



Seafood Trade
Advisory Group

New food safety regulations for China – comparison between the old and the new

Various sources: Chinese government, 31st October 2019

Note this is an informal translation from a Chinese language source

China has released a revised Regulation on the Implementation of the Food Safety Law of the People's Republic of China. These regulations will enter into force as of 1st December 2019 and supersede the versions released in 2009 (and revised in 2016).

The Regulation covers all food forms, including live, chilled, frozen and dried seafood.

The major points are as follows:

- Changes to the requirements for food import;
- Changes to the regulation on promotion of dietary supplements;
- Requirements for traceability;
- Rules of food additives;
- Food temperature and moisture;
- Food e-commerce;
- Fake products;
- Increase in punishment of violators of relevant food laws and regulations.

Please see Table 1 below for a comparison of the major differences between the new and old regulations.

Please note that this is an informal (non-official) translation and is provided for information only. Please obtain independent advice before taking any actions based on the information provided in Table 1 below

Table 1: Major differences between the new Regulation and the old Regulation

New Regulation released in 2019	Old Regulation released in 2016
<p>Article 12</p> <p>Local food standards shall not be formulated for dietary supplements, formulas for special medical purpose, infant formulas and other special foods, which are not considered as local specialties.</p>	
<p>Article 14</p> <p>If formulating the enterprise standards, the food production enterprises shall release the standards available to the public to look-up for free.</p>	
<p>Article 15</p> <p>Food production and trading license shall be valid for 5 years.</p>	<p>Article 20</p> <p>Food production and trading license shall be valid for 3 years.</p>
<p>Article 16</p> <p>The health administrative department of the State Council shall release the list of new food raw materials, new varieties of food additives, new varieties of food-related products and applicable national food safety standards in a timely manner.</p> <p>The health administrative department of the State Council shall, in conjunction with the food safety supervision and administration department of the State Council, update the list of materials traditionally considered both foods and traditional Chinese medicinal materials in a timely manner.</p>	
<p>Article 17</p> <p>The food safety supervision and administration department of the State Council shall indicate the basic requirements for food safety completely and thoroughly in conjunction with the agricultural administrative department of the State Council and guide the food producers and traders to establish and improve the food safety traceability system by information means.</p>	

<p>Article 18</p> <p>Food producers and traders shall establish food safety traceability systems, and truthfully record and keep such information as stock-replenishment inspection, delivery inspection and food sales in accordance with the Food Safety Law to ensure food traceability.</p>	
<p>Article 20</p> <p>The food safety supervision and administration department shall randomly supervise, inspect and assess the food safety management staff of enterprises.</p>	
<p>Article 21</p> <p>Producers and traders of foods and food additives shall be responsible for the safety of foods and food additives entrusted by them.</p>	
<p>Article 24</p> <p>Foods that require need to be stored under appropriate temperature and moisture conditions shall be stored and transported with temperature preservation, in refrigeration or freezing equipment and facilities, and these must be kept in efficient operation conditions.</p>	
<p>Article 32</p> <p>The providers of the third-party platforms for online food transactions shall properly keep the registration and transaction information of the food traders involved in the platforms. The food safety supervision and administration department may require the providers of the third-party platforms involved in online food transactions to provide the information.</p>	
<p>Article 34</p> <p>It is prohibited to use any means including meetings, lectures, and health consultations to conduct false promotion of food. If the food safety supervision and administration department identifies a false promotion, it shall handle it in accordance with the law in a timely manner.</p>	

<p>Article 41</p> <p>Where foodstuffs may be adulterated, the food safety supervision and administration department of the State Council may undertake additional inspections methods for sampling and inspection of food and investigate food safety cases and incidents.</p>	
<p>Article 43</p> <p>No organisation or individual shall publish food inspection information issued by an unauthorised food inspection agency.</p>	
<p>Article 44</p> <p>Importers importing food and food additives shall apply for inspection at entry and exit and with quarantine institutions in accordance with the requirements, and truthfully declare the relevant information of the products, accompanied by the certification materials stipulated by laws and administrative regulations.</p>	<p>Article 36</p> <p>The food importer shall hold necessary documentation including contracts, invoices, packing lists and bills of loading as well as relevant approval documents to apply for inspection at entry - exit inspection points and at the quarantine bureau in the place where the customs declaration is made. Imported foods shall be up to standards at entry and exit inspections and with the quarantine bureau. Customs shall let them pass based on the clearance certification issued by the entry and exit inspection and the quarantine bureau.</p>
	<p>Article 38</p> <p>The state entry – exit inspection and quarantine bureau shall, in accordance with Article 12 of the Food Safety Law, will report to the administrative department of public health under the State Council while finding the materials excluded by national food safety standards likely to create hazard to people’s health.</p> <p>Article 40</p> <p>Imported food additives shall be accompanied by Chinese labels and specifications, which shall comply with the provisions of the Food Safety Law and other Chinese relevant laws and administrative regulations as well as the national food safety standards and state clearly the place of origin of food additives and names, addresses and contact methods of domestic agents. Food additives shall not be imported without</p>

	<p>Chinese labels, and specifications or with Chinese labels and specifications failing to meet the provisions herein.</p> <p>Article 41</p> <p>The entry – exit inspection and quarantine bureau shall, conduct inspections of imported foods in accordance with Article 62 of the Food Safety Law, and supervision and random inspection of imported foods based on Article 68 of the Food Safety Law, with the concrete measures formulated by the state entry and exit inspection and quarantine bureau.</p>
<p>Article 45</p> <p>After imported food arrives at the port, it shall be placed in the location designated or approved by the entry – exit inspection and quarantine institution; if it needs to be moved, necessary safety protection measures shall be taken in accordance with the requirements of the entry - exit inspection and quarantine institution. Imported bulk food shall be inspected at the unloading port.</p>	
<p>Article 46</p> <p>The national entry – exit inspection and quarantine department may, in accordance with the needs of risk management, implement the system of importing certain foods at designated ports.</p>	
<p>Article 47</p> <p>The Health Administrative Department under the State Council shall, in accordance with the provisions of Article 93 of the Food Safety Law, examine the standards of relevant countries (regions) or international standards submitted by overseas exporters, overseas production enterprises or their authorised importers. If they are considered as compliant with the requirements of food safety, they shall be allowed temporary application and release to the public. Before the temporary publication of the applicable standards, the food, which is not covered by the relevant food safety standards, shall not be imported.</p> <p>Food covered by the general standard in the national food safety standard does not belong to</p>	<p>Article 37</p> <p>Food import, importing foods without the national food safety standards or for the first time importing new food additive varieties and new varieties of products related to foods, shall submit the licensing certification documents prescribed in Article 63 of the Food Safety Law to the entry – exit inspection and quarantine bureau, which shall conduct inspection and quarantine in accordance with the requirement of the administrative department of public health under the State Council.</p>

<p>types of food which is not covered by relevant food safety standards as stipulated in Article 93 of the Food Safety Law.</p>	
<p>Article 48</p> <p>Importers shall establish an examination system for overseas exporters and overseas production enterprises, and focus on examining the following points:</p> <ul style="list-style-type: none"> • the formulation and implementation of food safety risk control measures by overseas exporters and overseas production enterprises; • whether the food exported to China meets the requirements of the Food Safety Law, the present Regulation and other relevant laws and administrative regulations as well as the national food safety standards. 	
<p>Article 49</p> <p>Where the importer recalls imported food in accordance with the provisions of Paragraph 3, Article 94 of the Food Safety Law, it shall report the recall and treatment of the food to the food safety supervision and administration department of the local people's government at the county level, and the local entry-exit inspection and quarantine department.</p>	
<p>Article 50</p> <p>If the national entry – exit inspection and quarantine department finds the registered overseas food production enterprises no longer compliant with registration requirements, it shall order them to make rectifications within the prescribed time limit and suspend the import of the food they produce during the rectification period. If the registration requirements are still not met after rectification, the national entry – exit inspection and quarantine department shall cancel the registration of overseas food production enterprises and announce it to the public.</p>	<p>Article 39</p> <p>Overseas food production enterprises exporting foods to China shall conduct registration with the validity period of registration being 4 years, in accordance with Article 65 of the Food Safety Law. For registered overseas food production enterprises which have submitted fake materials or their imported food has created major food safety incidents, the state entry – exit inspection and quarantine bureau shall revoke their registration and announce it to the public.</p>

<p>Article 51</p> <p>Where an overseas production enterprise has passed the certification of our Good Manufacturing Practice (GMP), and hazard analysis and critical control point system (HACCP), the certification agency shall conduct a follow-up investigation in accordance with law. Where an enterprise no longer meets the certification requirements, the certification agency shall revoke the certification in accordance with law and announce it to the public.</p>	
<p>Article 52</p> <p>Where a food safety incident occurring outside China may affect China, or serious food safety problems are found in imported food, food additives and food-related products, the national entry – exit inspection and quarantine department shall carry out risk warnings and may take the following control measures in regard with related food, food additives and food-related products in a timely manner:</p> <p>(1) Return or destruction;</p> <p>(2) Conditional restriction on import;</p> <p>(3) Suspension or prohibition of import.</p>	
	<p>Article 42</p> <p>The state entry – exit inspection and quarantine bureau shall set up the information gathering network, and in accordance with Article 69 of the Food Safety Law, collect, integrate and notify the following information:</p> <p>(1) the food safety information discovered by the entry and exit inspection and quarantine bureau in the imported and exported foods;</p> <p>(2) the imported food safety information commented by industry association or consumer;</p> <p>(3) food safety information and risk pre-warning released by international organisation or overseas governmental</p>

	<p>agency as well as food safety information commented by overseas industry association or consumer; and</p> <p>(4) other food safety information. The departments that have received the circular shall, when necessary, adopt corresponding treatment measures.</p> <p>The food safety supervision and administration department shall notify the informed information involving imported and exported food safety to the state entry – exit inspection and quarantine bureau in a timely manner.</p>
<p>Article 61</p> <p>The food safety supervision and administration department of the people's government at or above the county level shall, in accordance with the provisions of Article 110 of the Food Safety Law, implement the measures of sealing up and detention. The period of sealing up and detention shall not exceed 30 days. If the circumstances are complicated, it may be extended for no more than 45 days upon the approval by the person responsible for the food safety supervision and administration department that implements the sealing up and detention measures.</p>	
<p>Article 63</p> <p>In accordance with the information on food-borne diseases, food safety risk monitoring information, supervision & administration information, etc., the food safety supervision and administration department under the State Council, in conjunction with the health administration department under the State Council, shall formulate and publish a list and test methods of non-food chemicals and other substances presumably hazardous to human health found to be added or quite likely added to food.</p>	<p>Article 49</p> <p>The administrative department of public health under the State Council shall, in accordance with disease information and supervision and administration information, publicize the list and inspection methods of non-food chemicals and other substances potentially hazardous to human health.</p> <p>The departments of quality supervision and industrial and commercial administration management under the State Council as well as the state food and drug supervision and administration department shall adopt corresponding measures of supervision and administration.</p>

<p>Article 65</p> <p>The State shall implement a reward system for reporting food safety violations, and reward informants for verified reports. Rewards shall be increased to informants reporting major food safety violations and crimes in their enterprises. The competent authorities shall keep the reporters' information in confidence and protect their legitimate interests.</p>	<p>Article 53</p> <p>The departments of health administration, agriculture administration, quality supervision, industrial and commercial administration management, and food and drug supervision and administration shall publicize the E-mail addresses or telephones to receive consultations, complaints and reports, in accordance with Article 80 of the Food Safety Law, reply to, verify and handle the received consultations, complaints and reports, and record and file the communications.</p>
<p>Article 66</p> <p>The food safety supervision and administration department of the State Council shall, in conjunction with the relevant departments of the State Council, establish a joint incentive mechanism for maintained credibility, and a joint punishable mechanism for discredit. In combination with the credit files of food producers and operators, a blacklist system for serious illegal producers and operators shall be established to link the credit status of food safety with access, financing, credit loan, credit investigation, etc. and announce it to the public in a timely manner.</p>	
<p>Article 67</p> <p>In case of any of the following circumstances, the circumstances are as serious as those specified in Articles 123~126 and 132 of Food Safety Law as well as Articles 72 and 73 specified in the present Regulation:</p> <p>(1) The value of the products involved in the illegal act is upward of 20,000 RMB or the duration of the illegal act is upward of 3 months;</p> <p>(2) The offence causes food-borne diseases and deaths, or upward of 30 food-borne diseases but no deaths;</p> <p>(3) The offender deliberately provides false information or concealing the true situation;</p> <p>(4) The offender refuses or evades the supervision and inspection;</p>	

<p>(5) The offender is involved in another food safety violation of the same nature within one year after being subject to administrative punishment for violating food safety laws and regulations, or another food safety violation after being subject to criminal punishment for violating food safety laws and regulations;</p> <p>(6) Other serious cases.</p>	
	<p>Article 55</p> <p>Where the production and trading conditions of the food producers and traders have changed and failed to be handled in accordance with Article 21 of the present Regulation, the relevant competent departments shall order them to make corrections and impose a warning on them. If serious consequences are caused, penalty shall be imposed in accordance with Article 85 of the Food Safety Law.</p> <p>Article 56</p> <p>Where the catering service provider fails to comply with the requirements for purchase control in regard with raw material formulation and implementation based on Clause 1 of Article 31 of the present Regulation, penalty shall be imposed in accordance with Article 86 of the Food Safety Law.</p> <p>Penalty shall be imposed in accordance with Article 85 of the Food Safety Law, where the catering service provider failing to comply with Clause 2 of Article 31 of the present Regulation for inspecting the foods and raw materials to be processed or still processing and using the foods discovered to have gone bad or other unusual sensory properties.</p> <p>Article 57</p>

	<p>Penalty shall, in accordance with Article 87 of the Food Safety Law, be imposed in the following situations:</p> <p>(1) where the food production enterprise fails to comply with Article 26 of the present Regulation to set up and implement the food safety management system;</p> <p>(2) where the food production enterprise fails to comply with Article 27 of the present Regulation to formulate and implement the production process control or there are situations that don't meet the requirement of control in the food production and rectification measures are adopted without complying with provisions;</p> <p>(3) where the food production enterprise fails to comply with Article 28 of the present Regulation to record safety management in the food production and file relevant records;</p> <p>(4) where the trading enterprise engaging in food wholesale fails to comply with Article 29 of the present Regulation to record and keep sales information or retain sales receipts;</p> <p>(5) where the catering service enterprise fails to comply with Clause 1 of Article 32 of the present Regulation to regularly maintain, rinse, check and test facilities and devices; and</p> <p>(6) where the catering service provider fails to comply with Clause 2 of Article 32 of the present Regulation to rinse and sterilize tableware and kitchenware or use them without rinsing and sterilizing.</p> <p>Article 58</p> <p>Where food additives are imported without complying with Article 40 of the present Regulation, they shall be confiscated by the entry – exit inspection and quarantine bureau. Where the goods value of illegally imported food additives is less than 10,000 RMB, fine of upward of 2,000 RMB and downward of</p>
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	<p>50,000 RMB shall be imposed. Where the goods value is upward of 10,000 RMB, the fine no less than 2 times and no more than 5 times of the goods value shall be imposed.</p> <p>Article 59</p> <p>Where the medical institution fails to comply with Article 8 of the present Regulation to report relevant disease information, the administrative department of public health shall order it to make corrections and a warning shall be given.</p> <p>Article 60</p> <p>Penalty shall be imposed, where the organization involved in a food safety incident fails to comply with Article 43 of the present Regulation to adopt measures and report, in accordance with Article 88 of the Food Safety Law.</p>
<p>Article 68</p> <p>Any of the following circumstances shall be punished in accordance with Paragraph 1 of Article 125 of the Food Safety Law and Article 75 of the present Regulation:</p> <p>(1) Substances in the list formulated in accordance with the provisions of Article 63 of the present Regulation are stored at food production and processing sites;</p> <p>(2) The labels and instructions of foods other than the dietary supplements produced and sold claim to have health care functions;</p> <p>(3) Formula foods for infants are named in accordance with the selective additives specified in the national standards for food safety;</p> <p>(4) The contents of the labels and instructions of the special food produced and traded are inconsistent with those of the registered or filed labels and instructions.</p>	

<p>Article 69</p> <p>Any of the following circumstances shall be punished in accordance with Paragraph 1 of Article 126 of the Food Safety Law and Article 75 of the present Regulation:</p> <p>(1) The relevant information fails to be recorded and kept in accordance with the provisions, where entrusted by the food producers and traders to store and transport the food;</p> <p>(2) The food and beverage service providers fail to inspect and retain a copy of the business license of the centralized disinfection service organization for tableware and drinkware and the certificate of disinfection qualification;</p> <p>(3) The food producers and traders fail to mark or store the deteriorated, expired and recycled food in accordance with the provisions, or fail to take measures such as harmless treatment and destruction of the aforesaid food in a timely manner and fail to make truthful records;</p> <p>(4) Organizations or individuals other than medical institutions and pharmaceutical retailers sell special total nutritional formula food of formula food for special medical use to consumers;</p> <p>(5) Special food is placed together with ordinary food or medicine for sale.</p>	
<p>Article 72</p> <p>The food safety supervision and administration department of the local people's government at or above the county level shall order rectification and give a warning to the non-food producers and traders engaged in the food storage business with special requirements for temperature and moisture, the organizers of food trading markets and food exhibitions who fail to put on record or report in accordance with the relevant provisions. Those who refuse to make corrections shall be imposed a fine of no less than 10,000 RMB but no more than 50,000 RMB; if the circumstances are serious, the enterprise shall be ordered to suspend production or business, and a fine of no less than 50,000 RMB but no more than 200,000 RMB shall be imposed.</p>	

<p>Article 73</p> <p>Whoever makes false promotion of food by means of meetings, lectures or health consultations shall be ordered by the food safety supervision and administration department of the local people's government at or above the county level to eliminate the influence, and if there is any illegal income, it shall be confiscated; If the circumstances are serious, the offender shall be punished in accordance with Paragraph 5 of Article 140 of the Food Safety Law; Where an organization violates the law, the punishment shall be meted out to the legal representative, the principal responsible person, and other directly responsible persons in accordance with the provisions of Article 75 of the present Regulation.</p>	
<p>Article 74</p> <p>Where the food produced and traded by the food producers and traders meets the food safety standards but does not meet the food safety indicators specified in the enterprise standards marked on the food, the food safety supervision and administration department of the local people's government at or above the county level shall give a warning, order the food traders to stop trading the food, and order the food production enterprises to make corrections; If the enterprise refuses to stop its operation or make corrections, the food in violation of the food safety indicators specified in the enterprise standards shall be confiscated, and if the value of the food is less than 10,000 RMB, the enterprise shall be fined for no less than 10,000 RMB but no more than 50,000 RMB, and if the value of the food is not less than 10,000 RMB, the enterprise shall be fined for no less than 5 times but no more than 10 times the value of the food.</p>	
<p>Article 75</p> <p>Where a food production and trading enterprise or any other entity is found to be in violation of the provisions of the Food Safety Law, in addition to the penalties imposed in accordance with the provisions of the Food Safety Law, in any of the following cases, the legal representative, principal responsible person, directly responsible person and other directly responsible persons of the organization shall be fined for no less than 1</p>	

<p>time but no more than 10 times of the income obtained by the organization in the previous year:</p> <p>(1) The illegal act is intentional;</p> <p>(2) The nature of the illegal act is bad;</p> <p>(3) The illegal act has serious consequences.</p> <p>The provisions of the preceding paragraph shall not apply to the circumstances specified in Paragraph 2 of Article 125 of the Food Safety Law.</p>	
<p>Article 77</p> <p>The food safety supervision and administration departments of the local people's governments at or above the county level shall, in a timely manner, transfer the case and relevant materials to the public security organs at the same level in case of any serious violation of the provisions of Article 123 of the Food Safety Law and where administrative detention may be necessary. If the public security organ deems it necessary to supplement the materials, the food safety supervision and administration departments shall provide them in a timely manner. If the public security organ, after examination, finds that the conditions of administrative detention are not met, it shall return the transferred case and relevant materials to the food safety supervision and administration department in a timely manner.</p>	
<p>Article 78</p> <p>Where a public security organ, after examining the fact that there is no crime or after filing a case for investigation, finds it unnecessary to investigate the criminal responsibility of the discovered food safety violations, but imperative to impose administrative detention in accordance with law, it shall make a decision on the punishment of administrative detention in a timely manner; If administrative detention is not necessary but other administrative responsibilities should be investigated in accordance with law, the case and relevant materials shall be transferred to the food safety supervision and administration department at the same level in a timely manner.</p>	

<p>Article 80</p> <p>The food safety supervision and administration department of the local people's government at or above the county level shall order corrections, in case of the following: release of unauthorised food inspection information; use of the abovesaid information to grade food, food producers and traders; and deceiving & misleading consumers. If any illegal income is obtained, it shall be confiscated and a fine of no less than 100,000 RMB but no more than 500,000 RMB shall be imposed. Whoever refuses to make corrections shall be fined for no less than 500,000 RMB but no more than 1,000,000 RMB; If an act is in violation of public security administration, the public security organ shall impose a penalty for public security administration in accordance with law.</p>	
<p>Article 81</p> <p>Where the food safety supervision and administration department imposes a fine of no less than 300,000 RMB on an illegal organization or individual in accordance with the Food Safety Law and the present Regulation, the food safety supervision and administration department of the local people's government at or above the municipal level shall make a decision. The specific authority to impose fines shall be prescribed by the food safety supervision and administration department under the State Council.</p>	
<p>Article 85</p> <p>Whoever violates the provisions of the present Regulation and constitutes a crime shall be investigated for criminal responsibility in accordance with law.</p>	
	<p>Article 61</p> <p>Where the local people's government at or above the county level fails to perform the legal duty of food safety supervision and administration so that a major food safety incident occurs in the administrative region having caused serious social effect, such punishments as recording a serious demerit, degrading, dismissing or expelling shall be imposed on directly responsible persons-in-charge and other directly responsible persons by law.</p>

	<p>Where the departments at or above the county level of health administration, agriculture administration, quality supervision, industrial and commercial administration management and food and drug supervision and administration or other relevant administrative departments fail to perform the legal duty of food safety supervision and administration, neglect daily supervision and inspection or abuse authority, and play favouritism and commit irregularities, the punishment of recording a serious demerit or degrading shall be imposed on directly responsible persons-in-charge and other directly responsible persons by law; if serious consequences are caused, the punishment of dismissing or expelling shall be meted out, and the main responsible person shall take the blame and resign.</p>
<p>Article 86</p> <p>The present Regulation shall enter into force as of 1 December 2019.</p>	

Links to original sources (Chinese)

http://www.gov.cn/zwggk/2009-07/24/content_1373609.htm

http://www.gov.cn/gongbao/content/2016/content_5139425.htm

http://www.gov.cn/zhengce/content/2019-10/31/content_5447142.htm