

Interpretation for the new version of *Measures for the Management on Safety of I&E Food*

Interpretation for No. 249 order of the the General Administration of Customs of China

The new *Measures for the Management on Safety of I&E Food* (hereinafter referred to as the "*New Measures*") was published by **No. 249 order of the General Administration of Customs of China** on April 12, 2021 and will be implemented from January 1, 2022. What has changed?

The *New Measures* is the first comprehensive revision of the current provisions in nearly 10 years since it was implemented in 2012. The provisions have been expanded from the original 64 to 79 provisions. The editor has teased out the main changes and key contents, and the specific contents are as follows:

Part 1

The organic integration of the top-level system of I&E food safety supervision was realized

★The *New Measures* comprehensively teased out and integrated the existing regulations and normative documents in the field of I&E food safety supervision, modified and completed provisions that are no longer suitable for current situation, published targeted new provisions on the new situations and problems, and absorbed the long-term practices and experience of I&E food safety work to realize the organic integration of I&E food safety management systems.

Part2

The basic principles of I&E food safety were clarified

Article 3 The I&E food safety work shall adhere to the principles of safety first, precaution crucial, risk management, whole process control and international collegiality.

★The *New Measures* adhered to the bottom-line thinking of food safety first, strengthened precaution crucial and risk management, established a whole process supervision system, guided all parties to participate in ordered governance, and formed an international collegiality structure of food safety, so as to build a modern governance system of I&E food safety with wide participation and joint cooperation of diversified subjects.

Part3

The import food safety management system covering three links of "before, during and after import" was established

I . The concept of "conformity assessment" was introduced to clarify the contents of import food conformity assessment activities

Article 10 The customs shall assess the conformity of import food according to the provisions of relevant laws and administrative regulations on I&E commodity inspection. Import food conformity assessment activities include: evaluation and review for food safety management

system of overseas countries (regions)(hereinafter referred to as overseas countries (regions)] exporting food to China , registration of overseas production enterprises, filing and qualification guarantee of importers and exporters, quarantine approval of entry animal and plant, examination of attached conformity certificates, documents audit, on-site check, supervision and sampling inspection, check of import and sales records and a combination of the above.

★This article introduced the concept of "conformity assessment" for import food , integrated the management requirements for all links of the whole chain of food import, and stipulated 9 contents of conformity assessment activities according to the *Law of the People's Republic of China on Import and Export Commodity Inspection* to make the supervision of import food more scientific and strict.

II . The situations that need to be evaluated and reviewed for overseas countries (regions) as well as the contents and methods of evaluation and review were specified

Article 11 stipulated that the General Administration of Customs of China may evaluate and review the food safety management system and food safety status of overseas countries (regions) and determined the corresponding inspection and quarantine requirements according to the results of evaluation and review.

Articles 12 to 17 stipulated the conditions, contents, methods, investigation materials and results application of the evaluation and review for overseas countries (regions) by the General Administration of customs of China.

★The above provisions further refined the six situations in which the General Administration of customs of China can evaluate and review overseas countries (regions), and clarified that the evaluation and review could start when overseas countries (regions) apply for the first export of a certain type (kind) of food to China.

In addition, articles 14 and 15 of the *New Measures* clarified that the General Administration of customs of China could carry out evaluation and review through video inspection, on-site check and other forms and combinations of the above. Multiple and flexible evaluation and review methods bring great convenience to the import food supervision.

III. Food importers are required to audit independently and actively cooperate with the supervision and inspection of the customs

Article 22 Food importers shall establish an examination system for overseas exporters and production enterprises, and focus on following contents:

1. The formulation and implementation of control measures for food safety risks;
2. Ensure whether the food conforms to Chinese laws and regulations and national food safety standards.

Article 23 The customs shall supervise and inspect the implementation of audit activities by food importers according to law. Food importers shall actively cooperate and truthfully provide relevant information and materials.

★The above provisions specified that food importers shall establish an independent audit system, and the customs shall supervise and inspect their independent audit activities, which strengthened the implementation of the main responsibility of enterprise food safety.

IV . Differentiated control measures for import food shall be implemented in accordance with the risk evaluation results

Article 34 stipulated the conditions for specific control measures such as increasing the proportion of supervision and sampling inspection and verifying inspection reports according to the batch.

Article 35 stipulated the conditions for the suspension and prohibition of import control measures.

Article 36 stipulated the conditions for lifting of the above control measures when the food safety risk is reduced to a controllable level.

★The *New Measures* refined the control measures, such as increasing the proportion of supervision and sampling inspection, checking the inspection reports submitted by importers according to the batch, and suspending or prohibiting import for overseas food production enterprises or national (regional) food exported to China with safety risks, which fully reflected the application of risk management in the safety management of I&E food in China.

Part4

A scientific and strict export food safety supervision and management system with clear rights and responsibilities was established

I . Main contents of supervision and management measures for export food were clarified

Article 39 The Customs shall exercise supervision and management over export food according to the law.

Supervision and management measures for export food shall include: filing of export food raw material planting and breeding farms, registration of export food production enterprises, enterprise verification, documents audit, on-site check, supervision and sampling inspection, port sampling inspection, overseas notification and verification and combinations of the above.

★This article stipulated main contents of export food supervision and management measures, and made the contents and processes of export food supervision more clear, scientific and standardized.

II . Establishment of a traceable food safety and health control system by enterprises was emphasized

Article 44 An export food production enterprise shall establish and complete a traceable food safety and health control system to ensure the effective operation of the food safety and health control system and that the production, processing and storage of export food comply with relevant Chinese laws and regulations and the safety and health requirements of export

food production enterprises; If there are special requirements in the relevant laws and regulations of the import countries (regions) and relevant international treaties and agreements, the relevant requirements shall also be met.

Export food production enterprises shall establish supplier evaluation system, incoming inspection record system, production record file system, delivery inspection record system, export food traceability system and unqualified food disposal system. The relevant records shall be true and valid, and the storage period shall not be less than 6 months after the expiration of the food shelf life; If the food shelf life is not specified, it shall not be less than 2 years.

★To realize the rapid response of food safety practice and ensure food safety, the *New Measures* clearly stipulated that enterprises should establish and complete a traceable food safety and health control system, and supplier evaluation system, export food traceability system and unqualified food disposal system on the basis of the current provisions.

III. Supervision and inspection of export food production enterprises was clarified

Article 47 The customs shall supervise and inspect the operation for the food safety and health control system of export food production enterprises within the jurisdiction. Supervision and inspection shall include daily and annual supervision and inspection.

Supervision and inspection can be implemented by means of data review, on-site check and enterprise verification, and also can be carried out in combination with overseas notification and verification, supervision and sampling inspection, on-site check and other work for export food.

★This article defined the contents and methods of the customs to supervise and inspect the operation of the food safety and health control system for export food production enterprises, and supervised the continuous and effective operation of the food safety and health control system for enterprises.

IV. The concept of “Supervision before Export Declaration” was proposed

Article 49 Export food production enterprises and exporters shall submit an application for supervision before export declaration to the customs of the place of origin or assembly in accordance with laws, administrative regulations and the provisions of the General Administration of Customs of China.

After accepting the application for supervision before export declaration, the customs of the place of origin or assembly shall carry out on-site inspection, supervision and sampling inspection on the export food that needs inspection and quarantine according to law.

★The *New Measures* first proposed the concept of “Supervision before Export Declaration”, clarified the main contents of supervision before export declaration of customs after the export production enterprises and exporters put forward the application for supervision before export declaration according to law, and adjusted the declaration procedures of export food.

V. The control measures for notified export food was added

Article 54 The General Administration of Customs of China shall verify the export food notified by international organizations and overseas government agencies due to safety problems, and implement control measures such as adjusting the proportion of supervision and sampling inspection, requiring food exporters to submit inspection reports, and withdrawing registration recommendations to overseas official competent authorities.

★ The *New Measures* added specific control measures for notified export food, which reflected the China's increasing improvement of food safety supervision mode.

Part 5

Penalties for violations of I&E food safety was increased

Articles 68 to 73 elaborated on the legal responsibilities that food importers and import and export food producers and operators should bear when they violate laws and regulations when importing and exporting food.

★ The above clauses added the management system for violating importers' filing, covering content such as: producers' failure to cooperate in inspections, violating the relevant regulations on imported Chinese labeling, etc., refined the penalties for exporting food for non-compliance, and strengthened the safety of imported and exported food.

Key point:

1. The Chinese labels of imported health foods and special dietary products must be printed on the sales package and must not be affixed.

Related Articles: Article 30

2. Within the specified time, if the imported food has not undergone technical processing or is still unqualified after technical processing, the customs shall order the food importer to destroy or return back them.

Related Articles: Article 33

3. If imported food is found to have infectious disease pathogens, or there is evidence that it can become a vector of infectious disease and cannot be effectively sanitized, the customs will suspend or prohibit food imports.

Related Articles: Article 35

4. According to the inspection results, if the microbiological indicators in the food exceed the standard, the customs will not accept the re-inspection of the food.

Related Articles: Article 67

5. Five measures will be repealed on January 1, 2022, such as: *Administrative Measures for the Inspection and Quarantine of Exported Honey*, *Administrative Measures for the Inspection and Quarantine Supervision and Administration of Imported and Exported Aquatic Products*, *Administrative Measures for the Inspection, Quarantine and Supervision of Imported and Exported Meat Products*, *Administrative Measures for the Inspection, Quarantine and Supervision of Imported and Exported Dairy Products*, *Regulations on the Recordation Management of Export Food Production Enterprises*.

Related Articles: Article 79