pleased to note that several of its comments provided have been taken into account. A very important issue for the EU has been China's removal of the ban on the infant milk formulae production under OEM (Original Equipment Manufacturer) and subcontracting which was proposed in one of the draft texts of the FSL. This clause would have caused an unjustified negative impact on exports from the EU. The fact that the ban has been removed on this type of production is in particular important for EU dairy exports.

The EU will continue to follow this process very closely to ensure that safe trade for EU products can continue in line with international rules.

The English translation of the revised Chinese Food Safety Law is in annex and also made available at http://madb.europa.eu in the restricted part of the Market Access Database (MADB) (officials of EU Member States interested in having access to the restricted part of the MADB should e-mail a request to TRADE-MARKET-ACCESS-DBASE@ec.europa.eu).

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**EUROPEAN UNION**

Agriculture, Health and Food Safety Section

Beijing, 30 June 2015

To: DELETED
Cc: DELETED

**Subject: EU's position and remaining concerns on China's Food Safety Law (2015)**

Dear DELETED

The EU welcomes the adoption of the amendment to the 2009 Food Safety Law on 24 April 2015 and welcomes the implementation of the new Food Safety Law starting on 1 October 2015.

Thanks to the inclusive approach adopted by CFDA and NPC in the process of the drafting the new Food Safety Law, the EU is very pleased to see some of our key concerns, particularly on the ban on OEM practice of producing infant formula, have been addressed and has noticed that with the implementation of the new Food Safety Law, dissuasive civil, administrative and criminal penalties for offenders and their supervisors are foreseen. With such new instruments, the new Food Safety law will serve as the prominent legal tool to combat food frauds and food safety scandals with the objective to protect consumers' health.

The EU recognises that ensuring the safety of food produced and consumed in China or exported abroad is a major challenge and believes that if properly implemented this food safety law will contribute to restore consumers' confidence in Chinese food industry and farming products.

First, of particular importance, the protection of babies' health will be enhanced through the infant milk formula section in the revised Food Safety Law. Infant Milk Formulas will be strictly regulated to restore the public confidence in the domestic dairy industry. Producers will be required to register powdered baby milk formula with the Chinese Food and Drug Administration which will ensure high level of supervision.

Second, new requirements on online shopping with clarify the liabilities of shopping platforms. These new rules take into account the new ways of consumer habits. More and more food products are purchased online, and these food products come from all over the world. Ensuring their safety is indeed of utmost importance.

Yet, the EU still have the concerns as below while the implementation date is approaching:

DELETED

15, Dongzhimenwai Dajie, Sanlitun, 100600 Beijing, China. Tel +(8610) 8454 8000; Fax +(8610) 8454 8011

DELETED

The few points detailed above are our main concerns but clarification would be welcome on many other points.

As proposed to DELETED on 14 June, I suggest that the EU Delegation organises a meeting in its premises where all 28 EU Member States would be invited (in order to avoid the multiplication of meeting requests) and where experts from your services could bring the clarifications on the basis of questions which we would send you in advance.

This meeting could take place on **Friday 10 July at 2 pm** in our premises if this timing and location suit you.

Sincerely yours

DELETED

15, Dongzhimenwai Dajie, Sanlitun, 100600 Beijing, China. Tel +(8610) 8454 8000; Fax +(8610) 8454 8011

**BEIJING, April 24 (Xinhua)**

**Food Safety Law of the People's Republic of China**
(Adopted at the 7th Session of the 11th Standing Committee of the National People's Congress of the People's Republic of China on February 28, 2009 and revised at the 14th Session of the 12th Standing Committee of the National People's Congress of the People's Republic of China on April 24, 2015)

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### Chapter 1: General Principles

Article 1 This Law is formulated to assure food safety and safeguard people's health and life.

Article 2 The following business activities carried out within the territory of the People's Republic of China shall abide by this Law:

1) Food production and processing (hereinafter referred to as "food production"); food sales and catering service (hereinafter referred to as "trading");

2) Production and trading of food additives;

3) Production and trading of packing materials, containers, detergents/disinfectants for foods, as well as tools and equipment used in food production and trading (hereafter referred to as "food-related products");

4) Food additives and food-related products used by food producers and traders;

5) Food storage and transportation;

6) Safety management of food, food additives and food-related products.

The quality and safety management of primary agricultural products for consumption (hereinafter referred to as "edible agricultural products") shall abide by the *Law of the People's Republic of China on Quality and Safety of Agricultural Products*. However, the marketing and sales of edible agricultural products, development of relevant quality safety standards and publishing of relevant safety information as well as the quality and safety management of agricultural inputs covered by this Law shall abide by this Law.

Article 3 Food safety work shall follow the principles of "putting prevention first, risk management, whole-process control, and making efforts by the whole society", aiming to establish the science based and strict oversight system.

Article 4 Food producers and traders shall take responsibilities for food produced and traded.

Food producers and traders shall follow laws, regulations and food safety standards in their operation. They are required to ensure the food safety, be honest and self-disciplined, be responsible for the society and the public, accept oversight be the public, and bear the social responsibilities.

Article 5 The State Council establishes the Food Safety Committee, and assigns responsibilities to the Committee.

The China food and drug regulatory department (CFDA) under the State Council, in accordance with this Law and the responsibilities identified by the State Council, oversights food production and trading activities.

The State Council health administrative department (the National Health and Family Planning Commission, NHFPC), in accordance with this Law and the responsibilities identified by the State Council, conducts food safety risk surveillance, risk assessment, and develops and publishes national food safety standards jointly with the CFDA.

Other ministries under the State Council shall undertake relevant food safety work in accordance with this Law and responsibilities identified by the State Council.

Article 6 County and above level governments shall be responsible for the food safety supervision and management in the region; it shall lead, organize and coordinate food safety oversight, as well as respond to food safety incidents, establish/improve the whole process food safety management mechanism and the information sharing mechanism.

County and above level governments, in accordance with this Law and provisions of the State Council, determines the responsibilities of the food and drug regulatory department, the health department and other relevant departments of the same levels; relevant departments shall be responsible for food safety oversight accordingly.

The county-level food and drug regulatory department could establish resident agencies in towns or certain districts.

Article 7 Enforce the food safety accountability system at county and above level governments. Higher level

government evaluates and appraises the food safety oversight work by the lower level governments. County and above level governments shall evaluate and appraise food safety regulatory work by the food and drug regulatory department and other departments of the same level.

Article 8 The county and above level governments shall incorporate food safety work into the local economic and social development plan, include the expenses for food safety work into the government financial budget, reinforce capacity building for food safety oversight, and provide necessary supports to safeguard food safety works.

The county and above level food and drug regulatory department and relevant departments shall strengthen communication and coordination, exercise the rights and bear the responsibilities.

Article 9 Food industry associations shall play multiple roles, such as reinforce self-discipline of the industry, establish the industry rules and the awarding/penalty mechanism pursuant to their charters, provide services such as food safety information and technologies, guide and motivate food producers and traders to operate according to laws, promote the credit building of industry, publish/popularize food safety information, *etc*.

Consumer associations or other consumer organizations are the social powers that oversight activities that violate this Law and harm the consumers' lawful rights.

Article 10 The governments at all levels shall strengthen public education of food safety, encourages social organizations, community groups and food producers/traders to conduct educational activities regarding food safety laws and regulations, standards and knowledge, to advocate healthy diets, and to raise consumers' food safety awareness and self-protection.

The media shall launch publicity for the food safety laws, regulations, standards and knowledge, and provide public oversight on acts that violate the Law. Publicity and reports of food safety issues shall be truthful and fair.

Article 11 China encourages and supports basic and applied research related to food safety; food producers and traders are encouraged and supported to adopt advanced technologies and management practices to improve food safety.

China puts in practice strict management systems on the use of pesticides, expedites the obsolete of extreme poisonous pesticides, highly toxic pesticides and high-persistent pesticides, promotes the development and application of alternative products and encourages the use of effective, low-toxic pesticides and less-persistent pesticides.

Article 12 Any organization or individual has the right to report violations to food safety; they have the lawful right to inquire food safety information from relevant government agencies and provide comments and suggestions about food safety oversight.

Article 13 Any entity and individual that have made outstanding contributions in the work of guaranteeing food safety shall be commended and rewarded in accordance with the relevant national provisions.

**Chapter 2: Food Safety Risk Surveillance and Assessment**

Article 14 China establishes the food safety risk surveillance system, which monitors food-borne diseases, food contamination and other food-related hazards.

NHFPC, CFDA and AQSIQ jointly develop and enforce the national food safety risk surveillance plan.

CFDA and other ministries, obtaining information of food safety risks, shall verify such information immediately and notify the NHFPC. The NHFPC, receiving notifies of food safety risks, food-borne diseases by the medical institutes, *etc*., will work with relevant ministries and carry out research and analysis. If deems necessary, the national food safety risk surveillance plan will be adjusted.

Based on the national surveillance plan, the provincial health department, jointly with the food and drug regulatory department and the quality supervision department at the same level, shall formulate and adjust the food safety risk surveillance plan that takes into account the regional particularities. The provincial health department shall file the surveillance plans to the NHFPC for records and execute the plans.

Article 15 The technical institute shall carry out the food safety risk surveillance work pursuant to the surveillance plan and work program to guarantee truthfulness and accuracy of the surveillance data; the surveillance data and analysis results shall be reported pursuant to the surveillance plan and the work program.

Food safety risk surveillance officials have right to enter farms growing/breeding edible agriculture products and food production/trading facilities to collect data and samples. The collected sample shall be paid at market price.

Article 16 In the event that surveillance result reveals possible food safety risks, the county and above level health department shall notify the information to the food and drug regulatory department, the government of the same level, and the higher level health department. The food and drug regulatory department shall conduct further investigation.

Article 17 China establishes the food safety risk assessment mechanism; by adopting science based methods and referring to food safety risk surveillance, carry out risk assessment into biological, chemical and physical hazardous factors in foods, food additives, and food related products.

NHFPC is responsible for organizing food safety risk assessments. NHFPC establishes an expert committee on food safety risk assessment, which is composed of experts on medical science, agriculture, food, nutrition, biology and environment, *etc*. to conduct the food safety risk assessment. The food safety risk assessment results shall be published by the NHFPC.

The safety assessment of pesticides, fertilizers, vet drugs, feed and feed additives shall be attended by experts from the expert committee.

(Government) shall not charge fees from food producer and trader for food safety risk assessment; samples collected shall be paid at market price.

Article 18 Food safety risk assessment shall be conducted when the following situations occur:

1. Food safety risk surveillance reveals or getting reports about possible safety problem for food, food additives, and food related products;

2. Need to provide science basis for developing or revising national food safety standards;

3. Risk assessment is necessary to identify prioritized area or (food) variety in regulatory work;

4. Discovered factors that may cause harm to food safety;

5. Need to determine whether a factor constitutes food safety risk;

6. Other situations the NHFPC deems necessary to conduct risk assessment.

Article 19 CFDA, AQSIQ and MOA, finding it is necessary to conduct food safety risk assessment, shall propose to NHFPC to conduct food safety risk assessment, and provide necessary information and materials (including source and nature of the risk, relevant testing data and conclusions). Upon the occurrence of the situations specified in Article 18 hereof, NHFPC shall conduct food safety risk assessment in a timely manner, and report the assessment results to the relevant State Council department.

Article 20 The provincial and above level health and agriculture departments shall timely inform each other the safety risk assessment information for food and edible agricultural products.

The NHFPC and MOA shall timely inform each other the safety risk assessment information for food and edible agricultural products.

Article 21 Food safety risk assessment results shall be the scientific basis for developing, modifying food safety standards and implementing food safety regulatory work.

In case the food safety risk assessment conclusion shows a food, a food additive, or a food related product is unsafe, CFDA and AQSIQ shall immediately announce to the public and inform consumers to stop consumption or usage of the product, and take actions to terminate product and trading of the food, food additive and food-related products; if necessary, NHFPC shall in conjunction with CFDA, immediately formulate or modify the relevant food safety national standards.

Article 22 CFDA shall work with relevant ministries to conduct comprehensive analysis of the food safety situation based on food safety risk assessment results and the food safety regulatory work. For foods present high risks in the comprehensive analysis, CFDA shall issue food safety risk alerts in a timely manner, and announce the alert to the public.

Article 23 The county and above level health department, along with other government agencies, the food safety risk assessment expert committee and its technical institutes, shall carry out exchanges with food producers/ traders, food testing institutions, certification organizations, food industry associations, consumer associations and media on food safety risk assessment information and food safety regulatory information. The exchange and communication shall be science based, objective, timely and open.

**Chapter 3: Food Safety Standards**

Article 24 Safeguarding the public health shall be the objective of developing the food safety standards; the standards shall be science-based, reasonable, safe and reliable.

Article 25 Food safety standards are mandatory. In addition to the food safety standards, no other mandatory food standards shall be developed.

Article 26 Food safety standards shall include the following standards

1) Limits of pathogenic microorganisms, pesticide residues, veterinary drug residues, biotoxins, contaminants (heavy metals, *etc*.), and other substances hazardous to human health in food, food additives and food-related products;

2) Varieties, scope of application, and dose of food additive use;

3) Requirements for nutritional ingredients in staple and supplementary food dedicated to infants and other specific populations;

4) Requirements for labeling, identification and instructions relevant to food safety requirements such as food hygiene and nutrition, *etc.*;

5) Hygienic requirements related to food production and trading;

6) Quality requirements related to food safety;

7) Methods and procedures for food testing that relate to food safety; and

8) Other items necessary for developing food safety standards.

Article 27 NHFPC shall in conjunction with CFDA, develop and publicize national food safety standards; the Standardization Committee of the State Council shall provide the national standard number.

The limits of pesticide residue and veterinary drug residue in foods, testing methods and procedures shall be jointly developed by NHFPC, MOA and CFDA.

The testing procedures for livestock and poultry slaughtering shall be developed by MOA in conjunction with the NHFPC.

Article 28 The development of national food safety standards shall refer to the results of risk assessments for food safety and take full account of the safety risk assessments for edible agricultural products; the standard development shall also refer to relevant international standards and the international food safety risk assessment results. Draft national food safety standards shall be announced to the public, and consider the opinions from food producers, traders, consumers, and other government agencies.

The national food safety standards shall pass review by the NHFPC organized National Food Safety Standard Evaluation Committee. The Committee, made up of experts in medicine, agriculture, food, nutrition, biology and environment, *etc*., as well as representatives from other ministries, the food industry associations, and consumer associations, is responsible for review of the scientific aspects and practicality of the national food safety standard drafts.

Article 29 In the absence of a national food safety standard for local specialities, provincial health department could develop and publish local food safety standards, which shall be filed to the NHFPC for record. Once a national food safety standard is developed, the local standard would be eliminated.

Article 30 China encourages food producers to develop enterprise standards more stringent than the national or local food safety standards, which are applicable to the enterprise; the enterprise standards shall be reported to the provincial health department for record.

Article 31 The provincial and above level health department shall publish, in its website, the national food safety standards, local standards and enterprise standards developed or filed for records, and ensure that they are publicly available, and could be downloaded for free.

For problems emerge in food safety standard implementation, the county and above level health department shall work with relevant government agencies to provide guidance and answers.

Article 32 The provincial and above level health department, together with food and drug regulatory department, quality supervision department, and agriculture department of the same level, shall track and evaluate the implementation of national and local food safety standards; based on which, the food safety standards shall be modified in a timely manner.

The provincial and above level food and drug regulatory department, together with the quality supervision department and agriculture department quality supervision, and agriculture administrative agencies, shall collect problems occur in food safety standard implementation, and inform the problems to the health department of the same level.

Food producers, traders, and food industry association, upon finding problems in food safety standard implementation, shall report the problems to the health department.

**Chapter 4: Food Production and Trading**

**Section 1: General Provisions**

Article 33 Any food production or trading activities shall comply with food safety standards, and shall meet the following requirements:

1) Have appropriate places for raw material treatment and food processing,/packaging/ storage that are suitable for the variety and quantity of the food being produced or traded, make the environment tidy, and keep the required distance away from toxic/ hazardous places and other contamination sources.

2) Have appropriate production or trading equipment or facilities that are suitable for the variety and quantity of the food being produced or traded, have appropriate equipment or facilities for disinfection, changing clothes, cleansing, lighting, ventilation, anticorrosion, dust-proofing, fly- proofing, rat-proofing, pest-proofing, washing, wastewater drainage, and deposit of garbage and wastes.

3) Have full-time or part-time technical staff, food safety management personnel, and the rules/regulations to ensure food safety;

4) Have reasonable equipment layout and work flow that prevent cross-contamination between unprocessed foods and direct consumption foods, between raw materials and finished products, and to avoid food contacting with toxic or dirty items;

5) Wash and sterilize the tableware, kitchenware, and containers holding direct consumption food before use; after use, they shall be washed and maintain in clean condition;

6) Use safe and harmless containers, tools, and equipment for food storage, transportation, and loading/ unloading, keep them clean and avoid food contamination, comply with special requirements (such as temperature and humidity, *etc*. for food safety purposes), and never store and transport food with toxic or harmful items ;

7) Use nontoxic and clean packaging materials, tableware, kitchenware and containers for foods for direct consumption;

8) Food producers and traders shall maintain personal hygiene, clean their hands, and dress in clean clothing and cap, *etc*.; use sterilized and clean containers, vending tools and equipment for direct consumption food

without package;

9) Use water that complies with the national hygienic standard for drinking water;

10) Use detergents and disinfectors that are safe and harmless to human health;

11) Other requirements stipulated by laws and regulations.

Producers and traders of non-food products shall meet requirements in item 1 to 6 of this article if they engage in food storage, transportation, loading/unloading.

Article 34 Production and trading of the following foods, food additives and food-related products are prohibited:

1) Foods that are produced from non-edible materials, or from chemical substances or harmful substances other than food additives, or foods produced from recalled foods;

2) Foods, food additives and food-related products that contain pathogenic microorganisms, pesticide residues, veterinary drug residues, biotoxins, contaminants (heavy metals, *etc*.), and other substances hazardous to human health that exceed the foods safety limits;

3) Foods and food additives produced from materials/additives that have passed the shelf life;

4) Food with food additives beyond allowed scope or excessive amount;

5) Nutrition content fails to comply with food safety standards for staple and supplementary foods for infants and particular group of people;

6) Foods and food additives that are rotten, have rancid fat, contain mold or insects, dirty or contaminated, contain foreign matters, have been adulterated, or display abnormal appearance;

7) Meat or meat products made from poultry, livestock, animals, or aquatic animals that die from disease, poison, or any unidentified causes;

8) Meat or meat products that have not been inspected and quarantined according to relevant regulations, or fail to pass such inspection and quarantine;

9) Food and food additives contaminated by packaging materials, containers, transportation vehicles;

10) Foods and food additives labeled with fake production date, shelf life or have passed the shelf life;

11) Prepackaged foods and food additives without label;

12) Food prohibited by the State from production and trading for special purposes, such as disease prevention;

13) Other foods, food additives and food-related products that fail to comply with laws, regulations and foods safety standards.

Article 35 China implements a licensing system for food production and trading. Any organization or individual shall obtain a food production and trading license before engaging in food production, sales, and catering services. It does not need to obtain the license for selling edible agricultural products.

In accordance with the Law of the People's Republic of China on Administrative Licensing, county and above level food and drug regulatory departments shall review applicants' documents as required by Article 33.1.1-4 of this Law, and shall inspect the applicant's production or trading place if necessary. For applicants that comply with the requirements, grant the license; for those fail to comply with the requirements, a license shall not be granted, and the rejection shall be accompanied with written explanations.

Article 36 Small food workshops and food vendors that engage in food production and trading activities shall meet requirements for appropriate size and condition of production or trading, ensure the food being produced or traded are clean, nontoxic and harmless. The food and drug regulatory departments shall strengthen oversight of these individuals.

County and above level government shall be responsible for the comprehensive oversight of the small food workshops and food vendors by means of strengthening service and planning, improving their production/ trading environment, encouraging and supporting them to improve production/trading conditions, and entering into the consolidated trading markets/shops, or trading in an designated temporary area or at a specified period of time.

Detailed management measures on small food workshops and food vendors, *etc*. shall be developed by governments at provincial, autonomous regional and municipal level.

Article 37 For production of novel foods, new food additive varieties, or new food-related products, the producer shall submit the safety assessment materials relative to the product to the NHFPC. NHFPC shall organize the review of the materials within sixty (60) days upon receipt of the application. For applications that comply with food safety requirements, a license shall be granted and made public. For applications that fail to comply with the safety requirements, a license shall not be granted with an explanatory note in writing.

Article 38 It is prohibited to add medicine to food produced or traded, unless the added substance is traditionally considered as both food and Chinese medicine. The catalogue of substance traditionally considered as both food and Chinese medicine is developed and published jointly by the NHFPC and CFDA.

Article 39 The State adopts a licensing system for the production of food additives. Food additives production shall have venue, equipment/facilities, professionals and management system that match the produced food additive variety, the producer shall, in accordance with the procedure of Article 35.2 of this Law, obtain the food additive producing license.

The production of food additives shall comply with laws, regulations and national food safety standards.

Article 40 A food additives can be incorporated into the scope permitted for use only after it is technically required and proven to be safe and reliable through the risk assessment; relevant national food safety standards shall be timely revised in accordance with technical necessity and the results of food safety assessments.

Food producers and traders shall use food additives pursuant to national food safety standards.

Article 41 Producing food related products shall comply with provisions of laws, regulation and relevant national food safety standards. Food related products of higher risks, such as packaging materials that directly contact foods, are subject to production licensing of relevant industrial products. The quality supervision authorities shall strengthen regulatory work over production activities of food related products.

Article 42 China establishes the food safety traceability systems that cover the whole process.

Food producers and traders shall establish the food safety traceability system pursuant to provisions of this Law to guarantee traceability of foods. China encourages the food prodders and traders to adopt information technology measures in collecting, retaining production and trading information and establishing the food safety traceability system.

CFDA will work with MOA and relevant departments to establish the coordinated traceability system for food safety that covers the whole process.

Article 43 Local governments at all levels shall encourage scale production, and chain operation and distribution of food.

China encourages the food producers and traders to participate in the food safety responsibility insurance.

**Section 2: Process Control of Production and Trading**

Article 44 Food producers and traders shall establish and improve its own food safety management system, provide training of food safety to staffs, strengthen inspection of the foods, and conduct the food production and trading according to law.

The person chiefly in charge of food production and trading enterprises shall implement the food safety management system and is fully responsible for the food safety work in the enterprise.

Food producers and traders shall have food safety management staffs and strengthen trainings and review of such staffs. If the food safety management staffs fail to pass the review for food safety management capacity, they shall not take the positions. The food and drug regulatory department shall conducts random evaluation to the food safety management staffs in the food producers and traders, and publish the evaluation results. The random evaluation shall not charge any fees.

Article 45 Food producers and traders shall establish and implement an employee health management system. People having diseases listed by the NHFPC as diseases hindering food safety must not engage in work in direct contact with food for consumption.

People that engage in work in direct contact with food for consumption shall take a medical check- up each year, and can engage in such work only after they have obtained a health certificate.

Article 46 Food producers shall develop and implement the control requirements for the following issues to guarantee products produced comply with food safety standards:

1) Raw material control, which covers raw material purchase, acceptance and feeding;

2) Critical point control, including production procedure, equipment, storage and packaging;

3) Inspection control, including inspection of the raw materials, half-finished products and finished products;

4) Control over transportation and product delivery.

Article 47 Food producers and traders shall establish a food safety self-examination system, and regularly examine their own food safety situation. If the production and trading condition changes and does no longer comply with food safety requirements, the producer and trader shall immediately take rectification measures; if potential food safety incident risk exists, the producer/trader shall immediately terminate production and trade,

and report to the county level food and drug regulatory department where it locates.

Article 48 The State encourages food producers and traders to comply with good manufacturing practice, and implement advanced food safety management systems in order to improve food safety management level.

For food enterprises having been passed the good manufacturing practice and certified with HACCP, the certification institutions shall conduct the follow-up investigations according to law; for those failing to comply with the certification requirements, the certification institutions shall cancel the certificate according to law and report in a timely manner to the county and above level food and drug regulatory departments, and notify the public. The certification institution shall not charge any fees for the follow-up investigation.

Article 49 The producers of edible agricultural products shall apply agricultural inputs such as pesticides, fertilizers, veterinary drugs, feed, and feed additives in accordance with food safety standards and relevant state regulations. They shall follow the provisions on safe interval and the withdrawal period of agriculture inputs. It shall not use agricultural input banned by national regulations. It is prohibited to apply the extreme poisonous pesticides and highly toxic pesticides on vegetables, fruits, tea, Chinese medicinal herbs and other agricultural crops prescribed by the State.

Enterprises and specialized farmer cooperatives that produce edible agricultural products shall establish a production record for use of the agricultural inputs.

The county and above level agriculture department shall enhance the supervision, management and guidance on the application of agricultural inputs and establish and improve a safe application system for agricultural inputs.

Article 50 Food producers shall check the license of the supplier and compliance certificate of the product when purchasing food raw materials, food additives, and food related product. In the absence of a compliance certificate, the food raw material shall be tested in accordance with food safety standards. Food producers shall not purchase or use raw materials, food additives, and food-related products that do not comply with the food safety standards.

Food producers shall establish a purchase inspection and recording system for food raw materials, food additives, and food related products; they shall truly record information such as name, specification, quantity, production date or batch number, shelf life, purchase date of the purchased raw materials, food additives, and food related products, as well as name, address and contact information of the supplier. The records and documents shall be kept at least till six months after the product's shelf- life ends, or at least two years for products that do not have a definite shelf life.

Article 51 Food producers shall establish and maintain an inspection record for outgoing food and verify inspection certificates and safety status of the outgoing food. It shall truly record information such as name, specification, quantity, production date or batch number, shelf life, inspection certificate number, date of sale, as well as name, address, and contact information of the purchaser. The records and documents shall be kept in compliance with provisions in Article 50.2 of the Law.

Article 52 Producers of food raw materials, food additives, or food-related products shall inspect the food raw materials, food additives, or food-related products being produced in accordance with food safety standards and the products can exit the factory or be sold only after they have passed the inspections.

Article 53 Food traders, in purchasing foods, shall check the suppliers' license, compliance certificate or other proving documents (hereinafter referred to as compliance certificates) of the food.

Food traders shall establish a purchase inspection and recording system. They shall truly record information such as name, specification, quantity, production date or batch number, shelf life, purchase date, as well as name, address and contact information of the supplier. The records and documents shall be kept in compliance with provisions in Article 50.2 of the Law.

For food trading enterprises that adopt a centralized distribution model, the headquarters of the enterprises may centrally check the license of the supplier and compliance certificates of the food, create an inspection record for incoming food products.

Food traders engage in wholesale business shall establish food sales record system and truly record information such as name, specification, quantity, production date or batch number, shelf life, sale date of the wholesale foods, as well as name, address and contact information of the buyers. The records and documents shall be kept in compliance with provisions in Article 50.2 of the Law.

Article 54 Food producers and traders shall store, transport food in accordance with food safety assurance requirements, and regularly check the food in storage and remove the spoiled or outdated food in a timely manner.

Food traders shall indicate at the storage facility information such as food name, production date or batch number, shelf life, as well as name and contact information of the producer when storing food in bulk.

Article 55 Catering service providers shall develop and implement requirements for material purchase; they shall not purchase raw materials that fail to comply with food safety standards. Catering service providers are advocated to make public the food manufacturing process and publicize information such as food raw material and its source, *etc*.

Catering service providers shall check the foods and materials to be processed; any food and material discovered under the circumstance as prescribed in Article 34.6 of this Law shall not be processed or used.

Article 56 Catering service providers shall maintain the facilities for food processing, storage and display regularly; they shall regularly clean and adjust the thermal insulations, and facilities of refrigerator-freezer.

Catering service provider shall wash or sterilize the tableware, kitchenware as required; they shall not use the tableware, kitchenware that have not been washed or sterilized. Catering service providers, if outsourcing tableware and kitchenware to be washing and sterilized by another company, shall outsource the business to companies that wash and sterilize kitchenware and meet requirements set by this Law.

Article 57 Cafeteria of entities that provide centralized dinning, such as schools, kindergartens, nursing institution for the aged and construction sites, shall strictly abide by relevant laws, regulations and food safety standards; to ensure food safety. Entities that order food from third-party food providers, shall order food from the enterprises that have obtained food production and trade licenses; they shall also inspect the food supplied according to set requirements. The third-party food providers shall process food at current meal, and ensure the food is safe and compliant with nutritious requirements.

The competent authority supervising organizations that provide centralized dining shall enhance education on food safety and routine management, mitigate the food safety risks and diminish potential food safety risks.

Article 58 Organizations who provide kitchenware sterilization services shall have appropriate working venues,

clean and disinfection equipment or facilities; the water, detergents and disinfectants used shall be compliant with relevant national food safety standards, national standards and hygiene regulations.

Entities providing consolidated kitchenware sterilization services shall implement batch-to-batch inspection on sterilized kitchenware, only the kitchenware pass the inspection are allowed to exit factory, with the satisfactory disinfection certificate. The disinfected kitchenware shall be labelled, on the individual package, of information such as company name, address and contacts, disinfection date, and expiration date.

Article 59 Food additive producers shall establish and maintain an inspection record for outgoing food additives and verify inspection certificates and safety status of the outgoing food additives. It shall truly record information such as name, specification, quantity, production date or batch number, shelf life, inspection certificate number, date of sale, as well as name, address, and contact information of the purchaser. The records and documents shall be kept in compliance with provisions in Article 50.2 of the Law.

Article 60 Food additives traders shall check the license and product compliance certificate of the suppliers. They shall truly record information such as name, specification, quantity, production date or batch number, shelf life, purchase date of the food additives, as well as name, address and contact information of the supplier. The records and documents shall be kept in compliance with provisions in Article 50.2 of the Law.

Article 61 Consolidated trading market operators, stall leasers, and trade fair organizers shall review the license of the admitted food traders in accordance with the law, clearly define the food safety management responsibilities of the admitted food traders, and regularly inspect the trading environment and conditions of the admitted food traders. Upon finding of any activity in breach of this Law, they shall immediately stop the activity and report to the county level food and drug regulatory department where the market locates.

Article 62 Third-party online food trading platform providers shall require real-name registration by food traders that use the platform, and shall clearly elaborate the traders' responsibilities; the platform shall also examine the license if the producer or trader is required to obtain such licenses lawfully.

The third-party online food trading platform providers, upon spotting trader violating this Law's provisions, shall stop the activity in a timely manner, and immediately report the violation to the food and drug regulatory department where the trader locates; the platform shall immediately terminate the online trading service if it discovers activities that seriously violate laws.

Article 63 China establishes the food recall system. Where a food producer finds that the food being produced does not comply with food safety standards, or have evidence the food may harm human health, the food producer shall immediately stop production, recall the food product released to the market, notify relevant producers, traders and consumers, and create a record of recalls and notifications.

Should food traders finding the occurrence of situations in the aforementioned paragraph, they should stop operation, information relevant producers/consumers, and record the measures taken. Should the food producer deems it necessary to recall the foods, the foods shall be recalled immediately. Should the occurrence of situations in the aforementioned paragraph is ascribed to food traders, the foods shall be recalled immediately.

Food producers and traders shall take actions such as removal of harm, or destruction for foods that have exited the market to prevent its re-entering into the market. However, products recalled due to incompliant label, mark or instructions could be sold after the producers take remedy measures and guarantee safety of the food; such remedy measures shall be informed to consumers while the product is sold.

Food producer and trader should report details of the recall and disposal to the county level food and drug regulatory department; the producer shall inform the food and drug regulatory department time and location if the harm removal or destruction action shall be taken on the recalled foods. The food and drug regulatory department could supervise the action if necessary. In the event that a food producer or trader fails to recall or stop trading of the food, the county and above level food and drug regulatory departments could order it to recall or stop trading of the food.

Article 64 Edible agricultural product wholesale markets shall be equipped with testing equipment and inspectors or entrust testing agencies that comply with the requirements of this Law to conduct sample testing on the edible agricultural products being sold in the wholesale market and report to the food and drug regulatory departments. If the edible agricultural products are found not complying with food safety standards, the sellers shall be demanded to immediately stop selling them and report to the food and drug regulatory departments.

Article 65 Whoever sells edible agricultural products shall establish a purchase inspection and recording system for edible agricultural products. It shall truly record the name, quantity and purchase date of edible agricultural products and name, address, and contact information of the purchaser. The records and documents shall be kept for at least six months.

Article 66 The food additives such as fresh-keeping agents and preservatives, *etc*. and food related products such as packaging materials, *etc*. used in packaging, freshness-retention, storage and transportation of edible agricultural products being sold in the market shall comply with national food safety standards.

**Section 3: Label, product description and advertisement**

Article 67 Pre-packaged food shall be labeled on the package, which indicates the following:

1) Name, specification, net content, and date of production;

2) Table of ingredients or formulation;

3) Producer's name, address and contact information;

4) Shelf life;

5) Code of product standard(s);

6) Storage requirements;

7) Generic name of the food additives as used in the national standard;

8) Production License Number; and

9) Other information that must be indicated in accordance with applicable laws, regulations, and food safety standards.

The labels of staple and supplementary food dedicated to infants and other specific populations shall also indicate main nutritional ingredients and their contents.

If the national food safety standard sets requirements on labeling, such requirements shall be followed.

Article 68 Food traders, when selling bulk foods, shall indicate, on the container or the exterior package, information such as food name, production date or batch number, shelf life, as well as name, address and contact information of the producer.

Article 69 Production and trading of genetically modified food shall follow relevant regulations and label the products prominently.

Article 70 Food additives must be provided with a label, instructions and packaging. The instructions shall include the information required in Article 67.1.1~6, 8 and 9 of the Law and the scope of application, dosage levels, and application methods of the food additives, and the words "Food Additive" shall be indicated on the label.

Article 71 Labels, instructions and packaging of food and food additives shall not contain false information, nor shall they make statements about disease prevention and treatment functions. Food producers and traders shall undertake liability for declarations on the label and instructions provided by them.

Labels and instructions of food and food additives shall be clear and easy to read items including the date of production and shelf life shall be clearly labeled and easy to distinguish.

Food or food additives shall not be marketed if they are not consistent with the information indicated in the label and instructions.

Article 72 Food traders shall market foods according to the warning mark, warning notes, or precautions on the food label.

Article 73 Food advertisements shall provide truthful information, shall not include any false information, and shall not claim any disease prevention or treatment functions. Food producers and traders shall be responsible for the authenticity and legality of the advertisements for their food products.

The county and above level food and drug regulatory department and other departments, food inspection and testing institutes, as well as food industry associations shall not recommend food to customers via advertisements or in any other forms. Consumer organizations shall not recommend food to customers by charging fees or by other ways of seeking profits.

**Section 4: Special Foods**

Article 74 The State executes strict regulation over special food such as health food, formula for special medical purposes and infant and young children formula food, *etc*.

Article 75 Health food that claim to have health functions shall have science basis and shall not cause acute, sub-acute, or chronic hazard to human body.

The catalogue of raw materials for health food and catalogue of permitted health claims made on health food will be developed, adjusted and published jointly by the CFDA, NHFPC and the national traditional medicine administrative departments.

The catalogue of raw materials for health food shall include the name, dosage level and corresponding functions of raw materials; the raw materials included in the catalogue of raw materials for health food can only be used for health food production and shall not be used for producing other foods.

Article 76 Health foods that use raw materials outside the catalogue of raw materials for health food or health food that is imported for the first time shall get registered with the CFDA; however, first time import of health foods that are nutritious substances, such as vitamin supplements or mineral supplements, shall be filed for record with the CFDA. Other health foods shall be filed for record with the food and drug regulatory department of the provincial government.

The imported health food shall have obtained sales permission by the competent authority of the exporting country.

Article 77 For health food that shall be registered pursuant to law, the applicant shall submit such information as R&D report, formula, production techniques, assessment of safety and health functions, label, and instructions, product sample and relevant supporting documents at the time of registration. The CFDA, after technical review, will register products that comply with safety and claimed health functions; products fail to meet such requirements will not be registered with explanation in writing. If a health food using raw materials outside the catalogue of raw materials for health food is registered, the raw material shall be included into the health food raw material catalogue in a timely manner.

Foe health food that shall be filed for record pursuant to law, the applicant shall submit such information as product formula, production techniques, label, introduction and materials indicating product safety and health function at the time of filing.

Article 78 The label and instructions of health food shall not involve prevention or treatment of diseases; content of the label and instruction shall be true and be consistent with the registered or recorded content. It shall indicate clearly the suitable and unsuitable groups, functional ingredients or significant ingredients and their content, and shall state “This is not a replacement for medicine”. Product functions and ingredients shall be consistent with that indicated in the label and instructions.

Article 79 Advertisements for health food, in addition to complying with provisions in Article 73.1 of this Law, shall state “This is not a replacement for medicine” as well; the content of the advertisements shall be reviewed and approved by the provincial food and drug regulatory department where the producer locates, and obtain the health food advertisement approval document. The provincial food and drug regulatory department shall publish and timely update the approved health food advertisement catalogue, as well as content of the advertisements.

Article 80 Formula for special medical purposes shall get registered with the CFDA. The applicant shall submit such information as product formula, production techniques, label, introduction and materials indicating product safety, nutritional adequacy, and clinical effects based on special medical uses at the time of registration.

For advertisements for formula for special medical purposes, the Advertising Law of the People’s Republic of China and provisions in other laws and administrative regulations on pharmaceutical advertisement management of infant and young children formula food shall apply.

Article 81 Infant and young children formula food producers shall implement the whole process quality control from raw material purchase to exit of finished products; each batch of infant formula products exit the factory shall be inspected to guarantee food safety.

The food materials (such as raw milk, supplementary substances) and food additives used for infant formula production shall comply with laws, regulations and provisions, as well as national food safety standards; they shall guarantee sufficient nutritional content for infant growth and development.

Infant and young children formula food producers shall report the raw materials, food additives, product formula and labels to provincial food and drug regulatory department for recording.

The product formula of infant formula powder shall get registered with the CFDA. The applicant shall submit such formula R&D report and other materials indicating formula scientificity and safety at the time of registration.

Infant and young children formula foods are not allowed to be produced in the means of sub-packaging; the same company is not allowed to produce infant formula powder of different brands by using the same formula

Article 82 The registration or record filing applicants of health food, formula for special medical purposes and infant and young children formula food shall be responsible for truth of the submitted material.

Provincial and above level food and drug regulatory department shall timely publish the catalogue of registered or recorded health food, formula for special medical purposes and infant formula powder and shall keep confidential for the enterprise business secrets which are acquired through registration or record filing.

Producers of health food, formula for special medical purposes and infant formula powder shall carry out production pursuant to the registered or recorded technical requirements such as formula and production techniques, *etc*.

Article 83 Producers of health foods, foods for special medical purposes, infant and young children formula food and staple/supplementary food dedicated to specific populations shall comply with the good manufacturing practice, establish the quality management system that match its produced products. Producers shall conduct self-inspection of the production quality management on a regular basis to guarantee its effective operation; the self- inspection report shall be submitted to the food and drug regulatory department at the county-level government.

**Chapter 5 Food Inspection**

Article 84 Food testing agencies shall perform food testing only after they have been accredited in accordance with relevant State requirements on certification and accreditation, unless otherwise specified in other laws.

The accreditation conditions and testing procedures for food testing agencies shall be determined by the CFDA.

The testing reports issued by the food testing agencies that comply with this Law shall have the same force.

The county and above level governments shall integrate the food testing resources for shared use of the resources.

Article 85 Food testing shall be performed independently by an inspector designated by the testing agency.

The inspector shall test the food based on laws, regulations, food safety standards, and inspection and testing procedures. The inspector shall follow the science, observe professional ethics, and make sure that the testing data and conclusions are objective and fair. He or she must not issue false inspection testing reports.

Article 86 The food testing agency and the inspector shall be responsible for the food testing. Food testing reports shall bear the official seal of the food testing agency and signature or seal of the inspector. The food testing agency and the inspector shall be held responsible for the food testing report.

Article 87 The county and above level food and drug regulatory departments shall conduct sample testing regularly or irregularly on food products, and shall release the testing results according to relevant provisions; food inspection is not allowed to be exempted. They shall pay for the randomly selected samples and entrust a food testing agencies that comply with this Law to conduct the food testing, and pay for testing conducted; they shall not collect testing fees and other fees from food producers and traders.

Article 88 In the case that food producers and traders disagree with results of testing conducted pursuant to this Law, they may, within 7 working days after receiving the test results, file an application for re-test to the food and drug regulatory department that have conducted the sampling inspection or its superior food and drug regulatory department and the food and drug regulatory department that accepts the re-test application may determine the nearby institute on the public catalogue of re-testing institutes, and have the product re-tested; The re-test result would be the final testing conclusion. The original and the re-resting institutes shall be different institutes. The catalogue of re-test institutes will be jointly published by CNCA, CFDA, NHFPC and MOA.

In the case that the edible agricultural products are randomly tested by adopting the fast testing methods prescribed by the State, the producers and traders under test may file an application for re-test within 4 hours upon receiving the test result may if they disagree with the test results; the re-test shall not be conducted by adopting the fast testing methods.

Article 89 Food producers may test their food products or entrust testing agencies that comply with the requirements of this Law to conduct the testing.

In the event that a food industry association, consumer associations, or consumer needs to entrust a food testing agency to conduct food testing, they shall choose a food testing agency that comply with the requirements of this Law.

Article 90 For inspection of food additives, the provisions on food inspection in this Law shall apply.

**Chapter 6: Food Import and Export**

Article 91 AQSIQ regulates safety of food imports and exports.

Article 92 Imported foods, food additives and food-related products shall comply with China’s national food safety standards.

Imported foods and food additives shall pass inspection by the exit-entry inspection and quarantine agencies (CIQ) pursuant to laws and administrative regulations.

Imported foods and food additives shall be accompanied by inspection certificates, as required by AQSIQ.

Article 93 In the event of the importation of food without a national food safety standard in China, the overseas exporter/producer, or its entrusted importers shall submit the relevant executive national (regional) standard or international standard to the NHFPC. NHFPC shall review the relevant standard and may decide that the executive standard applies temporarily if deems it can meet the food safety requirements and develop corresponding national food safety standards in a timely manner. The importation of food produced using new food raw materials or new varieties of food additives and food-related products, shall be conducted in accordance with provisions of Article 37 of this Law.

CIQ shall follow NHFPC's requirements carry out the inspection on the aforementioned foods, food additives, and food related products, and shall publish the inspection results.

Article 94 Overseas exporter and producers shall guarantee that the foods, food additives, and food related products exported to China comply with requirements of this Law, other Chinese administrative laws, regulations and the national food safety standard; they shall be responsible for content of the food labels and instructions.

Importers shall establish an examination and verification system for overseas exporter and producers; they shall, with emphasis, review the aforementioned items. Products fail to pass the review shall not be imported.

Discovering that imported food fails to comply with national food safety standards, or have evidence that the food may cause harm to human health, the importer shall immediately stop importing such food, and recall the products pursuant to provisions of Article 63 of this Law.

Article 95 In the event that a food safety incident occurs overseas and may impact China, or a major food safety problem is detected in imported food, food additive or food related products, AQSIQ shall issue a risk alert or take control measures in a timely manner and notify the CFDA, NHFPC, and MOA. The notified departments shall take actions immediately upon receipt of such notification.

The county and above level food and drug regulatory department oversights imported foods and food additives sold in the domestic market. Detecting serious food safety problems, CFDA shall timely inform the AQSIQ. Upon receipt of such notifications, the AQSIQ shall take actions upon receipt of such notification.

Article 96 Overseas exporters or export agents that export food to China, and importers shall be put on record at the AQSIQ. Overseas food producers exporting food to China shall get registered at AQSIQ. The registered overseas food producers, if providing false material, or cause serious food incidents due to its own causes, will be removed from the registration list by AQSIQ, and the removal will be announced by public notice.

AQSIQ regularly publishes the lists of exporters, agents, importers, and overseas food producers who have been recorded or registered.

Article 97 Imported pre-packaged food and food additive shall have Chinese labels. If instruction is required by laws or regulations, the instruction in Chinese shall be provided. Labels and instructions shall comply with this Law and provisions of other laws, regulations and food safety standards; the instructions shall indicate county of origin, Chinese domestic agent's name, and contact information. Pre-packaged food without Chinese labels or instructions, or their labels or instructions do not comply with the Law shall not be imported.

Article 98 Importers shall establish a food and food additive import and sale record; faithfully record information of food and food additives such as the product name, specification, quantity, production date, production or import batch number, shelf life, name and contact information of the exporter and buyer, and delivery date. The records and documents shall be kept in compliance with provisions in Article 50.2 of the Law.

Article 99 Food producers that export products shall guarantee its foods comply with standards of the exporting country (region) or meet contract requirements.

Producers of exported food, and farms planting or breeding raw materials for exported food shall be put on record with AQSIQ.

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Article 100 AQSIQ shall collect and consolidate the following safety information on imported and exported food and notify it to relevant departments, institutions, and enterprises:

1) The food safety information from the imported and exported food inspection and quarantine implemented by the exit-entry inspection and quarantine agency;

2) The import food safety information reported by organizations such as food industry associations and consumer associations, *etc*. and consumers;

3) The risk alert information and other food safety information published by international food organizations and overseas government agencies, and the food safety information reported by organizations such as overseas industry associations and consumers;

4) Other food safety information.

AQSIQ shall carry out credit management for food importers, exporters, and export food producers; establish credit records and publish them to society pursuant to the law; AQSIQ tightens inspection and quarantine on importers, exporters, and export food producers that had bad credit record.

Article 101 AQSIQ may carry out assessment and inspection on the food safety management system and food safety situation of the countries or regions that export food to China; based on the assessment and inspection results, AQSIQ determines inspection and quarantine requirements.

**Chapter 7: Handling of Food Safety Incidents**

Article 102 The State Council shall organize the formulation of national emergency plans for food safety incidents.

Based on relevant laws, regulations, and the emergency plan of the higher level government, as well as considering the actual situation of this administrative region, county and above level governments shall formulate emergency plans for food safety incidents in the prefecture; the plan shall be filed to the higher level government for record.

The emergency plan shall have provisions for grading of incidents, commanding system for incident handling and its responsibilities, prevention and early warning system, incident handling procedure and measures guarantee enabling the emergency incident handling.

Food producers and traders shall develop a response plan for food safety incidents, regularly inspect the implementation of preventative measures related to food safety, and eliminate hidden hazards in a timely manner.

Article 103 The entity having a food safety incident shall take immediate actions to prevent spreading of the incident. The entity and medical institutes receiving/treating patients shall immediately report to the county level food and drug regulatory department and health department where the incident takes place.

Upon discovering an incident or hearing a report on food safety incident, the county and above level quality supervision department and the agriculture department shall immediately report to the food and drug regulatory department of the same level.

In the event of outbreak of a food safety incident, the county level food and drug regulatory department,



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following the emergency plan, shall report to the local government and the food and drug regulatory department of the higher level. The county level government and the higher level food and drug regulatory department shall report the incident to their superiors according to the emergency plan.

Any entity or individual shall not conceal, lie about, or delay the reporting of the food safety accident, or hide, forge or destroy relevant evidence.

Article 104 Medical institute, discovering patients caused by food-borne disease, or suspected patients, shall timely report to the county-level health department where it locates in accordance with the provisions. The county-level the health department, believing the disease is related to food safety, shall inform the food and drug regulatory department of the same level.

The county and above level health department, discovering food safety related problem in investigating into infectious disease or other public health incident outbreak, shall inform the food and drug regulatory department of the same level.

Article 105 Upon receiving the food safety incident report, the county and above level food and drug regulatory department shall immediately conducts investigations into the incident, jointly with the health department, the quality supervisory department and the agriculture department of the same level; they shall take the following measures to prevent or diminish the harm to the public:

1) Deploy emergency rescue, arrange first aid and treatment to the persons injured in the food safety accident;

2) Seal up the food and raw materials likely causing the food safety accident and conduct immediate testing; for the food and raw material that are confirmed to be contaminated, order the food producer and trader to recall or suspend operation according to Article 63 of the Law;

3) Seal up the contaminated food-related products, issue order to have such products cleaned and sterilized;

4) Properly handle news release; disclose information of food safety accidents and the handling of the incident thereof in accordance with laws; provide explanations and clarifications of possible harms.

Should food safety incident trigger the contingency plan, the county and above level government shall establish the incident handling organization, initiate the contingency plan, and handle the incident pursuant to previous paragraphs and the provisions of the contingency plan.

If a food safety incident occurs, the county and above level CDC shall launch hygienic treatment on the incident site, and conduct the epidemiological investigation on factors related to the incident, which shall be assisted by other departments. County and above level CDC shall submit the epidemiological investigation to the food and drug regulatory department and the health department of the same level.

Article 106 In the event of outbreak of a food safety incident, the city and above level government shall immediately work with relevant departments and carry out investigations to determine responsible party of the incident; they shall urge relevant departments to perform their duties, and submit an investigation report identifying responsibilities to the government of the same level and the food and drug regulatory department of the higher level government.

In case a major food safety accident involves more than two provinces, the CFDA shall organize the investigation into responsibility of incident according to the provisions in the above paragraph.



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Article 107 Investigation into food safety incident shall be honest, based on science; it is required to timely and accurately determines the nature and reason of the incident, identify responsible party of the incident, and propose improvement measures.

In addition to identifying the responsible party for the food safety incident, the investigation shall also identify the responsibilities of staffs in the regulatory, testing and licensing/certification departments.

Article 108 The food safety incident investigating agency is entitled rights to collect information from relevant entities or individual persons about the incident, and request them to provide relevant documents and samples. Relevant entities and individual persons shall be cooperative for the investigation, and provide documents and samples as required; they shall not reject such request.

No entity or individual person shall impede or disturb investigation and handling of food safety incidents.

**Chapter 8 Regulatory Work**

Article 109 The county and above level food and drug regulatory department and quality supervision departments, pursuant to risk surveillance, risk assessment results and food safety situation, shall determine the priority, methods and frequency of regulatory work; the risks shall be graded.

County and above level government organizes the food and drug regulatory department, quality supervision department, and agriculture department of the same level to develop the annual food safety regulatory work plan of the region, publishes the work plan to society and organizes the implementation.

The annual food safety regulatory work plan shall include the following items as the regulatory priority:

1) Staple and supplementary food dedicated to infants and other specific populations;

2) Health food production: substances adding, and production according to the registered/recorded technical requirements; introduction of function in product label, instruction and publicity materials of health foods;

3) Food producers and traders with higher food safety incident risks;

4) Food safety risk surveillance results show that the item presents higher food safety risk potential.

Article 110 The county and above level food and drug regulatory departments and quality supervision department perform their respective duties of regulating food safety and take the following actions in supervising and examining producers and traders for compliance with this Law:

1) Enter production and trading sites for field inspection;

2) Conduct sample testing on food, food additive and food related products that are produced or traded;

3) Review and copy relevant contracts, documents, notebooks, and other information;

4) Seal up and detain foods proven to violate food safety standards or proven by evidence to have hidden safety hazards, illegally used food raw materials, food additives, and food-related products;

5) Close down places of illegal production and trading of food.

Article 111 In the case that food safety risk assessment results present potential safety risks, and it is necessary

to develop and revise the food safety standards, NHFPC shall, before the development and revision, work with other State Council departments and set a temporary limit and testing method of the harmful substance, which shall be followed in production and trading, as well as regulatory work.

Article 112 The county and above level food and drug regulatory department could adopt the fast testing methods prescribed by the State in random test of foods; if the random test result shows the product might not comply with food safety standard, the product shall be tested pursuant to provisions of Article 87 of this law. The random test result can be used as basis for administrative punishments if it ascertains that relevant food does not comply with food safety standards.

Article 113 The county and above level food and drug regulatory departments shall establish the food safety credit records for food producers and traders, which will record issuance of licenses, results of routine supervision and inspection, and handling of illegal activities; such information shall be announced to the public and updated timely. The food and drug regulatory department shall increase the frequency of inspection on food producers and traders with unhealthy credit records. Food producers and traders who severely violate laws will be notified to investment regulatory department, securities regulatory committee, and relevant financial institutes.

Article 114 In the event that hidden food safety hazards exist in food production and trading process, which has not been eliminated timely, the county and above level food and drug regulatory departments may arrange communication sessions to determine liabilities with the legal representative or main person in charge. The food producers and traders shall immediately take rectification measures in eliminating the hidden hazards. The communication session and the rectification measures shall be included into the food producer and trader's credit record.

Article 115 The county and above level food and drug regulatory departments and quality supervision departments shall publish their email or telephone numbers for inquires, complaints and reports. Upon receiving inquiry, complaint, or information that falls into their portfolio, the food and drug regulatory departments shall accept it and promptly reply, verify, and handle such an inquiry, complaint, or other information within the legal time limit. The departments shall transfer matters beyond their duty and authority to other departments empowered to deal with such issues, and notify the inquirer, complainant and informant in written form. The departments empowered to deal with such issues, shall act immediately within the legal time limit and shall not dodge responsibility to others. Awards shall be granted to people whose submitted reports are verified to be true.

Relevant departments shall keep secret of the reporting person's information to protect his/her lawful rights. In case the reporting person reports the enterprise where he or she is employed, the reported enterprise shall not retaliate against the reporting person through termination and modification of the labor contract or any other ways.

Article 116 The county and above level food and drug regulatory department, quality supervision department and other departments shall enhance the training for law enforcement personnel about food safety law and regulations, standards and professional knowledge, as well as law enforcement ability and other aspects, and organize examinations. The personnel who do not have corresponding knowledge and competence must not engage in food safety law enforcement.

In the event that food producers and traders, food industry associations, and consumer associations, *etc*. find law enforcement personnel's behavior to be against laws, or not standardized, they may complain and report such behavior to food and drug regulatory department, quality supervision department, or the discipline supervisory

departments of the corresponding level or higher level government. The departments that receive complaints and reports shall verify the information and inform the law enforcement department; once the complaints or reports are verified to be true, the law enforcement department will be informed; the person violating rules and disciplines shall be handled according to this Law and relevant regulations.

Article 117 In the event that the county and above level food and drug regulatory department and relevant departments fail to timely discover system-wide food safety risks, or fail to timely eliminate the hidden safety hazards in the region, the municipal government of the same level may arrange communication sessions to determine liabilities with the main person in charge.

In the event that a local people's government fails to assume its food safety duties and fails to eliminate major regional food safety hidden hazards in a timely manner, the municipal government at the higher level may arrange communication sessions to determine liabilities with the main person in charge.

The food and drug regulatory department and other relevant department, as well as the local government invited for the communication sessions shall take immediate measures to rectify food safety regulatory work.

The communication session and the rectification measures shall be included into the food producer and trader's credit record, and the evaluation and appraisal record of the local government and the food and drug regulatory department.

Article 118 China establishes a unified food safety information release platform and implements the unified food safety information publication mechanism. CFDA publishes information of overall situation of food safety in the country, food safety risk alert, information on major food safety incidents and the handling, as well as other information identified by the State Council to be disclosed by the centralized platform. The food safety risk alert, or the information on major food safety incidents and the handling, if only impact particular regions, shall be disclosed by the provincial food and drug regulatory department. Without authorization, no such information shall be released.

The county and above level food and drug regulatory departments, quality supervision departments, and agriculture department shall disclose food safety information as a part of their routine supervision and administration work.

Food safety information released shall be accurate and timely, and if necessary provide explanations to avoid misleading to consumers and the public opinion.

Article 119 Upon receiving information requiring centralized disclosure pursuant to this law, the county and above level food and drug regulatory departments, health departments, quality supervision departments and agriculture departments shall immediately report to their superior departments, which then shall immediately report to the CFDA; if necessary, the county level departments could directly report to CFDA

The county and above level food and drug safety regulatory departments, health departments, quality supervision department and agriculture department shall notify each other of food safety related information.

Article 120 No organization or individual shall make up and disseminate false food safety information.

The county and above level food and drug regulatory department, upon finding food safety information that might mislead consumers and the public, shall immediately organize verification and analysis of the information with relevant departments, specialized institutes, relevant food producers and traders; the result shall be published in a timely manner.

Article 121 The county and above level food and drug regulatory departments, the quality supervision department and other relevant departments, upon detecting suspected food safety crimes, shall timely transfer the case to the public security departments following relevant regulations. For cases handed over, the public security departments shall make inspections in a timely manner, and shall put the case on file for investigation and prosecution if the crime requires investigation for criminal responsibility.

The public security departments, if found cases with no criminal fact or slight criminal fact, which do not bear criminal responsibility but have administrative responsibility according to the law, shall transfer the case to food and drug regulatory departments, the quality supervision department and other relevant departments in a timely manner; relevant departments shall handle the case according to law.

In the event that the public security departments request the food and drug regulatory departments or quality supervision department, environmental protection department to provide testing conclusions, or identification opinions, or provide harmless disposal of the case-related objects, relevant departments shall timely provide such assistance.

**Chapter 9: Legal Liabilities**

Article 122 The county and above level food and drug regulatory department will confiscate the illegally gain of benefits and food, food additives, tools and equipment used in production and trading, and materials used by food producers or traders who violate the Law by engaging in production or trading activities of food and food additives without obtaining the business license for food or food additive production and trading. The illegally produced or traded foods and food additives are subject to a fine of RMB 50,000 - 100,000 if its value is less than RMB 10,000; they are subject to a fine between 10 and 20 times of the total value of the commodity if the total value of the commodity exceeds RMB10,000.

The county and above level food and drug regulatory department shall order the entity or person to terminate the law violation activity, confiscate its illegal gain of benefits, and impose a fine between RMB 50,000 to RMB 100,000 if the entity or person is aware of such violations but still provides space or other condition for such law violation activities. If consumers' lawful rights are harmed, the entity/person shall take joint liability with the food/food additive producers/traders.

Article 123 Per the activities list below that violate this Law, where the activity has not yet constitute a crime, the county and above level food and drug regulatory departments will confiscate the illegally gained benefits and foods illegally produced or traded/and the tools, equipment and food raw material used for illegal production or trading as well. The producer or trader is also subject to a fine of RMB 100,000 to 150,000 if the total value of the commodity is less than RMB 10,000, or a fine between 15 and 30 times if the total value of the commodity exceeds RMB10,000. The person in charge and other staffs directly responsible for the violation may have the food producer or trader's business license revoked or be detained for not less than five days but not more than fifteen days.

1) Producing food with non-food raw material, adding chemical substances other than food additives, or substances that may cause harm to human health, or use recovered food as raw materials, or trading the above-mentioned foods;

2) Producing and trading staple and supplementary food dedicated to infants or other specific populations, while the nutritional ingredients of which fail to comply with food safety standards;



3) Trading meat of any poultry, livestock, animals, or waterborne animals which have been killed by disease,

poison or any unidentified cause; or producing and trading products produced by such meat;

4) Trading meat that have not been quarantined following requirements or fail to pass such quarantine, or producing or trading meat products which have not been inspected or fail to pass such inspection;

5) Producing or trading food expressly prohibited by the State from production and trading for disease prevention and control purposes;

6) Producing or trading foods added with medicine.

The county and above level food and drug regulatory department shall order the entity or person to terminate the law violation activity, confiscate its illegal gain of benefits, and impose a fine between RMB 100,000 to RMB 200,000 if the entity or person is aware of such violations but still provides space or other condition for such law violation activities. If consumers' lawful rights are harmed, the entity/person shall take joint liability with the food/food additive producers/traders.

For the illegal use of extreme poisonous pesticides and highly toxic pesticides, (the responsible person) shall be detained by the public security agencies pursuant to item 1 of this article in addition to the penalties imposed by relevant laws and regulations.

Article 124 Per the activities list below that violate this Law, where the activity has not yet constitute a crime, the county and above level food and drug regulatory departments will confiscate the illegally gained benefits/ foods and food additives illegally produced or traded/and the tools, equipment and food raw material used for illegal production or trading as well. The producer or trader is also subject to a fine between RMB 50,000 to 100,000 if the total value of the commodity is less than RMB 10,000, or a fine between 10 and 20 times if the total value of the commodity exceeds RMB10,000; for severe violation of the law, the business license of food producers and traders will be revoked:

1) Producing or trading food or food additive which exceeds food safety standard limits in relation to pathogenic microorganisms, pesticide residues, vet drugs residues, biotoxins, contaminants (heavy metals, *etc*.) and other substances hazardous to human health;

2) Producing foods or food additive with food materials and food additives that have passed the shelf life or trading the above-mentioned foods or food additives;

3) Producing or trading food additives beyond allowed scope or excessing the maximum level allowed to be used.

4) Producing or trading food or food additive which is rotten or spoiled, has rancid fat, grows with molds or insects, is dirty or contaminated, contains foreign matter, adulterated with alien substances, or displays abnormal sensory indication;

5) Producing or trading foods, food additives labelled with fake production date or shelf life, or producing or trading food and food additives that have passed the shelf life;

6) Health foods, formulas for special medical purposes and infant formula powder that are not registered or filed for records as requested, or the relevant producers fail to produce products according to the registered or recorded technical requirements such as product formula and production techniques, *etc*.;

7) Producing infant formula powder in the means of sub-packaging, or the same company using the same

formula to produce infant formula powder of different brands;

8) Using new food materials to produce food, or producing new varieties of food additives without a safety assessment;

9) Food producer or trader refuses to call back products or stop operation upon instruction by the food and drug regulatory department.

In addition to the circumstances as prescribed in the preceding paragraph, Article 123 and Article 125 of this law, whoever produces or trades foods and food additives that do not comply with the laws, regulation and food safety standards would be punished in line with the provisions of the preceding paragraph.

The county and above level quality supervision department shall impose penalty pursuant to clause 1 in this Article on production of new variety of food related products that have not passed safety assessment, or production of food related products that do not comply with food safety standards.

Article 125 In violation of the Law upon occurrence of following circumstances, the county and above level food and drug regulatory departments will confiscate the illegally gained benefits/foods and food additives illegally produced or traded/and the tools, equipment and food raw material used for illegal production or trading as well. The producer or trader is also subject to a fine between RMB 5,000 to 10,000 if the total value of the commodity is less than RMB 10,000, or a fine between five and ten times if the total value of the commodity exceeds RMB10,000; for severe violation of the law, the producer shall be instructed to stop production, or get its business license revoked:

*Etc.*;

1) Producing or trading food or food additive contaminated by the packaging materials, container, transport means,

2) Producing or trading the pre-packaged food or food additives without label; or the labels or instructions do not comply with the Law;

3) Producing or trading GM foods that are not properly labelled as required;

4) Food producer or trader purchasing or using the food materials, food additives, or food related products not in compliance with food safety standards.

Upon instruction by the county and above level food and drug regulatory departments, producers or traders of food and food additives shall correct the mistakes in the label or instruction that may neither impact food safety and nor mislead the consumers; a fine less than RMB 2,000 will be imposed if they refuse to correct the problem.

Article 126 In violation of the Law with one of the following circumstances, the county and above level food producer or trader shall be ordered to make a correction or be warned by the county and above level food and drug regulatory departments; when refusing to make correction, they are subject to a fine of RMB 5,000-50,000; and for serious cases, they shall be ordered to stop production or business; business license will be revoked for very serious violation:

1) Food or food additive producer fail to inspect the purchased food materials, and the produced foods, food

additives, and food related products as required;

2) Food producers and traders fail to establish the food safety management system or designate or train, assess the safety management personnel as required;

3) The food and food additive producers and traders fail to check license and relevant document in purchase, or fail to establish and adhere to the purchase inspection records, and the ex-factory inspection record and sales record systems as required;

4) The food prouder or trader fails to formulate plans to handle food safety incidents;

5) Fail to wash or sterilize the tableware, kitchenware, and containers before use, which hold food for direct consumption; or the washing or sterilization does not meet requirements; or fail to maintain, clean and adjust the catering service facilities and equipment periodically as required;

6) The food prouder or trader assigns a person to engage in food contact work, while the person has not obtained the health certificate yet or has diseases the NHFPC deems harmful for food safety;

7) The food trader fails to sell food according to the regulations;

8) The health food producer fails to file to food and drug regulatory departments for recording as required or fails to organize the production according to the recorded technical requirements such as product formula and production techniques, *etc*.

9) The producers for infant and young children formula food fail to file the production raw materials, food additives, product formula, labels, *etc*. to food and drug regulatory departments for recording;

10) The producer for special food fails to establish the quality management system and keep its effective operation as required, or fails to regularly submit self-inspection report;

11) The food producer or trader fails to regularly examine their own food safety situation or fails to take actions when their production and trading condition changes in accordance with regulations;

12) A school, kindergarten, nursing institution for the aged, and a construction site that provide centralized dining fail to comply with food safety management responsibilities as required.

13) The food producer or catering service provider fails to develop and implement the process control requirements for food production and trading as required.

In the event that the centralized disinfection vendors for tableware and kitchenware use water, detergents and disinfectants in violation of the provisions of this Law, or provide tableware and drinking utensils failing to pass testing and be accompanied by the disinfection certificate, or fail to label relevant information in the separate packaging, the county and above level health department shall impose penalty pursuant to the provisions of the preceding paragraph.

In the event that the food-related product producer fails to conduct inspection on the food-related products produced as required, the county and above level quality supervision department shall impose penalty pursuant to clause 1 in this Article.

In the event that the edible agricultural product seller violates the provisions in Article 65 of this Law, the

county and above level food and drug regulatory departments shall impose penalty pursuant to clause 1 in this Article.

Article 127 Small food production workshops and food vendors would be punished for law violation activities pursuant to the detailed administrative measures formulated in corresponding province, autonomous region and municipality.

Article 128 Relevant authorities shall instruct the entity that fail to handle and report food safety incident to take correction measures, and place a warning on the entity; the entity will be instructed to suspend the production or trading for hiding, forging, or destroying the evidence, be confiscated its illegal gain of benefit, and is subject to a fine of RMB 100,000 - 500,000; and for serious cases, be revoked the business license.

Article 129 In violation of the Law upon occurrence of following circumstances, CIQs shall impose punishment according to Article 124 of this Law:

1) Providing false materials, importing foods, food additives and food related products that do not complying with the national food safety standard of China;

2) When importing foods without applicable national food safety standard, failing to submit the executive standard and have the standard reviewed by NHFPC; or when importing food produced using new food materials or importing new variety of food additive and food related products, failing to pass the safety assessment;

3) Exporting foods in breach of the Law;

4) Importers refuse to recall food not complying with food safety standards after relevant competent departments ordered recall of the product;

The importers who fail to establish and maintain the food and food additive import/ sales record system and the overseas food exporter/producer verification system, which violates provision of this Law, will be subject to CIQ punishment pursuant to Article 126 of this Law.

Article 130 If any operators of central trading markets, stall leasers and organizers of trade fair permit food traders without lawfully obtaining a license for food production, distribution or provision for catering services to sell food in the market, or fail to perform the inspection or reporting obligations, the county and above level food and drug regulatory department shall order them to make corrections, confiscate its illegal gain of benefit, impose a fine between RMB50,000 and RMB 200,000; and, if serious consequences are caused, order suspension of operations for correction, or even revoke its license; and those causing harm to consumer's legitimate rights, shall assume joint liability together with the food trader.

In the event that the edible agricultural product wholesale market violates the provisions of Article 64 of this Law, it shall assume liability pursuant to the provisions of the preceding paragraph.

Article 131 In violation of the Law, if a third party online trading platform fails to conduct real name registration and license inspection, or fail to perform the obligation of reporting or suspending on-line trading platform services, the county and above level food and drug regulatory department shall order them to make corrections, confiscate its illegal gain of benefit and impose a fine between RMB 50,000 and RMB 200,000 on it; and, if serious consequences are caused, order suspension of operations for correction, or even revoke its license; and those causing harm to consumer's legitimate rights, shall assume joint liability together with the food trader.

Consumers purchasing foods through the third-party online food trading platform shall demand compensation to the trader using the platform if their legitimate rights suffer loss. The platform shall provide compensation to the consumer if it could not provide real name, address and contact information; afterwards, the third-party online trading platforms have the right to ask for compensations from food traders or food producers who use its online platform. Third-part online food trading platform shall honor its commitment to consumers if it offers more favorable compensation.

Article 132 In violating this Law, a person/entity fail to store, transport, or load/unload foods following relevant requirements, the county and above level food and drug regulatory department shall order immediate correction and give a warning; if correction is refused, order suspension of operations for correction and impose a fine between RMB 10,000 and RMB 50,000; and in serious circumstances, revoke its license.

Article 133 In violating this Law, a person/entity refuses, obstructs or intervenes the inspection, incident investigation and handling, risk surveillance and risk assessment by relevant department/organization/institution or their staffs, the relevant authority shall order the suspension of production and business, and impose a fine between RMB 2,000 and RMB 50,000; in serious circumstances, revoke its license; and for those disrupting public order, punishment will be imposed by the public security departments.

In violating this Law, whoever retaliates against the reporting person through termination and modification of the labor contract or any other ways shall assume liability pursuant to the provisions of relevant laws.

Article 134 In the event that the food producer or trader have been given punishment for a total of three times due to the violation of the provisions of this law, with the exception of being ordered to stop production or business and having their business license revoked, they shall be ordered to stop production or business; business license will be revoked for very serious violation:

Article 135 Food producers and traders whose license is revoked and its legal representative, the main person in charge and other persons who bear direct responsibility, shall not apply for food production/trading license in five years since the punishment is made; shall not be permitted to engage in food production and/or trading management, or serve as the food safety management staff in a food production and trading company within 5 years after the punishment.

Any person, who has been sentenced to a fixed-term imprisonment or more severe penalty due to food safety crimes, shall neither engage in food production and trading management work nor serve as the food safety management staff in a food production and trading company for life.

Food producer/trade hiring persons who had violated the provisions in the previous two paragraphs will be revoked of its license by the county and above level food and drug departments.

Article 136 A food trader, fulfilling the obligations of purchase inspection and have sufficient evidence to prove it is unaware that the purchased food do not comply with relevant food safety standards, and could explain the source of such purchase, is free from punishment; however, the food shall be confiscated; those that causes physical injury or property damage shall compensate the losses;

Article 137 In violation of this Law, if the technical persons and technical institutions undertaking food safety risk surveillance and risk assessment provide fake surveillance and assessment information, the technical person and the person in charge of the institution are subject to punishment of removal from the position or be expelled; the person's qualification certificate for the profession shall be revoked, if the person or the institution

has such certificate of practice.

Article 138 In violation of this Law, if the food inspection institution or food inspector issues false inspection reports, the supervising authority will cancel the food inspection institution's inspection qualification, confiscate the gained inspection fee, and impose a fine between five to ten times the inspection fee; the institution is also subject to a fine of RMB 50,000 - 100,000 if the inspection fee is less than RMB 10,000. The person in charge of the institution and the inspector shall be removed from position or excelled; if causing significant food safety incident, the person in charge of the institution and the inspector shall be expelled.

The food inspector expelled pursuant to this Law shall not engage in food inspection work from the day of the punishment decision made; food inspection institution staff subject to criminal prosecution for violating food safety law, or expelled for issuing false inspection report that caused significant food safety incident, shall not engage in any food inspection work for life. A food inspection institution hiring a person prohibited from food inspection work will be subject to revoked of its qualification certificate by the certifying authority.

The food inspection institution, issuing false inspection report, and harming the lawful rights of consumers, shall assume joint responsibility of compensation together with the food producer/trader.

Article 139 In violation of this law, if the certificate institution issues false certification conclusion, the supervising authority shall confiscate the received certification fees, and impose a fine of five to ten times the certification fees; the institution is also subject to a fine of RMB 50,000 to 100,000 if the certification fee is less than RMB 10,000; in serious cases, the institution is subject to punishment of suspension of operation, or public announcement of revoking of the certificate it issued; qualification certificate for the profession of the person in charge of the institution and the directly responsible person will be revoked.

If the certificate institution issues false certificate conclusion, and harming the lawful rights of consumers, shall assume joint responsibility of compensation together with the food producer/trader.

Article 140 Advertisement of health food, in violation of this Law, containing false publicity, cheating the consumers, or failing to obtain permission, or the advertisement content is inconsistent with the permitted documents, shall be punished according to the Advertising Law of the People's Republic of China.

Advertising agent and publisher who design, produce or publish false food advertisement, which harm the consumers' legitimate rights shall assumes joint liabilities with the food producer and trader.

Civil societies or other organizations or individuals that recommend a food to consumers via false advertisement or other false propaganda activities and harm the legitimate rights and interests of the customers, shall bear joint liabilities with the food producer and trader.

Food and drug regulatory department, food inspection institution and food industry associations recommending food to consumers via advertising or other forms and consumer organizations recommending food to consumers by charging fees or by other ways of seeking profits, which is in violation of this Law, shall be confiscated of the illegal gain of benefits by the competent authority. The person in charge of the entity and the person responsible for the activity are subject to punishment of recording a special demerit, demotion or removal from the position; in serious cases, they shall be expelled.

If the case of severe false food publicity, the provincial food and drug regulatory department shall suspend sale of the food, and make public announcement to the public; if the food is still sold in market, the county and above level food and drug regulatory department shall confiscate the illegally gained benefits and the illegally

traded food; the trader is also subject to a fine of RMB 20,000 and 50,000.

Article 141 In violation of this Law, persons making up and spreading false food safety information, which constitute behavior disrupting public order, are subject to public security regulatory punishment by the public security agency.

Media making up and spreading false food safety information shall be punished by its superior authority in accordance with relevant laws; the person in charge of the entity and other person responsible for the activity are subject to the punishment of disgrace; if the activity harms the lawful rights of citizens, legal representatives or other organizations, the media shall take the civil law liabilities, such as eliminating influence, rehabilitating reputation, compensating for loss and apology, *etc*.

Article 142 Per government at the county or above level, in violation of the Law upon occurrence of following circumstances, both the government officials that bear responsibility and other executives directly responsible shall be punished by recording a special demerit against them; for relatively serious cases, they shall be demoted or removed from office; for serious cases, they shall be dismissed; when severe consequences occur, key persons in charge of the government shall admit responsibility and resign:

1) Fail to take organize and coordinate relevant departments to take effective measures to handle the food safety incidents in the region, which causes adverse effect or harm;

2) Fail to organize the rectification measures to regional food safety problem involving multiple links, which causes adverse effect or harm;

3) Delay, conceal, or falsely report food safety incidents;

4) Occurrence of significant food safety incident, or continuous occurrence of significant food safety incidents in the region.

Article 143 Per the county and above level government, in violation of the Law upon occurrence of following circumstances, both the government officials that bear responsibility and other executives directly responsible shall be punished by warning, recording a demerit, or recording a special demerit against them; causing serious consequences, they shall be demoted or removed from office:

1) Fail to identify the food safety regulatory responsibilities of relevant departments, fail to establish and improve the whole process food safety regulatory working system and information sharing system, fail to fulfill the food safety regulatory responsibilities;

2) Fail to develop food safety emergency plan for the region, or fail to establish the commanding organization immediately following relevant regulations after food safety incident outbreaks and activate the emergency plan;

Article 144 The county and above level food safety regulatory department, the quality supervision department and the agriculture department at the county or above level, with one of the following circumstances, both the government officials that bear responsibility and the executives directly responsible shall be punished by recording a special demerit against them; for bad cases, they shall be demoted or removed from office; in very serious cases, the person shall be expelled; when severe consequences occur, key persons in charge of the government shall admit responsibility and resign:

1) Hide, false, or delay report of food safety incidents;

2) Fail to investigate into food safety incidents, or fail to take timely measures to handle food safety incidents after receiving reporting, which caused expansion or spread of the incident;

3) Fail to take appropriate measures when food safety risk assessment draws the conclusion that the food, food additive or food-related product is unsafe, which causes food safety incident, or adverse social influence;

4) Grant permissions to unqualified applicants, or give permissions beyond legitimate authority;

5) Fail to perform food safety regulatory duty provided by this Law, which causes food safety accidents.

Article 145 The county and above level food safety regulatory department, the quality supervision department and the agriculture department, with one of the following circumstances, both the government officials that bear responsibility and the executives directly responsible shall be punished by warning, recording a demerit, or recording a special demerit against them; for bad cases, they shall be demoted or removed from office; for very serious cases, they shall be expelled:

1) Upon receiving of food safety related information, fail to report the information to the competent department at high level and to the government of the same level, or fail to report the information to other government departments

2) Fail to publish the food safety information according to provisions;

3) Fail to perform legitimate duties, uncooperative in investigation of law violation activities; or misfeasance, dereliction of the duty and committing illegalities for personal gains;

Article 146 While performing food safety regulatory responsibilities, the food and drug regulatory department, quality supervision department and other departments, in the case of conducting enforcement measures, such as illegal inspection and taking forcing actions, which cause damage to the food producers and traders, shall compensate the losses; the person in charge and other directly responsible persons shall be punished according to law.

Article 147 Violation of this Law that causes physical injury or property damage shall compensate the losses; if the property of the producer/trader is insufficient to bear the civil liability and pay for the imposed fine, the civil liability shall be fulfilled with priority.

Article 148 Consumers could request compensation to traders, and/or producers for harms caused by food that does not meet food safety standards. Upon the request for compensation, the producer/trader shall follow the first asking responsibility principle, make the compensation; they shall not dodge responsibilities. If the producer is liable of the responsibility, the trader, after compensating the consumer, shall request recovery of the compensation; vice versa.

Consumer could request for compensation for harm caused by production or trading of foods not meeting food safety standards; in addition, the customer could demand the producer or the trader to pay compensation of 10 times the product price, or three times of the loss; the additional compensation shall be 1,000 Yuan if it is less than 1,000 Yuan. This term does not apply to the flaws of food label and product descriptions, which may neither affect the food safety nor mislead the consumers.

Article 149 Violation of provisions of this Law that constitute crime shall be prosecuted of criminal liabilities.

**Chapter 10: Supplementary Provisions**

Article 150 For the purpose of this Law, the following terms shall have the meaning defined hereunder:

Food means any substance that has been processed or not processed that is suitable for eating and/or drinking, including substances traditionally used as food and Chinese herb medicine, excluding substances solely used for disease treatment.

Food Safety means the food is nontoxic, harmless, and compliant with reasonable nutritional requirement, and will not cause any acute, chronic and potential hazards to human health.

Pre-packaged Food means food which is prepackaged or made in containers or packaging materials, according to a fixed quantity.

Food Additive means any synthetic or natural substance used to improve the quality, color, fragrance, flavor of food, and used to add to the food or put together with the food to prevent deterioration, keep fresh or for processing technology requirements, including nutritional fortification substances.

Food Container and Packaging Material means the products made of paper, bamboo, wood, metal, porcelain, plastic, rubber, natural fiber, chemical fiber, or glass and used to contain food or additives, or coating in direct contact with food or additives.

Food Tools and Devices mean machines, pipes, conveyer belts, containers, appliances, tableware and other objects that have direct contact with food or additives during production, sales and use of food or additives.

Food Detergent and Disinfectant mean substances that are directly used to wash or sterilize food tableware, and tools and devices, or food containers and packaging materials that have direct contact with food.

Food shelf life means the period prior to the “best before” date when the food remains in good quality under the indicated storage conditions indicated.

Food Borne Disease means any infectious, toxic or other disease caused by pathogenic bacteria which enter the body through food, including food poisoning.

Food Safety Incident means any incident that may be caused by food borne diseases, food contamination, or other incidents arising from food and hazardous to human health.

Article 151 In case that food safety administration for genetically modified foods and common salt not covered in this Law, the provisions of other laws and administrative regulations shall apply.

Article 152 The measures for administration of food safety in the railway and aviation operations shall be developed by the CFDA together with other relevant departments of the State Council pursuant to this law.

The specific regulations for the health foods shall be developed by the CFDA pursuant to this Law.

The specific regulatory measures of food related products production shall be developed by the AQSIQ pursuant to this law.

The regulatory work at the border and customs shall be carried out by the CIQs pursuant to this law and provisions of relevant laws and administrative regulations.

The specific measures for administration of food safety of the special foods and self-supplied foods in the army shall be developed by the Central Military Committee according to the Law.

Article 153 The State Council can make adjustments of the supervision and administration system for food safety according to the actual requirements.

Article 154 This Law shall enter into force on October, 1st, 2015.

**END TRANSLATION**

# “中国食品安全法宣传介绍会议”邀请函

# Invitation Letter for the Introduction Meeting on China’s Food Safety Law

各有关单位：

Relevant entities,

为了做好新颁布的《食品安全法》实施前的准备工作，中国食品药品监督管理总局将于 2015 年 9 月 1 日在北京亮马河会议中心举办“中国食品安全法宣传介绍会议”，欧盟驻华使团和美国驻华使馆协办，就食品安全法及相关管理要求进行介绍。

China Food and Drug Administration plans to host the “Introduction Meeting on China’s Food Safety Law” at the Landmark Conference Center on September 1, 2015. The event, co-organized by the EU Delegation to China and the Embassy of the United States of America in Beijing, will be a chance to brief participants from foreign embassies and foreign industries about the 2015 Food Safety Law and relevant regulatory requirements.

参会人员包括外国驻华使馆以及外国企业代表等。 欧盟驻华使团作为该会议的承办方之一，诚挚邀请您参会，并请于 8 月 26 日前将参会回执 Email 至欧盟驻华使团。

As one of the sponsors of the meeting, The EU Delegation to China invites your attendance to the meeting. Please email your registration form to us by August 26.

附件：1、会议日程（草案）

2、参会回执

Annex:

1. Meeting Agenda (draft)
2. Registration form

China Center for Food and Drug International Exchange (CCFDIE)/

EU-China Trade Project (II)/

Foreign Agricultural Service, USDA

August 21, 2015

# 附件 1 ：中国食品安全法宣传介绍会议日程（草案）

# Annex 1: The Introduction Meeting on China's Food Safety Law

# (Draft Agenda)

**时间：2015 年 9 月 1 日**

**Date: 1 September 2015**

地点： 北京亮马河会议中心紫金厅 （北京市朝阳区东三环北路 8 号）

Location: Zijin Hall, Landmark Conference Center (Next to the Great Wall Sheraton Hotel on the East 3rd Ring Road)

主办方： 国家食品药品监督管理总局 (CFDA)

Organiser: China Food and Drug Administration (CFDA)

协办方： 欧盟驻华使团

美国驻华大使馆

Co-organisers: The Delegation of the European Union to China

The Embassy of the United States of America in Beijing

承办方： 中国食品药品国际交流中心 （CCFDIE）

中国-欧盟世贸项目（二期）

美国农业部海外服务局

Supporters: China Center for Food and Drug International Exchange

E.U.-China Trade Project (II)

Foreign Agricultural Service, USDA

| 时间<br>TIME | 内容<br>CONTENT | 演讲<br>SPEAKERS |
|---|---|---|
| 8:00- 9:00 | **会议注册**<br>**Registration** | |
| 9:00-9:10 | CFDA 总局领导致开幕词<br>Opening remarks by CFDA | 拟请 CFDA 局领导<br>Vice-minister level leader from CFDA (tbc) |
| 9:10-9:20 | 美国驻华大使馆致辞<br>Keynote speech by the Embassy of the United States of America in Beijing | 美国驻华大使<br>Ambassador |
| 9:20-9:30 | 欧盟轮值主席国致辞<br>Keynote speech by the EU Presidency | 拟请欧盟轮值主席国卢森堡大使<br>Ambassador of Luxemburg, EU Presidency (tbc) |
| 9:30-9:45 | 中国食品安全监管国际合作介绍<br>Introduction on China's international cooperation in food safety oversight | CFDA 国合司<br>Department of International Cooperation, CFDA |
| 9:45-10:05 | **茶歇**<br>**Tea break** | |
| 10:05-10:35 | 新修订《食品安全法》的总体情况介绍<br>General Introduction of the newly revised Food Safety Law | 人大法工委<br>Legal Affairs Office, Standing Committee of the National People's Congress |

| | | |
|---|---|---|
| 10:35-11:05 | 中国食品安全监管体系介绍<br>Introduction of the food safety regulatory system in China | CFDA 综合司<br>Comprehensive Department, CFDA |
| 11:05-11:35 | 中国食品安全法制创新<br>Innovation in China's food safety legal system | CFDA 法制司<br>Legal Affairs Department, CFDA |
| 11:35-12:15 | **问答**<br>**Q&A** | |
| 12:15 -14:00 | **午餐**<br>**Buffet lunch** | |
| 14:00-14:30 | 中国《食品安全法》有关食品经营监管情况介绍<br>Relevant provisions of the Food Safety Law on the supervision on food operators | CFDA 食监二司<br>Department of Food Safety Supervision II, CFDA |
| 14:30-15:00 | 中国乳制品监管概况<br>Oversight of dairy products in China | CFDA 食监一司<br>Department of Food Safety Supervision I, CFDA |
| 15:00-15:20 | **茶歇**<br>**Tea-break** | |
| 15:20-16:00 | **问答**<br>**Q&A** | |
| 16:00-16:10 | 会议结束语<br>Closing remarks | CFDA 国合司<br>Department of International Cooperation, CFDA |

注：会议全程使用同声传译(中英文)。

Note: Simultaneous interpretation is provided.

**Annex 2：**

Registration Form

| | |
|---|---|
| Name | |
| Organization/Company | |
| Title | |
| Contacts | Telphone:<br>Fax:<br>Mobile: |
| Email | |

**Important notes:**

1. One form registers one participant only;
2. Deadline for registration is 26 August 2015;
3. Please email your registration form to：**DELETED**